No. SC101581

In the Supreme Court of Missouri

JAKE MAGGARD et al.,

Appellants,

v.

STATE OF MISSOURI et al.,

Respondents.

Appeal from the Circuit Court of Cole County
The Honorable Brian K. Stumpe, Case No. 25AC-CC09120

BRIEF OF APPELLANTS

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JURISDICTIONAL STATEMENT

Article V, Section 3 of the Missouri Constitution provides that "[t]he supreme court shall have exclusive appellate jurisdiction in all cases involving the validity of … a statute … of this state." This case squarely addresses the "validity" of Missouri statutes—in particular, the sections of Chapter 128, RSMo, that were amended by House Bill 1 ("HB1") with a purported (and premature) effective date of December 11, 2025.

On September 12, 2025, the General Assembly truly agreed to and finally passed HB1 "to enact … twelve new sections relating to the composition of congressional districts." D174 ¶ 10. On December 9, the Secretary of State's office received 691 boxes of signed petitions to refer HB1 to voters for approval or rejection. *Id.* ¶ 15. Because the Missouri Constitution instructs that "[a]ny measure referred to the people shall take effect when approved by a majority of the votes cast thereon, *and not otherwise*," Mo. Const. art. III, § 52(b) (emphasis added), HB1 is currently suspended pending completion of the constitutional referendum process, *see, e.g.*, *State ex rel. Kemper v. Carter*, 165 S.W. 773, 778 (Mo. banc 1914) (explaining that "the *mere lodging* of a timely, legal, and sufficient referendum petition with the Secretary of State is all that" must be done to "halt[]" "the law affected," "*regardless of any affirmative act* on the part of the Secretary of State or the Attorney General" (emphasis added)).

Notwithstanding this authority, Respondents State of Missouri and Secretary of State Denny Hoskins (together, the "State") contend that HB1 took effect on December 11, 2025, and remains in effect until Secretary Hoskins issues a certificate of sufficiency for the referendum under Section 116.150, RSMo. The Circuit Court agreed, concluding that "[u]ntil the Secretary issues a sufficiency determination—and until any judicial review of that determination is complete under Section 116.200—HB1 remains effective." App 19.

Given that HB1 was codified as Sections 128.345, 128.346, 128.348, 128.471, 128.472, 128.473, 128.474, 128.475, 128.476, 128.477, 128.478, and 128.479, RSMo, with an unlawful effective date of December 11, 2025, this appeal addresses the "validity" of those statutes—specifically, whether they are currently effective in advance of the referendum election. Additionally, Appellants maintain that, to the extent the State is correct and the Secretary of State's review process under Chapter 116, RSMo, allows legislation subject to the referendum process to take effect before the People have their say, "those statutes conflict with Article III, Sections 49, 52(a), and 52(b) of the Missouri Constitution, at least as applied to the facts here, and are unconstitutional." D124 ¶ 42.

This appeal therefore "involv[es] the validity of … a statute … of this state" and falls within the exclusive appellate jurisdiction of this Court. Mo. Const. art. V, § 3; *see also, e.g.*, *Comprehensive Health of Planned Parenthood Great Plains v. State*, 729 S.W.3d 222, 227 (Mo. banc 2025) ("Once a claim challenging the constitutional validity of a statute is properly raised and preserved, then this Court has exclusive appellate jurisdiction over that appeal."); *Luther v. Hoskins*, No. SC101412, 2026 WL 815813, at *1 n.1 (Mo. banc Mar. 24, 2026) (concluding that this Court has jurisdiction over separate challenge to HB1 because such case "involves the validity of state statutes").

INTRODUCTION AND SUMMARY OF ARGUMENT

"The voters of Missouri first adopted a constitutional amendment establishing the right of referendum more than 100 years ago," thus "reserv[ing] a share of the legislative power for themselves" and "ensur[ing] that 'those who have no access to or influence with elected representatives may take their cause directly to the people.'" *No Bans on Choice v. Ashcroft*, 638 S.W.3d 484, 486, 489 (Mo. banc 2022) (quoting *Missourians to Protect Initiative Process v. Blunt*, 799 S.W.2d 824, 827 (Mo. banc 1990)). Because the People's referendum power is meant "to serve as a check on the legislature," *id.* at 489, a bill subject

to a referendum petition is necessarily suspended until a vote occurs. This *must* be the rule; otherwise, legislation could take effect before the People have their say, vitiating the referendum process and rendering these constitutional provisions decidedly hollow.

These first principles notwithstanding, the State has taken the position that HB1—an act creating new congressional districts in Missouri that is currently subject to a referendum petition—is now in effect, and Secretary Hoskins intends to use this new map in the upcoming midterm elections. The State is wrong: Upon the submission of 691 boxes containing nearly 50,000 pages of signed referendum petitions on December 9, 2025, HB1 was suspended as an operation of law and remains so until either the referendum vote occurs or the referendum is finally determined to be insufficient or otherwise invalid. Until then, HB1's new congressional map cannot be used without violating the referendum provisions of the Missouri Constitution.

This case presents a narrow legal question and rests on only a few stipulated facts. The issue is *not* how or when Secretary Hoskins verifies the signed referendum petitions; Appellants do not seek to control that process. Instead, the dispositive question before this Court is straightforward: What is the status of HB1 *in the meantime*, while the signatures are being verified? Longstanding precedent and common sense compel the same result: HB1 is currently suspended to preserve Missourians' referendum powers. If this were not the rule, then their fundamental constitutional rights could be subject to manipulation—and even nullification—by a Secretary of State's idiosyncratic decision to delay the verification process. No official can diminish Missourians' constitutional rights just because they personally favor the legislation subject to referendum. *See* D225 p. 2 (quoting Secretary Hoskins as stating he will "do everything [he] can to protect" HB1). The People, not the Secretary of State, get to decide whether and when HB1 becomes law.

When holding more than a century ago that legislation must be suspended upon the submission of a referendum petition, this Court expressly rejected the contention that suspension occurs only when the sufficiency of the petition is certified, asking,

> [W]ould it not be to follow the flimsiest shadow, and not the substance, if we were to say that the mere postponement of the determination of the definite and exact number of signers on a referendum petition till a less pressing and more convenient season would operate to defeat the will of those signers and prevent a vote upon a matter which might be of grave moment to the people? That the instant facts do not rise to the stature of so grave and momentous a matter is beside the question. The rule we announce must needs be general.

Kemper, 165 S.W. at 779–80. That general rule prevailed undisturbed for over a hundred years. But now, this Court is confronted with precisely the "grave and momentous" case *Kemper* foresaw: The State is attempting to subvert the constitutional referendum process by wrongly declaring that HB1 is in effect despite the timely submission of signed referendum petitions. The State's gambit would "serve[] as an end run around the constitutionally protected right of the people of Missouri" to approve or reject legislation, denying them their constitutional prerogative and imposing a clear and irreparable injury. *Earth Island Inst. v. Union Elec. Co.*, 456 S.W.3d 27, 34 (Mo. banc 2015). Fortunately, logic and precedent are on the People's side: Under well-settled authority, HB1 was suspended on December 9 and remains suspended today. HB1, like "any measure referred to the people," will "take[] effect *when approved by voters*"—and not sooner. *Calzone v. Ashcroft*, 559 S.W.3d 32, 36 (Mo. App. W.D. 2018) (emphasis added).

The Circuit Court's ruling to the contrary rests on a fundamental misunderstanding of Appellants' case as a challenge to the Secretary of State's certification process—it is not—and an untenable reading of the relevant statutes and constitutional provisions that wrongly prioritizes the former at the expense of the latter. To be clear: Neither the General

Assembly nor the Secretary of State can adopt procedures that dilute the People's referendum rights. The Circuit Court's judgment, both procedurally and on the merits, was thus in error and should be reversed.

First, Appellants have standing to bring this action. They claim that the referendum provisions of the Missouri Constitution are currently being violated by the State's actions. Because the referendum right is, like the right to vote, an *individual* right held by each eligible Missourian, the State's misconduct is imposing a concrete, ongoing, and nongeneralized injury on each Appellant. Because the relief they seek would safeguard the referendum right and remedy this injury, Appellants have standing.

Second, this matter is presently ripe for adjudication. The Circuit Court's conclusion to the contrary was based on the misunderstanding described above—the mistaken notion that Appellants seek to control the Secretary of State's certification process under Chapter 116, RSMo. Not so: Appellants challenge the *current* unlawfulness of HB1's premature enforcement, an issue distinct from Secretary Hoskins's eventual certification decision. That injury is being imposed *right now* on an ongoing basis, and so this matter is ripe.

Third, this case does not present a nonjusticiable political question. Appellants do not seek judicial interference with Secretary Hoskins's certification of the HB1 referendum but rather a declaration that HB1 was suspended as an operation of law on December 9, 2025. The judiciary is charged with determining the contours and legal effect of the constitutional referendum right, not the Secretary of State.

Fourth, Appellants properly request declaratory judgment. Again, they do not seek a preemptive ruling on Secretary Hoskins's ultimate certification decision. They instead request a declaration that HB1 is currently suspended and an injunction vindicating their

referendum rights—relief this Court can and must grant, since Appellants have no other adequate remedy.

Finally, Appellants are correct on the merits: HB1 is currently suspended and its new congressional map cannot be implemented. As this Court has repeatedly held, the purpose of the referendum right is to allow Missouri voters to serve as a check on legislative action *before* a bill goes into effect. Given the interplay of the constitutional provisions governing the effective date of legislation and the deadline for referenda, legislation *must* be suspended upon the submission of signed petitions—as this Court determined more than a century ago. It was legal error for the Circuit Court to rule that this precedent has been abrogated by Chapter 116, RSMo, such that the referendum right can now be diluted; plainly, no statute can serve to subvert the People's referendum rights and survive constitutional muster. Appellants' position—that legislation is automatically suspended pending the Secretary of State's review and certification process—is the only way to give meaning and effect to the constitutional referendum provisions, Chapter 116, and this Court's precedent. The Court should reverse on the merits and enter judgment for Appellants.

Statement of Facts

I. Prior Secretaries of State agreed that legislation is suspended upon the submission of signed referendum petitions.

The current dispute over the suspension of HB1 occurs against the backdrop of prior Missouri referenda. In the past, legislation was routinely considered suspended upon the submission of signed referendum petitions—*not* final certification by the Secretary of State or anything else.

