IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

JAKE MAGGARD, *et al.*	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 25AC-CC09120
	)	
STATE OF MISSOURI, *et al.*,	)	
	)	
Defendants.	)	

INTERVENOR PUT MISSOURI FIRST'S SUGGESTIONS IN SUPPORT OF MOTION TO DISMISS

Pursuant to Missouri Rule of Civil Procedure 55.27, Intervenor Put Missouri First ("Intervenor"), by and through counsel, respectfully move this Court to dismiss Plaintiffs Petition for Declaratory Judgment and Injunctive Relief ("Petition") because this Court lacks subject-matter jurisdiction over the claim raised, the Petition fails to state a claim upon which relief may be granted, the Petition raises non-justiciable political questions, and the Petition improperly seeks declaratory judgment.

Facts Supporting the Motion

1. This an action brought under Section 527.010, RSMo, for a judicial declaration of what map may be used in the 2026 mid-term elections. Petition ¶ 13.

2. No decision concerning any map has yet been made. Petition ¶ 32.

3. Plaintiffs signed a referendum petition to refer HB1 to voters for approval or rejection. Petition ¶ 27.

4. Plaintiffs claim standing as signatories of said petition on the basis that the usage of the new Congressional Map's usage denies them their "constitutional right to approve or reject legislation through referendum."

Petition ¶ 5-9.

5. Plaintiffs prayer for relief is to declare HB1 suspended and enjoin defendants from using HB1's congressional map until approved or rejected through the constitutional referendum process. Petition ¶ 43-44.

7. The referendum petition at issue, 2026-R004, has not yet been certified as having sufficient or insufficient signatures. Petition ¶ 28.

Legal Standard

"A motion to dismiss for failure to state a claim on which relief can be granted is solely a test of the adequacy of the petition." *Tuttle v. Dobbs Tire & Auto Centers, Inc.*, 590 S.W.3d 307, 310 (Mo. 2019) (quoting *Cope v. Parson*, 570 S.W.3d 579, 583 (Mo. banc 2019)). "When considering whether a petition fails to state a claim upon which relief can be granted, this Court must accept all properly pleaded facts as true, giving the pleadings their broadest intendment, and construe all allegations favorably to the pleader." *State ex rel. Tyler Techs., Inc. v. Chamberlain*, 679 S.W.3d 474, 477 (Mo. banc 2023) (internal citations omitted). In its consideration of the motion to dismiss, the Court "considers the grounds raised in the defendant's motion to dismiss and does not consider matters outside the pleadings." *Gray v. Mo. Dep't of Corr.*, 577 S.W.3d 866, 867 (Mo. App. W.D. 2019). Missouri is a fact-pleading state, therefore, to survive a motion to dismiss, plaintiff must allege facts supporting each element of his claim. *ITT Commercial Fin. Corp. v. Mid-Am. Marine Supply Corp.*, 854 S.W.2d 371, 376–77 (Mo. banc 1993). Legal conclusions — bare recitations of the required elements—are to be disregarded. *Whipple v. Allen*, 324 S.W.3d 447, 449–50 (Mo. App. E.D. 2010).

Argument

I. Plaintiffs have failed to present a justiciable controversy.

"A justiciable controversy exists [when] [1] the plaintiff has a legally

protectable interest at stake, [2] a substantial controversy exists between parties with genuinely adverse interests, and [3] that controversy is ripe for judicial determination." *City of St. Louis v. State*, 682 S.W.3d 387, 398 (Mo. banc 2024) (quoting *Schweich v. Nixon*, 408 S.W.3d 769, 774 (Mo. banc 2013)).

A. Plaintiffs lack standing

"'The first two elements of justiciability are encompassed jointly by the concept of standing.'" *City of St. Louis*, 682 S.W.3d at 398. (quoting *Schweich*, 408 S.W.3d at 774). "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*, 408 S.W.3d at 774 (quoting *State ex rel Williams v. Mauer,* 722 S.W.2d 296, 298 (Mo. banc 1986)) (emphasis added).

> "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)

> [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)).

1. Plaintiffs' 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*, Plaintiffs' claimed interest rests solely on their

status as signatories of Referendum Petition 2026-R004. *See* Petition ¶5, 9.[1] Plaintiffs 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. Plaintiffs 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 Plaintiffs may vote on the referendum, 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 Plaintiffs' requested relief, Plaintiffs will retain the same

[1] Plaintiffs 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. 2011) (outlining the requirements of taxpayer standing); *See also* Mo. Const. art. III, §45; §116.200 RSMo.

ability to approve or reject the challenged legislation at the ballot box in the next general election. In either event, Plaintiffs' asserted right—to vote on the referendum—remains unchanged. Because the litigation does not affect Plaintiffs' ability to exercise that right, their asserted interest, like that of the signatories in *Prentzler*, is not implicated in the underlying action.

