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SC101534

IN THE SUPREME COURT OF MISSOURI

STATE SENATOR MICHAEL MOON, *et al.*,

Appellants,

v.

STATE OF MISSOURI, *et al.*,

Respondents,

and

MISSOURI SENATE, *et al.*,

Intervenor-Respondents.

On Appeal from the Circuit Court of Cole County
Case No. 25AC-CC05910

INTERVENOR-RESPONDENTS' BRIEF

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JURISDICTIONAL STATEMENT

Respondents agree that this Court has exclusive appellate jurisdiction under Article V, Section 3 of the Missouri Constitution because Appellants' Petition challenges the validity of several state statutes enacted by Senate Bill 3 of the 2025 First Extraordinary Session of the General Assembly. *See Lebeau v. Commissioners of Franklin Cnty., Mo.*, 422 S.W.3d 284, 288 (Mo. banc 2014).

To the extent there is any doubt, this Court can grant discretionary transfer under Rule 83.01 and article V, Section 10 of the Missouri Constitution on its own motion when the case involves a question of general interest and importance. *See Maggard v. State*, 733 S.W.3d 411, 413 n.5 (Mo. banc 2026) (citing *Cass Cnty. v. Dir. of Revenue*, 550 S.W.3d 70, 72 n.2 (Mo. banc 2018)). Intervenor-Respondents submit this case involves an issue of general interest and importance: the clarification of taxpayer standing when challenging legislation that only has a contingent future effect and also of legislators challenging legislation, in their official capacity, where such legislators are on the losing end of a vote in their respective chamber.

While this Court in *Manzara v. State*, 343 S.W.3d 656 (Mo. banc 2011) appears to directly address and reject Appellants' theory of taxpayer standing, its conformance with *Nicholson v. State*, 731 S.W.3d 871 (Mo. banc 2026), will clarify once and for all that taxpayer standing requires a sum of money paid out, without any intervening agency or step.

Additionally, the standing of disgruntled legislators, if not addressed and rejected, will result in every losing "no" vote creating for standing to challenge every piece of legislation. Unless this Court rejects standing here, Appellants' theory would entirely abrogate the role of the legislature in passing legislation, subjecting every legislative act to challenge on no other basis than the future plaintiff losing a vote in the General Assembly.

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STATEMENT OF FACTS

A. Senate Bill 3 (2025 First Extraordinary Session)

On May 27, 2025, the 103rd Missouri General Assembly was called into a First Extraordinary Session. D2:P2, ¶1. On June 11, 2025, the Missouri General Assembly truly agreed to and finally passed Senate Bill 3. The Governor signed it into law, with an effective date of August 28, 2025. D2:P3, ¶¶5-6. Senate Bill 3 repeals §§67.3000 and 67.3005, enacting in lieu thereof five new sections. D3.

B. The Plaintiffs and the Petition

On July 31, 2025, three plaintiffs filed their Petition for Equitable Relief in the Circuit Court of Cole County: State Senator Michael Moon, State Representative Bryant Wolfin, and Ron Calzone. D2:P2. Each plaintiff alleged he is "a taxpayer" of the State of Missouri. D2:P6-7, ¶¶ 25, 31, 37. Moon and Wolfin further alleged that each is a sitting member of the General Assembly, that each voted against Senate Bill 3, and that each suffered vote dilution as a result of alleged procedural defects in Senate Bill 3. D2:P6-7 ¶¶ 26, 28, 30, 32, 35, 36. Calzone alleged that he is a citizen and resident of Maries County, that Maries County does not meet any of the population thresholds in Section 137.1120 making it eligible to vote on property-tax relief, and that this exclusion gives him standing. D2:P7-8 ¶¶ 37–41.

The Petition alleged five constitutional infirmities in Senate Bill 3: (1) grant of public money to private persons; (2) special law; (3) multiple subjects; (4) lack of a clear title; and (5) change of original purpose. D2:P4 ¶ 14. The Petition sought a declaratory judgment that the Bill is unconstitutional (Count I) and an injunction against its enforcement (Count II). D2.

C. Intervention and the Motion to Dismiss

On September 8, 2025, Defendant, the State of Missouri, filed a Motion to Dismiss all claims on a lack of standing. D10. On September 10, 2025, Appellants filed a Memorandum in Opposition to the Defendants' Motion to Dismiss. D18. On September 20, 2025, Intervenors filed a Motion to Intervene pursuant to Section 1.185, RSMo, and an answer to the original petition. D11; D12. On September 30, 2025, the circuit court granted intervention to the Missouri Senate, the Missouri House of Representatives, the President Pro Tempore, and the Speaker. D1:P9. The court heard argument on Defendants' Motion to Dismiss on September 30, 2025 and took the Motion under advisement. D1:P9. On October 2, 2025, Intervenors thereafter filed Suggestions in Support of Defendants' Motion to Dismiss, adopting the standing arguments raised by the State and adding, in their institutional capacity, that no Missouri authority recognizes the freestanding legislator standing Moon and Wolfin invoke; that the chambers' constitutional prerogatives over their own internal processes would be disrupted if individual dissenting members could route procedural disputes into court; and that the chambers, through their presiding officers, oppose the relief Appellants seek. D13.

D. The Circuit Court's Dismissal

On January 16, 2026, the circuit court issued its Order and Judgment dismissing the Petition with prejudice for lack of standing. D1:14. Thereafter, the circuit court issued its Amended Order and Judgment on February 16, 2026, again granting the Motion to Dismiss on standing grounds and denying all other motions as moot. D15. The court's reasoning, in summary, was as follows.

First, with respect to Plaintiffs' theory that the refundable tax credits in

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Sections 67.3000.4(2) and (3) constitute a direct expenditure of state funds, the court held that tax credits are not expenditures at all. D15:P4. Relying on *Manzara*, 343 S.W.3d at 659–60, the court explained that "[e]xpenditures typically occur in government when checks are written by the state treasurer based on appropriations or warrants," and that "[n]o such withdrawal of public funds or such 'expenditure' occurs with the granting of a tax credit." D15:P4. The court further rejected Plaintiffs' argument that the refund mechanism authorized a direct expenditure, holding that any refund process "necessarily involve[s] an intervening step and can therefore not be considered as a direct expenditure," because a direct expenditure is "a sum paid out, without any intervening agency or step." *Manzara*, 343 S.W.3d at 660. D15:P5.

Second, with respect to Section 100.240.2 (the stadium-and-entertainment-facility provision), the court identified "two intervening agencies or steps" that defeated taxpayer standing: (1) future legislative appropriation, because "unless the Missouri legislature makes appropriations in a future piece of legislative action, no money will be spent under section 100.240.2"; and (2) the discretionary authority of the Department of Economic Development and Office of Administration to determine whether to approve any application. D15:P5-6. The court explained that "[u]se of the word 'may' in a statute implies alternate possibilities and that the conferee of the power has discretion in the exercise of the power." (quoting *Star Dev. Corp. v. Urgent Care Assocs., Inc.*, 429 S.W.3d 487, 495 (Mo. App. W.D. 2014)). D15:P6.

Third, with respect to Appellants' reliance on the Bill's fiscal note — which projected approximately $10,000 for a Department of Revenue form, additional Associate Customer Service Representatives, and $175,000 for computer programming — the court held that "fiscal notes are just mere projections," and that it was "not aware of any authority where courts have

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allowed the projection from a fiscal note to serve as a direct expenditure." D15:P6-7.

Fourth, with respect to legislative standing for Moon and Wolfin, the court held that "there is no legislative standing in Missouri, and … petitioners failed to plead any facts that could support their proffered legislative standing," and concluded that the legislator-plaintiffs lack standing in their official capacity. D15:P7.

