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SC101581

IN THE SUPREME COURT OF MISSOURI

JAKE MAGGARD, *et al.*,

Appellants,

v.

STATE OF MISSOURI, *et al.*,

Respondents,

and

PUT MISSOURI FIRST,

Intervenor-Respondent.

On Appeal from the Circuit Court of Cole County
Case No. 25AC-CC09120

INTERVENOR-RESPONDENT'S BRIEF

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JURISDICTIONAL STATEMENT

The question of the validity of House Bill 1 is not a part of this action unlike in *Luther v. Hoskins*, SC101412, 2026 WL 815813, at 1. However, Appellants' Petition does appear to raise the validity of sections 116.130 and 116.150, RSMo. D124:P8-9.

> 42. To the extent Section 116.150 or 116.130, RSMo, permits the Secretary of State to delay suspension of a referred law until the issuance of a certificate of sufficiency—and thus allows a referred law to go into effect—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:P8-9. As a result, this Court appears to have original jurisdiction of this appeal pursuant to Article V, Section 3 of the Missouri Constitution.

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STATEMENT OF FACTS

A. House Bill 1

On September 12, 2025, the General Assembly truly agreed to and finally passed House Bill 1 ("HB1") "to enact … twelve new sections relating to the composition of congressional districts" and adjourned. D174:P2; D175. HB1 created a new congressional redistricting plan to become effective with the 120th Congress. D175:P3. HB1 did not include an emergency clause. D175.

B. Referendum Petition Proceedings

On September 29, Richard Von Glahn submitted to the Secretary of State's office a fourth petition for referendum asking to refer HB1 to voters, which was denominated 2026-R004. D219:P2. On November 13, 2025, the Secretary of State certified the official ballot title for 2026- R004 and approved it for circulation. *Id.* D174:P2.

On December 9, 2025, Richard Von Glahn and People Not Politicians submitted to the Secretary of State 691 boxes containing 49,773 pages of referendum for 2026-R004. D176; D177.

To date, Secretary Hoskins has not issued a certificate of insufficiency for 2026- R004 under Section 116.150, RSMo. D174:P3.

C. The Current Action

On December 23, 2025, two weeks after the referendum petition submission, Appellants filed this lawsuit seeking declaratory judgment and injunctive relief against the Secretary of State. D124:P1. Respondent/Intervenor was granted intervention on January 8, 2026. D123:P14.

On February 10, 2026, a bench trial, on joint stipulated facts and exhibits and further exhibits admitted at trial, was held before the Honorable Bryan

Stumpe. D123:P23. On March 27, 2026, Judge Stumpe issued his Findings of Fact, Conclusions of Law, and Final Judgment. D238. That Final Judgment dismissed Appellants case for a lack of standing, failure to present a ripe controversy, presenting a non-justiciable political question; and improperly seeking declaratory judgment. D238:P20. Furthermore, the Final Judgment addressed the merits and found that HB1 was not suspended. D238:P20.

Appellants filed this appeal on March 31, 2026. D123:P25.

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SUMMARY OF THE ARGUMENT

The circuit court correctly dismissed this action. Appellants' claims fail at every threshold — standing, ripeness, political question, and availability of declaratory relief — and their merits position finds no support in the Missouri Constitution, this Court's precedents, or the statutory framework governing referendum petitions. Each ground independently supports affirmance.

Standing. Appellants have not established standing. As petition signatories, they bear the burden of demonstrating a concrete, particularized, personal injury. They fail on every element. Their affidavits establish only that they signed the petition — not that their signatures were submitted to the Secretary of State. Without that showing, they have no personal stake in the petition's fate. Beyond that evidentiary failure, their asserted interest is not implicated by the relief they seek: whether this Court enjoins or upholds the HB1 map has no bearing on Appellants' ability to vote on a referendum. Their alleged injury is also remote and conjectural, dependent on at least three contingencies that may never occur — certification of sufficiency, placement on the ballot, and denial of a meaningful vote. Any harm Appellants claim is shared identically by millions of Missouri voters. Appellants' generalized grievance does not confer standing. *Mo. Coal. for Env't v. State*, 579 S.W.3d 924, 927 (Mo. banc 2019). Appellants present precisely such a generalized grievance.

Ripeness. Appellants claims are premature. The Secretary of State has not determined whether the referendum petition is legally sufficient — the predicate for every legal consequence Appellants invoke. Any ruling on whether HB1 is suspended would be an advisory opinion, which Missouri courts are prohibited from issuing. *Schweich v. Nixon*, 408 S.W.3d 769 (Mo. banc 2013), controls: claims dependent on unresolved facts are not ripe.

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Political Question. The Missouri Constitution assigns election administration to the Secretary of State, and Chapter 116, RSMo vests in the Secretary the duty to examine petitions and certify sufficiency before any measure is referred to voters. Appellants ask this Court to bypass that process and presume sufficiency on an uncertified petition. Requiring the judiciary to make an initial policy determination committed to a coordinate branch and to act without judicially manageable standards are the hallmarks of a nonjusticiable political question.

Adequate Remedy at Law. Section 116.200, RSMo authorizes any citizen to challenge the Secretary's sufficiency determination in the Circuit Court of Cole County. That statute provides a complete remedy for every scenario Appellants identify and forecloses resort to declaratory judgment. Where the legislature prescribes a method of review, that procedure is exclusive.

No Automatic Suspension. On the merits, HB1 has not been suspended by the physical delivery of petition boxes. Article III, Section 52(a) conditions a referendum on petitions signed by the constitutionally required percentage of legal voters — a threshold that must be established, not assumed. Appellants misread *State ex rel. Kemper v. Carter*, 165 S.W. 773 (Mo. banc 1914): that decision held that a "legal, sufficient, and timely" petition suspends legislation — sufficiency was undisputed and self-certified under a statutory scheme the General Assembly overhauled in 1980. Chapter 116 transformed the Secretary's role from ministerial to substantive, decoupling mere filing from legal sufficiency. *Stickler v. Ashcroft*, 539 S.W.3d 702 (Mo. App. 2017), confirms suspension occurs only once a petition "has received sufficient signatures." Even if a presumption could theoretically attach, there is nothing in this record to trigger it.

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ARGUMENT

I. Appellants fail to establish standing based upon the trial record and on Missouri law. (Responds to Appellants Point I).

"Prudential principles of justiciability, to which this Court has long adhered, 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." *Schweich v. Nixon*, 408 S.W.3d 769, 774 (Mo. banc 2013) (quoting *State ex rel. Williams v. Mauer*, 722 S.W.2d 296, 298 (Mo. banc 1986)) (emphasis added).

> To have standing, the party seeking relief must have "a legally cognizable interest" and "a threatened or real injury." *E. Mo. Laborers [Council v. St. Louis County],* 781 S.W.2d [43] at 46 [(Mo. banc 1989)]. As the parties seeking relief, the taxpayers bear the burden of establishing that they have standing. *See Kansas City v. Douglas,* 473 S.W.2d 101,102 (Mo.1971).

Manzara v. State, 343 S.W.3d 656, 659 (Mo. banc 2011). It is this burden that falls solely on the party seeking relief and that party always carries the burden to make that showing.

> "The requirement that the plaintiff have a threatened or real injury concerns whether the plaintiff suffered an injury in fact." *Mathews v. FieldWorks, LLC*, 696 S.W.3d 382, 392 (Mo. App. W.D. 2024). "To establish injury in fact, a plaintiff must show that he or she suffered 'an invasion of a legally protected interest' that is 'concrete and particularized' and 'actual or imminent, not conjectural or hypothetical.' " *Courtright*, 604 S.W.3d at 700 (quoting *Spokeo, Inc. v. Robins*, 578 U.S. 330, 339, 136 S.Ct. 1540, 194 L.Ed.2d 635 (2016)). "An injury is 'particularized' if it 'affect[s] the plaintiff in a personal and individual way.' " *Mathews*, 696 S.W.3d at 392 (quoting *Spokeo*, 578 U.S. at 339, 136 S.Ct. 1540).

Howland v. Truman Med. Ctr., Inc., 719 S.W.3d 98, 105 (Mo. App. W.D. 2025).

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> [A] primary objective of the standing doctrine is to assure that there is a sufficient controversy between the parties that the case will be adequately presented to the court. That, plus the purpose of preventing parties from creating controversies in matters in which they are not involved and which do not directly affect them are the principal reasons for the rule which requires standing.

Ryder v. St. Charles Cnty., 552 S.W.2d 705, 707 (Mo. 1977). The parties seeking relief bear the burden of establishing that they have standing. *Corozzo v. Wal-Mart Stores, Inc.,* 531 S.W.3d 566, 572 (Mo. App. W.D. 2017) (citing *Manzara v. State*, 343 S.W.3d 656, 659 (Mo. banc 2011)).

Standard of Review

> "This Court reviews the issue of standing *de novo*." *Mo. Coal. for Env't v. State*, 579 S.W.3d 924, 926 (Mo. banc 2019). However, "[w]hen there is contested evidence, this Court will affirm the circuit court's factual findings unless there is no substantial evidence to support the finding or the finding is against the weight of the evidence." *Faatz v. Ashcroft*, 685 S.W.3d 388, 400 (Mo. banc 2024) (footnote omitted). "In reviewing a court-tried case, this Court accepts all evidence and inferences therefrom in the light most favorable to the prevailing party and disregards all contrary evidence." *MC Dev. Co. v. Cent. R-3 Sch. Dist. of St. Francois Cnty.*, 299 S.W.3d 600, 602 (Mo. banc 2009). "Great deference must be given to the [circuit] court's resolution of conflicts in evidence, and this Court gives due regard to the court's opportunity to have judged the credibility of the witnesses before it." *Id.* (internal quotation omitted).
>
> Thus, this Court reviews *de novo* the circuit court's application of the law with respect to standing but defers to the circuit court's factual findings and credibility determinations.

Missouri State Conf. of Nat'l Ass'n for the Advancement of Colored People v. State, 730 S.W.3d 550, 560 (Mo. banc 2026).

> "Standing requires that a party have a personal stake arising from a threatened or actual injury." *Schweich*, 408 S.W.3d at 774. A party's speculation that a challenged action may adversely impact that party is insufficient to establish a threatened or actual injury. *See Mo. Coal. for Env't*, 579 S.W.3d at 927. Appellants bear the burden to establish they

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> have standing based on the evidence or record before the circuit court. *Schweich*, 408 S.W.3d at 774.

Id.

A. Failure to demonstrate Appellants' signatures were submitted to the Secretary.

Appellants base their standing on the fact that they signed a petition purportedly referring HB1 to the vote. D124:P2. At trial the only evidence submitted on this was by affidavit of Appellants. Each affidavit stated: "I signed the 2026-R004 petition to refer House Bill 1 to voters for approval or rejection." D216:P2; D217:P2.

However, Appellants have failed to prove that their signatures were submitted to the Secretary of State. This failure is dispositive.

There is nothing in the Joint Stipulation of Facts and Exhibits that demonstrates that fact. D174. Appellants' own affidavits fail to assert that their signatures were submitted. D141; D142. Moreover, they failed to put any other evidence before the trial court on this issue.

As a mere signatory of a signature page of a referendum petition, Appellants have no control over what the circulator or the proponent does with the signature or the signature page. *See e.g.*, *Prentzler v. Carnahan*, 366 S.W.3d 557, 563 (Mo. App. W.D. 2012) ("Appellants are not ensured a right to have their signatures counted.") In the context of intervention, the Western District noted that Proponents of a referendum petition have complete control over which signatures and which signature pages are submitted to the Secretary of State for verification. *Id.* Yet, those proponents did not bring this action nor are they parties in this case. Just this year, this Court addressed the issue of standing in *NAACP*:

> "To bring an action in a Missouri court, a party must have standing." *Byrne v. Jones Enters., Inc. v. Monroe City R-1 Sch. Dist.*, 493 S.W.3d

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> 847, 851 (Mo. banc 2016) (internal quotation omitted). "Standing is a threshold issue and a prerequisite to a court's authority to address substantive issues." *Id.* (internal quotation omitted). "Standing is a necessary component of a justiciable case that must be established prior to adjudication of a case's merits." *Id.* "Moreover, standing is an antecedent to the right to relief." *Id.* (internal quotations, citations, and alterations omitted).
>
> "Standing requires that a party have a personal stake arising from a threatened or actual injury." *Schweich*, 408 S.W.3d at 774. A party's speculation that a challenged action may adversely impact that party is insufficient to establish a threatened or actual injury. *See Mo. Coal. for Env't*, 579 S.W.3d at 927. Appellants bear the burden to establish they have standing based on the evidence or record before the circuit court. *Schweich*, 408 S.W.3d at 774.

Mo. State Conf. of Nat'l Ass'n for the Advancement of Colored People v. State, No. SC 100965, 2026 WL 815225, at *5 (Mo. Mar. 24, 2026). This Court analyzed the requirements to show standing based upon a "threatened or actual injury" and determined that none of the Appellants had standing. *Id.* at 6-10. In each case (three individuals and two associations) the failure to show proof of standing was fatal to their case.