In 2017, for example, right-to-work legislation was suspended (and thus did not take effect on the default date) following the timely submission of referendum signatures. D227 p. 3; D228 p. 2. This suspension preceded verification of the collected signatures by then-

Secretary of State Jay Ashcroft. D227 p. 3; D228 p. 2. As reported at the time, Secretary Ashcroft's position was consistent with his predecessor's view during a referendum thirty-five years prior:

> The public vote being sought is known as a ballot referendum, which has taken place 26 times since 1914, the last time in 1982. The issue at that time was whether maximum weight and length of large trucks would be increased. The law was rejected by voters.
>
> The secretary of state's office provided … an electronic image of a 1982 newspaper story which reported that then Secretary of State James Kirkpatrick had determined the truck law was suspended *after petition signatures were filed*.

D228 pp. 2–3 (emphasis added).[1]

Notably, both of these referenda occurred *after* the advent of Chapter 116, RSMo, and the Secretary of State's current signature-verification process. Indeed, Secretary Kirkpatrick—who deemed the 1980s trucking bill suspended following the submission of signed petitions—was the *architect* of Chapter 116. *See James C. Kirkpatrick*, Mo. Sec'y of State 2, https://bit.ly/47PJsna (last visited Apr. 9, 2026) (noting that Secretary Kirkpatrick "served five consecutive terms from 1965–1985" and listing "overhaul of the election code" among his accomplishments).

II. HB1 is suspended as an operation of law on December 9, 2025.

On September 12, 2025, the General Assembly truly agreed to and finally passed HB1 "to enact … twelve new sections relating to the composition of congressional districts" and then adjourned that same day. D174 ¶¶ 10, 12; *see also* D175 (text of HB1). HB1 redrew Missouri's congressional map, with the new districts intended to be "effective

[1] In 1981, prior to the trucking-bill referendum vote, a circuit court upheld Secretary Kirkpatrick's decision and rejected the position the State advocates today. *See infra* pp. 45–46.

beginning with the election of the 120th Congress." D175 p. 3 (emphasis omitted). HB1 did *not* include an emergency clause affecting the People's referendum rights. *See generally id.*

Two weeks later, on September 29, the Secretary of State's office received a petition for referendum asking to refer HB1 to voters for approval or rejection, which was denominated 2026-R004. D174 ¶ 13. Secretary Hoskins certified the official ballot title for 2026-R004 and approved it for circulation on November 13. *Id.* ¶ 14. Because the special session that enacted HB1 adjourned on September 12, supporters of 2026-R004 had 90 days—until December 11—to submit approximately 107,000 signatures from 6 of Missouri's 8 congressional districts, *see* Mo. Const. art. III, § 52(a) (referendum petitions must be "signed by five percent of the legal voters in each of two-thirds of the congressional districts in the state" and "be filed with the secretary of state not more than ninety days after the final adjournment of the session of the general assembly which passed the bill on which the referendum is demanded").

On December 9, 2026-R004's organizers submitted 691 boxes containing 49,773 pages of referendum petitions to the Secretary of State's office. D174 ¶ 15; *see also* D176 (box receipt issued by Secretary of State's office); D177 (referendum receipt form issued by Secretary of State's office). These petitions reportedly included more than 300,000 signatures—nearly three times the number required under the Missouri Constitution. D225 p. 2.

To date, Secretary Hoskins has not issued a certificate of insufficiency for 2026-R004 under Section 116.150, RSMo. D174 ¶ 19. Instead, the verification process undertaken by local election officials—the results of which have been transmitted to the Secre-

tary of State's office—has confirmed that 2026-R004 received sufficient signatures to qualify for the general-election ballot. By March 26, these verification sheets reported the counting of sufficient valid signatures in six of Missouri's eight congressional districts. Two weeks later, the number of valid signatures reported has increased in two districts and remained unchanged in the others:

Congressional District	Signatures Required	Valid Signatures Counted (as of March 26)	Valid Signatures Counted (as of April 6)
1	15,596	24,720	24,720
2	21,570	28,454	28,454
3	20,062	28,040	28,040
4	18,544	24,110	24,635
5	16,700	24,025	24,025
7	18,599	19,721	20,429

See Preliminary Petition Signature County Reports, Mo. Sec'y of State (Mar. 26, 2026), http://bit.ly/4bUCxdo; *Preliminary Petition Signature County Reports*, Mo. Sec'y of State (Apr. 10, 2026), https://bit.ly/4twbQmw.[2]

III. The State nevertheless maintains that HB1 is currently in effect.

The submission of signed referendum petitions (and the pending verification undertaken by local officials) notwithstanding, HB1 purportedly took effect on December 11, 2025. D174 ¶ 18. Secretary Hoskins has justified this position publicly by explaining, "The Attorney General's Office [] came out with an opinion that says that the referendum does not go into effect until the signatures have been certified by the Secretary of State's office."

[2] The Court can take judicial notice of these materials as government documents. *See, e.g.*, *Schweich v. Nixon*, 408 S.W.3d 769, 778 & n.11 (Mo. banc 2013) (per curiam); *Gershman Inv. Corp. v. Danforth*, 475 S.W.2d 36, 37–38 & n.2 (Mo. banc 1971); *Brown v. Morris*, 290 S.W.2d 160, 167–68 (Mo. banc 1956).

D230 p. 3. Attorney General Catherine Hanaway has repeated this position in public statements. D225 p. 2 ("Republican Attorney General Catherine Hanaway issued a statement saying the new House districts took effect Tuesday and will remain in place unless Hoskins determines the referendum petition is constitutional and contains sufficient signatures."). Secretary Hoskins, for his part, has "promised a 'slow and steady' review of the signatures" and told the Associated Press that he is "going to do everything [he] can to protect" the HB1 map. D225 p. 2.

IV. Appellants file suit to safeguard their referendum rights.

Appellants are qualified Missouri voters who signed the petition to refer HB1 to voters for approval or rejection. D174 ¶¶ 1, 3–4, 6. They are both residents of the Fifth Congressional District under Missouri's 2022 redistricting map but, under HB1, would be relocated to the Fourth Congressional District. *Id.* ¶¶ 2, 5.

On December 23, 2025, Appellants filed this lawsuit, asking the Circuit Court to declare that HB1 is currently suspended and enjoin use of its new congressional map until completion of the constitutional referendum process. D124. Following a half-day bench trial on joint stipulated facts and a handful of exhibits, the Circuit Court issued its findings of fact, conclusions of law, and final judgment, dismissing Appellants' petition on standing and (alternatively) ripeness, political-question, and procedural grounds and further concluding on the merits that HB1 is not suspended. App 3–20. This appeal follows. D239.

POINTS RELIED ON

POINT I: The Circuit Court erred in concluding that Appellants lack standing, because it misapplied the law, in that Appellants established that their fundamental right to referendum is currently being violated by the State's premature enforcement of HB1—an individualized, nongeneralized, concrete interest that is directly tied to their claim and requested relief.

- *No Bans on Choice v. Ashcroft*, 638 S.W.3d 484 (Mo. banc 2022)
- *State ex rel. Moore v. Toberman*, 250 S.W.2d 701 (Mo. banc 1952)
- *Baker v. Carr*, 369 U.S. 186 (1962)
- *United States v. Bathgate*, 246 U.S. 220 (1918)

POINT II: The Circuit Court erred in concluding that Appellants' claim is not ripe for adjudication, because it misapplied the law, in that Appellants seek to redress ongoing and imminent violations of their constitutional referendum rights that are not dependent on the Secretary of State's referendum-certification process or any other future action.

- *Schweich v. Nixon*, 408 S.W.3d 769 (Mo. banc 2013) (per curiam)
- *Missourians to Protect Initiative Process v. Blunt*, 799 S.W.2d 824 (Mo. banc 1990) (per curiam)
- *Held v. State*, 560 P.3d 1235 (Mont. 2024)

POINT III: The Circuit Court erred in concluding that Appellants' claim presents a non-justiciable political question, because it misapplied the law, in that Appellants seek a legal determination regarding the suspension of legislation subject to referendum—an issue reserved for the judiciary and not the Secretary of State.

- *State ex rel. Danforth v. Banks*, 454 S.W.2d 498 (Mo. banc 1970

POINT IV: The Circuit Court erred in concluding that Appellants improperly seek declaratory relief, because it misapplied the law, in that there is no statutory or other adequate remedy to redress the ongoing violation of Appellants' constitutional referendum rights and Appellants do not seek judicial review of the Secretary of State's referendum-certification decision.

- § 116.200, RSMo
- *City of St. Louis v. State*, 643 S.W.3d 295 (Mo. banc 2022)

POINT V: The Circuit Court erred in concluding on the merits that HB1 was not automatically suspended upon the submission of signed referendum petitions, because it misapplied the law, in that the Missouri Constitution and this Court's precedent require that legislation subject to referendum cannot go into effect until the constitutional referendum process is completed, and the Secretary of State's statutory review and certification process under Chapter 116, RSMo, must be construed consistent with that authority because, if it is not, then those statutes conflict with Article III, Sections 49, 52(a), and 52(b) of the Missouri Constitution, at least as applied to the facts here, and are unconstitutional.

- Mo. Const. art. III, § 29
- Mo. Const. art. III, § 49
- Mo. Const. art. III, § 52(a)
- Mo. Const. art. III, § 52(b)
- § 116.130, RSMo
- § 116.150, RSMo
- *No Bans on Choice v. Ashcroft*, 638 S.W.3d 484 (Mo. banc 2022)
- *State ex rel. Moore v. Toberman*, 250 S.W.2d 701 (Mo. banc 1952)
- *State ex rel. Barrett v. Dallmeyer*, 245 S.W. 1066 (Mo. banc 1922)
- *State ex rel. Kemper v. Carter*, 165 S.W. 773 (Mo. banc 1914)

ARGUMENT

I. The Circuit Court erred in concluding that Appellants lack standing, because it misapplied the law, in that Appellants established that their fundamental right to referendum is currently being violated by the State's premature enforcement of HB1—an individualized, nongeneralized, concrete interest that is directly tied to their claim and requested relief.