Notably, the Amended Judgment did not separately address Calzone's distinct standing theory—that his exclusion from the property-tax-relief provisions of Section 137.1120 confers standing. The court's standing analysis was confined to the expenditure-based taxpayer theories and the legislators' official-capacity theory. D15:P3-8.

Because all plaintiffs lacked standing, the court granted Respondents' Motion to Dismiss and denied all other motions and claims for relief as moot. D15:P8.

E. The Notice of Appeal

On February 19, 2026, Appellants filed their Notice of Appeal. D1. On February 19, 2026, the circuit court certified the Amended Judgment as final under Rule 81.045. D16. On March 4, 2026, Appellants filed a Rule 81.08 Statement of Supreme Court Jurisdiction, which this Court permitted to supplement the Notice of Appeal on March 5, 2026.

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SUMMARY OF THE ARGUMENT

The circuit court correctly dismissed the Petition for lack of standing, and this Court reviews that dismissal *de novo*, confined to the four corners of the Petition. No Appellant carried the burden of pleading facts that establish standing under controlling Missouri law.

Missouri taxpayer standing requires a direct expenditure of funds generated through taxation, defined as "a sum paid out, without any intervening agency or step." *Manzara*, 343 S.W.3d at 660. That showing is mandatory. *Nicholson*, 731 S.W.3d at 878, reaffirmed *Manzara* rather than relaxing it. The Court found taxpayer standing in *Nicholson* only because tax dollars had in fact been spent on appellate work that no law previously authorized, with no step between the challenged statute and the expenditure. Senate Bill 3 is the opposite: every mechanism Appellants challenge depends on a chain of contingencies, including applications not yet filed, approvals not yet given, and appropriations not yet made, so no sum has been paid out, and none can be until each intervening step occurs.

Point I fails because the fiscal-note projections, the alleged Department of Revenue implementation activity, and the county-election costs are not direct expenditures. A fiscal note is a statutory cost estimate under Section 23.140, RSMo, not money paid out. The implementation activity was neither pleaded nor a proper subject of judicial notice, and is, in any event, an ordinary operating expense that an agency incurs regardless of the challenged law. The county-election costs are county, not state, expenditures, and Calzone concedes his County of residence was ineligible to hold such an election.

Points II and III fail for the same structural reason. The ticket tax credits under Section 67.3000, RSMo, are not expenditures, as there are multiple intervening steps under *Manzara*. The stadium provisions of Section 100.240,

RSMo, authorize nothing until a developer applies, the Department of Economic Development and the Office of Administration exercise the discretion the word "may" confirms, the General Assembly appropriates funds, and further intervening steps occur. Multiple intervening agencies and steps defeat taxpayer standing as a matter of law.

Point IV fails because Calzone's direct-standing theory was neither preserved below nor pleaded. His reframed theory, premised on exclusion from a Section 137.1120, RSMo, election, depends on a series of speculative future events that he never alleged, and a generalized grievance shared with every resident of an ineligible county is not the concrete, particularized injury that standing demands.

Point V fails because the "take up the slack" theory, which posits that the credits shift the tax burden onto other taxpayers, is the very argument *Manzara* rejected. An indirect, attenuated effect on other taxpayers' burdens does not supply standing.

Point VI fails because Missouri does not recognize legislative standing for individual legislators who lost a vote. Moon and Wolfin allege institutional vote dilution, not a personal stake, and *Raines v. Byrd*, 521 U.S. 811 (1997), forecloses standing built on a diffuse institutional injury shared equally by every member. Recognizing such standing would convert every losing vote into a license to litigate every legislative enactment.

Because standing is an antecedent to the right to relief and no Appellant carried the burden of establishing it, this Court should affirm the judgment of dismissal.

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ARGUMENT

I. Fiscal Note Projections and Alleged Implementation Expenditures do not Confer Taxpayer Standing (Responds to Appellants' Point I).

The circuit court did not err in dismissing Appellants' Petition for lack of taxpayer standing because the fiscal-note projections, the alleged Department of Revenue implementation activity, and the county-election costs do not constitute a direct expenditure of funds generated through taxation under *Manzara*, 343 S.W.3d 656, and *Nicholson*, 731 S.W.3d 871, in that (a) *Nicholson* reaffirmed *Manzara*'s mandatory requirement of a sum paid out without any intervening agency or step, and preserved ordinary operating expenses as non-qualifying; (b) the fiscal-note projections are statutory cost estimates, not money paid out, and no funds leave the treasury absent an intervening appropriation; (c) the alleged Department of Revenue implementation activity was neither pleaded nor subject to judicial notice and is, in any event, ordinary operating expense rather than a newly authorized act; and (d) the county-election costs are county, not state, expenditures and Calzone resides in Maries County which was ineligible to hold any such election.[1]

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[1] As an initial matter, Point I bundles three distinct standing theories — fiscal-note projections, expenditures "already made," and county-election costs under Section 137.1120 — into a single Point Relied On. Rule 84.04(d) requires each point to address a single error. A multifarious point preserves nothing for review and may be disregarded on that ground alone. *See Thummel v. King,* 570 S.W.2d 679, 688 (Mo. banc 1978) (finding a defective multifarious point relied on violates Rule 84.04(d) and is subject to dismissal); *Smith v. City of St. Louis*, 395 S.W.3d 20, 28 (Mo. banc 2013) ("Plaintiff's third and fourth points are dismissed for failure to comply with Rule 84.04."); *Lexow v. Boeing Co.*, 643 S.W.3d 501, 509-10 (Mo. banc 2022) (dismissing unanimously the appeal for 84.04 violations).

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A. Standard of Review

This Court reviews the issue of standing *de novo*. *Nicholson*, 731 S.W.3d at 876 (citing *Mo. Coal. for Env't v. State*, 579 S.W.3d 924, 926 (Mo. banc 2019)). This Court must "construe the pleadings liberally and accept all alleged facts as true and construe them in a light most favorable to the pleader." *Corozzo v. Wal-Mart Stores, Inc.*, 531 S.W.3d 566, 572 (Mo. App. W.D. 2017) (citing *Phelps v. City of Kansas City*, 371 S.W.3d 909, 912 (Mo. App. W.D. 2012)).

Three principles, however, define the limits of that review and should be borne in mind throughout this case. First, the Court accepts as true only the facts actually pleaded; this Court must "disregard conclusory allegations of fact and legal conclusions, neither of which can be considered by an appellate court in determining whether" a motion to dismiss was properly sustained. *Tolu v. Reid*, 639 S.W.3d 504, 514 (Mo. App. E.D. 2021) (citing *Siebert v. Peoples Bank*, 632 S.W.3d 461, 466 (Mo. App. S.D. 2021)); *see also Corozzo*, 531 S.W.3d at 576 (quoting *Spokeo*, 578 U.S. at 341) (a petition that alleges "a bare procedural violation, divorced from any concrete harm" does not satisfy the standing requirement).

Second, the review is confined to the four corners of the petition and the exhibits properly attached to and incorporated in it. *Klenc v. John Beal, Inc.*, 484 S.W.3d 351, 354 (Mo. App. E.D. 2015); *see also Borges v. Mo. Pub. Entity Risk Mgmt. Fund*, 358 S.W.3d 177, 180 (Mo. App. W.D. 2012) ("We consider the petition along with any other non-contested facts to determine whether the petition should be dismissed due to Petitioners' lack of standing.").

Third, standing is jurisdictional, and the burden rests on the party invoking the court's jurisdiction to establish it. *Manzara*, 343 S.W.3d at 659.