Just as in *NAACP*, the Appellants here failed to show that their signatures were submitted to the Secretary, and this evidentiary failure is fatal.

Appellants must carry their burden to prove standing, it is not incumbent upon Respondents or Respondent/Intervenor to negate standing. The parties seeking relief bear the burden of establishing that they have standing. *NAACP*, at 5 (citing *Schweich*, 408 S.W3d at 774.).

This case was bench tried and there was a stipulation of facts and exhibits. Appellants had the full opportunity and time to develop an evidentiary record but chose not to do so. Moreover, Appellants could have taken discovery of the proponents or of Respondent Secretary of State – they

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did not. Appellants failed to demonstrate that their signatures (the basis of their purported standing) were ever placed upon a referendum petition that was submitted to Respondent Secretary of State for verification. The verification reports that Appellants have referred to do not carry any indication of the names of signers, so those reports fail to give any basis to evenly remotely infer Appellants' signatures were submitted by the proponents of the referendum petition.

This failure to demonstrate that their signatures are possibly jeopardized or impacted negates any standing they have as potential signatories of the referendum petition (and as addressed below, merely signing is not sufficient in any event). On this basis, the trial court's dismissal was correct and should not be reversed by this Court.

B. Appellants' asserted interest is not directly and adversely affected by the outcome of the litigation.

"A party establishes standing, therefore, by showing that it has 'some legally protectable interest in the litigation so as to be directly and adversely affected by its outcome.'" *Schweich*, 408 S.W.3d at 775 (quoting *Mo. State Med. Ass'n v. State*, 256 S.W.3d 85, 87 (Mo. banc 2008)). Where the relief sought in a case does not bear on the interests asserted by a party, those interests are insufficient. *Prentzler v. Carnahan*, 366 S.W.3d 557, 564 (Mo. App. W.D. 2012).

In *Prentzler*, two signatories of the Consumer Credit Initiative Petition appealed the trial court's denial of their motion to intervene in litigation challenging the sufficiency and fairness of the petition's ballot title and fiscal note. *Id.* at 559–60. The appellants claimed a personal interest based on their status "as signatories and supporters," asserting an interest in the validity of the initiative petition, in seeing the initiative qualified for the ballot, and in having their signatures counted as valid. *Id.* at 562. The court rejected that

claim, explaining that the judiciary's role in initiative petition litigation is limited to determining whether constitutional procedural requirements have been satisfied. *Id.* (quoting *Missourians to Protect the Initiative Process v. Blunt*, 799 S.W.2d 824, 827 (Mo. banc 1999)). Accordingly, the Court found that the appellants' asserted interests were not implicated in the underlying litigation. *Id.*

Here, as in *Prentzler*, Appellants' claimed interest rests solely on their status as signatories of Referendum Petition 2026-R004. *See* Petition ¶5, 9.[1] Appellants assert that the challenged conduct denies them their "constitutional right to approve or reject legislation through referendum." *Id.* But, as in *Prentzler*, that asserted interest is not implicated by the litigation at hand. In *Prentzler*, the underlying litigation challenged the sufficiency and fairness of a ballot description and fiscal note. *Prentzler,* 366 S.W.3d at 559–60. Yet the harms asserted by the signatories were not tied to those alleged deficiencies; instead, they claimed an interest in upholding the validity of the initiative, in having their signatures counted as valid, and in seeing the initiative qualified for the ballot. *Id.* at 562. The relief at issue—a revised ballot description and fiscal note—had no bearing on those asserted interests, which is why the court concluded that the claimed harms were not implicated by the litigation. *Id.* at 563–64.

The same disconnect exists here. Appellants claim harm in their alleged inability to participate in the referendum process, yet the relief they seek is an injunction barring use of a redistricting map. Whether the map is enjoined or upheld does not determine whether Appellants may vote on the referendum,

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[1] Appellants have failed to allege enough facts for taxpayer standing and presently have no constitutional or statutory right to standing. *See Manzara v. State*, 343 S.W.3d 656, 659 (Mo. banc 2011) (outlining the requirements of taxpayer standing); *See also* Mo. Const. art. III, §45; §116.200 RSMo.

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just as revision of the ballot language in *Prentzler* did not determine whether the signatories' initiative would ultimately qualify or their signatures would be counted. As in *Prentzler*, the claimed harm and the relief sought are untethered, and the asserted interest is therefore not implicated by the litigation.

To be sure, the dispositive question is whether the outcome of this case bears on the claimed harm, and it does not. Regardless of whether the Court grants or denies Appellants' requested relief, Appellants will retain the same ability to approve or reject the challenged legislation at the ballot box in the next general election. In either event, Appellants' asserted right—to vote on the referendum—remains unchanged. Because the litigation does not affect Appellants' ability to exercise that right, their asserted interest, like that of the signatories in *Prentzler*, is not implicated in the underlying action.

Appellants' cited authority does not help them overcome this hurdle. First, they point to *Gill v. Whitford*, 585 U.S. 48 (2018) to argue that the United States Supreme Court has found standing of a voter regarding a referendum. App. Br. at 23. However, the Supreme Court in *Gill* ultimately found that the plaintiffs in that case did not have standing and remanded the case for detailed testimony and evidence as to whether standing could be proven.

> We therefore remand the case to the District Court so that the plaintiffs may have an opportunity to prove concrete and particularized injuries using evidence—unlike the bulk of the evidence presented thus far—that would tend to demonstrate a burden on their individual votes.

Id. at 73. The Court in *Gill* determined that a plaintiff had to show a district-specific vote dilution to establish an individual injury and had failed to establish that in the record. Here, the alleged harm has no geographic boundary as it does not depend on any district specific issue. The Supreme Court determined that just alleging you are a voter is not sufficient to prove a

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particularized injury. Here status as a petition signatory and voter is all that the Appellants offer, which is insufficient.

Appellants then refer to *Baker v. Carr*, 369 U.S. 186 (1962) to argue that they have some other type of particularized injury. App. Br. at 23. Yet, in *Baker*, the Supreme Court instead was dealing with a one man/one vote case (also called a dilution of vote case). The Supreme Court determined that where one person's vote counted less in a specific district than another person's vote, that dilution was sufficient to determine standing.

> They are asserting 'a plain, direct and adequate interest in maintaining the effectiveness of their votes,' *Coleman v. Miller*, 307 U.S. at 438, 59 S.Ct. at p. 975 not merely a claim of 'the right possessed by every citizen 'to require that the government be administered according to law * * *'.' *Fairchild v. Hughes*, 258 U.S. 126, 129, 42 S.Ct. 274, 275, 66 L.Ed. 499.

Baker 369 U.S. at 208. The Supreme Court in *Baker* did not find a generalized interest but a very specific dilution interest that was individualized.[2] That is not the case here.

Appellants will get to vote on the referendum if it is sufficient. So, there is no denial of the right to vote.[3] Appellants' votes will count equally with every

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[2] Appellants also refer to a footnote in *Spokeo, Inc., v. Robins*, 578 U.S. 330, 339, n.7 (2016); however, they conveniently trim that footnote to exclude the ultimate point of it.

> 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. The victims' injuries from a mass tort, for example, are widely shared, to be sure, but each individual suffers a particularized harm.

Id. Spokeo stands for the fact that an injury must be both concrete and particularized, not one or the other.

[3] Appellants list *United States v. Bathgate*, 246 U.S. 220 (1919) as a case in their point relied on. *Bathgate* is a case about conspiracy to disenfranchise voters through bribery of voters and election officials under federal criminal law. *Id.* at 223. It is not about signatures, referendums or any other element

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other resident of their congressional district. So, there is no dilution of their vote. They seek instead the outcome of a district configuration different from what they prefer, this is not a denial of a right to vote, but instead merely a political preference masquerading as a legal injury.

Nor does *No Bans on Choice v. Ashcroft*, 638 S.W.3d 484 (Mo. banc 2022) save Appellants. The plaintiffs in *No Bans* were the actual proponents of the referendum petition, not merely signatories or voters. *Id.* at 484. In *No Bans*, the plaintiffs had incurred costs as proponents related to the referendum process, which would serve to further support their standing. *Id.* at 448 and 487. No such showing of costs has been put forward by Appellants in this case. *No Bans*, if anything in this case, stands for the proposition that proponents would have standing to bring this case; the record here is clear that Appellants are not the referendum proponents. *No Bans* does not aid Appellants.

To the extent they have an interest in seeing the provisions of HB1 suspended, that interest is generalized to every resident and voter of the state and not particularized to Appellants. This is exactly the generalized interest of all citizens that this Court has expressly rejected.

> While the Coalition alleges "every Missouri citizen has an interest in a legislature that observes the state Constitution," the law provides otherwise. "[T]he generalized interest of all citizens in constitutional governance" does not invoke standing.

Mo. Coal. For Env't v. State, 579 S.W.3d 924, 927 (Mo. banc 2019) (quoting *Whitmore v. Arkansas*, 495 U.S. 149, 160 (1990)). This Court should follow its precedent and find that Appellants' generalized interest is not sufficient to establish standing and affirm the trial court.

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present in this case and the single line of dicta is not controlling nor key to the resolution of that case.

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C. Appellants' asserted injury is remote and conjectural.

Further, standing cannot rest on mere signatory status, as a signatory's interest are nothing more than "consequential, remote, or conjectural" rather than concrete and personal.[4] *Prentzler*, 366 S.W.3d at 564; *see also Allred v. Carnahan,* 372 S.W.3d 477, 488 (Mo. App. W.D. 2012) ("the action of signing an initiative petition, in and of itself, does not create a sufficient interest for purposes of intervention as of right in the underlying action"). Appellants' asserted harm is likewise too remote and conjectural. In *Prentzler*, the court held that the claimed interest was speculative because, regardless of the litigation's outcome, the appellants were not assured that their signatures would be counted or that the initiative would ultimately appear on the ballot. *Id.* at 563.

The same is true here. Appellants have failed to plead that the referendum's signatures have been verified or tabulated. *See generally,* Petition. D124. Accordingly, Appellants' asserted harm—that they may be unable to approve or reject the measure at the ballot box—depends on contingencies that may never occur. Even if this Court were to grant Appellants' requested relief, the referendum could still fail for lack of sufficient signatures. *State ex rel. Moore v. Toberman*, 250 S.W.2d 701 (Mo. banc 1952) ("If the court decides the petition is insufficient, the court shall enjoin the secretary of state from certifying the measure and all other officers from printing the measure on the ballot."); § 116.200 RSMo. As in *Prentzler*, Appellants' alleged injury is remote and conjectural.

Appellants attempt to rebut this fact by arguing that a sufficiency

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[4] This concept of the remoteness and conjectural nature of Appellants' purported injury is also related to ripeness, another leg of a justiciable controversy. Ripeness is more fully addressed in Point II, below.

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certificate is unnecessary for a referendum to suspend proposed legislation and that mere filing alone is sufficient. Appellants rely upon *State ex rel. Moore v. Toberman*, 250 S.W.2d 701 (Mo. banc 1952) for this proposition. *Moore* was the appeal of a trial court judgment finding that the underlying bill was not suspended by the filing of an insufficient referendum petition. *Id.* at 703 and 701. Moreover, *Moore* affirmed the trial court's judgment holding that there was no ability for a proponent to compel the Secretary to accept petitions filed after the expiration of the 90-day filing window. *Id.* at 703 and 701. If anything, Moore supports the concept that a referendum does not suspend a bill from becoming effective until the referendum petitions are sufficient. *Id.* at 703. As the Secretary has not made a determination as to sufficiency, that crucial element does not exist in the current case. *Moore* does not aid Appellants in finding a particularized and concrete injury.

The language Appellants cite makes this clear. In *Stickler*, the court explained that "[o]nce 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. 2017) (citation modified) (emphasis added). Likewise, *Kemper* held that "[t]he 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". *State ex rel. Kemper v. Carter*, 165 S.W. 773, 779 (Mo. banc 1914) (emphasis added).

Both passages are hinged upon sufficiency being established, making it a core requirement for legislation to be halted. *Kemper* makes clear that sufficiency is assumed where it is not contested. *Id.* ("relator does not contend

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that there were not sufficient petitioners"). Although *Kemper* recognized that tendering a referendum petition claiming sufficient signatures previously constituted prima facie evidence of sufficiency,[5] it also shows that more evidence must be attached to a petition in court than mere assertions of sufficiency. *Id.* at 776-77. The holding that a referendum halts legislation "regardless of any affirmative act on the part of the Secretary of State or the Attorney General" thus applied only because the statutes in place at the time required self-certification and no challenge to sufficiency was raised and proper affidavits were attached to the petition. *Id.* Here, the implementing statutes replace self-certification with certification by the Secretary and that issue is contested and not agreed upon or stipulated to, so the Appellants' reliance on the assumption in *Stickler* and *Kemper* cannot be given weight.[6]

What Appellants truly request is that this court assume sufficiency pending the certification by the Secretary of State where that question is being contested. An assumption of sufficiency is not a substitute for proof of sufficiency. There is no proof here and standing cannot be based upon the assumption of a fact (yet to come into existence).