Standard of Review: "Standing is a question of law, which is reviewed de novo." *Manzara v. State*, 343 S.W.3d 656, 659 (Mo. banc 2011).

Preservation: See, e.g., D164 pp. 9–10 (discussing standing in opposition to Respondents' motions to dismiss); D212 p. 5 n.1 (establishing standing in pretrial brief).

"A justiciable controversy exists where [1] the plaintiff has a legally protectable interest at stake, [2] a substantial controversy exists between parties with genuinely adverse interests, and [3] that controversy is ripe for judicial determination." *Schweich v. Nixon*, 408 S.W.3d 769, 773–74 (Mo. banc 2013) (per curiam) (alterations in original) (quoting *Mo. Health Care Ass'n v. Att'y Gen.*, 953 S.W.2d 617, 620 (Mo. banc 1997)). "The first two elements of justiciability are encompassed jointly by the concept of 'standing.' 'Prudential principles of justiciability … require that a party have standing to bring an action. Standing requires that a party have a personal stake arising from a threatened or actual injury.'" *Id.* at 774 (quoting *State ex rel. Williams v. Mauer*, 722 S.W.2d 296, 298 (Mo. banc 1986)). As this Court has explained,

> "For a party to have standing to challenge the constitutionality of a statute, he must demonstrate that he is adversely affected by the statute in question" to ensure "there is a sufficient controversy between the parties [so] that the case will be adequately presented to the court." Standing further requires a petitioner to demonstrate a personal stake in the outcome of the litigation, meaning "a pecuniary or personal interest directly at issue and subject to immediate or prospective consequential relief."

Mo. Coal. for Env't v. State, 579 S.W.3d 924, 926 (Mo. banc 2019) (alteration in original) (citation omitted) (first quoting *W.R. Grace & Co. v. Hughlett*, 729 S.W.2d 203, 206 (Mo. banc 1987); and then quoting *Schweich*, 408 S.W.3d at 775).

Under this standard, Appellants have standing. They allege a direct violation of their constitutional referendum rights—specifically, that the referendum right is currently being violated because the State is enforcing HB1 as if it is in effect, even though the legislation must be suspended until completion of the referendum process. A direct violation of each Appellant's individual referendum right is not "a generalized grievance against governmental conduct of which [Appellants] do[ ] not approve"; unlike the claimed injury of, say, "[a] plaintiff who complains of gerrymandering, but who does not live in a gerrymandered district," the violation of Appellants' *own* referendum rights imposes harm that is "individual and personal in nature." *Gill v. Whitford*, 585 U.S. 48, 66–67 (2018) (first quoting *United States v. Hays*, 515 U.S. 737, 744–45 (1995); and then quoting *Reynolds v. Sims*, 377 U.S. 533, 561 (1964)). That is because, "[i]n establishing the right of referendum, the people of Missouri constitutionally reserved a share of the legislative power *for themselves* …. to serve as a check on the legislature." *No Bans*, 638 S.W.3d at 489 (emphasis added) (citing *State ex rel. Drain v. Becker*, 240 S.W. 229, 230–31 (Mo. banc 1922)). Each individual voter—Appellants no less than any other—possesses that right. *Cf. United States v. Bathgate*, 246 U.S. 220, 227 (1918) ("The right to vote is personal[.]").

In other words, Appellants are currently experiencing "disadvantage to themselves as individuals" and "seek relief in order to protect or vindicate an interest of their own"—their personal referendum rights. *Baker v. Carr*, 369 U.S. 186, 206–08 (1962); *cf. Missouri Coalition*, 579 S.W.3d at 927 (plaintiff alleged generalized grievance and did not have

standing where it claimed only "an interest in a legislature that observes the state Constitution" and "d[id] not allege, nor c[ould] it show, that the speculative potential changes to the Commission membership threatened or actually injured it"); *Gill*, 585 U.S. at 68 (no standing where plaintiffs alleged abstract "interest in their collective representation in the legislature, and in influencing the legislature's overall composition and policymaking" (citation modified)). That all Missouri voters might share this injury does not render it impermissibly generalized given that Appellants have alleged direct injury to themselves. *See Spokeo, Inc. v. Robins*, 578 U.S. 330, 339 n.7 (2016) ("The fact that an injury may be suffered by a large number of people does not of itself make that injury a nonjusticiable generalized grievance.").

Significantly—and contrary to the Circuit Court's erroneous conclusion, *see* App 7—the relief Appellants seek bears directly on the interests they assert. Appellants' interests here are their individual referendum rights and, to vindicate those rights, they seek relief from this Court declaring HB1 suspended and enjoining its use until the constitutional referendum process is completed. The Circuit Court, however, suggested that "[t]he relief Appellants seek—an injunction barring use of HB1's congressional map—does not bear on their asserted interest in voting on the referendum" because, "[r]egardless of whether this Court grants or denies [their] requested relief, [they] will retain the same ability to approve or reject HB 1 at the ballot box." *Id.* The Circuit Court misapprehended Appellants' theory of injury. At stake here is not Appellants' ability to vote on HB1 as a logistical matter but whether their referendum rights have been diluted to the point of vitiation. Decades of caselaw from this Court confirm that the

> [p]urpose of referendum is to suspend or annul a law which *has not gone into effect* and to provide the people a means of giving expression to a legislative proposition, and require their approval *before it become operative as a law*; and its purpose does not intend to invalidate a law already operative.

State ex rel. Moore v. Toberman, 250 S.W.2d 701, 706 (Mo. banc 1952) (emphasis added) (citation modified). This purpose would be clearly and irreparably subverted if legislation could take effect before it is voted on—just like the Governor's veto power would be diminished if legislation could become effective, even temporarily, before he had a chance to exercise it. *See Nichols v. Robinson*, 211 S.W. 11, 13 (Mo. 1919) (explaining that "[t]he legislative authority in Missouri is not wholly with the General Assembly" because "[t]he Governor is a factor in legislation" and thus "[i]t would be far-fetched to say that the legislative body meant that [a] law should become effective without the presentation to the Governor").

Put differently: Even if Appellants ultimately have the opportunity to cast ballots on the HB1 referendum, that vote could be meaningless if HB1 has already been in effect and Missouri voters are forced to elect members of Congress from new districts while simultaneously approving *or rejecting* that new map.[3] Given these stakes, Appellants do not claim a mere "abstract interest in the proper administration of referendum procedures," App 8, but rather in their individual ability "to serve as a check on the legislature," *No Bans*, 638 S.W.3d at 489. The relief they seek—suspension of HB1 and an injunction barring implementation of its new congressional map until the referendum process is completed—is directly tied to their interest in exercising their referendum rights free from dilution.

For this reason, Appellants' suit is distinct from *Prentzler v. Carnahan*, where the putative intervenors' interests as "signatories and supporters" of an initiative petition did "not establish that [they had] a direct and immediate claim upon the subject matter of the

[3] Appellants might be denied the opportunity to make their voices heard on Missouri's new congressional map altogether if the General Assembly again redistricts next year and this process repeats itself. *Cf. Luther*, 2026 WL 815813, at *2 (recognizing that "[t]he General Assembly may redistrict more frequently than once a decade").

underlying [statutory ballot-title] actions in which they s[ought] to intervene." 366 S.W.3d 557, 562 (Mo. App. W.D. 2012). The link between merely supporting an initiative petition and the mechanics of its ballot title and fiscal note was simply too attenuated; after all, "[g]iven that the limited purpose of ballot initiative challenges is to ensure the fairness and sufficiency of ballot titles and fiscal notes, [the putative intervenors'] proposed interests in having their signatures count and qualifying the initiative for the ballot [*we*]*re not at issue* in the underlying litigation." *Id.* (emphasis added). Here, in contrast, whether HB1 is allowed to take effect prior to the referendum vote directly impacts Appellants' ability to effectively exercise their constitutional rights. No analogous attenuation is present.[4]

The unique facts here underscore the concreteness of Appellants' claimed injury. The State is poised to implement HB1's congressional districts in the upcoming primary and general elections, with Secretary Hoskins publicly affirming his intention to protect the new map. *See supra* pp. 17–18. At the same time, preliminary results have already confirmed that the HB1 referendum received sufficient valid signatures to qualify for the November ballot. *See supra* pp. 16–17. The result: It is possible (if not probable) that, without this Court's intervention, Appellants and other Missourians will vote on whether to approve or reject HB1 *at the very same time* they elect member of Congress from districts drawn by that legislation. The referendum right could lose all meaning and value if voters

[4] The Circuit Court's further suggestion that Appellants' "asserted injury is remote and conjectural because it may never occur pending the issuance of a sufficiency determination by the Secretary of State" does not change this analysis. App 7. Appellants are suffering an injury *now*; that the injury *might* be remedied by a nonjudicial source in the future does not undermine Appellants' standing today. *See Harrison v. Monroe County*, 716 S.W.2d 263, 266 (Mo. banc 1986) (per curiam) (requisite "personal stake" for standing is satisfied where plaintiff alleges "actual injury resulting from the putatively illegal action" (citation modified)).

reject HB1 and yet are still forced to live under its map for the duration of the 120th Congress. That injury—dilution of the constitutional referendum right—is what Appellants seek to remedy, and they therefore have standing to assert their claim.

II. The Circuit Court erred in concluding that Appellants' claim is not ripe for adjudication, because it misapplied the law, in that Appellants seek to redress ongoing and imminent violations of their constitutional referendum rights that are not dependent on the Secretary of State's referendum-certification process or any other future action.

Standard of Review: "[W]here, as here, the facts are uncontested, a question as to the subject-matter jurisdiction of a court"—including ripeness—"is purely a question of law, which is reviewed *de novo*." *Mo. Soybean Ass'n v. Mo. Clean Water Comm'n*, 102 S.W.3d 10, 22 (Mo. banc 2003).

Preservation: See, e.g., D164 pp. 3–9 (discussing ripeness in opposition to Respondents' motions to dismiss); D212 p. 5 n.1 (establishing ripeness in pretrial brief).

"Ripeness is determined by whether 'the parties' dispute is developed sufficiently to allow the court to make an accurate determination of the facts, to resolve a conflict that is presently existing, and to grant specific relief of a conclusive character.'" *Schweich*, 408 S.W.3d at 774 (quoting *Missouri Health Care*, 953 S.W.2d at 621); *see also Missouri Soybean*, 102 S.W.3d at 26 ("A court cannot render a declaratory judgment unless the petition presents a controversy ripe for judicial determination.").