Keeping these three principles in mind, this Court "must affirm the

dismissal if it can be sustained on any ground which is supported by the motion to dismiss, regardless of whether the circuit court relied on that ground." *Kinder v. Holden*, 92 S.W.3d 793, 805 (Mo. App. W.D. 2002).[2]

B. Standing, Generally[3]

"The first two elements of justiciability are encompassed jointly by the concept of 'standing.'" *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)). "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 question turns on whether the plaintiff has suffered an injury in fact. *Howland v. Truman Med. Ctr., Inc.*, 719 S.W.3d 98, 105 (Mo. App. W.D. 2025) (citing *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 v. O'Reilly Automotive*, 604 S.W.3d 694, 700 (Mo. App. W.D. 2020) (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, 719 S.W.3d at 105. This Court has explained the purpose of the requirement:

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[2] This standard of review applies to all points in Appellants' Brief, specifically Points I-VI.

[3] This discussion of standing applies to all standing points in Appellants' Brief, specifically Points I-VI.

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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. banc 1977). The parties seeking relief bear the burden of establishing standing. *Corozzo v.*, 531 S.W.3d at 572 (citing *Manzara*, 343 S.W.3d at 659).

C. Taxpayer Standing[4]

Missouri's taxpayer-standing doctrine requires the plaintiff to plead facts demonstrating, among other things, "a direct expenditure of funds generated through taxation." *Eastern Mo. Laborers Dist. Council v. St. Louis County*, 781 S.W.2d 43, 47 (Mo. banc 1989). This Court has defined a "direct expenditure" as "a sum paid out, without any intervening agency or step, of money or other liquid assets that come into existence through the means by which the state obtains the revenue required for its activities." *Manzara*, 343 S.W.3d at 660. The requirement is mandatory: "the showing of an expenditure is mandatory." *Airport Tech Partners v. State*, 462 S.W.3d 740, 745 (Mo. banc 2015). Although Appellants claim that the requirement is "so easily fulfilled that…taxpayer standing is in effect citizen standing," App. Br. at 30 n.2, that claim cannot be squared with controlling Missouri law.

D. Appellants' pleading is insufficient to confer taxpayer standing.[5]

Appellants claim that "[a]ll three Plaintiffs, Senator Moon,

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[4] This discussion of taxpayer standing applies to all taxpayer standing points in Appellants' Brief, specifically Points I, II, and III.

[5] This discussion of taxpayer standing applies to all taxpayer standing points in Appellants' Brief, specifically Points I, II, and III.

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Representative Wolfin, and Calzone allege they are taxpayers" claiming the only question left is "whether there has been a direct expenditure." *See* App. Br. at 30. A close examination of Appellants' Petition reveals the bare allegations regarding Appellants' status as taxpayers:

> 25. State Senator Michael Moon is a taxpayer.
> 31. State Representative Bryant Wolfin is a taxpayer.
> 37. Ron Calzone is a Missouri citizen, taxpayer, and resident of Maries County.
> 43. Calzone is a taxpayer.

D2:P6–8; A6–7 (Petition ¶¶ 25, 31, 37, 43). Contrast these allegations with those allegations by others seeking taxpayer standing. In *Missouri Automobile Dealers Association*, "Plaintiffs alleged in their petition and the statement of facts filed with their summary judgment motion that they each pay 'income, property, fuel and sales/use taxes to the State of Missouri.' Plaintiffs alleged in their petition that these taxes 'are used to fund the Missouri Department of Revenue and the Motor Vehicle Bureau within the Department of Revenue.'" *State ex rel. Missouri Auto. Dealers Ass'n v. Missouri Dep't of Revenue & Its Dir.*, 541 S.W.3d 585, 592 (Mo. App. W.D. 2017) ("*MADA*"). The Court of Appeals rejected taxpayer standing based on these allegations. *Id.* at 593.

In *Inman*, the court held that the Plaintiff failed to establish taxpayer standing. *Inman v. Missouri Dep't of Corr.,* 139 S.W.3d 180, 184 (Mo. App. W.D. 2004). There, the Plaintiff relied on a statement he made to the court "generally indicating that he had been a taxpayer and would be one in the future." *Id.* at 184. The Court held this statement insufficient to confer taxpayer standing, explaining, "[T]he statement relied on by Appellant does not reflect where or when he has been a taxpayer or that he is currently a taxpayer in the State of Missouri."

Courts cannot speculate create or infer facts not pled. *Thieret Fam., LLC*

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v. Delta Plains Servs., LLC, 637 S.W.3d 595, 602 n.3 (Mo. App. E.D. 2021) (Court unable to speculate regarding the relationship between various parties when the Petition did not allege the nature of the relationship); *see also L.C. Development Co. v. Lincoln County*, 26 S.W.3d 336, 339 (Mo. App. E.D. 2000) (recognizing that, "[i]n ruling on a motion to dismiss, the trial court can only consider the pleadings, and appellate review is also limited to the pleadings"). Unlike in *MADA*, Appellants here do not identify any specific taxes they pay or whether they are a taxpayer to the State of Missouri. "Taxpayer" could mean one pays taxes to the federal government, some other state, or a local entity or entities. Here, no Appellant claims he pays taxes "to the State of Missouri."

For this reason, Appellants have failed to plead state taxpayer standing in their Petition. This is fatal to their claims and the trial court's dismissal should be affirmed.

E. *Manzara* remains the controlling standard, and *Nicholson* reaffirmed it.

Appellants devote substantial portions of their brief to *Nicholson* and treat it as if it had displaced or relaxed *Manzara*. It did not. *Nicholson* reaffirmed the rule Appellants ask this Court to abandon. The opinion expressly holds that "the showing of an expenditure is mandatory," that an expenditure means "a sum paid out," and that taxpayer standing requires "direct expenditure of funds generated through taxation, defined as a sum paid out, without any intervening agency or step." *Id.* at 877–78 (quoting *Airport Tech Partners, LLP*, 462 S.W.3d at 745 and *Mo. Coal. for Env't*, 579 S.W.3d at 926–27). Far from discarding the *Manzara* standard, *Nicholson* applied it and found it satisfied on a particular set of facts.

Nor did *Nicholson* relax the standard. The Court there held that work performed by Assistant Attorneys General on appeals that were previously

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prohibited by law, but newly authorized by Senate Bill 22 of 2025, constituted a direct expenditure. The decisive feature of *Nicholson* was that the challenged statute itself enlarged the legal authority of the state employees to perform work they had previously been forbidden to perform. As this Court put it, "tax dollars necessarily have been spent on the pursuit of that appeal when no appeal was previously allowed." *Nicholson*, 731 S.W.3d at 878. That is a sum paid out on a new and otherwise-unauthorized governmental act—the antithesis of baseline operations. *Nicholson* did not disturb the settled holding that "general operating expenses which [an agency] incurs regardless of the allegedly illegal activity are not 'direct' expenditures"; it expressly left those cases untouched. *Id.* at 878 n.4 (citing *MADA*, 541 S.W.3d at 593). The Court likewise declined to reach the taxpayer's separate theory of personal, pecuniary injury, *id.* at 876 n.2, so Appellants' reliance on *Nicholson*'s general "threatened or actual injury" language describes the justiciability inquiry, not the taxpayer-standing test the opinion went on to apply.