Depending on the outcome of the Secretary of State's sufficiency check, Appellants' assertion that sufficient signatures were collected may prove incorrect. Until that question is resolved, Appellants' claimed injury depends on contingencies that may never occur. Even under the most generous reading of the cited case law, Appellants' alleged injury remains conjectural and remote

[5] This case was decided in 1914, and the General Assembly has since enacted §116.050-150 RSMo, Thus the case has no application under the present statutory framework.

[6] The validity of signatures is being contested in a separate case brought by the proponents of the referendum in the Circuit Court of Cole County. *See, People Not Politicians v. Missouri Secretary of State*, No. 25AC-CC07128.

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pending the issuance of a sufficiency certificate by the Secretary of State.

The United Supreme Court has found an injury must be both concrete and particularized, not one or the other. *Spokeo*, 578 U.S. at 339-340. "A "concrete" injury must be "*de facto* "; that is, it must actually exist." *Id.* at 340. *See also*, *Courtright v. O'Reilly Automotive*, 604 S.W.3d 694, 700-1 (Mo. App. W.D. 2020) discussing *Spokeo*.

Appellants have failed to show that their supposed injury is concrete and particularized and for this reason, the trial court should be affirmed.

D. Appellants' asserted injury is not personal.

Analogous to the discussion of Appellants' failure to show a personal interest in the outcome of the litigation, Appellants have also failed to show that they suffer a personal injury. *Mathews*, 696 S.W.3d at 392 (quoting *Spokeo*, 578 U.S. at 339, 136 S.Ct. 1540). As the United States Supreme Court has said, "The party who invokes [standing] must be able to show…. that he has sustained or is immediately in danger of sustaining some direct injury … and not merely that he suffers in some indefinite way in common with people generally." *Commonwealth of Mass. v. Mellon*, 262 U.S. 447, 488, 43 S.Ct. 597, 601, 67 L. Ed. 1078 (1923). This rule has been extended to and followed in Missouri as well. "'[T]he generalized interest of all citizens in constitutional governance' does not invoke standing." *Mo. Coal. for Env't v. State*, 579 S.W.3d 924, 927 (Mo. banc 2019) (quoting *Whitmore v. Arkansas*, 495 U.S. 149, 160, 110 S.Ct. 1717, 109 L.Ed.2d 135 (1990)). "The plaintiff's interest must be affected more distinctly and directly than the interest of the public generally." *Bender v. Forest Park Forever, Inc.*, 142 S.W.3d 772, 774 (Mo. App. E.D. 2004) (internal citations omitted).

Appellants advance the argument that being a signatory of a referendum petition of which proponents purportedly submitted over 300,000 signatures or

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being one of more than 4,000,000 registered voters in Missouri gives them some type of personal injury. App. Br. at 16 and 24. Yet that would mean that every signatory or every registered voter could bring such an action. That is the definition of a generalized grievance and not a personal injury.

Signatories of a referendum or initiative petition do not have any immediate or direct personal harm. *Prentzler*, 366 S.W.3d at 564. In *Prentzler*, the court explained that the appellants failed to demonstrate any immediate or direct harm arising from the litigation because they did not establish that its outcome would impose legal obligations upon them or directly affect their legal rights.[7] *Id.* Unlike cases where courts have recognized sufficient interest based on concrete legal consequences — such as exposure to liability, mandatory changes to official duties, or impairment of property or contractual rights — the asserted interests of petition signatories remain abstract and undifferentiated. *Id.* The court emphasized that an asserted interest divorced from any individualized legal consequence is insufficient where the alleged effect applies broadly and indistinctly to the public at large. *Id.* As this Court, in dealing with taxpayer standing noted — such an event would open the floodgates to allow all Missouri taxpayers" to bring challenges. *Comm. for Educ. Equality v. State*, 294 S.W.3d 477 (Mo. banc 2009). The Western District followed this Court in recognizing harm based solely on the alleged inability to express political views regarding a ballot measure as doing the same and serving no public policy purpose. *Prentzler*, 366 S.W.3d at 564.

As in *Prentzler*, Appellants allege harm based on an asserted denial of

[7] Appellants seem to claim that their legal right to constitutional governance is sufficient to invoke standing, but this notion has been rejected by both the United States and Missouri Supreme courts. *See Mo. Coal. for Env't v. State*, 579 S.W.3d 924, 927 (Mo. banc 2019); *see also Whitmore v. Arkansas*, 495 U.S. 149, 160, 110 S. Ct. 1717, 109 L.Ed.2d 135 (1990).

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their ability to participate in the petition process. *See* D124:P2. That claimed harm mirrors the interest asserted by the *Prentzler* appellants, which the court rejected as insufficiently personal. *Prentzler*, 366 S.W.3d at 564. Like those appellants, Appellants are not proponents of the referendum, have alleged no expenditure of resources or assumption of legal obligations related to the petition, and assert an interest that applies equally to every Missouri voter. *See generally,* Petition. D124. Appellants do not plead how the challenged conduct affects them in any manner distinct from the public at large. *Id.* Absent any individualized legal consequence or personal stake, Appellants' asserted injury amounts to nothing more than a generalized public interest. As in *Prentzler*, and consistent with *Missouri Coalition*, such an undifferentiated interest is insufficient to invoke judicial relief. 366 S.W.3d at 564; *Mo. Coal. For Env't*, 579 S.W.3d at 927.

In *Spokeo*, a mass tort action, the Supreme Court explained that although the cause was the same, each plaintiff suffered a <u>different</u> injury. *Spokeo*, 578 U.S. at 339, n.7. Contrast that with the case at hand where every potential plaintiff (every voter in Missouri) has the <u>identical</u> injury arising from the same purported cause. This is not individualized harm but the very definition of a generalized grievance. Appellants cannot show a personal injury in the outcome of this matter, only a generalized grievance equivalent to millions of other Missourians. This is not a basis for standing.

E. Conclusion

Appellants have failed to establish standing via the requisite facts necessary to show that their signatures have been submitted; that they have an actual interest in the matter; that they have a particularized and concrete injury; or that the claimed injury is personal to the Appellants. Each of these reasons provide an independent basis for this Court to affirm the trial court.

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II. Appellants failed to present a matter ripe for adjudication. (Responds to Point II).

> Even when a plaintiff is able to show standing, the merits will not be reached unless the case is ripe. 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." *Mo. Health Care Ass'n*, 953 S.W.2d at 621. "A court cannot render a declaratory judgment unless the petition presents a controversy ripe for judicial determination." *Mo. Soybean Ass'n v. Mo. Clean Water Comm'n*, 102 S.W.3d 10, 26 (Mo. banc 2003), quoting *Mo. Health Care Ass'n, Id.* at 621.

Schweich, 408 S.W.3d at 774. "A declaratory judgment is not a general panacea for all real and imaginary legal ills." *Mo. Soybean Ass'n v. Mo. Clean Water Comm'n*, 102 S.W.3d 10, 25 (Mo. banc 2003) (internal citations omitted) "It is not available to adjudicate hypothetical or speculative situations that may never come to pass." *Id.* (internal citations omitted). Ripeness does not exist when the question rests solely on the probability that an event will occur. *Id.* (citing *Lake Carriers Ass'n v. McMillian*, 406 U.S. 498, 506, 92 S.Ct. 1749, 1755, 32 L.Ed.2d 257 (1972)). Allegations directed at an elected official's intent to act, present no justiciable controversy until the official action has occurred. *Schweich*, 408 S.W.3d at 779.

Standard of Review

"[T]he trial court's decision should be affirmed unless there is no substantial evidence to support it, unless it is against the weight of the evidence, unless it erroneously declares the law, or unless it erroneously applies the law." *Tupper v. City of St. Louis*, 468 S.W.3d 360, 368 (Mo. banc 2015) quoting *Guyer v. City of Kirkwood*, 38 S.W.3d 412,413 (Mo. banc 2001). "A claim is not ripe for adjudication if it "rests upon contingent future events that may not occur as anticipated, or indeed may not occur at all." *Geier v.*

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Missouri Ethics Comm'n, 474 S.W.3d 560, 569 (Mo. banc 2015).

A. *Schweich* controls.

In *Schweich*, the State Auditor challenged the Governor's intent to withhold $300,000 from the Auditor's Office budget in FY2012 before the end of said period. *Id.* at 777. This Court, in evaluating this claim, took note that there were several constitutional reasons in which the Auditor's budget could be reduced. *Id.* at 779. Next, this Court, observed that until the FY2012 ended, "it could not be known whether the Governor merely was exercising his constitutional authority to control the rate of appropriation of these funds or whether they were being withheld or spent beyond their appropriation entirely." *Id.* Accordingly, the Court stated that relief could not be granted because the claims at hand were "dependent on factors that could not be known and that could not be a part of the record until after the trial court issued its judgment". *Id.* Finally, the Court noted that it had no way of knowing if the Governor would actually follow through with his stated intentions because "until the fiscal year ended it could not be known what withholds, if any, might be permanent." *Id.* Therefore, "[t]he Auditor's claims that sums could not be withheld from his office were not ripe and the claims did not present a justiciable controversy." *Id.*

Similarly, in the present action, as the Appellants admit, the Secretary of State has expressed merely an "intent to use HB1's new congressional map in the 2026 primary and general elections." D124:P6.[8] Like in *Schweich*, until

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[8] This is not a properly pleaded fact it is used here merely to highlight Appellants lack of ripeness. Appellants attach no exhibits to their pleading, and state in no way how the Secretary of State has expressed this alleged intention. *Jordan v. Peet*, 409 S.W.3d 553, 560 (Mo. App. W.D. 2013) ("A conclusion must be supported by factual allegations that provide the basis for that conclusion, that is, 'facts that demonstrate how or why' the conclusion is

the Secretary of State takes some official action, which Appellants include in their pleadings, to carry out this intent, there is simply no way of knowing if the Secretary of State will follow through. Therefore, any opinion rendered by this Court would be merely an advisory opinion which becomes moot if the Secretary acts contrary to his alleged intention. *Ameren Transmission Co. of Ill. v. Pub. Serv. Comm'n of the State of Mo.*, 467 S.W.3d 875, 880 (Mo. App. W.D. 2015) ("Missouri courts do not issue opinions that have no practical effect and that are only advisory as to future, hypothetical situations").

Moreover, as in *Schweich*, where lawful reasons may have justified withholding appropriated funds, lawful reasons likewise may justify the Secretary of State's refusal to treat an unverified referendum as suspending HB1's congressional map. The Secretary of State is mandated by the Constitution to "perform such duties … in relation to elections and corporations, as provided by law." Mo. Const. art. IV § 14. As it relates to referendum petitions, the Secretary of State is required to determine the sufficiency of form and compliance and to either issue a certificate of sufficiency or a certificate stating the reason for insufficiency. § 116.120, RSMo; § 116.150 RSMo. Accordingly, whether the Secretary of State's usage of the HB1 map is lawful or not turns on whether the sufficiency of the petition as to form and the sufficiency of the signatures. Therefore, like *Schweich*, the claims at hand are "dependent on factors could not be known and that could not be a part of the record until after the trial court issue[s] its judgment." *Schweich*, 408

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reached.'"). Accordingly, this is merely a conclusory statement which is to be disregarded. *Engineered Sales Acquisition Corp. v. Missouri Am. Water Co.*, 699 S.W.3d 560, 564 (Mo. App. E.D. 2024) ("Conclusory allegations of fact and legal conclusions, however, are not considered in determining whether a petition states a claim upon which relief can be granted."). Therefore, no claim has been stated by Appellants in that if their properly pled facts are taken, they have failed to show any action by the Secretary of State.

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S.W.3d at 779.

Appellants characterize their legal argument, in trying to refute *Schweich*, as "pure." However, this argument cannot actually be resolved in the abstract because it is inextricably bound to the sufficiency question. Both *State ex rel. Kemper v. Carter*, 165 S.W. 773 (Mo. banc 1914) and *Stickler v. Ashcroft*, 539 S.W.3d 702 (Mo. App. W.D. 2017) — Appellants' own primary authorities — condition suspension on a petition that is "timely, legal, and *sufficient*." *Kemper*, 165 S.W. at 779 (emphasis added).

Whether this petition is sufficient is not yet known and will not be known until the Secretary of State determines it is sufficient (or a court overrules his determination that it is not). Therefore, the legal status of HB1 cannot be determined without first resolving a factual predicate — sufficiency — that the SOS has not yet adjudicated. The question is not purely legal; it has a crucial unresolved factual component that makes it unsuitable for declaratory judgment now. *Schweich* holds that claims "dependent on factors that could not be known" are not ripe. *Schweich,* 408 S.W.3d at 779 (emphasis added).