Here, Appellants' asserted injury is premised on the referendum right, which they allege is *currently* being violated because the State is enforcing HB1 as though it is *currently* in effect. Because Appellants have alleged an injury to their constitutional referendum rights on a present and ongoing basis, their claim is ripe for adjudication. *See Held v. State*, 560 P.3d 1235, 1249 (Mont. 2024) ("[A]lleging facts stating a claim that a [law]

violates a plaintiff's constitutional right is sufficient to show an injury, and seeking to vindicate those constitutional rights confers standing."); *cf. Schweich*, 408 S.W.3d at 778–79 (claims were not ripe where it could not be known at time of adjudication whether challenged action was unconstitutional). As discussed below, legislation *must* be suspended for the People to effectively exercise their referendum rights. It follows that, if legislation subject to a referendum petition is *not* suspended, then the People's rights are violated. There is nothing "hypothetical or speculative" about that injury, App 9; because HB1 is in effect *right now* and Appellants are being harmed *right now*, this dispute is ripe.[5]

The Circuit Court's ruling to the contrary is, like its standing conclusion, based on a fundamental misconception of Appellants' claim. The Circuit Court suggested that "[t]he entire premise of [this] case rests on whether the submitted petitions are legally sufficient—a determination the Secretary has not yet made"—and thus Appellants "are asking … to relieve the Secretary of State of his constitutionally mandated duties." *Id.* Not so: Appellants *do not seek a ruling* on Secretary Hoskins's certification process. They do not ask this Court or any other to rule on the sufficiency of the signatures or otherwise interfere with or adjudicate the statutory review process. *See* D124 p. 9 (Appellants' requested relief). Instead, Appellants seek a declaration that HB1 is *currently suspended*—regardless of the status of Secretary Hoskins's review. Appellants allege (and decades of consistent authority confirm) that HB1 was suspended as an operation of law upon the submission of signed

[5] Additionally—and independently—the State's intended and unlawful use of the suspended HB1 map in the 2026 congressional elections constitutes a present harm that is ripe for adjudication. *See Alverson v. Brown County*, No. 22-CV-03018-RAL, 2023 WL 3764958, at *4 (D.S.D. June 1, 2023) ("A party does not need to wait for actual harm to occur for a claim to be ripe." (citing *S.D. Mining Ass'n v. Lawrence County*, 155 F.3d 1005, 1008–09 (8th Cir. 2000))).

petitions on December 9, 2025. This automatic suspension is independent of the signature-verification process.

Missourians to Protect the Initiative Process illustrates the critical distinction at play here. There, this Court explained that "[a]ny controversy as to whether the *prerequisites* of article III, § 50"—the constitutional provision laying out the signature and timing requirements for initiative petitions—"have been met is ripe for judicial determination when the Secretary of State makes a decision to submit, or refuse to submit, an initiative issue to the voters. At that point, a judicial opinion as to whether the constitutional requirements have been met is no longer hypothetical or advisory." 799 S.W.2d at 828 (emphasis added). But here, Appellants' claim has nothing to do with determining whether 2026-R004 satisfies the procedural requisites for referenda, and they do not seek to prevent Secretary Hoskins from making that determination. Appellants' requested relief instead concerns whether legislation like HB1 is suspended as an operation of law upon the submission of signed referendum petitions—*before* those petitions are ultimately deemed to have satisfied constitutional prerequisites.[6] Whether 2026-R004 is eventually certified does not impact the unlawfulness of the State's enforcement of HB1 *right now*.[7] The Circuit Court's

[6] Likewise, because the automatic suspension of HB1 is independent of Secretary Hoskins's certification—and the former is all that Appellants ask the Court to adjudicate—an opinion in this matter would not constitute an impermissible advisory opinion. *Contra* App 10.

[7] For this reason, *Schweich* is readily distinguishable. *Contra* App 9. There, the Auditor's declaratory-judgment action "was filed prior to the end of FY 2012 and sought a prospective declaration as to what appropriations the Governor could or could not withhold in FY 2012," which necessarily implicated "factors that could not be known" because "until the fiscal year ended it could not be known what withholds, if any, might be permanent." 408 S.W.3d at 779. Here, Appellants do not seek any ruling on Secretary Hoskins's eventual certification of the HB1 referendum or his process leading up to it. No analogous speculation is required to conclude that HB1's current enforcement is unconstitutional.

contrary conclusion that "[w]hether HB1 is suspended turns on the sufficiency of the petition as to both form and signatures," App 9–10, ultimately misapprehends the merits as much as the ripeness of Appellants' claim.

III. The Circuit Court erred in concluding that Appellants' claim presents a nonjusticiable political question, because it misapplied the law, in that Appellants seek a legal determination regarding the suspension of legislation subject to referendum—an issue reserved for the judiciary and not the Secretary of State.

Standard of Review: "A trial court's dismissal of a case for lack of justiciability is subject to *de novo* review." *Mercy Hosps. E. Cmtys. v. Mo. Health Facilities Rev. Comm.*, 362 S.W.3d 415, 417 (Mo. banc 2012).

Preservation: See, e.g., D164 pp. 10–11 (discussing political-question doctrine in opposition to Respondents' motions to dismiss).

As this Court explained decades ago,

> the "political question doctrine" might make non-justiciable those cases wherein there was found "a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an initial policy determination of a kind clearly for non-judicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or an unusual need for unquestioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious pronouncements by various departments on one question."

State ex rel. Danforth v. Banks, 454 S.W.2d 498, 500 (Mo. banc 1970) (citation omitted) (quoting *Baker*, 369 U.S. at 217). None of these considerations exists here, and so the political-question doctrine does not foreclose Appellants' claim. There is no "textually demonstrable constitutional commitment of the" referendum right to Secretary Hoskins; that he oversees the implementation of the signature-verification process and the administration of elections does not make him the sole arbiter of the referendum right. Nor do

Appellants request judicial interference with an "initial policy determination"; again, they do not seek judicial review of Secretary Hoskins's certification decision, and whether HB1 was suspended upon the submission of signed petitions presents a question of law that can and must be addressed by the courts.

The Circuit Court's conclusion that this lawsuit nevertheless presents a nonjusticiable political question was predicated on the same misunderstanding of Appellants' suit described above. In claiming that "declar[ing] that HB1 has been suspended by an unverified referendum before the Secretary has completed his statutorily mandated review …. would require the Court to resolve a matter in the first instance, without the benefit of the factual findings and administrative determinations the General Assembly has required," App 11, the Circuit Court again operated under the mistaken assumption that Appellants seek judicial resolution of the Secretary of State's statutory certification process. They do not. Appellants seek a judicial determination that HB1 is currently suspended *notwithstanding* the ultimate certification decision. Again, whether HB1 was suspended as an operation of law on December 9, 2025, is distinct from—and thus does not rely on—Secretary Hoskins's certification efforts.

Equally unavailing is the Circuit Court's conclusion that "[w]hether a referendum has operative effect before a sufficiency determination is made is not a judicial question, but an administrative determination entrusted to the executive branch pursuant to legislative direction." *Id.* The contours of the constitutional referendum right—including whether legislation is automatically suspended upon the submission of signed referendum petitions—implicate purely legal questions that are neither reserved for nor subject to the Secretary of State's discretion. The inherent justiciability of such questions is confirmed by the myriad opinions from this Court safeguarding the People's referendum rights and

ensuring that the legislative and executive branches do not infringe them. *See infra* pp. 45–46.

In sum, whether HB1 was suspended as an operation of law upon the submission of signed petitions is not "a political question," App 12, but rather a critical (and, until now, consistently accepted) facet of the constitutional referendum process. Judicial resolution of that question is appropriate.

IV. The Circuit Court erred in concluding that Appellants improperly seek declaratory relief, because it misapplied the law, in that there is no statutory or other adequate remedy to redress the ongoing violation of Appellants' constitutional referendum rights and Appellants do not seek judicial review of the Secretary of State's referendum-certification decision.

Standard of Review: Where, as here, "the facts are uncontested, the determination of authority to hear [a] case is purely a question of law that is reviewed *de novo*." *State ex rel. SLAH, LLC v. City of Woodson Terrace*, 378 S.W.3d 357, 361 (Mo. banc 2012) (considering whether "trial court erred in entering declaratory judgment … because there is an adequate remedy at law").

Preservation: See, e.g., D164 pp. 7–9 (discussing adequacy of statutory remedy in opposition to Respondents' motions to dismiss).

"An action for declaratory judgment is inappropriate when the issue can be raised by some other means." *Lane v. Lensmeyer*, 158 S.W.3d 218, 223 (Mo. banc 2005); *see also City of Kansas City v. Chastain*, 420 S.W.3d 550, 555 (Mo. banc 2014) ("The lack of an adequate remedy at law is a prerequisite to relief via declaratory judgment."). Here, declaratory judgment is the appropriate vehicle to address the State's violation of Appellants' constitutional rights because there is no other means (statutory or otherwise) to raise and remedy this issue. Moreover, as this Court has explained, "'[t]he interest of being free from the constraints of an unconstitutional law is an interest that is entitled to legal protection.'

Hence, 'a declaratory judgment action has been found to be a proper action to challenge the constitutional validity of a [] statute or ordinance.'" *City of St. Louis v. State*, 643 S.W.3d 295, 300 (Mo. banc 2022) (citation modified) (first quoting *Rebman v. Parson*, 576 S.W.3d 605, 609 (Mo. banc 2019); and then quoting *Alpert v. State*, 543 S.W.3d 589, 592 (Mo. banc 2018)). As discussed above, *supra* pp. 9–10, Appellants challenge the constitutional validity of multiple statutes, including those amended by HB1. A declaratory action is therefore proper.

Once again, the Circuit Court's conclusion to the contrary is premised on misunderstanding. Appellants do not "seek to bypass the entire administrative process and obtain a premature judicial declaration before the administrative process has run its course" or otherwise "circumvent the statutory review process under Chapter 116." App 13. Appellants *are not challenging* the Secretary of State's signature verification. Consequently, the judicial-review process for sufficiency decisions, *see* § 116.200, RSMo, is not an appropriate remedy here.[8]

[8] The Circuit Court suggested that Appellants "simply could raise the[se] same issues in a Section 116.200 action," App 13, but such actions may seek only "to compel [the Secretary of State] to reverse his sufficiency decision" after he "certifies a petition as sufficient or insufficient," § 116.200.1, RSMo. That process cannot be used to answer threshold constitutional questions about the referendum right itself.