Appellants also cite *Lebeau v. Commissioners of Franklin County*, 422 S.W.3d 284 (Mo. banc 2014). *Lebeau* says no more than what *Nicholson*, *Manzara*, and *Missouri Coalition for Environment v. State*, 579 S.W.3d 924, (Mo. banc 2019)also say: that once a litigant establishes a direct expenditure, his interest in the proper use and expenditure of tax dollars is "legally protectable." *Lebeau*, 422 S.W.3d at 288. *Lebeau* did not dispense with the direct-expenditure prerequisite; it presupposed it. *Id.* at 289 n.3 (requiring the taxpayer to allege "a direct expenditure of funds generated through taxation"); *see Nicholson*, 731 S.W.3d at 878 ("the showing of an expenditure is mandatory").

F. The Fiscal Note projections are not expenditures.

Appellants' first theory is that the fiscal note prepared in connection with

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Senate Bill 3 — which projected costs for the creation of a Department of Revenue form, additional Associate Customer Service Representatives, and computer programming — establishes a direct expenditure. The circuit court correctly rejected that theory.

A fiscal note is a statutorily required cost projection prepared by the Joint Committee on Legislative Research under Section 23.140, RSMo. It is, by definition, an estimate of anticipated costs developed to inform legislative deliberation. It is not evidence of any money paid out, much less of money paid out "without any intervening agency or step." *Manzara*, 343 S.W.3d at 660. A projection is the antithesis of the "sum paid out" the Manzara test requires.

Appellants have identified no case — in this Court, in any other Missouri court, or anywhere else — holding that a fiscal note alone establishes taxpayer standing. The trial court correctly observed: "fiscal notes are just mere projections and this court is not aware of any authority where courts have allowed the projection from a fiscal note to serve as" a direct expenditure. A80. That observation remains accurate.

The trial court made the further structural point that disposes of any "fiscal note as expenditure" argument: "fiscal notes cannot be used to illustrate direct expenditures because they do not—in and of themselves—increase an affected agency's operating budget. … [U]nless the Missouri legislature increases the Department of Revenue's operating budget, SB3 will not result in the expenditure of any additional taxpayer funds." A81. The point is dispositive. A fiscal note is a forecast, not an appropriation. Until the General Assembly enacts an appropriation increasing an agency's operating budget, no dollar leaves the treasury on account of the legislation that prompted the forecast. The intervening step is precisely the kind of legislative action that *Manzara* held fatal to taxpayer standing. *Manzara*, 343 S.W.3d at 660.

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The "prospect" formulation in *Worlledge v. City of Greenwood*, 627 S.W.2d 328, 331 (Mo. App. W.D. 1982), has been overtaken by this Court's later articulation in *Manzara*: taxpayer standing requires a direct expenditure of funds generated through taxation, defined as a sum paid out, without any intervening agency or step. *Manzara*, 343 S.W.3d at 659–60. To the extent any prospective expenditure could ever supply standing under *Worlledge*, the prospect would still need to be tethered to an actual, identifiable expenditure authorized by the challenged statute — not to a fiscal-note projection that the General Assembly retains absolute discretion to ignore. *Worlledge* is consistent with *Manzara*; it is not consistent with the use Appellants seek to make of it.

To the extent *Worlledge* can be read for the broad proposition Appellants advance, it cannot be reconciled with *Manzara*, *Airport Tech Partners*, *Cope v. Parson*, 570 S.W.3d 579, 584 (Mo. banc 2019), and *Missouri Coalition for the Environment*, all of which require an actual expenditure and reject claims premised on possible or projected future spending. The trial court did not err by following this Court's controlling decisions.

G. The alleged implementation expenditures lie outside the pleading, are outside the scope of judicial notice, and, in any event, are not direct expenditures under *Nicholson*.

Appellants only identify two actions they claim have already occurred and thus meet the *Nicholson* "direct expenditure" test: creation of a fillable form by DOR and elections in various Missouri counties. Neither of those were pled or before the trial court.[6] D2-D8. Appellants ask this Court to take judicial

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[6] Both lie outside the four corners of the pleading and are accordingly outside the scope of review on a Rule 55.27 dismissal.

> Rule 55.27(a) provides that, "[i]f ... matters outside the pleadings are presented to and not excluded by the court" in a motion to dismiss, "the motion shall be treated as one for summary judgment and disposed of as provided in Rule 74.04" so long as that "[a]ll parties [are] given

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notice of the form posted to the website without pointing to authority for this Court to do so. App. Br. at 32. Appellants ask this Court to take judicial notice that "holding those elections involved expenditure of those Counties money," again, without any citation to authority. App. Br. at 17.

"The basic operative condition of judicial notice is the notoriety of the fact to be noticed. It must be part of the common knowledge of every person of ordinary understanding and intelligence[.]" *English v. Old Am. Ins. Co.*, 426 S.W.2d 33, 40–41 (Mo. 1968). "Judicial notice must be exercised cautiously[.]" *Whitmoor Realty, LLC v. Beckerle as Tr. of Delora A. Beckerle Living Tr. Dated June 10, 1999*, 588 S.W.3d 573, 578 (Mo. App. E.D. 2019) (citing *Gordon v. Gordon*, 739 S.W.2d 728, 730 (Mo. App. S.D. 1987)). Raising judicial notice for the first time on appeal is disfavored. *See Morrison v. Thomas*, 481 S.W.2d 605, 607 (Mo. App. 1972).

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reasonable opportunity to present all material made pertinent to such a motion by Rule 74.04." In *Naylor Senior Citizens Housing, LP v. Sides Construction Co.*, our Supreme Court clarified that, when considering a motion to dismiss, the trial court may only rely on materials outside the four corners of the petition if the trial court converts the motion to dismiss into a motion for summary judgment and provides notice that it is doing so. 423 S.W.3d 238, 241 n.1 (Mo. banc 2014). "If the trial court gives no such notice and the judgment expressly grants the motion to dismiss, this is an affirmative statement that the trial court did not convert the motion and, more importantly, that it did not consider matters outside the pleadings." *Id.* We "are bound by such statements and, as a result, cannot consider extraneous submissions or review decisions the trial court did not make." *Id.*

Hartman v. Logan, 602 S.W.3d 827 (Mo. App. W.D. 2020).

The function of the Rule 55.27 motion is to test the sufficiency of the pleading. The trial court ruled on the pleading before it. On *de novo* review, this Court reviews the same pleading.

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1. County Elections

Even if the Court could properly take judicial notice of such facts, Appellants' claims fail. The Bill does require certain counties to hold elections but the costs of those elections are county costs, not state expenditures. See Section 137.1120. This ends the inquiry entirely. To the extent any funds were expended for elections (of which there is no evidence of in this record), such expenditures are a result of the various counties holding an election. Appellants admit that they are residents of counties which are ineligible to proceed with an election (D2:P8), so they cannot claim a personal stake or pecuniary loss related to any such election costs when no county is a party.[7]

Appellants are not county-taxpayer plaintiffs in any specific county that was required to hold or actually held such an election. Indeed, Maries County — the only county whose taxpayer status Appellant Calzone asserts — did not hold such an election, because Maries County is not eligible to do so. D2:P8.

As a result of Calzone's residency in Maries County, his own allegations provide no state taxpayer expenditure or any in Maries County and thus creating no taxpayer standing.

2. The creation of a single form by DOR

Nicholson did not hold that any administrative activity caused by a statute is a direct expenditure. It held that work performed by state employees who, but for the challenged statute, would not have been legally authorized to do that work, is a direct expenditure. The point is dispositive in distinguishing this case.

The preparation of forms is the ordinary operating expense which

[7] Only Appellant Calzone asserts he is a resident of a county (Maries): Appellants Moon and Wolfin do not allege any county residency much less residency of a county that is required to hold an election under Senate Bill 3.