Sufficiency is exactly such a factor. Accordingly, Appellants have not presented a controversy ripe for adjudication, rendering their claims nonjusticiable.

B. Appellants seek an advisory opinion.

Appellants are seeking an advisory opinion in this case. Any ruling on whether the referendum petition filing suspends the effect of HB1 as the intervening events would resolve this issue. If the Secretary of State certifies the referendum petition as insufficient, this case becomes moot. If a citizen brings a challenge to a certification of sufficiency and prevails, this case becomes moot. Even if the Secretary were to certify this referendum petition as sufficient, this case becomes moot. In any event, every action that can be

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taken on the referendum petition makes this case moot. As a result, Appellants are not seeking a ripe claim but only an advisory opinion.

The only outcome that could make this not an advisory opinion is if the Secretary of State fails to take action to certify the sufficiency or insufficiency during the statutorily mandated time frames in Section 116.150, RSMo. Yet there is nothing in the record to substantiate a claim that the Secretary will not take that action within the statutory time constraints. This further demonstrates why the current matter is not ripe and any decision of this Court would be an advisory opinion.

This Court has time and again declined to issue advisory opinions. "However, a declaratory judgment is not available to adjudicate hypothetical or speculative situations which may never come to pass." *Farm Bureau Town & Country Ins. Co. of Missouri v. Angoff*, 909 S.W.2d 348, 352 (Mo. 1995). This Court has expounded upon the reasons for not issuing advisory opinions in a number of cases.

> There are at least two sound reasons that courts decline to render advisory, or hypothetical, judgments and opinions. First, judicial resources are limited and should not be wasted on disagreements that may never require judicial resolution. Second, the judicial branch traditionally renders opinions because it is required to do so as a consequence of specific facts that necessitate a judicial judgment. If a court examines a matter in which facts are not completely developed, it is possible that the court may grant an incorrect judgment. It is also possible that, to the extent that the judicial branch contributes to the development of the law in our legal system, the court may take an inappropriate or premature step in the judicial development of the law. *Stroud v. Milliken Enterprises, Inc.*, 552 A.2d 476, 480 (Del.1989).

Local Union 1287 v. Kansas City Area Transp. Auth., 848 S.W.2d 462, 464 (Mo. 1993). This Court in *Local Union 1287* went further, stating that "[i]t is premature to render a judgment or opinion on a situation that may never occur." *Id. Local Union 1287*, was a meet and confer case and the Court found

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that "[b]ecause the parties had not exhausted all reasonable efforts to agree, the remainder of the judgment was premature, merely an advisory opinion, and, therefore, a nullity." *Id.*

This trend has continued forward by this Court. As noted in *Mo. Soybean Ass'n*:

> A declaratory judgment is not a general panacea for all real and imaginary legal ills. *Harris v. State Bank & Trust Company of Wellston,* 484 S.W.2d 177, 178 (Mo.1972); *City of Joplin v. Jasper County,* 349 Mo. 441, 161 S.W.2d 411, 413 (1942). It is not available to adjudicate hypothetical or speculative situations that may never come to pass. *Farm Bureau Town and Country Insurance Company of Missouri,* 909 S.W.2d 348, 352 (Mo. banc 1995); *State ex rel. Nixon v. American Tobacco Company, Inc.,* 34 S.W.3d 122, 128 (Mo. banc 2000); *see also Local Union 1287 v. Kansas City Area Transportation Authority,* 848 S.W.2d 462, 464 (Mo. banc 1993)(noting reasons courts decline to render hypothetical judgments and opinion).

Mo. Soybean Ass'n, 102 S.W.3d at 25. *See also, Graves v. Mo. Dep't of Correc.*, 630 S.W.3d 769, 773 (Mo. banc 2021); *Schweich*, 408 S.W.3d at 778.

Mo. Soybean Ass'n, offers a similar situation arising out of a possible future administrative action by the Missouri Clean Water Commission to classify certain streams as waterway. *Mo. Soybean Ass'n*, 102 S.W.3d at 20. This classification was not an administrative rule (e.g. a final agency determination) but the appellants there brought a claim challenging "*the impact of a potential rule*." *Id.* at 24 (emphasis in original). This Court rejected that argument entirely:

> Of course, if the State did, after due study, propose regulations impacting the appellants, they would enjoy the full panoply of rights guaranteed by our statutes to those that choose to contest such regulations. But the appellants are discontented with this later "bite at the apple." They instead hope to derail governmental consideration of whether an apple tree should even be planted. This the law does not allow.

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Id.

This is the same position Appellants seek from this Court. They do not seek to challenge the final decision of the Secretary of State but instead wish to take such a decision out of his hands. Section 116.150, RSMo., vests the authority to determine the sufficiency of a referendum petition in the hands of the Secretary of State. Just as in *Mo. Soybean Ass'n*, if the Appellants are unhappy with that decision, they have their full rights under Section 116.200 to bring an action to reverse the Secretary's decision. Appellants are "discontented with this later "bite of the apple"" but this Court has held they must wait nonetheless.

Until the Secretary takes that action, Appellants are premature. To determine the sufficiency of the referendum now, as sought by Appellants, would be to issue an advisory opinion that will be rendered moot by the Secretary's forthcoming certification decision.

C. Even if there is an injury the harm is dependent upon multiple future contingencies.

Appellants assert time and again that they are suffering an immediate harm, that is HB1 being in effect today. While they have not actually shown any injury today (*see supra*), the harm is still speculative as there are three independent actions that still must be taken for any harm to occur.

First, Appellants' harm is contingent upon the referendum petition being certified as sufficient. Until the referendum petition is sufficient, it is just a box of paper. Once certified as sufficient, it becomes a ballot measure.

Next, Appellants' harm is contingent upon the referendum appearing on the ballot. After sufficiency is determined, then the measure would go on the ballot. This is the second step that must occur.

Third and finally, Appellants would have to be denied a meaningful right

to vote on the ballot measure. There is no basis to determine that they will not be able to cast a ballot on a ballot measure. Until all three of these events occur, any harm is speculative and there is no concrete injury to address (*see* Point I, *supra*).

In *Schweich*, the contingent event that caused the case to not be ripe was one step – would the Governor withhold or not. Here there are three contingent steps that have to occur for any ripe case to exist. The most important of which is the unresolved question of whether the referendum petition is sufficient. As a result, this case is not ripe and the trial court should be affirmed.

D. *Missourians to Protect the Initiative Process* is not helpful to Appellants.

Appellants attempt to use *Missourians to Protect the Initiative Process* to bolster their claims. App. Br. at 29. However, this reliance is improperly placed. In *Missourians to Protect the Initiative Process*, the Secretary of State did certify the initiative petition in question and the challenge was brought under the statute allowing a challenge to that sufficiency.

> On September 1, 1990, the Secretary of State certified that a sufficient number of voters had signed the petitions to require that the initiative proposal be placed on the ballot at the November 1990 general election. § 116.150.1.

Missourians to Protect the Initiative Process v. Blunt, 799 S.W.2d 824, 826 (Mo. 1990).

Only after this certification occurred, was the case ripe for adjudication. This Court expressly noted that:

> Any controversy as to whether the prerequisites of article III, § 50 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.

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Missourians to Protect the Initiative Process, 799 at 828 (emphasis added). Appellants even quote this same passage in their brief. App. Br. at 29. But they entirely miss the comport of the case: cases are ripe after the Secretary makes a decision on sufficiency and not before.

Appellants try to distinguish *Missourians to Protect the Initiative Process* by asserting that their claim has nothing to do with the procedural prerequisites and that they do not seek to control the Secretary's certification process. Regardless of how Appellants attempt to characterize their claim, the legal question they ask the Court to decide — whether HB1 is currently suspended — cannot be answered without determining whether the petition is legally sufficient. This is because sufficiency is the predicate for suspension under Appellants' own Missouri authority (e.g. *Kemper, Stickler)*. Appellants cannot quarantine the "automatic suspension" question from the sufficiency question. *Missourians to Protect the Initiative Process* establishes that the sufficiency question is ripe only after the Secretary acts. Since sufficiency is embedded in the suspension question, the suspension question is equally not ripe.

Appellants fail to give any credence to the clear requirement that a referendum petition is not sufficient until there are sufficient signatures pursuant to Article III, Section 52(a) of the Missouri Constitution. That determination has not occurred (and may not occur if there are insufficient signatures) and until that point, under *Missourians to Protect the Initiative Process*, Appellants' claims are not ripe.

E. Conclusion

The trial court correctly concluded that Appellants' case is not ripe. Appellants have prematurely filed their case. Their claims are not ripe unless and until the Secretary of State issues a certificate of sufficiency or

insufficiency, as no injury cognizable by this Court exists before that point. *Schweich* controls on this point. Appellants seek an advisory opinion based upon hypothetical actions that may or may not occur in the future. This Court has consistently dismissed cases to avoid issuing advisory opinions. Even if there is some injury as alleged by Appellants, it is not a current harm but is contingent on multiple future intervening events. Finally, this Court's decision in *Missourians to Protect the Initiative Process* demonstrates that only once the Secretary makes his certification is a claim ripe. For each and all of these reasons, this case is not ripe and the trial court should be affirmed.

III. The Circuit Court did not err in concluding that Appellants' claim presents a nonjusticiable political question because it correctly applied the law to the Appellants' pleadings and found the sought-after relief presented an issue not fit for judicial intervention. (Responds to Point III).

Standard of Review

Intervenor-Respondent adopts Appellants' standard of review for Point III, review is *de novo*.

"Questions, in their nature political…can never be made in this court." *Marbury v. Madison*, 5 U.S. 137, 170, 2 L. Ed. 60 (1803). "The political question doctrine establishes a limitation on the authority of the judiciary to resolve issues, decidedly political in nature, that are properly left to the legislature." *Maryland Heights Leasing, Inc. v. Mallinckrodt, Inc.*, 706 S.W.2d 218, 220 (Mo. App. E.D. 1985); *Bennett v. Mallinckrodt, Inc.*, 698 S.W.2d 854, 863 (Mo. App. E.D. 1985).

> [T]he '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 nonjudicial discretion; or the impossibility of a court's

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> 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.' The court also concluded that a political question could result if it were found that any one of the factors listed was inextricably present.

State on Info. of Danforth v. Banks, 454 S.W.2d 498, 500 (Mo. 1970) (quoting *Baker v. Carr*, 369 U.S. 186, 82 S. Ct. 691, 7 L. Ed. 2d 663 (1962)).

"Sometimes, however, 'the law is that the judicial department has no business entertaining the claim of unlawfulness—because the question is entrusted to one of the political branches[.]'" *Rucho v. Common Cause*, 588 U.S. 684, 695–96, 139 S. Ct. 2484, 2494, 204 L. Ed. 2d 931 (2019) (quoting *Vieth v. Jubelirer*, 541 U.S. 267, 277, 124 S.Ct. 1769, 158 L.Ed.2d 546 (2004)). "In such a case the claim is said to present a 'political question' and to be nonjusticiable—outside the courts' competence and therefore beyond the courts' jurisdiction." *Id.* (quoting *Baker v. Carr*, 369 U.S. 186, 217, 82 S.Ct. 691, 7 L.Ed.2d 663 (1962)).

The Petition asks this Court, in the first instance, to make an initial policy determination—whether a submitted referendum has suspended a duly enacted bill—before, and regardless of whether the referendum has been verified or declared sufficient by the Secretary of State. D124:P9; *supra* Section III. That request is incompatible with Missouri's constitutional delegation of authority.

The Missouri Constitution provides that the Secretary of State "shall . . . perform such duties…in relation to elections…as provided by law." Mo. Const. art. IV, § 14. The General Assembly, properly exercising its legislative power,[9]

[9] "[T]he General Assembly has the power to do whatever is necessary to perform its functions except as expressly restrained by the Constitution."

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has assigned to the Secretary the duty to receive, examine, and determine the sufficiency of referendum petitions. *See* §§ 116.120-.200, RSMo. That assignment is the mechanism the Constitution and statutes prescribe for determining whether a referendum petition has the legal effect Appellants claim here.

This grant includes what is necessary to carry it out. When the Constitution creates an office and assigns duties to it, the office possesses not only the authority expressly conferred but also those powers necessarily implied to carry its duties into effect. *State ex rel. Teichman v. Carnahan*, 357 S.W.3d 601, 607 (Mo. banc 2012). Here, the Secretary is charged with determining whether a referendum petition is sufficient; the Secretary, therefore, must determine that question before courts or litigants may treat the petition as having suspended a duly enacted law. In contrast, where the Secretary lacks this power, the statutory review process is reduced to an empty formality. Suspension would arise first, and the Secretary's review would matter only later, after the legal consequences had already attached.[10]

Luther v. Hoskins, SC 101412, 2026 WL 815813, at *2 (Mo. Mar. 24, 2026) (quoting *Liberty Oil Co. v. Dir. of Revenue*, 813 S.W.2d 296, 297 (Mo. banc 1991)).