V. The Circuit Court erred in concluding on the merits that HB1 was not automatically suspended upon the submission of signed referendum petitions, because it misapplied the law, in that the Missouri Constitution and this Court's precedent require that legislation subject to referendum cannot go into effect until the constitutional referendum process is completed, and the Secretary of State's statutory review and certification process under Chapter 116, RSMo, must be construed consistent with that authority because, if it is not, then those statutes conflict with Article III, Sections 49, 52(a), and 52(b) of the Missouri Constitution, at least as applied to the facts here, and are unconstitutional.

Standard of Review: "This Court reviews *de novo* a challenge to the constitutional validity of a statute." *Priorities USA v. State*, 591 S.W.3d 448, 452 (Mo. banc 2020).

Preservation: See, e.g., D124 ¶¶ 39–46 (challenging constitutionality of HB1 and Sections 116.150 and 116.130, RSMo, in petition); D140 pp. 5–14 (discussing merits of constitutional claim in preliminary-injunction briefing); D212 pp. 6–16 (discussing merits of constitutional claim in pretrial brief).

Under longstanding and well-settled authority, HB1 was suspended on December 9, 2025, when the Secretary of State's office received 691 boxes containing nearly 50,000 pages of signed referendum petitions. The State's contrary position—that HB1 will not be suspended until and unless Secretary Hoskins issues a certificate of sufficiency under Section 116.150, RSMo—conflicts with both a century of precedent and the Missouri Constitution and should have been rejected by the Circuit Court. Reversal on the merits is therefore required.

A. It has long been the law that legislation is suspended upon the submission of signed petitions.

Article III, Section 49 of the Missouri Constitution provides that "[t]he people … reserve power to approve or reject by referendum any act of the general assembly." A referendum proceeds as follows:

> A referendum may be ordered … by petitions signed by five percent of the legal voters in each of two-thirds of the congressional districts in the state ….

> Referendum petitions shall be filed with the secretary of state not more than ninety days after the final adjournment of the session of the general assembly which passed the bill on which the referendum is demanded.

Mo. Const. art. III, § 52(a). Significantly, "[a]ny measure referred to the people shall take effect when approved by a majority of the votes cast thereon, *and not otherwise*." *Id.* art. III, § 52(b) (emphasis added). In practice, this means that,

> once a referendum petition has *received* sufficient signatures to be placed on the general election ballot, the referred measure is placed before the people for their consideration as an original proposition; the prior action by the General Assembly and the Governor on the referred measure is suspended or annulled, and has no further legal effect or consequence.

Stickler v. Ashcroft, 539 S.W.3d 702, 713 n.9 (Mo. App. W.D. 2017) (emphasis added) (citation modified). This rule ensures that referred legislation is not made effective before the People exercise their right to approve or reject it, reflecting that the referendum power "serve[s] as a check on the legislature." *No Bans*, 638 S.W.3d at 489.

This foundational precept is not new. For more than a century, this Court has *repeatedly* emphasized that legislation subject to a referendum petition is suspended—and cannot go into effect—until voters give their approval. After all, if "the Legislature may postpone the effective date of a law by an analogy of reasoning it must also follow that the operation of a statute may be deferred by *the invocation of the referendum*, for the exercise of legislative power by the people through the referendum is simply a reservation to themselves of a share of the legislature power." *State ex rel. Barrett v. Dallmeyer*, 245 S.W. 1066, 1068 (Mo. banc 1922) (emphasis added). Accordingly—and, until now, uncontroversially—"the *mere lodging* of a timely, legal, and sufficient referendum petition with the Secretary of State is all that" must be done to "halt[]" the "law affected"—"regardless of any affirmative act on the part of the Secretary of State or the Attorney General." *Kemper*,

165 S.W. at 779 (emphasis added). The *Kemper* Court emphasized that this position is logical to the point of obviousness and, at the time at least, universality:

> When we consider the primary object of the adoption of the referendum and have regard to the evils which its friends had in mind to correct by it, any view other than that it suspends the taking effect of the act against which it is invoked till a vote be had is illogical and well-nigh unthinkable….
>
> Not alone does this view accord with the clear meaning of the language used, but it is in consonance with business orderliness and plain, good common sense, and in accordance, likewise, with the views held by every court in which the point has been made.

Id. at 778.

The automatic suspension of referred legislation is compelled by the timing of the legislative process. "Referendum petitions shall be filed with the secretary of state not more than *ninety days* after the final adjournment of the session of the general assembly which passed the bill on which the referendum is demanded." Mo. Const. art. III, § 52(a) (emphasis added). This ninety-day clock mirrors the default effective date of legislation. *See id.* art. III, § 29 ("No law passed by the general assembly … shall take effect until *ninety days* after the adjournment of the session … at which it was enacted." (emphasis added)). The interplay of these constitutional provisions is apparent: Legislation goes into effect after ninety days *unless* a referendum petition is timely submitted suspending that effectiveness.

This conclusion has the support not only of the constitutional text but also intuition; simply put, it would make no sense for legislation to take effect only to be later suspended pending a referendum. This Court held as much more than a half-century ago in a case *involving a congressional map*, explaining that, if Section 52(a) allowed effective legislation to later be suspended upon the submission of a referendum petition,

> then great confusion will result and much mischief may ensue….

> To hold that § 52(a) has this effect would destroy the concept of the referendum. [The p]urpose of referendum is to suspend or annul a law which *has not gone into effect* and to provide the people a means of giving expression to a legislative proposition, and require their approval *before it become operative as a law*; and its purpose does not intend to invalidate a law already operative….
>
> It seems clear that the intendment of the framers of the Constitution was that all laws, except those declared non-referable, should be subject to referendum *if petitions to refer them were duly filed before their effective date*[.]

Moore, 250 S.W.2d at 706 (emphasis added) (citation modified). Legislation subject to a referendum petition *must* be suspended before it goes into effect; otherwise, the purpose of the referendum right would be undermined if not destroyed altogether.

Given this dynamic (and this Court's repeated rulings on the mechanics of the referendum process), prior Secretaries of State have uniformly concluded that legislation was suspended upon the submission of signed referendum petitions—*before* their offices completed the statutory verification process. *See supra* pp. 14–15. This uniformity of practice is not a mere historical artifact: The State's Director of Elections adopted this longstanding, commonsense position just months ago in federal litigation challenging the constitutionality of the HB1 referendum, stating that, "if [the referendum organizers] succeed in collecting the necessary signatures, the Missouri Constitution will prevent the new map from taking effect until a referendum occurs." Declaration of Chrissy Peters in Support of Plaintiffs' Motion for a Preliminary Injunction ¶ 20, *Mo. Gen. Assembly v. von Glahn*, No. 25-cv-01535-ZMB (E.D. Mo. Oct. 15, 2025), ECF No. 3-1.

Application of these principles to this case is straightforward: HB1 is now suspended, full stop. The Secretary of State's office received 691 boxes with nearly 50,000 pages of HB1 referendum petitions on December 9, 2025, two days ahead of the deadline. *See* D174 ¶ 12; D176; D177. Upon that submission, HB1 was "halted" as an operation of

law. *Kemper*, 165 S.W. at 779. Nothing further was required to effectuate HB1's suspension—not the Secretary of State's issuance of a certificate of sufficiency under Section 116.150, RSMo, or anything else. Although Secretary Hoskins has myriad tools to review the 2026-R004 petitions for sufficiency and may find the referendum invalid *at any time*, *see infra* pp. 49–52, he has not done so; no certificate of insufficiency has issued and the referendum has not been deemed noncompliant, *see* D174 ¶ 19. HB1 is therefore suspended, and the purported effectiveness of the legislation is unconstitutional.

B. The Circuit Court's reasoning to the contrary is unpersuasive.

This precedent notwithstanding, the Circuit Court concluded that "no automatic suspension exists" and that legislation is suspended only once the referendum is certified under the procedures laid out in Chapter 116, RSMo. App 19. The reasoning underlying the Circuit Court's ruling—and the concerns about abuse animating it—do not withstand scrutiny and cannot be squared either with this Court's precedent or the very purpose of the referendum right.

1. The purpose of the referendum right is vindicated *only if* legislation is automatically suspended.

The Circuit Court began its consideration of the merits by suggesting that Appellants' position would fatally undermine a key facet of the referendum process: "The constitutional signature threshold would be rendered meaningless if automatic suspension occurred based on mere physical delivery of petition boxes, regardless of actual signature sufficiency." App 14. Not so: A proposed referendum can proceed to a vote *only if* its organizers collected the requisite number of valid signatures. If a referendum falls short of this signature threshold and the Secretary of State deems it insufficient under Chapter 116, then the referendum was not properly "referred to the people" under Section 52(b) and the subject law can take immediate effect—which is to say, be unsuspended. The constitutional

signature threshold is not rendered meaningless under Appellants' theory of the referendum process; the People can reserve their share of the legislative power and vote to approve or reject legislation *only if* a referendum receives enough signatures.

In contrast, the Circuit Court's (and the State's) position might render the referendum right itself meaningless. If legislation could take effect *before* voters have the opportunity to approve it—despite satisfaction of Section 52(a)'s prerequisites—then the referendum process would be undermined or even vitiated altogether. The Circuit Court did not address this fundamental irreconcilability in its ruling, and at no point during this litigation has the State articulated how its current position can be squared with this Court's precedent on the purpose of the referendum right. In the end, only Appellants have advanced a position that gives meaning and effect to every facet of the referendum process—constitutional and statutory alike.