Nicholson did not determine created taxpayer standing. Thus, Appellants try to make the analogy that the Department of Revenue's creation of a tax-credit form and the Department of Economic Development's and Office of Administration's processing of applications to the Attorney General's previously unavailable appeal. The analogy collapses on the very distinction *Nicholson* drew. Preparing forms and reviewing applications are the ordinary administrative functions those agencies perform as a matter of course; they are expenses an agency "incurs regardless." *MADA*, 541 S.W.3d at 593. They are not, as in *Nicholson*, a governmental act that the law did not permit before the challenged bill. Appellants' rule — that any incremental staff effort confers standing — is precisely the reading *Nicholson* foreclosed when it confined its holding to expenditures beyond an agency's normal operating expenses. *Nicholson*, 731 S.W.3d at 878 n.4.[8]

Senate Bill 22, at issue in *Nicholson*, expressly enlarged the Attorney General's authority to file particular appeals — appeals that, before Senate Bill 22, "were prohibited." *Nicholson*, 731 S.W.3d at 877. Senate Bill 3 does no such thing. The Department of Revenue has at all times been authorized to administer tax credits, issue forms, hire personnel, and operate its computer systems. Nothing in Senate Bill 3 enlarges the Department's legal authority or directs the Department to do work it was previously forbidden to do. Senate Bill 3 simply added new tax-credit programs to a department whose job it has

[8] Appellant's rule is also inconsistent with precedent in similar contexts. Under the Hancock Amendment, where a challenger must show costs of a new activity or service, in contrast to "normal operations" – courts have held the challenger must show the increased costs will be more than *de minimis*. See *State ex rel. City of Desloge v. St. Francois Cnty.*, 245 S.W.3d 855, 861 (Mo. App. E.D. 2007); see also *City of St. Louis*, 682 S.W.3d at 400. Here, it cannot be said that creation of a single form by DOR is more than *de minimis*.

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always been to administer tax credits.

The distinction matters because if Appellants' reading of *Nicholson* were correct, every statute that affects state administration would automatically produce taxpayer standing for every taxpayer. Every appropriation, every tax-credit program, every regulatory framework, every minor amendment to an existing statute would have a fiscal footprint and would generate "new work" for someone in the executive branch. That would not be a narrow refinement of *Manzara*; it would be an abolition of *Manzara*. The Court did not do that in *Nicholson*, and Appellants' attempt to extract that holding from it should be rejected.

Nicholson did not change the law; it confirmed it. Measured against the standard *Nicholson* reaffirmed, Appellants have alleged no direct expenditure, only contingent future spending that turns on intervening steps and on the ordinary operating costs *Nicholson* preserved as non-qualifying. The Judgment of dismissal should be affirmed.

H. The legislative perspective.

Two features of Senate Bill 3 reflect deliberate legislative choices that bear on this Point. First and most crucially, the "subject to appropriation" language in Section 100.240.2, RSMo., is not boilerplate; it is the General Assembly's conscious signal that the funding decision was reserved for future General Assemblies. Treating Section 100.240.2, RSMo., as a present direct expenditure would read that legislative choice out of the statute. Second, fiscal notes are informational tools of legislative deliberation, prepared by the Joint Committee on Legislative Research under Section 23.140, RSMo. — the General Assembly's own staff. General Assembly uses those projections to assess the potential fiscal impact of proposed legislation, not to commit appropriations. Appellants now ask the courts to convert that informational

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tool into an actual state expenditure sufficient to confer taxpayer standing. That is not what fiscal notes are, and it is not what the General Assembly intended in adopting Section 23.140, RSMo.

I. Conclusion

The trial court correctly held that the fiscal-note projections are not expenditures, that the alleged implementation activity does not constitute a *Nicholson* direct expenditure, that the county-election costs are not state expenditures, and that no costs are alleged in Maries County where Appellant Calzone is a resident. Under Point I, the dismissal should be affirmed.

II. Ticket Tax Credits are Not Direct Expenditures (Responds to Appellants' Point II).

The circuit court did not err in dismissing Appellants' Petition for lack of taxpayer standing premised on Senate Bill 3's refundable tax credits, because tax credits — refundable or not — are not direct expenditures under *Manzara v. State*, 343 S.W.3d 656 (Mo. banc 2011), in that the credit-and-refund mechanism necessarily involves multiple intervening agencies and steps before any sum is paid out, and this Court has squarely so held.

A. *Manzara* is directly on point and dispositive.

In *Manzara*, this Court held that taxpayers lacked standing to challenge a statute granting tax credits, on the ground that the credits did not satisfy the "direct expenditure of funds generated through taxation" requirement. The *Manzara* court explained, "a direct expenditure of funds generated through taxation" is a sum paid out, **without any intervening agency or step**, of money or other liquid assets that come into existence through the means by which the state obtains the revenue required for its activities. *Manzara*, 343 S.W.3d at 660. The Court explained: "Expenditures typically occur in

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government when checks are written by the state treasurer based on appropriations or warrants. No such withdrawal of public funds or such 'expenditure' occurs with the granting of a tax credit." *Id.*

That holding controls here. Senate Bill 3's tax credits, like the credits in *Manzara*, are realized only after an intervening agency and steps. A credit must be claimed; the claim must be processed; a refund, if any, must be calculated; and the refund must be issued. Those are intervening steps, as detailed in II.c. below, any one of which would defeat standing under *Manzara*'s "without any intervening agency or step" formulation.

B. Refundability does not change the analysis.

Appellants attempt to distinguish *Manzara* by emphasizing the refundability of the credits at issue here. The argument is that a refundable credit allows the credit holder to receive cash from the treasury in excess of any tax liability, and that this cash payment is a direct expenditure. The distinction does not survive scrutiny.

Even setting the refund mechanism aside, a credit reaches an applicant only after a sequence of intervening agencies and steps, which is fatal under *Manzara*. Two separate state agencies administer the credit: the Department of Economic Development certifies and issues it, and the Department of Revenue pays it. § 67.3000.1(4)–(5), RSMo.

Before any sum is paid out, an applicant must submit a support contract to the Department of Economic Development. Then Department must review and, in its sole and exclusive discretion, certify the contract only "if it complies with the requirements of this section." § 67.3000.2, RSMo. Certification itself is conditioned on the eligibility limits of subsection 8, which permit certification only where the site selection organization has not yet selected a location, only where it chose a Missouri site over a competitive out-of-state bid,

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and only on or before August 28, 2032. § 67.3000.8, RSMo.

Only upon certification is an applicant authorized to then **take the next steps** to qualify to receive the credit. § 67.3000.2, RSMo.

First, the sporting event must actually occur. Next, after the event occurs, the applicant must submit ticketing or participant documentation within ninety days. Then the Department must issue a credit certificate within sixty days of receiving that documentation, subject to the annual funding caps of subsection 5. § 67.3000.3, § 67.3000.4(1), § 67.3000.5, RSMo. After all of these steps are complete, if the applicant presents the certificate to the Department of Revenue, only then can the Department issue the refund. § 67.3000.4(2), RSMo.

Each of these is an intervening agency or step[9], and any one of them defeats taxpayer standing under *Manzara*'s requirement of "a sum paid out, without any intervening agency or step." *Manzara*, 343 S.W.3d at 660. The advance-refund language regulates only the timing of the final payment; it removes none of the preceding steps.

Due to the intervening agencies and the intervening steps, *Manzara* is controlling and the trial court's dismissal should be affirmed on this basis.