[10] This is not a hypothetical concern. Under Appellants' theory, any submitted referendum—regardless of validity or sufficiency—would immediately suspend duly enacted legislation upon filing, before any verification of signatures or compliance with statutory requirements. That regime would invite abuse. Bad actors could and would submit facially deficient, forged, or otherwise improperly gathered petitions to trigger immediate suspension, thereby disrupting duly enacted laws without ever satisfying the legal prerequisites for a referendum. Once such a disruption occurs in the election context, courts are often constrained from granting relief by principles that caution against late-stage judicial interference with elections. *See Purcell v. Gonzalez*, 549 U.S. 1 (2006). The result is a system in which legally insufficient petitions can nevertheless produce binding, real-world consequences—

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That is not how Chapter 116 operates. The statutory scheme requires a sufficiency determination by the Secretary, followed by judicial review if that determination is challenged. *See* §§ 116.120, 116.150, 116.200, RSMo. Indeed, the availability of review under § 116.200 confirms the point. The Secretary first decides whether a referendum petition is sufficient and that an act of the legislature is then suspended. A challenge may be brought following that determination, which the court then reviews. What Appellants seek is the reverse.

That reversal is not a matter of timing alone. It is substantive. To declare HB1 suspended before the Secretary has determined that the petition is sufficient is necessary to give an uncertified petition the legal effect of a sufficient one. Appellants, in substance, ask this Court to bypass the constitutionally assigned election officer and declare, without the benefit of the review the Constitution and the General Assembly required, that an uncertified petition is already effective to suspend an act of the legislature. This asks the judiciary to presume sufficiency where the law requires sufficiency to be determined. It asks the Court to replace administrative verification with judicial assumption.

Nor can Appellants avoid this conclusion by characterizing their claim as one about "suspension" rather than "sufficiency." In this context, the two are inseparable. A referendum petition suspends legislation, if at all, only upon satisfaction of the legal requirements imposed by the constitution and statutes. *State ex rel. Kemper v. Carter*, 165 S.W. 773, 779 (Mo. banc 1914) (holding that "a timely, legal, and sufficient referendum petition with the Secretary of State"

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effectively rewarding manipulation of the electoral process and undermining the statutory safeguards the General Assembly enacted to prevent precisely that outcome.

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is what must be done to halt a legislative act).

Kemper was decided in 1914 before any statutory verification process existed – as a result "sufficient" and "filed" were synonymous because, at the time, statutes required self-certification by those submitting the petition. At that time, the Secretary's role the was purely ministerial – essentially a receipt function. The General Assembly's subsequent enactment of Chapter 116 in 1980 decoupled "filed" from "sufficiency" by creating a substantive verification framework that *Kemper* could not have contemplated. Chapter 116 changed the constitutional landscape by amending the mechanism for confirming the constitutional signature threshold been met: from self-certification to certification after verification by the Secretary. Now the Secretary has a substantive threshold role in the process. *Kemper*'s "mere lodging" language was specific to the statutory framework in place at the time.. *Id.* at 779. *Kempker* held that "mere lodging" was sufficient because that was the entirety of what was legally required at the time. *Id.* at 780.

That is the essence of a political question, as the Secretary has a role (the Executive) that the Constitution and implementing statutes require he carry out. Only after that process is there possibly a non-political question. Until the Secretary determines those requirements have been met, there is no lawful basis to treat the petition as having operative effect.[11]

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[11] Article III, § 52(a) underscores the flaw in Appellants' position. The Constitution requires referendum petitions to meet specified signature thresholds before the power is exercised. Automatic suspension would nullify those requirements entirely, converting a carefully designed safeguard into surplusage—an interpretation this Court must reject. *See*, *Robust Mo. Dispensary 3, LLC v. St. Louis Cnty.*, 721 S.W.3d 135, 142 (Mo. banc 2025) ("Every word contained in a constitutional provision has effect, meaning, and is not mere surplusage"). "A construction which renders meaningless any of its provisions should not be adopted by the courts." *State ex rel. Moore v. Toberman*, 363 Mo. 245, 257, 250 S.W.2d 701, 705 (Mo. banc 1952).

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The Petition itself confirms the nature of the relief sought. Appellants request a declaration that HB1 is suspended "until voters approve or reject it through the constitutional referendum process." D124:P9. That request admits no limiting principle. It would require this Court to declare suspension without regard to whether the referendum petition is ever found sufficient. In doing so, it would bypass the very determination the Constitution and statutes assign to the Secretary of State.

Such judicial intervention implicates core separation-of-powers concerns. A case is nonjusticiable where it involves "a textually demonstrable constitutional commitment of the issue to a coordinate political department" or where independent judicial resolution would express "a lack of the respect due coordinate branches of government." *State on Inf. of Danforth v. Banks*, 454 S.W.2d 498, 500 (Mo. banc 1970) (quoting *Baker v. Carr*, 369 U.S. 186 (1962)). Both are present here. Article IV, Section 14 of the Missouri Constitution and Chapter 116, which are the statutes enacted thereunder, commit the initial determination of referendum sufficiency to the Secretary of State.

The Missouri Constitution expressly assigns election administration duties to the Secretary of State. Mo. Const. art. IV, § 14. Chapter 116 is the General Assembly's exercise of its power to define those duties under Article IV, Section 14. The General Assembly has established that determination of the sufficiency of a referendum petition is one of those duties vested in the Secretary. When a constitutional office is assigned a function, that function must be exercised before its legal consequences attach. To be sure, courts, including this Court, are often called upon to review decisions of an election officer—but such review follows, it does not precede, the officer's action.

Appellants invite this Court to act without that determination, substituting its own judgment for that of the officer charged with making it. This Court should decline that invitation. The structure of Missouri law is straightforward: the Secretary of State makes the initial sufficiency determination; the courts review that determination as provided by statute. Appellants' theory would invert that structure, requiring the judiciary to presume legal sufficiency before the process designed to determine sufficiency has been completed. That is not judicial review. It is a judicial displacement of a coordinate branch's assigned function.

Because Appellants ask this Court to bypass the statutory process for determining the constitutional signature threshold is met, presume operative effect in the absence of a sufficiency determination, and decide in the first instance a matter committed to a coordinate branch, it presents a nonjusticiable political question, and dismissal should be affirmed.

IV. The Circuit Court did not err in concluding that Appellants improperly seek declaratory relief because there is an adequate statutory remedy for Appellants' claims. (Responds to Point IV).

Standard of Review

Intervenor-Respondent adopts Appellants' standard of review for Point III, review is *de novo*.

"The circuit courts of this state, within their respective jurisdictions shall have power to declare rights, status, and other legal relations whether or not further relief is or could be claimed." Section 527.010, RSMo. "'The statutory provisions for declaratory judgment actions are designed to supply a deficiency in our remedial proceedings and are not intended to be a substitute for all existing remedies." *Harris v. State Bank & Tr. Co. of Wellston*, 484 S.W.2d 177, 179 (Mo. 1972). "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,

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223 (Mo. 2005) "The lack of an adequate remedy at law is a prerequisite to relief via declaratory judgment." *City of Kansas City, Mo. v. Chastain*, 420 S.W.3d 550, 555 (Mo. banc 2014).

Where an adequate remedy at law exists, it becomes the exclusive remedy for challenging an action. *State ex rel. SLAH, L.L.C. v. City of Woodson Terrace*, 378 S.W.3d 357, 364 (Mo. 2012). In *SLAH*, the City appealed an entry of declaratory judgment challenging the legality of an imposed tax because "there is an adequate remedy at law in this case[.]" *Id.* at 361. The Court noted that a procedure for challenging the imposition of a tax existed under § 139.031 RSMo. *Id.* at 362. The Court explained that had SLAH complied with § 139.031, it "would place before a court the same issues that now are claimed in the declaratory judgment action." *Id.* Accordingly, the Court held "a declaratory judgment action is improper when an adequate remedy exists at law" and reversed the entering of judgment in SLAH's favor. *Id.* at 364.

Appellants assert that they lack an adequate remedy at law. D124:P9. Yet, their own allegations demonstrate the opposite. The harm Appellants identify is the alleged denial of their "constitutional right to approve or reject legislation through referendum." D124:P2. Whether that harm exists, however, depends entirely on a predicate question: whether the referendum petition is legally sufficient to be placed before the voters.

Missouri law assigns that determination to the Secretary of State in the first instance. §§ 116.120–116.150, RSMo. And Missouri law further provides a specific avenue for judicial relief if that determination is contested. If the Secretary concludes that a petition is insufficient, "any citizen may apply to the circuit court of Cole County" to challenge that decision. *Missourians to Protect the Initiative Process v. Blunt*, 799 S.W.2d 824, 829 (Mo. banc 1990) (quoting § 116.200, RSMo).

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That statutory procedure squarely addresses the very issue Appellants seek to litigate here.[12] If the Secretary determines the petition is insufficient, Appellants may raise the same arguments they advance in this case through a § 116.200 action. And if the Secretary determines the petition is sufficient, the referendum proceeds, and Appellants suffer no injury at all. In either event, the statutory framework provides a complete and adequate means of resolving the dispute.

Appellants nevertheless attempt to bypass that process. Rather than proceed through the mechanism the legislature established, they seek declaratory relief now—without a sufficiency determination and without invoking the statutory review procedure. In doing so, they attempt to avoid not only the forum the legislature prescribed, but also the timing and conditions under which judicial review is permitted.

Missouri law does not permit such circumvention. "Where the legislature provides a method of review, that procedure is exclusive and must be used." *Nash v. Dir. of Revenue*, 856 S.W.2d 112, 113 (Mo. App. E.D. 1993).

> Where the legislature provides a method of review, failure to follow that procedure is jurisdictional. *Hart v. Board of Adjustment of City of Marshall,* 616 S.W.2d 111, 115 (Mo. App. 1981)(quoting *Gothard v. Spradling,* 586 S.W.2d 443, 445 (Mo. App. 1979)). "When a statute provides a special type of review it is exclusive so as to preclude the use of any other or nonstatutory method." *Id.* at 116. Thus, if an alternative statutory method of review exists, a declaratory judgment action is not permissible. *Carter v. Greene County,* 765 S.W.2d 665, 671 (Mo. App.

[12] Appellants argue in a footnote that a Section 116.200 action would be nominally limited to a sufficiency review. However, a court presented with a challenge under §116.200 would be required to address whether the constitutional prerequisites for suspension (a sufficient referendum petition) were met — which necessarily includes the constitutional question Appellants raise. Appellants' argument is not separate from sufficiency; it is firmly and entirely embedded within it.

1989); *American Hog Co. v. County of Clinton,* 495 S.W.2d 123, 126–127 (Mo. App. 1973).

Farmer's Stone Prods. Co. v. Hoyt, 950 S.W.2d 673, 675 (Mo. App. W.D. 1997) (emphasis added). Declaratory judgment cannot be used to obtain the same relief outside that framework or to evade the statutory prerequisites for judicial intervention. Appellants' disagreement with the statutory process does not render it inadequate; it confirms that they seek to avoid it.

Appellants cite *City of St. Louis v. State*, 643 S.W.3d 295 (Mo. banc 2022), for the proposition that a declaratory action is proper to challenge the constitutional validity of a statute. *City of St. Louis* involved a facial constitutional challenge to a statute with no available administrative remedy — there was no officer charged with making any threshold determination that was applicable to the party (the City). *Id.* at 300. In fact, this Court accepted that case on the basis that individual prosecutions for violations of a law would not provide an adequate remedy and that pre-violation of criminal laws was an appropriate ground for challenging the constitutionality of a law. *Id.* at 300-301. Here there is but one underlying matter (the referendum petition) and one single specific constitutional officer (the Secretary) who is charged by statute with the precise determination that gives rise to the alleged harm. Furthermore, after that determination, there is an express statutory remedy for challenging the determination, Section 116.200, RSMo. Appellants' declaratory action puts the cart before the horse.

For these reasons, declaratory judgment is not the appropriate action and the trial court should be affirmed.

V. The Circuit Court correctly held that HB1 is not suspended by the mere delivery of petition boxes (Responds to Point V).

The question is not whether Missouri's Constitution requires

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suspension; instead the question is when, and on what condition, a referendum is ordered, a measure is referred, and suspension occurs. The trial court correctly rejected Appellants' argument that suspension occurs the moment petition boxes are physically delivered to the Secretary of State. No Missouri court has ever held this. *State ex rel. Kemper v. Carter*, 165 S.W. 773 (Mo. banc 1914), did not hold this. The Missouri Constitution does not say this. This Court should not hold it now.