2. Plaintiffs' 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. *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"). Plaintiffs' 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. Plaintiffs have failed to plead that the referendum's signatures have been verified or tabulated. *See generally* Petition. Accordingly, Plaintiffs' 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 Plaintiffs' 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*, Plaintiffs' alleged injury is remote and conjectural.

Plaintiffs attempt to rebut this fact by arguing that a sufficiency certificate is unnecessary for a referendum to suspend proposed legislation and that mere filing alone is sufficient. *See generally* Petition. In support, Plaintiffs rely on *Stickler* and *Kemper*. Petition ¶17-18. Yet, both cases confirm that any alleged injury remains speculative until a sufficiency determination is made.

The language Plaintiffs 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 presuppose sufficiency making it a core requirement for legislation to be halted. And *Kemper* makes clear that sufficiency is assumed where it is not contested. *Id.* ("relator does not contend that there were not sufficient petitioners"). Although *Kemper* recognized that tendering a referendum petition claiming sufficient signatures previously constituted prima facie evidence of sufficiency,[2] it also shows that more evidence must be attached to the petition than bear assertions of sufficiency. *Id.* at 776-77. ("It is further shown that proper affidavits as to the genuineness of the signatures were appended to the several parts of the petitions, and that so far as numbers

[2] 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.

are concerned, and so far as the number of congressional districts from which the petitions and affidavits come, they are in all things sufficient.") 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 no challenge to sufficiency was raised and proper affidavits where attached to the petition. *Id.*

Here, no evidence of sufficiency is presented and sufficiency is expressly disputed. *People Not Politicians v. Hoskins*,[3] addressing the question whether the signatures gathered for Referendum Petition 2026-R004 were validly obtained is at issue in a pending case. Depending on the outcome of that litigation, and the Secretary of State's sufficiency check, Plaintiffs' assertion that sufficient signatures were collected may prove incorrect. Until that question is resolved, Plaintiffs' claimed injury depends on contingencies that may never occur. Even under the most generous reading of the cited case law, Plaintiffs' alleged injury remains conjectural and remote pending the issuance of a sufficiency certificate by the Secretary of State.

3. Plaintiffs' asserted injury is not personal

Furthermore, Plaintiffs have 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

[3] Case No. 25AC-CC07128 (Cole Cnty. Cir. Ct.).

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).

Signatories of a referendum or initiative petition do not have any immediate or direct personal harm because the effects apply broadly and indistinctly. *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.[4] *Id.* Unlike cases where courts have recognized a 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 the court cautioned, recognizing harm based solely on the alleged inability to express political views regarding a ballot measure would "open the floodgates to oppressive intervention,"[5] serving no public policy purpose. *Id.*

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

[4] Plaintiffs seem to claim that their legal right to constitutional governance is sufficient to invoke standing, Petition ¶45. but this notion has been rejected by both the United States and Missouri Supreme Courts. *See Missouri Coal. for Env't v. State*, 579 S.W.3d 924, 927 (Mo. banc 2019); *also Whitmore v. Arkansas*, 495 U.S. 149, 160, 110 S. Ct. 1717, 109 L.Ed.2d 135 (1990).

[5] In this instance, Plaintiffs claim that 2026-R004 was signed by 300,000 individuals. Petition ¶27. Therefore, to grant standing based purely on signatory status would open the floodgates to hundreds of thousands of individually filed cases.

their ability to participate in the petition process. See Petition ¶6, 9. 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, Plaintiffs are not proponents of the referendum, have alleged no expenditure of resources or assumption of legal obligations related to the initiative, and assert an interest that applies equally to every Missouri voter. *See generally,* Petition. Plaintiffs 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, Plaintiffs' 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; *Missouri Coal. For Env't*, 579 S.W.3d at 927.

B. Plaintiffs have failed to present a matter ripe for adjudication.

> 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 a 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.

In *Schweich*, the State Auditor challenged the Governor's intent to withhold $300,000 from the Auditor's Office budget in the FY2012 before the end of said period. *Id.* at 777. The 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, the 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 Plaintiffs admit, the Secretary of State has expressed merely an "intent to use HB1's new congressional map in the 2026 primary and general elections." Petition ¶32.[6] Like in *Schweich*, until

[6] Intervenor contends that this is not a properly pleaded fact and use it merely to highlight Plaintiffs

the Secretary of State takes some official action, which Plaintiffs 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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lack of ripeness. Plaintiffs 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 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 Plaintiffs in that if their properly pled facts are taken, they have failed to show any action by the Secretary of State.