C. *Curchin* does not confer standing.

Appellants invoke *Curchin v. Missouri Indus. Dev. Bd.*, 722 S.W.2d 930 (Mo. banc 1987), for the proposition that a tax credit is a grant of public money and as such a drain on the State's coffers just as much as an outright payment. App. Br. at 38. *Manzara* has already answered that argument. This Court considered *Curchin* and explained that the issue of standing was neither raised

[9] There are two separate and distinct intervening agencies, with at least five separate and contingent intervening steps before any tax credit could possibly be issued.

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nor addressed there; *Curchin* adjudicated only the merits of a constitutional challenge, analyzing whether tax credits are a grant of public money, a question distinct from the threshold question of taxpayer standing. *Manzara,* 343 S.W.3d at 662. *Manzara*, not *Curchin*, governs the standing inquiry, and it forecloses standing here.[10]

D. *Nicholson* did not address tax credits.

Appellants invoke *Nicholson* here as well. But *Nicholson* concerned the expenditure of tax dollars required for the State to take an appeal; it did not address tax credits, did not discuss *Manzara*'s tax-credit holding, and did not purport to overrule any of the Court's tax-credit decisions. To the contrary, *Nicholson* cited and reaffirmed the "intervening agency or step" formulation. *Nicholson*, 731 S.W.3d at 877 (quoting *Mo. Coal. For Env't*, 579 S.W.3d at 926-27). The decision in *Nicholson* provides no warrant for departing from *Manzara*'s direct holding on tax credits.

E. The timing in Senate Bill 3 does not extinguish the intervening agency or step analysis.

Appellants also rely on the SB 3's refund language to distinguish this case from *Manzara*. Section 67.3000.4(3) provides that the credits "may be refunded at any time following issuance, even prior to the close of the tax period for which the credits were issued," and § 67.3000.4(2) provides that a refund "may include a refund issued in advance of the close of the tax period to which the tax credit applies."

Yet, the same subdivision authorizes recapture, treating an "erroneous, excessive, or improper refund" as an "underpayment of tax on the date made"

[10] *Manzara* expressly rejected *Curchin* as applying to standing issues: "But any reliance on *Curchin* is misplaced. The issue of standing was not raised or addressed in *Curchin*." *Manzara*, 343 S.W.3d at 662.

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and directing the Department of Revenue to administer the statute's "clawback provisions." § 67.3000.4(3). The timing feature does not convert a tax credit into a *Manzara* direct expenditure. The "advance refund" language regulates the timing of when a credit is administered; it does not eliminate the credit's essential character as a tax-administration mechanism, and it does not eliminate any of the intervening steps the credit travels through before reaching the credit holder.

The clawback provision, by providing for recapture when a credit was wrongly paid, ensures that credits, if any, received are lawful.

F. *Missouri Coalition for Environment* does not support standing.

Appellants also invoke a single footnote in *Missouri Coalition for Environment* 579 S.W.3d at 927 n.5, for the proposition that proof of direct expenditures of tax revenues suffices to establish taxpayer standing. App. Br. at 37. The footnote does not advance Appellants' position.[11] The Court there observed only that proof of direct expenditures "would have" sufficed to confer standing; it presupposed a direct expenditure rather than holding that a tax credit is one. The Court's actual holding is instructive: "[b]ecause there is no evidence or record before the Court that any provision of HB 1713 would result

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[11] The actual language of footnote 5 belies the Appellants' own argument:

> Because the Coalition's challenges under article III, §§ 21 and 23 of the Missouri Constitution are to the procedures employed to enact the entirety of HB 1713, **proof of direct expenditures** of tax revenues due to any of the sections enacted in HB 1713 **would have been sufficient to establish taxpayer standing** to bring the Coalition's challenges. The Coalition appears to focus solely on whether the provisions in HB 1713 pertaining to the Commission required direct expenditures and concedes they did not. The Coalition appears to make no attempt to establish taxpayer standing by showing a direct expenditure of tax revenues would result from any other provision of HB 1713.

Mo. Coal. for Env't, 579 S.W.3d at 927 n. 5 (emphasis added).

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in the direct expenditure of tax revenues, the Coalition has failed to establish it has taxpayer standing." *Id.* at 927.

The observation in footnote 5 simply begs the precise question presented here: whether Senate Bill 3's tax credits are direct expenditures at all. *Manzara* answers that question and answers it against Appellants. *Missouri Coalition* supplies no contrary holding and no reason to depart from *Manzara*'s controlling rule.

G. *Manzara* remains controlling and should not be revisited.

Recognizing that *Manzara* forecloses their theory, Appellants ask this Court to declare *Manzara* wrongly decided and to reverse it, relying upon a single concurring opinion. App. Br. at 38. The Court should decline. A concurrence is not the holding of the Court, and the *Manzara* majority's rule that tax credits are not direct expenditures rests upon a taxpayer-standing framework this Court has described as grounded in over a century of precedent.

Under the doctrine of *stare decisis*, a decision of this Court should not be lightly overruled, particularly where the governing rule has remained settled and undisturbed. *Sw. Bell Yellow Pages, Inc. v. Dir. of Revenue*, 94 S.W.3d 388, 390 (Mo. banc 2002). Far from unsettling *Manzara*, this Court's recent decision in *Nicholson* cited and reaffirmed the "without any intervening agency or step" formulation, leaving the tax-credit holding intact. *Nicholson*, 731 S.W.3d at 877. *Manzara* controls, and it should be followed.

H. Conclusion

Manzara controls. The trial court correctly applied it. As to Point II, the dismissal should be affirmed.

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III. The Stadium Provisions do not Authorize a Direct Expenditure (Responds to Appellants' Point III).

The circuit court did not err in dismissing Appellants' Petition for lack of taxpayer standing premised on Section 100.240, RSMo, because by the statute's plain terms any expenditure is conditioned on no fewer than four intervening steps: a private party's decision to file an application; the Department of Economic Development's and Office of Administration's discretionary approval of the application; their determination of what "terms and… reasonable consideration" the State will accept; and a future General Assembly's decision to appropriate. Any alleged expenditure therefore falls squarely outside *Manzara*'s definition of a direct expenditure.

A. The statute's text imposes multiple intervening steps.

Section 100.240.2, RSMo., provides that the State "may, upon such terms and with reasonable consideration as it may determine, subject to appropriation, expend funds for the purpose of aiding and cooperating in the planning, undertaking, financing, or carrying out of an athletic and entertainment facility project for which application is made to the department and approved by the director and the commissioner." Section 100.240.2, RSMo. The text alone defeats taxpayer standing under *Manzara*.

The discretionary character of the statute is not incidental; it is the statute's structure. Section 100.240.2, RSMo., permits the State to expend funds only "upon such terms and with reasonable consideration as it may determine," and only "subject to appropriation." "Use of the word 'may' in a statute implies alternate possibilities and that the conferee of the power has discretion in the exercise of the power." *State ex rel. Nixon v. Boone*, 927 S.W.2d 892, 897 (Mo. App. W.D. 1996) (citing *State v. Patterson,* 729 S.W.2d 226, 228 (Mo. App. 1987); *State Bd. of Registration for the Healing Arts v. Finch,* 514

S.W.2d 608, 614 (Mo. App. 1974)). That discretion does not operate once but at four successive points before any money can move: whether a private party ever applies; whether the Director and the Commissioner approve the application; whether the Office of Administration accepts the applicant's "terms and… reasonable consideration"; and whether a future General Assembly appropriates. Under *Manzara*, even one such point of discretion defeats taxpayer standing. Senate Bill 3 stacks four.