Standard of Review

This Court reviews the circuit court's determination of a statute's constitutional validity *de novo*. *State v. Wooden*, 388 S.W.3d 522, 525 (Mo. banc 2013). "Statutes are presumed constitutional and will be found unconstitutional only if they clearly contravene a constitutional provision." *State v. Vaughn*, 366 S.W.3d 513, 517 (Mo. banc 2012) (citing *State v. Pribble,* 285 S.W.3d 310, 313 (Mo. banc 2009)). "The person challenging the validity of the statute has the burden of proving the act clearly and undoubtedly violates the constitutional limitations." *Id.* (quoting *Franklin Cnty. ex rel. Parks v. Franklin Cnty. Comm'n,* 269 S.W.3d 26, 29 (Mo. banc 2008)). In reviewing a court-tried case, this Court accepts all evidence and inferences therefrom in the light most favorable to the prevailing party and disregards all contrary evidence. *MC Dev. Co., LLC v. Cent. R-3 Sch. Dist. of St. Francois Cnty.*, 299 S.W.3d 600, 602 (Mo. banc 2009) (citing *Essex Contracting, Inc. v. Jefferson County,* 277 S.W.3d 647, 652 (Mo. banc 2009)).

A. The plain language of the Missouri Constitution forecloses Appellants' automatic suspension theory.

The central constitutional question is straightforward: when is a measure "referred to the people" within the meaning of Article III, Section 52(b)? Appellants bypass the plain language of Article III, Section 52(a) and

urge that referral — and thus suspension — occurs automatically upon submission of petitions, regardless of their legal sufficiency. But the constitutional text, the implementing statutory framework, and the case law foreclose that answer.

Article III, Section 52(a) provides:

> A referendum may be ordered ... either by petitions signed by five percent of the legal voters in each of two-thirds of the congressional districts in the state, or by the general assembly, as other bills are enacted. 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.

(emphasis added).

Article III, Section 52(b) provides:

> The veto power of the governor shall not extend to measures referred to the people. All elections on measures referred to the people shall be had at the general state elections, except when the general assembly shall order a special election. Any measure referred to the people shall take effect when approved by a majority of the votes cast thereon, and not otherwise. This section shall not be construed to deprive any member of the general assembly of the right to introduce any measure.

(emphasis added). A referendum is only "ordered" by petitions meeting the constitutional signature threshold. Once "ordered," and thus referred to the people, the measure takes effect only when approved by a majority of the votes cast thereon, and not otherwise.

Appellants' theory of automatic suspension would render the constitutional requirement in Section 52(a) of five percent of votes in two-thirds of the congressional districts and the Secretary's statutory review process meaningless. Article III, Section 52(a) uses the word "ordered."

That "order" only occurs when a petition "signed by five percent of the

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legal voters in each of two-thirds of the congressional districts of the state," is submitted. Mo. Const. Art. III, §52(a). It does not occur before that constitutional threshold is met. This Court must assume that every word in the constitutional provision has effect and meaning. *Pearson v. Koster*, 367 S.W.3d 36, 48 (Mo. banc 2012) (citing *Buechner v. Bond*, 650 S.W.2d 611, 613 (Mo. banc 1983)). Only once that threshold is met, may a referendum be "ordered."

The Constitution having mandated a signature threshold, also mandates the Secretary "to perform such duties....in relation to elections and corporations, as provided by law[.]" Mo. Const. art. IV, § 14.[13] One such duty is that "[w]hen an initiative or referendum petition is submitted to the secretary of state, he or she <u>shall</u> examine the petition to determine whether it complies with the Constitution of Missouri and with this chapter." § 116.120, RSMo (emphasis added). The Constitution mandates the signature threshold and mandates that the Secretary shall perform election related duties as provided by law, and the implementing statutes contemplate a thorough review process, not automatic suspension based on mere physical delivery of petition boxes.

While it is true that the people reserved to themselves the power of the referendum, the Constitution makes clear that such power is limited to petitions "signed by five percent of the legal voters in each of two-thirds of the congressional districts." Mo. Const. art. III, § 52(a). The people have a right to elect representatives and to legislation duly enacted by those representatives without interference by opponents unless such opponents can meet the constitutional threshold for invoking the referendum. As this Court explained

[13] "The Secretary of State has an <u>independent obligation</u> flowing from his oath of office 'to support the Constitution of the United States and of [Missouri].'" *Mo. Gen. Assembly v. Von Glahn*, 2025 WL 3514277, at *4 (E.D. Mo. Dec. 8, 2025) (citing Section 28.020, RSMo)(emphasis added).

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in *Kaesser v. Becker*:

> [W]hen a solemn legislative act is sought to be set aside, it is our duty to see that the constitutional and statutory requirements have been substantially met by those seeking to refer the act. 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. 346, 352 (Mo. banc 1922). That principle controls here: the signature threshold is not a bureaucratic technicality but a constitutional safeguard against legislative nullification by parties who cannot muster the required popular support.

Appellants posit a power of referendum that renders the constitutional limitations in Section 52(a) meaningless, ignoring what this Court also said in *Missourians to Protect the Initiative Process*: "The people speaking with equal vigor through the same constitution, have placed limitations on the initiative power. That those limitations are mandatory is clear and explicit." *Id.* The same holds true for the conditions for ordering the referendum under Section 52(a). Appellants ask this Court to overlook Section 52(a) — this Court should decline.

Appellants also contend that under their automatic suspension theory, the Secretary's latter insufficiency finding can operate *nunc pro tunc*[14] to

[14] *Nunc pro tunc* is a judicial rule that allows a trial court to correct a clerical error in its judgment. Rule 74.06(a). It cannot be used to make a substantive change to the party's rights. See *McGuire v. Kenoma, LLC*, 447 S.W.3d 659, 663 (Mo. banc 2014). Appellants' creation of a new *nunc pro tunc* power, vested in the Secretary of State, to change the fundamental impact of a referendum does not comport with the Court's limited ability to change something that was

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confirm the measure was never "referred to the people." This is a doctrine invented wholesale by Appellants without constitutional support. *See* App. Br. 47, n.11. Appellants' novel *nunc pro tunc* theory asks this Court to read into Section 52(b) an implied un-referral power that the text simply does not contain. Where the text is clear, courts may not supply omitted provisions by implication. *Gray v. Taylor*, 368 S.W.3d 154, 156 (Mo. banc 2012) (citing *State ex rel. Young v. Wood*, 254 S.W.3d 871, 873 (Mo. banc 2008)).

Consider the logical endpoint of Appellants' theory. If filing triggers automatic referral and suspension — making the measure one that "shall take effect when approved by a majority of the votes cast thereon, and not otherwise" — then the Secretary's subsequent insufficiency finding cannot, as a matter of constitutional law, restore the measure to effectiveness. The "and not otherwise" clause is an absolute prohibition. A majority vote is the only mechanism by which the measure can take effect. The Secretary cannot by administrative fiat accomplish what only a majority of voters can accomplish. Appellants' *nunc pro tunc* theory would make the Secretary's insufficiency finding constitutionally inoperative, leaving Missouri with a suspended law that can only be unsuspended by a vote of the people — even when the petition that purportedly triggered referral lacked the constitutionally required valid signatures. Appellants offer no coherent answer to this problem because there is none.

Appellants, like many before them, claim subversion of the will of the people by the requirement they meet the signature threshold in Section 52(a). This Court has addressed precisely this rhetorical move, characterizing it as

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merely a clerical error. No court has expanded the *nunc pro tunc* rule to change the fundamental import of a decision that has been made or outside the judicial context.

"not truly a legitimate legal argument," and responded:

> [W]hether or not we 'subvert' the desires of the signers of the challenged petitions, regardless of their number, turns on the desires of all of the people of this state, regardless of their number, as expressed in their constitution which declares the fundamental law and which we are bound to follow. We have no other alternative.

State ex rel. Scott v. Kirkpatrick, 484 S.W.2d 161, 164–65 (Mo. banc 1972) (holding the Secretary acted properly in rejecting petitions for failure to include an enacting clause).

Because the Constitution conditions referral on a valid petition meeting the constitutional signature threshold — not the mere physical delivery of boxes — Appellants' automatic suspension theory collapses under the weight of its own internal logic: it would render the Secretary's review process a nullity and leave Missouri with no constitutional mechanism to restore a suspended law absent a vote of the people. The text of the Constitution itself forecloses Appellant's automatic suspension theory.

B. No Missouri court has held that legislation is automatically suspended by the mere delivery of petition boxes.

1. *Kemper* does not support automatic suspension.

Appellants' Brief repeats, in various formulations, the claim that *Kemper* established a rule of "automatic suspension" upon filing. *See* App. Br. 35–38. A careful reading of *Kemper* reveals no such holding. The *Kemper* Court's holding was precise: "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." *State ex rel. Kemper v. Carter*, 165 S.W. 773, 779 (Mo. banc 1914) (emphasis added). The *Kemper* Court did not hold that mere filing triggers suspension. It created a three-part test for suspension: the petition must be legal, sufficient, and timely.

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Sufficiency was not contested in *Kemper*; the relator "d[id] not contend that there were not sufficient petitioners, or that the names contained thereon were not those of legally qualified signers." *Id.* A case does not establish a proposition it assumed without deciding.

Appellants also cast aside the significance of the changes to the Secretary's role in 1980. App. Br. at 44–45. That change is not mere historical background — it forecloses the automatic suspension reading of *Kemper* that Appellants advance.

In 1980 — sixty-six years after Kemper — the General Assembly enacted Chapter 116, RSMo, transforming the Secretary's role from ministerial to substantive. When *Kemper* was decided, the Secretary's review was ministerial — essentially a mathematical addition exercise. *Kemper*, 165 S.W. at 780. The *Kemper* Court's holding that the Secretary "has no discretion in the matter," was particular to the statutory structure in existence at the time. *Id.* at 781. *Kemper v. Carter* contemplated a system where circulators had already "self-certified" the petition signatures before submitting the signatures to the Secretary. *Id. at* 780.

Indeed, Appellants acknowledge since *Kemper* there was an "overhaul of the election code." App. Br. at 15. Missouri law now requires that once a petition is submitted, pursuant to Section 116.120, RSMo, the Secretary must determine "whether it complies with the Constitution of Missouri and with this chapter." This mandatory examination serves a critical gatekeeping function. The Secretary of State sends copies of petition pages to local election authorities to verify that petition signers are registered voters. § 116.130.1, RSMo. Local election authorities then check signatures against voter registration records in their jurisdiction and count as valid only signatures of persons registered in the county named in the circulator's affidavit. *Id.* Election

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authorities must return annotated copies identifying invalid or questionable signatures, verify the number of pages received, and certify the total number of valid signatures from each congressional district. § 116.130.4, RSMo. After the local election authorities have conducted their review, Section 116.140, RSMo, authorizes the Secretary "not to count signatures on initiative or referendum petitions which are, in his opinion, forged or fraudulent signatures."

This overhaul has been recognized by courts in other jurisdictions. As the Wyoming Supreme Court observed just two years after Chapter 116's enactment:

> [At the time of the *Kemper* case] ... there was no requirement in Missouri for the Secretary of State or any other official to conduct a review to determine whether the petitions were signed by an adequate number of qualified registered voters. It also is made plain that the Missouri verification is positive as to 'the qualifications of the signers.' ... In passing, it is noted that since the time frame of *State ex rel. Kemper v. Carter*, supra, there has been a reform of the initiative and referendum procedures in that state. It now requires processing of petitions by the secretary of state.

Thomson v. Wyoming In-Stream Flow Comm'n, 651 P.2d 778, 785 (Wyo. 1982). The Wyoming court held, after declining to apply *Kemper*, that "the specific statutory review requirements placed on the Secretary show an intent on the part of the legislature that those seeking to exercise the right of initiative in this state must, as a condition precedent, comply with the conditions prescribed." *Id.* at 785–86.

The same reasoning applies here. Chapter 116's review requirements reflect what is already apparent in the plain language of the Constitution — that a legally sufficient petition is a condition precedent to referral, not a condition subsequent confirmed after suspension has already attached.

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2. *Stickler*, *Moore*, and *No Bans* confirm that sufficiency is a condition precedent.

Stickler, relied on by Appellants (App. Br. at 35), confirms this reading of *Kemper*. The *Stickler* court described the suspension of referred legislation in these terms: "[O]nce 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 'suspend[ed] or annul[led],' and has no further legal effect or consequence." *Stickler*, 539 S.W.3d at 713 n.9 (emphasis added).

The *Stickler* court did not say suspension occurs when the boxes are delivered. It said suspension occurs once the petition "has received sufficient signatures to be placed on the general election ballot." That is a condition precedent (satisfaction of the Section 52(a) signature threshold, as established through the verification process) not merely a temporal trigger. The court's use of "once" and "has received" establish that the condition must be met before suspension attaches.