S.W.3d at 779. Accordingly, Plaintiffs have not presented a controversy ripe for adjudication, rendering their claims nonjusticiable.

C. Plaintiffs challenge presents a non-justiciable political question

"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).

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

The Petition asks this Court to make an initial policy determination—whether a submitted referendum has suspended a duly enacted bill—before the referendum has been verified or declared sufficient by the Secretary of State. Petition ¶43. "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)). Here, an initial determination of sufficiency is entrusted to another political branch as underscored by the Missouri's Constitution allocation of authority.

The Missouri Constitution provides that the Secretary of State "shall . . . perform such duties . . . in relation to elections and corporations, as provided by law[.]" *Mo. Const.* art. IV, § 14. Further, the Constitution vests the legislative power in the General Assembly, subject only to constitutional limitations. *Mo. Const.* art. III, § 1. Exercising that power, the General Assembly enacted Chapter 116, which assigns to the Secretary of State the initial determination of referendum validity and sufficiency, including signature verification; implicit within this power is accordingly, the declaration of whether a petition has legal effect. *See generally* §§ 116.120-116.200, RSMo.

That statutory scheme reflects a deliberate separation of functions. Under Chapter 116, a referendum does not suspend legislation upon mere submission; it acquires legal effect only after the Secretary of State completes the prescribed verification process and declares the petition sufficient. *Stickler v. Ashcroft*, 539 S.W.3d 702, 713 n.9 (Mo. Ct. App. 2017) ("once a referendum petition has received sufficient signatures to be placed on the general election ballot, . . .; 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."). Until that determination is made, whether a referendum has any operative effect is not a judicial question, but an administrative determination entrusted to the executive branch pursuant to legislative direction. Only upon such a determination does the question of a referendum's sufficiency become judicial. §116.200 RSMo.

By asking this Court to declare that House Bill 1 has been suspended by an unverified referendum, Plaintiffs seek to have the Court preempt the statutory process and substitute its own judgment for that of the Secretary of State. Petition ¶43. Such judicial intervention would require the Court to resolve a matter in the first instance; without the benefit of the factual findings and administrative determinations the General Assembly has required, and which are in the purview of the Secretary of State. *See* §§116.120-116.200, RSMo. That form of adjudication—deciding whether a referendum has legal effect absent the executive determination the law demands—would constitute an independent resolution of a political question and would necessarily reflect a lack of respect for the roles assigned to the legislative and executive branches.

Because the Petition asks the Court to make a threshold determination reserved for nonjudicial discretion—and to do so in a manner that displaces the roles of the legislative and executive branches—it presents a nonjusticiable political question and should be dismissed. *Baker*, 369 U.S. at 217.

II. Plaintiffs' use of Declaratory Judgment as a vehicle to bring this suit is improper

"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." §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, 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. 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. banc 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. In their review, the Court first took note that a procedure for challenging the imposition of a tax existed under §139.031 RSMo. *Id.* at 362. Further, the Court noted 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.* Based on this the Court determined "SLAH is afforded an adequate remedy under section 139.031." *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.

Plaintiffs claim to not have an adequate remedy at law. Petition ¶46. Yet, Plaintiffs also claim they are harmed by a denial of their "constitutional right to approve or reject legislation through referendum." Petition ¶6,9. As discussed *supra*, this harm and associated remedies, depend entirely upon the Secretary of State's determination of sufficiency.[7] Assuming however that the

[7] Again highlighting the point that Plaintiffs' claims are unripe until a referendum is certified as sufficient or insufficient by the Secretary of State.

Secretary of State does deem the referendum insufficient then "'any citizen may apply to the circuit court of Cole County to compel [the Secretary of State] to reverse his decision.'" *Missourians to Protect the Initiative Process v. Blunt*, 799 S.W.2d 824, 829 (Mo. banc 1990) (quoting §116.200 RSMo.). Accordingly, if the referendum is denied as insufficient, then Plaintiffs could raise the same issues raised here in a §116.200 action. Instead, Plaintiffs seek to subvert the time and review requirements of §116.150.3 RSMo. by utilizing a declaratory judgment action. "Where the legislature provides a method of review, that procedure is exclusive and must be used, or the court acts without jurisdiction." *Nash v. Dir. of Rev.*, 856 S.W.2d 112, 113 (Mo. App. E.D. 1993).

Accordingly, Plaintiffs' use of declaratory judgment as a vehicle to subvert the requirements of Chapter 116 is improper.

Conclusion

WHEREFORE, Intervenor, for the reasons set forth above, respectfully request, this Court dismiss Plaintiffs' Petition in its entirety and for such other relief this Court deems appropriate.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served via the Court's electronic filing system on January 16, 2026 on all parties of record.

/s/ Marc H. Ellinger