First, the statute makes any expenditure "subject to appropriation." §§100.240.2 and 100.240.5, RSMo. As the trial court explained, "unless the Missouri legislature makes appropriations in a future piece of legislative action, no money will be spent under section 100.240.2. Indeed, the legislature may never appropriate funding, meaning that Section 100.240.2, RSMo., may never result in any expenditures." App. A79–80. Future legislative appropriations are the paradigm of an intervening step.

Second, the statute confers discretion on the Department of Economic Development and the Office of Administration to determine whether to approve any application. As the trial court explained: "Section 100.240.2 grants OA discretion over the 'terms and… reasonable consideration' of any future expenditures, and no expenditure of taxpayer money can occur under section 100.240.2 unless a third party files an application." App. A80.

Third, no expenditure of taxpayer money can occur unless OA is satisfied by the applicant's 'terms and… reasonable consideration.'" App. A80. That is three further points of intervening discretion: a private party must apply; the Director and the Commissioner must approve the application; and the Office of Administration must be satisfied with the applicant's "terms and… reasonable consideration." Together with the appropriation requirement addressed above, Section 100.240.2, RSMo., conditions any expenditure on four

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successive contingencies before a single dollar leaves the treasury.

If anything, four understates the contingency. Section 100.240, RSMo., conditions any expenditure on the director's and commissioner's separate satisfaction that units of local government have made or will make "sufficient public investment" in the project, Section 100.240.5(4), RSMo. — a determination that turns on the participation of actors the State cannot compel. Each step alone forecloses the direct expenditure that *Manzara* requires.

Nicholson does not alter this conclusion. There, the Court reaffirmed *Manzara* rather than relaxing it, restating that "the showing of an expenditure is mandatory." *Nicholson,* 731 S.W.3d at 878. The Court found taxpayer standing only because the State had already paid out tax dollars — work on an appeal that had in fact been taken — with no intervening step between the challenged statute and the expenditure. *Id.* Section 100.240, RSMo., is the opposite: no application has been filed, no approval given, and no appropriation made, so no sum has been paid out, and none can be until each intervening step occurs.

B. Appellants' "$1.2 billion" figure is at most a statutory ceiling, not a commitment.

Appellants emphasize that Section 100.240, RSMo., by their calculation, authorizes expenditures of up to approximately $1.2 billion. App. Br. at 41. If that number is correct (and there is no evidence of it in the record), that figure would be a ceiling, not a floor and most certainly not a commitment. A statute that authorizes the legislature to appropriate up to a stated amount does not by itself appropriate anything, much less direct an expenditure "without any intervening agency or step." The size of the potential ceiling does not transform a contingent, multi-step process into a direct expenditure. The *Manzara* test is

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qualitative: how does the money move? It is not quantitative, i.e. how much money might move?

Appellants also point to the Governor's proclamation calling the 2025 First Extraordinary Session of the General Assembly. The proclamation is not an expenditure and does not commit one. It is an exercise of the Governor's power under Article IV, Section 9 to convene the General Assembly.[12]

The General Assembly retained — and exercised — the power to legislate as it saw fit. Nothing in the proclamation eliminated any of the intervening steps the statute imposes. Appellants' related appeal to the statute's legislative purpose fares no better. The General Assembly intended to create a framework for stadium funding, appropriated no money and removed no intervening step; purpose is not appropriation. *Manzara* asks how funds move, not why the legislature built the mechanism, and the mechanism here moves no funds until each contingency is satisfied.

C. No private application has been pleaded.

The Petition does not allege that any private party has filed an application under Section 100.240, RSMo., that any application has been approved by the Department of Economic Development or the Office of Administration, or that any appropriation has been made. The chain of contingencies that would have to be alleged to establish a direct expenditure is

[12] Appellants' Petition does not challenge the call of the extraordinary session only the legislation that arose from that session. Any costs incurred in the extraordinary session are contained in the Appellants' Petition. Even if they desired to challenge the call, this Court has closed the door on such challenges. "Article IV, section 9 affords the governor discretion to determine when an extraordinary occasion has arisen and to call an extraordinary session of the general assembly." *Nat'l Ass'n for the Advancement of Colored People Missouri State Conf. v. Kehoe*, No. SC101541, 2026 WL 1492715, at 4 (Mo. May 27, 2026).

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not pleaded. Even assuming the Court were to accept all properly pleaded facts as true, as it must, there are no pleaded facts establishing that any state funds have been or imminently will be paid out under Section 100.240, RSMo. Appellants' theory rests on speculation.

D. The legislative perspective.

Each of the four contingencies built into Section 100.240.2, RSMo., is a deliberate legislative reservation. Section 100.240.2, RSMo., is a conditional grant of authority, layered with discretion, that the chambers retained the option to fund or not. Reading that structure as committing the State to a present direct expenditure overrides the chambers' institutional choice and converts a permission into a mandate the chambers did not give.

E. Conclusion

The trial court correctly identified the intervening steps that the text of Section 100.240, RSMo., imposes, and correctly held that those steps defeat taxpayer standing under *Manzara*. As to Point III, the dismissal should be affirmed.

IV. Calzone's direct-standing theory was not preserved and is not pleaded, and the alleged injury is a generalized grievance that depends on speculative future events does not confer standing (Responds to Appellants' Point IV).

The circuit court correctly dismissed Appellants' Petition as to Appellant Calzone for lack of standing. Calzone's appellate theory was not pleaded in the Petition and was not preserved below. Even if it was preserved or pled, it fails. The Petition does not allege facts necessary to support direct standing under either of the two formulations Appellants now press. The alleged injury is shared in identical form with every resident of the seventeen excluded counties, depends on a chain of speculative future events, and describes a

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generalized grievance about a legislative classification that standing doctrine does not exist to redress.

A. The direct-standing theory was not preserved below.

The preservation problem in Appellants' Point IV is independent of the pleading problem addressed below and would justify affirmance on its own. Two defects are apparent on the face of the briefing.

First, the Brief preserves Point IV by citing "Petition, para. 129, D2, p. 20; App 27." App. Br. at 45. The cited paragraph does not suffice as preservation for the standing theory now urged. That paragraph reads:

> 129. As stated above Maries County, where Plaintiff Calzone resides, is not on the list and is therefore a non-eligible county.

The Petition does not use the phrase "direct standing." It does not use the phrase "pecuniary interest." Rule 84.04(e) requires the preservation statement to identify where the claim was raised; the citation here identifies a paragraph that has nothing to do with the claim.

B. The Petition fails to plead the ultimate facts necessary to support either of Calzone's shifting standing theories.

"If a party does not plead facts sufficient to support standing in the petition, the party cannot receive any relief on the claims raised in that petition." *Schumacher v. SC Data Ctr., Inc.*, 728 S.W.3d 576, 584 (Mo. App. W.D. 2025). Missouri is a fact-pleading state. "Because Missouri requires fact pleading, the role of a petition is to identify 'the triable issues' and 'the facts upon which the plaintiff's claim[s] rest[ ].'" *Mathews v. FieldWorks, LLC*, 696 S.W.3d 382, 393 (Mo. App. W.D. 2024) (quoting *ITT Com. Fin. Corp. v. Mid-Am. Marine Supply Corp.*, 854 S.W.2d 371, 380 (Mo. banc 1993)). "[A] challenge to a plaintiff's standing will necessarily be premised on the factual assertions set forth in the petition. *Id.* at 394. The Petition's allegations regarding

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Calzone are insufficient to support standing here.