Appellants' citation of *State ex rel. Moore v. Toberman*, 250 S.W.2d 701 (Mo. banc 1952), is likewise unavailing. *Moore* confirms the filing of "legally insufficient" petitions does not suspend the effective date of the measure. *Id.* Further, *Moore* held that laws are subject to referendum if petitions "were duly filed before their effective date." *Moore*, 250 S.W.2d at 706 (emphasis added). "Duly" is not a throwaway adverb. Black's Law Dictionary defines "duly" as "in a proper manner; in accordance with legal requirements." BLACK'S LAW DICTIONARY (12th ed. 2024). A petition is "duly filed" within *Moore*'s meaning when it is filed in conformity with all legal requirements — not merely when it arrives at the Secretary's office before a deadline. One such legal requirement for a referendum petition is the signature threshold in

Article III, Section 52(a). Unless and until a petition meets the valid signature threshold, it has not been shown to have been duly filed in the constitutional sense.

Appellants' reliance on *No Bans* is also misplaced. The statutes at issue in *No Bans* and in *Upchurch,* purportedly limited the time in which circulators could gather signatures. In *Upchurch*, the Court found that the text of the Constitution was not silent on this question and constitutional provisions relating to the period of time during which petitions may be circulated for signatures "are clearly framed" by reference to general elections and the periods between them *State ex rel. Upchurch v. Blunt*, 810 S.W.2d 515, 517 (Mo. 1991). Here, with respect to when and how the Secretary refers legislation for a referendum vote, the Constitution is silent and Chapter 116 serves as a reasonable implementation framework. In *No Bans,* this Court confirmed:

> The General Assembly is permitted to enact "reasonable implementations" of the referendum process. *State ex rel. Upchurch v. Blunt*, 810 S.W.2d 515, 516 (Mo. banc 1991). A framework for exercising the right of referendum was enacted by the legislature in chapter 116.

638 S.W.3d 484, 487 (Mo. banc 2022).

3. *Kaesser* and *United Labor Committee* cut against Appellants' theory.

The *Kaesser* balance cuts decisively against Appellants. The court identified two competing values: the effectiveness of the referendum right, and the integrity of the substantial requirements that give it constitutional legitimacy. *Kaesser*, 243 S.W. at 352. It held that both must be honored - that neither value licenses courts to dispense with the other. Under Appellants' theory, the constitutional signature threshold is effectively nullified as a condition of referral whenever a petitioner delivers boxes before the effective date. That is precisely what *Kaesser* forbade: construing the referendum right

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in a way that reads the substantial requirements out of the right itself. The constitutional signature threshold - "five percent of the legal voters in each of two-thirds of the congressional districts," Mo. Const. art. III, § 52(a) - is not a *No Bans* "procedural formality." It is the predicate for the referendum right itself. *Kaesser* requires full observance of it.

In *United Labor Committee of Missouri v. Kirkpatrick*, 572 S.W.2d 449 (Mo. banc 1978), this Court addressed what makes a petition legally sufficient and stated plainly that "[t]he validity of the signatures is the heart of the ultimate determination." *Id.* at 455. This Court further stated that the constitutional question — whether the petition is "signed by five percent of the legal voters in each of two-thirds of the congressional districts" — is "a primary question" in determining sufficiency.

If signature validity is "the heart of the ultimate determination" of petition sufficiency, then mere delivery of petition boxes to the Secretary has not yet established the condition *Kemper*, *Stickler*, and *Kaesser* all identify as the trigger for suspension. Appellants' theory inverts this framework entirely — it treats the heart of the determination as legally irrelevant so long as boxes arrive before a deadline. The heart of the determination is legal sufficiency. Treating delivery alone as the trigger does not merely sidestep that heart — it excises it.

Every court in this line of cases has treated signature sufficiency as a substantive condition of the referendum right — not a bureaucratic afterthought to be confirmed after suspension has already occurred. *Kemper* said a "legal, sufficient, and timely" petition suspends legislation, acknowledging that an insufficient petition would defeat suspension. *Stickler* said suspension occurs when a petition "has received sufficient signatures." *Kaesser* required "full observance of substantial requirements" before a solemn

legislative act could be set aside. *United Labor Committee* declared signature validity "the heart of the ultimate determination." Because the Constitution is silent, Chapter 116 is a permissible statutory implementation of the signature threshold requirement.

Appellants' theory — that delivering boxes before the deadline triggers automatic suspension before the other constitutional conditions are satisfied — has no support in any of these decisions or in the present day statutory framework. It has support only in a selective reading of *Kemper* that the *Kemper* Court's own analysis forecloses. This Court should decline to adopt a rule that none of its prior decisions supports, and that would make the constitutional signature threshold a condition subsequent — triggered only after the right has already been exercised — rather than a condition precedent to the exercise of the referendum right at all.

C. PNP's theory of presumptive validity fails, and in any event, the record is devoid of anything on which to base a presumption.

Nearly all of the cases relied on by PNP to advance its "presumption of validity" argument, were decided well before 1980, when Chapter 116, RSMo, was enacted. As explained herein, the statutory scheme the *Kemper* and *Kaesser* courts relied on has changed. Neither the Constitution nor Chapter 116, RSMo, contains a presumption of validity. The framers and General Assembly know how to create such presumptions.[15] A court may not add words

[15] *See, e.g.*, Article I, Section 36 ("Any…restriction of the right…shall be presumed invalid"; Article III, Section 2(d) "There shall be a rebuttable presumption that a contribution to a candidate for public office is made or accepted with the intent to circumvent the limitations…"; Section 130.176, RSMo., (" Receipt of an affirmation by a committee pursuant to this subsection shall create a rebuttable presumption of compliance with this subsection on the part of the committee."); Section 115.505, RSMo., "In case of an election contest, the corrected returns of the verification board shall be prima facie

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by implication when the plain language is clear and unambiguous. *Wright-Jones v. Nasheed*, 368 S.W.3d 157, 159 (Mo. banc 2012) (citing *State ex rel. Young v. Wood*, 254 S.W.3d 871, 873 (Mo. banc 2008).

Nor does *Ketcham* establish a presumption. *Ketcham* was a Section 116.200, RSMo, action post-certification by the Secretary. *Ketcham v. Blunt*, 847 S.W.2d 824 (Mo. App. 1992). The presumption was an evidentiary presumption at trial, after the Secretary had already certified the petitions as sufficient. *Id.* at 825.

PNP is correct that the constitution's referendum provisions should be liberally construed to protect the people's reserved power. *See, e.g.*, *Missourians to Protect the Initiative Process v. Blunt*, 799 S.W.2d 824, 827 (Mo. banc 1990). But liberal construction does not mean that a petition that has not yet been shown to satisfy the constitutional signature threshold is presumed to do so. General rules of liberal construction "must yield when [they] conflict[] with the framers' intent and plain meaning of…provisions which place specific limits on the initiative and referendum process." *State ex rel. Hazelwood Yellow Ribbon Comm. v. Klos*, 35 S.W.3d 457 (Mo. App. 2000). That limit exists in the plain text of the constitution: Article III, Section 52(a).

As PNP notes in its brief, "the Secretary of State has an independent obligation flowing from his oath of office 'to support the Constitution of the United States and of [Missouri].'" *Mo. Gen. Assembly v. Von Glahn*, 2025 WL 3514277, at *4 (E.D. Mo. Dec. 8, 2025) (citing Section 28.020, RSMo). That includes the plain text of Article III, Section 52(a). Further, Section 116.120.1 provides that the secretary of state "shall" examine an initiative petition "to determine whether it complies with the Constitution of Missouri and with this

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evidence of the vote at the election to the same extent and in the same manner as are the returns of the election judges and election authority on election day."

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chapter." "The secretary of state's mandatory duty in this regard includes the obligation to verify that an initiative petition has the requisite number of signatures of registered voters required by article III, section 50 of the Missouri Constitution." *Sweeney v. Ashcroft*, 652 S.W.3d 711, 733 (Mo. App. 2022). The *Ketcham* court confirmed: "It is the secretary of state who is charged with the ultimate administrative determination as to whether the petition complies with the Constitution of Missouri and with the statutes." *Ketcham v. Blunt*, 847 S.W.2d 824, 830 (Mo. App. 1992) (citing §§ 116.120.1 and 116.150; *Missourians to Protect Initiative Process v. Blunt*, 799 S.W.2d 824, 828[3] (Mo. banc 1990)). That determination is not made at the moment of submission. It is made after the Secretary has conducted the review that Chapter 116 requires. PNP is simply wrong that the statutory scheme creates presumption of validity. It does not.

Even if a presumption exists, which it does not, Appellants are not entitled to such presumption here. PNP spends several paragraphs in its Amicus Brief walking through the statutorily prescribed form for referendum petitions and the contents required for the statutorily mandated circulator's affidavit. *See* PNP Br. 17-18. Noticeably absent is any citation to the record in this case.

Paragraph 15 of the Joint Stipulation only offers: "On December 9, 2025, 2026-R004's organizers submitted 691 boxes of referendum petitions." D174:P2. There is no evidence in the record of what was in the boxes of referendum petitions. There is no evidence in the record that any of the petitions submitted on December 9, 2025, included the statutorily prescribed form for referendum petitions in Section 116.030. There is no evidence in the record that the petitions included the criminal notifications of Section 116.030 or 116.090, RSMo, or the statutorily mandated circulator's affidavit. There is

no evidence of Appellants' signatures on pages bearing the proper form were actually submitted to the Secretary of State. There is not a blank "2026-R004" petition in the record.[16] Without any such evidence, there can be no factual basis for a presumption of validity.

For all of these reasons, PNP's presumptive validity argument fails. The constitutional and statutory framework contains no presumption of sufficiency. Even the cases PNP relies upon do not support the sweeping rule it proposes; they arose under different statutory schemes and in different procedural postures. Finally, even if a presumption could theoretically attach, there is nothing in this record to trigger it.

D. Appellants failed to preserve their constitutional challenge; in any event, Sections 116.130 and 116.150, RSMo, are constitutional.

Appellants' bare and conclusory statements are not enough to overcome the presumption of validity and their burden. *See Salamun v. Camden Cnty. Clerk*, 694 S.W.3d 424, 428 (Mo. banc 2024) (citing *Byrd v. State*, 679 S.W.3d 492, 494 (Mo. banc 2023)) "A statute is presumed valid and will not be held unconstitutional unless it clearly contravenes a constitutional provision." *Id.* (internal quotations omitted). Challengers bear the burden of proving constitutional violations. *Id.*

Appellants can point to no specific text in the Constitution which

[16] The Appellants had the full opportunity to put such evidence, if it exists, into the record; they chose not to do so. This Court is restrained to review the record and nothing beyond the record to establish the facts in this case. "A party may not supplement the record on appeal with documents never presented to the [circuit] court and to which the opposing party has had no opportunity to respond." *Missouri State Conf. of Nat'l Ass'n for the Advancement of Colored People v. State*, 730 S.W.3d 550, 556 (Mo. banc 2026) (quoting *State v. Tokar*, 918 S.W.2d 753, 762 (Mo. banc 1996)).

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specifies the timeline for the Secretary to refer a measure to the people. The Missouri Constitution is silent about how the Secretary must determine whether a petition is legally sufficient before referring a measure to the people. *See* Mo. Const. art. III, §§ 52(a), 52(b). The Chapter 116 verification framework fills that gap, as constitutions routinely contemplate gap-filling legislation to operationalize constitutional provisions.

This Court has noted that the constitutional provisions on the initiative are "not laden with procedural detail" but must rely as a matter of course on legislation designed to implement their purpose. *United Labor Committee*, 572 S.W.2d at 454–55. As to Chapter 116 specifically, this Court has recognized that "[t]he virtual purpose of Chapter 116 is to vouchsafe the integrity of that process." *Ketcham v. Blunt*, 847 S.W.2d 824, 830 (Mo. App. W.D. 1992); *see also Scott v. Kirkpatrick*, 513 S.W.2d 442, 444 (Mo. banc 1974) (statutory chapter on initiative and referendum "properly implements and supports applicable constitutional provisions"). The requirements of Chapter 116 are not mere window dressing. They are the reasoned determinations by the legislature of what should be done to properly implement the power of the initiative and referendum and to properly vouchsafe its intended purpose.

Appellants maintain that if any provision of Chapter 116 delays suspension, then such statute is unconstitutional. App. Br. at 46. *Scott v. Kirkpatrick*, 513 S.W.2d 442, 445 (Mo. banc 1974) is particularly instructive on this point. In *Scott*, plaintiffs argued that a statutory requirement that petition signatories be registered voters impermissibly added to the constitutional qualifications for signing — that the Constitution said "legal voters" and the statute was attempting to narrow that category. *Scott*, 513 S.W.2d at 443. This Court rejected that argument. It held that although the initiative and petition referendum provisions were silent as to who is a “legal voter”, that Article VIII,

Section 2 authorized registration of voters as provided by law. The use of "legal voter" without more, coupled with Article VIII, Section 2 left room for the legislature to implement a registration requirement without impairing the underlying right *Id.* at 444-45. The registration requirement did not restrict the constitutional right; it gave effect to a condition the Constitution already contemplated.

