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IN THE
Supreme Court of the United States

STATE OF TENNESSEE, BY AND THROUGH THE TENNESSEE GENERAL ASSEMBLY, ET AL.,

Petitioners,

v.

UNITED STATES DEPARTMENT OF STATE, ET AL.,

Respondents.

**APPLICATION TO THE HONORABLE SONIA SOTOMAYOR FOR AN
EXTENSION OF TIME WITHIN WHICH TO FILE
A PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

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Petitioners State of Tennessee, by and through the Tennessee General Assembly, et al., move under Supreme Court Rule 13(5) for a 60-day extension of time to file their petition for a writ of certiorari to review the decision of the United States Court of Appeals for the Sixth Circuit dated July 24, 2019. The Sixth Circuit denied a timely petition for rehearing and for rehearing *en banc* on October 16, 2019. With the 60-day extension, the petition will be due March 14, 2020. This Court has jurisdiction under 28 U.S.C. § 1254(1).

1. Absent an extension, the petition for writ of certiorari is due January 14, 2020. This application is being filed more than 10 days before the due date.

2. Petitioner's Counsel of Record in this case, John J. Bursch, has numerous recently concluded and upcoming matters in this Court and other courts, including: an oral argument in the Michigan Court of appeals on December 4, 2019 (*TCF National Bank v Department of Treasury*, No. 344892, and *Flagstar Bancopr, Inc. v. Department of Treasury*, No. 344906); the filing of a reply brief in support of a petition for certiorari in this Court on December 11, 2019 (*Thomas More Law Center v. Becerra*, No. 19-255), the filing of an amici brief in the Michigan Supreme Court on December 17, 2019 (*Council of Organizations and Others for Education About Parochiaid v. State of Michigan*, No. 158751); the filing of a reply brief in support of a petition for certiorari in this Court on December 20, 2019 (*Arlene's Flowers, Inc. v. State of Washington*, No. 19-333); the filing of an amici brief in this Court on December 30, 2019 (*June Medical Services L.L.C. v. Gee*, Nos. 18-1323, 18-1460); the filing of a reply brief in support of a petition for certiorari in this Court the first

week of January 2020 (*Busch v. Guertin*, No. 19-350); the filing of a merits brief in the United States Court of Appeals for the Tenth Circuit on January 22, 2020 (*303 Creative LLC v. Elenis*, D. Colo. No. 16-cv-02372); and the filing of a petition for certiorari in this Court on January 30, 2020 (*Uzuegbunam v. Preczewski*, 11th Cir. No. 18-12676-AA), among many other things.

3. The instant case presents substantial issues of law arising out of the United States government compelling the State of Tennessee to pay for a federal program under threat that the government will cut state funding elsewhere, among which are:

- 1) Whether a state legislature has standing to sue the federal government when the federal government commandeers state funds for a federal program.
- 2) Whether the federal government can constitutionally commandeer state funds to pay for a federal program from which a state has withdrawn, on threat of cutting the state's funding elsewhere.

4. Petitioner's counsel requires the additional requested time to fully research the legal issues and to prepare an appropriate petition for consideration by this Court.

5. No meaningful prejudice would arise from granting the extension. The mandate already has issued in this case, and it is not stayed.

For the foregoing reasons, Petitioner hereby requests that an extension of time to and including March 14, 2020, be granted within which Petitioner may file a petition for a writ of certiorari.

Respectfully submitted,



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