2. Appellants' position is consistent with the constitutional text.

The Circuit Court also suggested that Appellants' position is inconsistent with the constitutional referendum provisions because, "[u]nlike other state constitutions, the Missouri Constitution does not expressly use the term 'suspend' in its referendum provisions nor provide for any type of automatic suspension upon any petition filing." App 14. This semantic point is of little moment. The suspension of legislation subject to referendum is *necessary* given that such measures "take effect when approved by a majority of the votes cast thereon, *and not otherwise*." Mo. Const. art. III, § 52(b) (emphasis added). The only way to operationalize this constitutional requirement is to suspend legislation upon submission of signed petitions by the ninety-day deadline. Otherwise, such legislation would automatically take effect under Article III, Section 29 *before* it is "approved by a majority of the votes"—and the plain constitutional text forecloses that result.

No more availing is the Circuit Court's adoption of the *Nevada* Supreme Court's opinion that, "[w]hen constitutional framers have not seen fit to provide that the filing of a referendum petition shall suspend the operation of a law, courts are not authorized to read such a provision into the Constitution." App 14 (citing *State ex rel. Morton v. Howard*, 248 P. 44, 45–46 (Nev. 1926)). *This* Court has ruled otherwise. *See, e.g.*, *Kemper*, 165 S.W. at 779.

Morton is readily distinguishable at any rate. There, the Nevada Supreme Court considered *whether* a referred law is suspended pending the outcome of a referendum—not *when* suspension occurs. The court emphasized that there "is not to be found in the referendum provision of the [Nevada] Constitution anything expressly giving to the filing of a referendum petition the effect of suspending the operation of the law aimed at until a vote can be had upon the question, *nor can such intention be implied therefrom*." *Morton*, 248 P. at 45 (emphasis added). In other words, under the Nevada Constitution in 1926, a law could not be suspended—*period*—until a majority voted to make the law inoperative. Here, in contrast, neither the Circuit Court nor the State disputes that suspension of referred legislation is eventually required under Article III, Section 52(b) of the Missouri Constitution; the only question is *when* that suspension occurs. And notably, the *Morton* court observed that the Oregon Constitution (among others) "contain[ed a] specific provision[] for withholding operation of a law referred to the people until approved by a majority vote." *Id.* The Missouri Constitution contains that very same provision. *See infra* pp. 47–49.

3. The Circuit Court misconstrued *Kemper*.

The Circuit Court noted correctly that Appellants "rely on *Kemper* for their position that a petition is deemed sufficient upon filing with the Secretary of State." App 15. But the Circuit Court interpreted *Kemper* to support *the State's* position, not Appellants. This

conclusion was based on a misreading of *Kemper* and the general (and enduring) principles the decision established.

The *Kemper* Court confronted a legal dispute not dissimilar to the one before the Court now. The *Kemper* relator, like the State here, argued that legislation "went into effect 90 days after the adjournment of the … General Assembly, notwithstanding the reference of that act to a vote of the people for their approval or rejection pursuant to the referendum provision of our Constitution." 165 S.W. at 777. The respondents, like Appellants, contended "[o]n the other hand … that the filing of a proper, timely, and sufficient referendum petition for such submission of this act to a vote of the people had the effect of suspending the taking effect of the act till such vote shall be had." *Id.* After exploring the views of courts in states with analogous referendum provisions, *see infra* pp. 47–49, the *Kemper* Court felt

> constrained to hold, without doubt or hesitation, that all acts of the Legislature, touching which the referendum may be properly invoked, are suspended by *the filing of a legal, sufficient, and timely petition* for the submission of such acts to a vote of the people for their approval or rejection, and that all such acts take effect when and only after a vote of the people has approved them at an election in which a majority of the votes are cast in favor of such act.

165 S.W. at 779 (emphasis added).

The Circuit Court, seizing on this italicized language, concluded that "*Kemper* did not hold that mere physical delivery of boxes triggers automatic suspension; it held that a 'timely, legal, and sufficient' petition suspends legislation"—which is to say, "one that complies with constitutional and statutory requirements, not merely one that has been submitted by the deadline." App 14–15. The Circuit Court continued:

> The verification and certification process is not a mere administrative formality to be completed after suspension has already occurred; it is the substantive mechanism by which legal sufficiency is established under the Constitution, thereby triggering suspension. *Kemper*'s emphasis on "legal and sufficient" petitions forecloses [Appellants'] argument that any submission, regardless of actual compliance with signature requirements, suspends legislation.

Id. at 17. The problem with this reading of *Kemper* is that it precipitates the very ills this Court sought to avoid. The *Kemper* relator argued that, "[b]ecause no careful, certain, and definite counting of the names on the petition filed was made by the Secretary of State," the law in question was not suspended. 165 S.W. at 779. But the Court *rejected* the notion that further action on the part of the Secretary of State was required to effectuate suspension after considering the natural consequences of the relator's argument: that, "by an alleged failure of the Secretary of State and of the Attorney General to act forthwith and promptly, the will of all of the signers should be defeated" by the automatic effectiveness of a referred law. *Id.* "[S]uch destructive results do not generally follow even conceded dereliction of duty in the performance of ministerial acts," the Court noted,[9] which is why "the mere postponement of the determination of the definite and exact number of signers on a referendum petition till a less pressing and more convenient season [cannot] operate to defeat the will of those signers and prevent a vote upon a matter which might be of grave moment to the people." *Id.* at 779–80.

Consequently—and contrary to the Circuit Court's ruling—"the *mere lodging* of a timely, legal, and sufficient referendum petition with the Secretary of State is all that the petitioners were required to do, and that the law affected, or sought so to be, is halted,

[9] It is worth emphasizing that the record here reveals the Secretary of State's intentional objective to delay the certification process in order to force use of the new HB1 map. *See supra* pp. 17–18.

regardless of any affirmative act on the part of the Secretary of State or the Attorney General." *Id.* at 779 (emphasis added). The "mere lodging"—which is to say, the "mere physical delivery of boxes," App 14—is all that is required.

The Circuit Court's conclusion that the sufficiency of a referendum petition must be certified by the Secretary of State to trigger the suspension of a bill cannot be reconciled with the *Kemper* Court's rationale for that suspension. Under the Circuit Court's (and the State's) theory, virtually *all* referred legislation would take effect prior to a referendum vote because bills automatically become effective after ninety days—the same date as the deadline for referendum petitions. *See supra* p. 36. Moreover, because Section 116.150, RSMo, allows the Secretary of State to certify a referendum long after the ninety-day default for legislative effectiveness, a bill could be effective for months or more before certification and suspension. This would indisputably "defeat[]" the will of signers and deny Missouri voters their constitutional right to approve legislation *before it goes into effect*. *Kemper* does not support this result; to the contrary, it forecloses it.

Before the Circuit Court, the State also tried its hand at distinguishing *Kemper*—specifically, by suggesting that suspension-upon-filing was appropriate in 1914 only because the Secretary of State's role at that time was purely ministerial. *See* D211 pp. 36–37. Even accepting this premise, that is precisely where the HB1 referendum now finds itself. As discussed above, *supra* pp. 16–17, local election officials have confirmed that the HB1 petition received sufficient valid signatures to satisfy constitutional prerequisites. Secretary Hoskins's certification of those findings is now essentially a ministerial act akin to his predecessor's role in *Kemper*—and therefore suspension of HB1 is appropriate even under the State's (improperly) crabbed reading of that opinion.

Again, the timing considerations at play here underscore the infirmity of the Circuit Court's ruling and the necessity of Appellants' position. The Secretary of State has until "the thirteenth Tuesday prior to the general election or two weeks after the date the election authority certifies the results of a petition verification … , whichever is later," to issue a certificate of sufficiency. § 116.150.3, RSMo. Applied here, Secretary Hoskins has until August 4, 2026—*primary day*—to issue a certificate for the HB1 referendum. The State has been cagey in this litigation about when exactly it believes Missouri's congressional map must be set, but it now suggests that it is too late to change the operative map. *See* State's Resp. to Appellants' Mot. to Expedite ("State Resp.") 2. Although the State's new-found timing concerns ring hollow and should not prevent this Court from ruling in Appellants' favor, *see infra* pp. 54–56, a moment in time will certainly arrive *before* the certification deadline when the purportedly operative HB1 map will be locked in—meaning that Missouri voters will be forced to vote for candidates under the new congressional map in the same election where they are exercising their constitutional power to approve or reject it. A more self-defeating rendering of the referendum right is difficult to fathom.

In short, though the Circuit Court blanched at Appellants' suggestion that the sufficiency of a referendum petition must be assumed until certification by the Secretary of State, that is the *only* way to square *Kemper* and its progeny with the Secretary of State's verification procedures outlined in Chapter 116, RSMo—and such reconciliation is needed to avoid a significant constitutional problem, as discussed below.

4. The Secretary of State's statutory verification procedure does not and cannot change this result.

In distinguishing *Kemper* from this case, the Circuit Court noted "that, in 1980, after *Kemper* was decided, the General Assembly created a verification process and vested it in the Secretary of State"—thus suggesting that *Kemper*'s suspension directive is no longer

valid given Chapter 116's "comprehensive verification procedures for determining petition sufficiency." App 15.

This reasoning has it exactly backwards. *Kemper* is not subject to subsequent legislative revision; instead, referendum-related enactments must be reconciled with *Kemper* and the constitutional right it safeguarded. This Court has been clear: "The legislature must not be permitted to use procedural formalities to interfere with or impede this constitutional right that is so integral to Missouri's democratic system of government." *No Bans*, 638 S.W.3d at 492. Statutes *cannot* trump the constitutional right to referendum. Nor can the actions of the Secretary of State. Missouri's judiciary—including this Court—has repeatedly rejected attempts to limit the People's referendum power through manipulations of timing and process. *See, e.g.*, *id.* (statutory prohibition on collecting referendum-petition signatures prior to Secretary of State's certification of official ballot title was unconstitutional because it "interferes with and impedes" constitutional right of referendum by unreasonably shortening timeframe for petition circulation); *Moore*, 250 S.W.2d at 706 ("To construe § 52(a) to prohibit referendum of laws made effective by § 29 would enable the general assembly to defeat the purpose of 52(a) by passing bills and then recessing for thirty days or more after prescribing by joint resolution that they should take effect ninety days after the beginning of the recess."); *Kaw Transp. Co. v. Whitmer*, No. CV181-778CC, slip op. at 1–2 (Cole Cnty. Cir. Sept. 29, 1981) (rejecting argument that "a certification process by the Secretary of State [was required] before the staying effect of a referendum petition takes effect" and noting that "[t]he right of the people of this State … by use of the referendum process to stay the operation of legislation upon the happening of certain

events, and to submit that legislation to a vote of all the people is superior to any right possessed by the plaintiffs").[10]

This same principle controls here. Put plainly, if the State is correct and Section 116.150 or 116.130, RSMo—or *any* provision of Chapter 116—permits the Secretary of State to delay suspension of legislation subject to a referendum petition until the issuance of a certificate of sufficiency and thus allow the bill to go into effect, then the statute conflicts with Article III, Sections 49, 52(a), and 52(b) of the Missouri Constitution (at least as applied to the facts here) and is unconstitutional. The Secretary of State's statutory review and certification process cannot dilute the referendum right by allowing legislation to go into effect before the People have their say.