Similarly, the Missouri Constitution's referendum provisions are silent on how the Secretary of State is to determine whether a petition meets the constitutional signature threshold. Article III, Section 52(a) prescribes the threshold — five percent of legal voters in each of two-thirds of congressional districts — but says nothing about the verification process by which that threshold is established. Article IV, Section 15 requires the Secretary to "perform such duties…in relation to elections and corporations, as provided by law, but no duty shall be imposed on him by law which is not related to his duties as prescribed in this constitution."[17] Article III, Section 53 provides:

> The total vote for governor at the general election last preceding the filing of any initiative or referendum petition shall be used to determine the number of legal voters necessary to sign the petition. In submitting the same to the people the secretary of state…shall be governed by general laws.

(emphasis added). The legislature enacted Chapter 116 to implement a requirement (the signature threshold) the Constitution already contemplated.

Taken together, Sections 116.100 through 116.200 establish a comprehensive, multi-step, multi-actor process designed to answer one question before a referendum petition can suspend legislation: is this petition "legal, sufficient, and timely"? *Kemper*, 165 S.W. at 779. The Constitution and

[17] *See also*, Article VIII, Section 11 (requiring the Secretary to take an oath to support the Constitution).

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statutory framework assign that question to the Secretary of State, a decision which is subject to review by the courts pursuant to Section 116.200, RSMo.

As the Oklahoma Supreme Court explained in examining similar statutory safeguards:

> The purpose of the legislative provisions was to establish an orderly procedure for the exercise of the right of initiative and referendum by the people and to prevent fraud and corruption in the submission of such measures. They are designed to protect the people against hasty, disorderly, and ill-considered changes in their fundamental government and established laws.
>
> ....
>
> A disregard of these orderly requirements would induce confusion and uncertainty. Basic changes of the fundamental law will no doubt, from time to time, be advisable and necessary. But such changes, in the view of the framers of the Constitution and the people who ratified it, should be accomplished only with a degree of deliberation and formality commensurate with their serious import. Such statutory safeguards should be and have been by this court liberally construed to effectuate their objects and purposes.

Associated Indus. of Okla. v. Okla. Tax Comm'n, 55 P.2d 79, 84–85 (Okla. 1936). *Ketcham v. Blunt*, 847 S.W.2d 824, 830 (Mo. App. W.D. 1992) ("The virtual purpose of Chapter 116 is to vouchsafe the integrity of that process."; *Scott v. Kirkpatrick*, 513 S.W.2d 442, 444 (Mo. banc 1974) (statutory chapter on initiative and referendum "properly implements and supports applicable constitutional provisions").

The statutory framework is not an obstacle to the referendum right — it is the mechanism through which that right is legitimately exercised. Suspension of legislation is the consequence of a legally sufficient petition, and legal sufficiency is established through giving meaning to the threshold present in Section 52(a) and through the process Chapter 116 prescribes.

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E. The Court should not order suspension of HB1 due to the ongoing 2026 Election under the *Purcell* principle.

Finally, the Court should not order the suspension of General Assembly's duly enacted map for the ongoing 2026 election. *See, e.g.*, *Purcell v. Gonzalez*, 549 U.S. 1, 4-5 (2006). As of the date of this brief, candidate filing has opened and closed. Section 115.349, RSMo. Under this statute, filing opened on February 24, 2026 and closed on March 31, 2026. Any judicially ordered changes to the map at this late juncture would harm candidates preparing for the upcoming primary elections, "result in voter confusion and consequent incentive to remain away from the polls," and erode the "[c]onfidence in the integrity of our electoral processes... essential to the functioning of our participatory democracy." *Id.* at 4-5.

Indeed, the U.S. Supreme Court recently stayed a three-judge federal district court's order enjoining use of Texas's 2025 congressional redistricting plan and requiring the State to revert to its 2022 plan. *Abbott v. League of United Latin American Citizens*, 607 U.S. ----, 2025 WL 3484863, at *1 (2025). The district court issued its injunction shortly after the opening of candidate filing, approximately four months before the primary elections, and eleven months before the November 2026 general election. *See League of United Latin Am. Citizens v. Abbott*, No. 3:21-cv-259, 2025 WL 3215715 (W.D. Tex. Nov. 18, 2025). The U.S. Supreme Court issued the stay because the district court had "improperly inserted itself into an active primary campaign, causing much confusion" with its late-breaking injunction. *Abbott*, 2025 WL 3484863, at *1; *see Robinson v. Ardoin*, 37 F.4th 208, 228-29 (5th Cir. 2022) (per curiam), *stay issued sub nom.*, *Ardoin v. Robinson*, 142 S. Ct. 2892, 2892-93 (June 28, 2022) (staying injunction of congressional redistricting plan issued five months before primary elections); *Callais v. Landry*, 732 F. Supp. 3d 574, 613-14 (W.D. La. Apr. 30, 2024), *stay issued sub nom.*, *Robinson v. Callais*, 144 S. Ct. 1171

(May 15, 2024) (staying injunction of congressional redistricting plan issued more than six months before the next election).

It is a "basic tenet of election law" that "[w]hen an election is close at hand, the rules of the road should be clear and settled." *Democratic Nat'l Comm. v. Wis. State Legislature*, 141 S. Ct. 28, 31 (2020) (mem.) (Kavanaugh, J., concurring). "[L]ate-breaking, court-ordered rule changes can 'result in voter confusion and consequent incentive to remain away from the polls,' and thus undermine the '[c]onfidence in the integrity of our electoral processes . . . essential to the functioning of our participatory democracy.'" *Bost v. Ill. State Bd. of Elections*, 607 U.S. ----, 2026 WL 96707, at *4 (2026) (quoting *Purcell*, 549 U.S. at 4-5); *see also Abbott*, 607 U.S. ----, 2025 WL 3484863, at *1 (2025). After all, "running a statewide election is a complicated endeavor," involving "a host of difficult decisions about how best to structure and conduct the election." *Democratic Nat'l Committee*, 141 S. Ct. at 31 (Kavanaugh, J., concurring). And those decisions must then be communicated to the "state and local officials" tasked with implementing them, who in turn "must communicate to voters how, when, and where they may cast their ballots through in-person voting on election day, absentee voting, or early voting." *Id.* When a "court alters election laws near an election," candidates and voters are left scrambling to understand the court-imposed alteration, "inviting confusion and chaos and eroding public confidence in electoral outcomes," *Id.* at 30 (Gorsuch, J., concurring).

These considerations counsel judicial restraint and deference to the democratic process on the eve of an election. The legislative body of each state is responsible for redrawing its Congressional districts. *See* Mo. Const. art. III, §45; U.S. Const. art. I, § 4, cl. 1; *see also Ariz. State Legis. v. Ariz. Ind. Redistricting Comm'n*, 576 U.S. 787, 808 (2015). This allocation makes

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practical sense. Legislatures "enjoy far greater resources for research and factfinding" than courts, and "make policy and bring to bear the collective wisdom of the whole people when they do, while courts dispense the judgment of only a single person or a handful." *Democratic Nat'l Comm.*, 141 S. Ct. at 29 (Gorsuch, J., concurring). "It is one thing for state legislatures to alter their own election rules in the late innings and to bear the responsibility for any unintended consequences. It is quite another thing for a . . . court to swoop in and alter carefully considered and democratically enacted state election rules when an election is imminent." *Id.* at 31 (Kavanaugh, J., concurring).

This case presents the scenario *Purcell* was designed to prevent. Candidate filing has already opened and closed. Those candidates—as well as the voters, campaigns, political parties, and volunteers who support them—are thus actively preparing for, raising and expending funds, and working toward the July 8 voter registration deadline and the August 4 primary election. *See* Sections 115.135.1 and 115.121, RSMo.; Missouri Secretary of State, 2026 Missouri Election Calendar.[18]

Invalidating HB1 at this juncture or even later would cause severe disruption. Candidates would find themselves running in redrawn districts against different opponents, potentially including incumbents or challengers they never anticipated facing. Support cultivated among volunteers and voters, and endorsements painstakingly secured from local officials and community leaders, might carry little weight, become useless, or even become liabilities among a new electorate. In short, candidates and their supporters would be forced to mount an entirely "new and different campaign in a short time frame." *Tex. Democratic Party v. Benkiser*, 459 F.3d 582, 586 (5th Cir. 2006) (quotations omitted). And voters would find themselves in new districts, facing

[18] Available at https://www.sos.mo.gov/elections/calendar/2026cal.

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confusion about which district they reside in and confronting unfamiliar candidates. *See Bost*, 2026 WL 96707, at *4; *see also Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring) (explaining that "even heroic efforts likely would not be enough to avoid chaos and confusion").

The Court should follow the settled approach of the United States Supreme Court and decline to order any changes to the General Assembly's duly enacted map in the few months before the upcoming primary elections. *See Abbott*, 2025 WL 3484863, at *1; *Ardoin*, 142 S. Ct. at 2892-93; *Robinson*, 144 S. Ct. 1171. Such an intervention would "lead to disruption and to unanticipated and unfair consequences for candidates, political parties, and voters, among others." *Merrill*, 142 S. Ct. at 881 (Kavanaugh, J., concurring). To "protec[t] the State's interest in running an orderly, efficient election and in giving citizens (including the losing candidates and their supporters) confidence in the fairness of the election," *Democratic Nat'l Comm.*, 141 S. Ct. at 31 (Kavanaugh, J., concurring), this Court should decline to order any changes to HB1 map for the 2026 election.

Appellants seek to "blame" the Secretary for what they call delay in this matter. App. Br. at 56. While Appellants complaint the trial occurred just a few weeks before candidate filing opened, Appellants delayed the litigation more two weeks by waiting until December 23, 2026, to file their petition. The signatures on the referendum petition were filed on December 9, 2025 (D176:P177), yet Appellants didn't file their petition until December 23, 2026 – two weeks later. D124:P1. This two-week delay was entirely at the hands of the Appellants.

Additionally, Appellants were keenly aware of the impact of *Purcell*, much sooner than they imply. For example, on February 9, 2026, the State and the Missouri Republican Party filed briefs raising *Purcell* in this Court. *Luther*

v. Hoskins, SC101412 (Mo. banc 2026). Moreover, Respondent/Intervenor raised *Purcell* in its pre-trial brief in this case on the same day. D214:P16-21. The concern about the opening of filing was known to Appellants at the time of trial and to the trial court. Appellants' claims ring hollow on the facts and pleadings.

Amicus People Not Politicians, the actual proponents of the referendum petition who chose not to file this action, assert that *Purcell* does not apply because "House Bill 1 not a law at all." PNP Br. at 33. Yet, as discussed more thoroughly above, HB1 is an effective law and continues to be one until the petition is found to be "legal, sufficient, and time." *State ex rel. Kemper v. Carter*, 165 S.W. 773, 779 (Mo. banc 1914). As of the filing of this brief, no such determination has been made which means HB1 is in effect as a law of the State of Missouri. The Court should decline to insert itself into an active primary campaign.

As a final note, Appellants place a footnote in their conclusion arguing that they meet the requirements for an injunction. App. Br. at 56, n. 17. They only offer that footnote on this point and nothing else in their brief. To obtain permanent injunction, a party must demonstrate that they have prevailed on the merits. Here, they have not and cannot make that showing. Appellants fail to establish a justiciable controversy, and their merits argument is equally unavailing as addressed above. Appellants are not irreparably harmed as they, if the referendum petition is sufficient, will get to vote on HB 1.

Appellants also have an adequate remedy at law – Section 116.200, RSMo. "It is well settled that injunctive relief is inappropriate where there appears to be an adequate remedy at law." *State ex rel. Leonardi v. Sherry*, 137 S.W.3d 462, 464 (Mo. banc 2004). "An injunction is an extraordinary and harsh remedy and should not be employed where there is an adequate remedy at

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law." *Farm Bureau Town & Country Ins. Co. of Mo. v. Angoff*, 909 S.W.2d 348, 354 (Mo. banc 1995). Appellants do not meet the standard for a permanent injunction.

CONCLUSION

The trial court's judgment of dismissal should be affirmed. Appellants lack standing, their claims are unripe and present a nonjusticiable political question, an adequate statutory remedy exists under Section 116.200, RSMo. The trial court's judgment on the merits should also be affirmed because neither the constitutional text, nor the implementing statutory framework, nor the case law supports Appellants automatic suspension theory.

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Respectfully submitted,

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CERTIFICATE OF SERVICE AND COMPLIANCE

A copy of this document and the appendix were served on counsel of record through the court's electronic notice system on April 28, 2026. This brief complies with the limitations contained in Supreme Court Rule 84.06 and Local Rule 41. Relying on the word count of the Microsoft Word program, the undersigned certifies that the total number of words contained in this brief is 18,883, excluding the cover, table of contents, table of authorities, signature block, appendix, and this certificate. The font is Century Schoolbook 13-point type. The electronic copies of this brief were scanned for viruses and found to be virus free. Pursuant to Rule 55.03, the undersigned further certifies the original of this brief has been signed by the undersigned.

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