Fortunately, such a drastic determination is not necessary. Chapter 116 can be "construed in favor of constitutional validity" by concluding that it does not interfere with the automatic suspension of legislation upon the submission of signed petitions. *State v. Meacham*, 470 S.W.3d 744, 746 (Mo. banc 2015). Here's how: Consistent with *Kemper*, this Court's precedent, and Article III, Section 52(b), when signed referendum petitions are submitted to the Secretary of State's office by the constitutional deadline, the legislation at

[10] The Circuit Court read *Kaw Transport* to require "verification that the petitions meet the constitutional and statutory requirements" as a prerequisite for suspension of the subject legislation. App 17–18. But this was the argument advanced by the *Kaw Transport* plaintiffs that the court *rejected*. *Compare* Petition at 6–7, *Kaw Transport*, No. CV181-778CC (Cole Cnty. Cir. Sept. 28, 1981) (praying for judgment that "the submission of [] petitions … did not have the effect of staying and deferring the effective date of [the] act" and that legislation "should not be deemed to have been referred to the people … until such time as the Secretary of State … has issued a certificate pursuant to Section 116.150"), *with Kaw Transport*, slip op. at 2 ("[T]his Court refuses to grant relief prayed for by the plaintiffs."). Though the *Kaw Transport* court noted that its conclusion was "reasonable" in light of the Secretary of State's initial examination of the referendum petition under Section 116.120, RSMo, slip op. at 2, the court did *not* rule that this initial review was a legal prerequisite for suspension. Nor could it have—such a determination would have conflicted with *Kemper* and the referendum right for the reasons discussed above.

issue is suspended as an operation of law. The Secretary of State's post-suspension review and verification process, including certification under Section 116.150, RSMo, operates as a review nunc pro tunc, confirming (or disconfirming) whether legislation was actually referred to voters consistent with constitutional requirements. *See Kemper*, 165 S.W. at 781 ("[T]he acts of the Secretary of State … relate back to a date as of the day of filing the petition[.]"). If the referendum is certified, then the suspension continues through the vote; if the referendum is not certified, then the suspension is lifted and the legislation takes immediate effect.[11]

Appellants' interpretation of the interplay between Section 52(b) and Chapter 116—that legislation is automatically suspended upon the filing of signed petitions pending completion of the referendum process and can be *un*suspended upon a final determination of insufficiency by the Secretary of State—reflects the referendum process of another state with a close connection to Missouri's own. After explaining "that, when the language of a law vexing us has come to us by adoption from another state, we are greatly persuaded by the construction put upon the law by the state of its origin," the *Kemper* Court observed

[11] At the Circuit Court, the State suggested this sequence of events conflicts with Section 52(b). Noting that "[a]ny measure referred to the people shall take effect when approved by a majority of the votes cast thereon, and not otherwise," Mo. Const. art. III, § 52(b), the State contended that legislation once referred can be unsuspended only by a majority vote—meaning suspended legislation *cannot* be unsuspended by the Secretary of State even if the referendum petition is ultimately deemed insufficient. This argument misses a critical nuance: If a referendum petition was not legally sufficient when submitted, then the legislation initially suspended as an operation of law was *not* constitutionally "referred to the people"—and therefore its wrongful suspension can be undone by the Secretary of State. *See Kaesser v. Becker*, 243 S.W. 346, 350–51 (Mo. banc 1922) (recognizing that Secretary of State's initial determination is subject to later review). Section 52(b) does not undermine Appellants' position; to the contrary, the plain language of the provision *compels* the conclusion that HB1 and other legislation is suspended upon submission of signed referendum petitions, since otherwise bills would take effect before approval by a majority of voters.

that "Oregon adopted the referendum in 1902; six years later we copied the section [on initiatives and referenda] set out from the amendment to the Oregon Constitution of 1902, and adopted it practically verbatim." 165 S.W. at 777–78. Under Oregon law, if a petition for referendum is "*filed* within the time required by law," then it has the "effect [of] *suspending* the operation of the" referred law. *State ex rel. Byers v. Gibson*, 191 P.2d 392, 393 (Or. 1948) (emphasis added); *see also, e.g.*, *Bernstein Bros., Inc. v. Dep't of Revenue*, 661 P.2d 537, 540 (Or. 1983) ("If a petition invoking a referendum had been filed, the [law] could not have gone into effect until after the election[.]"). The Oregon Supreme Court explained a century ago why this must be the rule: "[T]he measure enacted by the Legislature, which is referred to the people, is not a law. It will *never* become a law unless a majority of voters voting upon the referred bill vote in favor of the bill." *Davis v. Van Winkle*, 278 P. 91, 92 (Or. 1929) (emphasis added); *see also, e.g.*, *Portland Pendleton Motor Transp. Co. v. Heltzel*, 255 P.2d 124, 125 (Or. 1953) ("When a referendum is invoked, the act of the legislature then becomes merely a measure to be voted on by the people, and, if the people vote in the affirmative, the measure becomes an act; if they vote in the negative, the measure fails.").[12]

[12] In 1968, the Oregon Constitution was amended to remove the language currently reflected in the Missouri Constitution's Article III, Section 52(b), replacing Section 52(b)'s "and not otherwise" language with, "[A] ... referendum measure becomes effective 30 days after the day on which it is ... approved by a majority of the votes cast thereon." *M.S. v. Brown*, 902 F.3d 1076, 1084 (9th Cir. 2018) (alterations in original) (quoting Or. Const. art. IV, § 1). But a legislative committee explanation that accompanied this amendment emphasized that the purpose of the change was "purely 'clean-up' of the wording" and that it "in no way … diminish[ed] the power of the people to initiate or refer measures." *Id.* at 1084–85 (citation modified). The Oregon Constitution still "provides that the people retain the referendum power to approve or reject legislation enacted by the [] Legislature *before it goes into effect*," *id.* at 1084 (emphasis added)—just like the Missouri Constitution.

Critically, in practice—and in reconciliation with the Oregon Secretary of State's statutory verification process—"[t]he bill on which a referendum petition is filed does not go into effect until it is determined the [] petitioners did not submit enough valid signatures or an election is held." *State Initiative and Referendum Manual*, Or. Sec'y of State Elections Div. 19 (Jan. 2024), https://bit.ly/4dxWn0G. This is precisely the operationalization of Missouri's referendum process that Appellants urge here—and that this Court has repeatedly endorsed in the past.[13]

5. The Secretary of State has myriad tools to police abuse of the referendum process.

The Circuit Court's merits ruling was motivated in part by concerns about abuse. Noting that "signatures can be determined invalid for numerous reasons" and "[p]etitions that appear to have sufficient signatures on their face can be and have been deemed invalid," the Circuit Court determined that the Secretary of State's "statutory verification and review processes serve critical functions in preventing abuse of the referendum process" and must therefore precede suspension of legislation. App 16–17. Otherwise, the Circuit Court feared, "any group could suspend legislation merely by submitting boxes of invalid signatures, signatures of unregistered voters, forged names, or other fraudulent submissions." *Id.* at 17. But just as the Secretary of State's statutory certification process should not be the tail that wags the dog of the constitutional referendum right, the Circuit Court's concerns about fraud should not diminish the People's prerogative to serve as a check on

[13] The *Kemper* Court further noted that "[t]he state of Arkansas likewise has adopted, as a part of the organic law of that state, the provisions of the Initiative and Referendum, appropriating bodily for that purpose the similar provision of the Oregon Constitution." 165 S.W. at 777. Although the Arkansas process has evolved over time, "the date the initial petition for referendum [is] filed with" the Arkansas Secretary of State "is the date the referendum process beg[ins] and the date the referred act [is] held in abeyance." *Walker v. McCuen*, 886 S.W.2d 577, 581 (Ark. 1994).

the General Assembly—especially since Appellants' position provides plenty of opportunities for the Secretary of State to police and deter abuse of the referendum process.[14]

Consider HB1 in light of Chapter 116's review process. Immediately upon the submission of signed petitions on December 9, 2025, Secretary Hoskins could have "rejected [the petitions] as insufficient" if they were not "submitted in accordance with this section, disregarding clerical and merely technical errors." § 116.100, RSMo. He remains empowered to "examine the petition to determine whether it complies with the Constitution of Missouri and with" the referendum statutes, including by "verify[ing] the signatures on the petition by use of random sampling …. of five percent of the signatures"; "[i]f the random sample verification establishes that the number of valid signatures is less than ninety percent of the number of qualified voters needed to find the petition sufficient in a congressional district, the petition shall be deemed to have failed to qualify in that district." § 116.120.1–.2, RSMo. He "may send copies of petition pages to election authorities to verify that the persons whose names are listed as signers to the petition are registered voters. Such verification may either be of each signature or by random sampling[.]" § 116.130.1, RSMo. He retains "authority not to count signatures on initiative or referendum petitions which are, in his opinion, forged or fraudulent signatures." § 116.140, RSMo. And, *at any time*, "[i]f the secretary of state finds the petition insufficient, the secretary of state shall issue a certificate stating the reason for the insufficiency." § 116.150.2, RSMo.

[14] Any hypothetical concerns about fraud in this case have, of course, been dispelled by the signature review completed by local election officials. *See supra* pp. 16–17.

The occurrence and timing of these safeguards serve as a check on the automatic suspension of legislation.[15] As the *Kemper* Court observed when considering an earlier iteration of the verification process, "our statutes, it would seem, have provided full and ample machinery for every condition and contingency, and for the protection and safeguarding of both protagonists and antagonists of the act sought to be referred." 165 S.W. at 781. What was true in 1914 is still true today: Missouri law provides full and ample machinery to ensure that only legislation properly referred to the People proceeds to a vote. But until one of these safeguards is triggered (and, of course, the process for judicial review is allowed to take its course, *see* § 116.200, RSMo), legislation subject to a referendum petition is suspended. The Secretary of State "has no discretion in the matter." *Kemper*, 165 S.W. at 781.

The *Kemper* Court noted yet another safeguard against fraud in the referendum process, one that allows the Secretary of State to accept submitted referendum petitions (and suspend legislation) with confidence:

> Clearly the warning provided for by statute, which recites that a breach of the law as to a referendum petition constitutes a felony, and the careful provisions for verification of the stated facts as to residence, names, and qualifications of signers, indicate that these provisions were deemed such adequate safeguards against fraud and forgery as that compliance therewith, showing prima facie sufficiency and regularity, was intended to import such sufficient verity to the Secretary of State as to make it his duty to file petitions bearing such legal indicia when such were presented to him for filing.

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[15] The General Assembly also has a check: A referendum may *not* be ordered "as to laws necessary for the immediate preservation of the public peace, health or safety, and laws making appropriations for the current expenses of the state government, for the maintenance of state institutions and for the support of public schools." Mo. Const. art. III, § 52(a); *see also id.* art. III, § 29 (provision that bills cannot take effect fewer than ninety days after legislative adjournment does not apply to appropriation acts or emergency legislation). HB1 does not implicate any of these exceptions.

165 S.W. at 781. A similar statutory prophylactic exists today. *See* § 116.030, RSMo (requiring referendum petitions to include statement that "[i]t is a class A misdemeanor punishable … for a term of imprisonment not to exceed one year in the county jail or a fine not to exceed ten thousand dollars or both, for anyone to sign any referendum petition with any name other than his or her own, or knowingly to sign his or her name more than once for the same measure for the same election, or to sign a petition when such person knows he or she is not a registered voter"). This fraud deterrent should not be disregarded, as "[t]he law presumes right conduct rather than otherwise" and "that men will not deliberately commit criminal acts." *Kaesser v. Becker*, 243 S.W. 346, 350 (Mo. banc 1922).

* * *

Kaesser, on which the Circuit Court placed great weight, succinctly laid out the tension inherent in the referendum process:

> The referendum is a safeguard against legislation which is deemed unwise and the law must not be so construed as to destroy its effectiveness. On the other hand, full observance of substantial requirements must be exacted lest the referendum be made the instrument of injustice or oppression by a militant and well-organized opposition, much less in numbers than the required 5 per cent. of the legal voters in two-thirds of the congressional districts.

243 S.W. at 352. The position adopted by the State and the Circuit Court fails this balance because it "destroy[s the] effectiveness" of the referendum right. If the suspension of legislation can be delayed months or longer until the Secretary of State chooses to complete the verification process, then referred legislation will be allowed to take effect—even though the Missouri Constitution prohibits this result before the People have their say.

Neither the Circuit Court nor the State has reconciled this intolerable result with the constitutional imperatives described above or explained how Chapter 116 can be permitted to subvert the referendum right.[16]

Appellants' position, in contrast, gives meaning and effect to *all* relevant constitutional provisions, statutes, and cases, safeguarding the referendum right while recognizing the Secretary of State's necessary role in confirming that legislation is properly referred to the People. Appellants satisfy the *Kaesser* balance and this Court's other precedent—and the State does not.

This case ultimately comes down to a simple premise: either Missouri voters have a meaningful referendum right or they do not. And if they do, then that right cannot be held captive to the caprices or particular preferences of the Secretary of State or anyone else. The People long ago reserved to *themselves* a voice in the lawmaking process and a check on legislative action. The Missouri Constitution empowers voters—not the Secretary of State—to decide whether and when a bill becomes law. This Court can and must safeguard that right and once again rule that legislation is suspended when signed petitions are submitted. This remains the only method of ensuring that legislation does not go into effect before voters have their say—a fundamental predicate of the constitutional referendum right.

[16] And to be clear, it cannot. To borrow again from the Oregon Supreme Court: "[T]he state may not curtail the power of referendum or place an undue burden on the exercise of the power. The only power the legislature has is to pass legislation that aids or facilitates the purpose intended by the constitution." *Bernstein Bros.*, 661 P.2d at 539 (citation omitted); *see also supra* pp. 45–46.

C. It is not too late for this Court to reverse on the merits.

Finally, in opposing expedition of this appeal, the State suggested that "it is already too late for a judicial order changing Missouri's congressional map before the 2026 elections" because "the *Purcell* principle [] forecloses a judicial order enjoining the HB1 map for the 2026 elections." State Resp. 2. This argument is unavailing for at least three reasons.

First, "*Purcell* did not create a per se rule prohibiting against enjoining unconstitutional voting laws or procedures on the eve of the election. That is to say, '*Purcell* is not a magic wand that defendants can wave to make any unconstitutional election restriction disappear so long as an impending election exists.'" *Namphy v. DeSantis*, 493 F. Supp. 3d 1130, 1141 (N.D. Fla. 2020) (quoting *People First of Ala. v. Sec'y of State*, 815 F. App'x 505, 514 (11th Cir. 2020) (Rosenbaum and Pryor, JJ., concurring)). Instead, a court must "analyz[e] the particular facts surrounding the case in front of it." *Id.* This makes sense: The *Purcell* doctrine finds its origins in *practical* considerations, as the U.S. Supreme Court urged caution (*not*, however, abdication) in the lead-up to elections because "[c]ourt orders affecting elections … can [] result in voter confusion and consequent incentive to remain away from the polls." *Purcell v. Gonzalez*, 549 U.S. 1, 4–5 (2006) (per curiam).

Here, there is *no* evidence in the record that it is too late for this Court or any other to rule on HB1's suspension—because the State did not adduce any. Nor did the Circuit Court find that the *Purcell* principle forecloses the relief Appellants seek. *See* App 19 (declining to address timing issues). Without a factual leg to stand on, the State's invocation of *Purcell* should not stay this Court's hand.

Second, the *Purcell* principle "is infused with federalism concerns, arising from the notion that *federal* courts should show a degree of caution before they intervene in state-created election procedures that could bollix up the management of an election by state officials." *Democratic Senatorial Campaign Comm. v. Pate*, 950 N.W.2d 1, 15 (Iowa 2020)

("*DSCC*") (Appel, J., specially concurring) (emphasis added); *see also, e.g.*, *Abbott v. League of United Latin Am. Citizens*, 146 S. Ct. 418, 419 (2025) (purpose of *Purcell* is to avoid "upsetting the delicate federal-state balance in elections"). "There is, of course, no federalism consideration in this case," where Appellants ask the *Missouri* Supreme Court to adjudicate an issue under the *Missouri* Constitution. *DSCC*, 950 N.W.2d at 15 (Appel, J., specially concurring).

Third, the State's newfound *Purcell* concern is difficult to reconcile with positions it took before the Circuit Court. In arguing that Appellants' injury is not ripe for adjudication, the State suggested that suspension of HB1 could feasibly occur up until the Secretary of State's August 4 certification deadline. It is "highly likely that the Secretary will determine the legal sufficiency of [the HB1] referendum petition before Missouri's August 4 primary and November 4 general election in 2026," the State explained, in which case "voters will consider HB1 before it is used in an election if the Secretary certifies [the] referendum petition as legally sufficient…. The Secretary [] retains authority … to ultimately suspend HB1 through a later certification of [the] referendum petition." D131 pp. 13–14, 16 (emphasis omitted). The State went on to fault Appellants for "never explain[ing] why delay would affect their ability to vote on a referendum of HB1 before the HB1 maps govern a congressional election." *Id.* at p. 17. These various arguments and assertions conveyed that suspension of HB1 would be possible whenever the Secretary of State certifies the referendum petition. It is hard to square this position with the State's sudden, belated invocation of *Purcell*, a doctrine that hinges on the practical hardships imposed by court orders. *See, e.g.*, *DSCC*, 950 N.W.2d at 15 (Appel, J., specially concurring) ("*Purcell* plainly should not be regarded as a per se bar or even a deterrent to neces-

sary litigation, but only a reminder that a reviewing court should be attentive to the potential of voter confusion and the burdens that may be imposed on election administrators in considering equitable relief in voting rights cases."); *Republican Nat'l Comm. v. Democratic Nat'l Comm.*, 589 U.S. 423, 423–25 (2020) (considering practical effects of court order).

Moreover, even as Appellants repeatedly urged expedition before the Circuit Court to avoid the State's attempted use of the *Purcell* doctrine as a barrier to relief, the State *never* suggested that the candidate-filing period (the only stated basis for its invocation of *Purcell*, *see* State Resp. 2) would foreclose a court order suspending HB1—not even during the Circuit Court's bench trial on February 10, 2026, just *two weeks* before candidate filing opened. Whether the State's conspicuous failure to articulate a hard-and-fast deadline for judicial intervention was tactics or mere oversight, it should not be rewarded now.

CONCLUSION

For these reasons, this Court should reverse the Circuit Court's judgment, enter judgment in favor of Appellants, declare that HB1 is now suspended, and permanently enjoin the State from implementing HB1's congressional map in any election until the completion of the constitutional referendum process.[17]

[17] Appellants satisfy all requirements for a permanent injunction because "being subject to an unconstitutional statute, 'for even minimal periods of time, unquestionably constitutes irreparable injury.'" *Rebman*, 576 S.W.3d at 612 (citation modified). Improper use of HB1's map in the upcoming elections would also impose irreparable harm because "[t]he injury to [] voters is real and completely irreparable if nothing is done to enjoin" an unconstitutional map. *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014). And there is no adequate remedy at law because no "monetary remedies can[] provide adequate compensation for [such] improper conduct." *Glenn v. City of Grant City*, 69 S.W.3d 126, 130 (Mo. App. W.D. 2002) (citation modified).

Respectfully submitted this 10th day of April, 2026.

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CERTIFICATE OF SERVICE AND COMPLIANCE

I hereby certify that a true and correct copy of the foregoing was filed and served electronically on all counsel of record via the Court's electronic filing system on April 10, 2026.

I also certify that this brief complies with the limitations in Rule 84.06(b) and contains 14,934 words.

/s/ Tori Schafer