The Petition's allegations as to Calzone fit in eight short paragraphs (D2 ¶¶ 37–44). They establish that Calzone is a resident of Maries County; that Maries County and the City of Vienna do not meet the population thresholds in Section 137.1120; and that Calzone is "a taxpayer" who is "an interested party in the litigation based on Maries County being ineligible for tax credits for property taxes." *Id.* ¶¶ 37, 41, 43, 44. The Petition frames Calzone's injury as Maries County being "ineligible for the benefits offered by that part of the Bill" — that is, as a deprivation of the property tax credit. *Id.* ¶ 42.

On appeal, the framing has shifted. Appellants now describe Calzone's injury as the inability to "vote to lower or limit his taxes as residents of 97 other counties can." App. Br. at 46. The shift is not cosmetic. The two theories depend on different contingencies and require different ultimate facts. The Petition pleads neither set.

Take the original theory first: deprivation of the property tax credit. Section 137.1120, RSMo, makes the credit available only to an "eligible taxpayer," defined as "a Missouri resident who: (a) Is an owner of record of a homestead or has a legal or equitable interest in such property … and (b) Is liable for the payment of real property taxes on such homestead." D3:P31. The Petition does not allege that Calzone owns a homestead, that he has any interest in real property, or that he is liable for the payment of real property taxes. Without those ultimate facts, even if Maries County were eligible, Calzone himself would not qualify for the credit.

The reframed theory fares no better. If the injury is the inability to vote, the Petition would need to plead facts establishing that Calzone is a registered Maries County voter, that Maries County would have called a Section 137.1120, RSMo., election if eligible, that Calzone would have voted to adopt

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the framework, and that Maries County voters would have approved it. Each of those is a necessary link between the alleged exclusion and any concrete pecuniary effect on Calzone. Yet none are pleaded. The chain of contingencies is precisely the kind of speculation that this Court has held insufficient to support standing. Calzone's allegations amount to residency, the county population, and a bald conclusion that he is "therefore … interested party." Under *Schumacher* and *Mathews*, those allegations do not establish the facts necessary to support direct standing.

C. *Nicholson* does not supply Calzone's direct standing.

Appellants invoke *Nicholson* as the source of Calzone's direct standing. *Nicholson* does not bear that weight.

The record in *Nicholson* on direct standing, though never reached by the Court,[13] was a developed evidentiary record built at trial. Nicholson testified that he "work[ed] on ballot campaigns for a living"; that he had concrete "plans to file ballot initiative petitions in the future"; and that Senate Bill 22 "would delay the initiative petition process, making it more expensive to put initiative petitions on the ballot." *Nicholson,* 731 S.W.3d at 875. On that record, he argued the statute "directly impact[ed] his professional livelihood and therefore, his pecuniary interest." *Id.* at 876.

The Petition here has none of that. Calzone did not plead a profession, an occupation, a livelihood, or any concrete activity that Senate Bill 3 affects. He did not plead any planned future conduct. He did not plead any causal mechanism connecting his professional life to the statute's operation. The

[13] Appellants also cite *Lebeau*, as the second pillar of Calzone's direct standing. (Appellants' Br. at 45–46.) *Lebeau* is only a taxpayer standing case. The opinion does not address direct standing, did not analyze whether the *Lebeau* plaintiffs had direct standing, and supplies no rule of decision on direct standing.

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Petition does not use the phrase "direct standing." It does not use the phrase "pecuniary interest." "If a party does not plead facts sufficient to support standing in the petition, the party cannot receive any relief on the claims raised in that petition." *Schumacher v. SC Data Ctr., Inc.*, 728 S.W.3d 576, 584 (Mo. App. W.D. 2025).

Even if such facts in *Nicholson* were sufficient to grant direct standing (which again, the Court did not reach), Calzone has not met the *Nicholson* test.

D. The alleged injury is generalized, not particularized.

Calzone's alleged injury is shared in identical form with every other resident of every other county not designated by Section 137.1120, RSMo. There are 17 such counties. The injury is not specific to Calzone in any meaningful sense; he has alleged nothing about himself that distinguishes his interest from that of any other resident of the 17 excluded counties or, for that matter, from that of any other Missouri resident who would prefer a different statutory classification. A generalized grievance of that kind is the paradigm of an interest that does not support standing.

E. The alleged injury is speculative.

Even within the 97 counties that may vote, voting is not required. An election under Section 137.1120, RSMo, occurs only if a county takes the affirmative steps necessary to place the question on a ballot. Calzone has not alleged that Maries County would have called such an election if eligible. Even then there are still two further steps that would to be established before Calzone could arguably have standing: (1) Maries County voters would have approved the property-tax-relief framework if presented with it and (2) Calzone himself would qualify for any specific credit had the framework been adopted in his county. Completion of each of those links is necessary to translate Calzone's asserted exclusion into a concrete pecuniary effect. Calzone

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has failed to plead the existence of any of the links. Moreover, each link is entirely speculative.

F. The legislative perspective.

Section 137.1120, RSMo, reflects a legislative classification. The General Assembly determined, based on county population thresholds, which jurisdictions could put the property-tax-relief framework to a local vote. Drawing classifications is the legislative function under Article III, Section 1, and the wisdom of any particular classification is committed to legislative judgment. Calzone's complaint that he was excluded from the favored side of the classification is not, in substance, a standing argument; it is a merits argument that the chambers exercised their constitutional power in a way he disfavors. Standing doctrine does not exist to convert every disfavored legislative classification into a private right of action for everyone on the disfavored side.

G. Conclusion

Calzone's direct-standing theory fails at every step. It was not preserved in the Petition. The Petition does not allege the facts necessary to support direct standing under either the deprivation-of-benefits theory the Petition framed or the deprivation-of-voting-rights theory Appellants now press. Neither *Nicholson* nor *Lebeau* save Appellants. Standing doctrine does not exist to convert disagreement with legislative line-drawing into a private right of action. The trial court correctly rejected the theory. Under Count IV, the dismissal should be affirmed.

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V. The "take up the slack" theory is foreclosed by *Manzara* and by this court's tax-credit jurisprudence (Responds to Appellants' Point V).

The circuit court did not err in dismissing Appellants' Petition for lack of standing based on the "take up the slack" theory — that Senate Bill 3's tax credits shift a larger share of the overall tax burden onto Appellants and other non-credit-holding taxpayers — because that theory is foreclosed by *Manzara* and by this Court's repeated rejection of speculative, attenuated injury theories that rest on the premise that any reduction in state revenue must lead to higher taxation elsewhere.

A. *Manzara* rejected the same theory.

The plaintiffs in *Manzara* argued that the tax credits at issue effectively shifted the tax burden of the credit-using taxpayers onto themselves and other taxpayers. This Court rejected the argument. Tax credits, the Court held, are not direct expenditures, and the indirect, attenuated effect of credits on other taxpayers' burdens does not supply taxpayer standing. *Manzara*, 343 S.W.3d at 659–60. The reasoning applies equally to Senate Bill 3.

The *Manzara* rejection was not isolated. It rested on *W.R. Grace & Co. v. Hughlett*, 729 S.W.2d 203 (Mo. banc 1987), which held that a taxpayer is not "adversely affected" by statutes that "merely excuse the tax obligations of others." *W.R. Grace*, 729 S.W.2d at 206–07; *see Manzara*, 343 S.W.3d at 660–61. Appellants' theory is not a refinement of, or response to, that holding; it is the same theory under a different name.

Appellants' reliance on *Civic League of St. Louis v. City of St. Louis*, 223 S.W. 891 (Mo. Div. 2 1920), only confirms the distinction that defeats them. *W.R. Grace* described *Civic League* in exactly those terms, as a case arising in "a quite different factual setting" because it concerned an expenditure of public funds rather than the non-collection of taxes from others. *W.R. Grace*, 729

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S.W.2d at 207. It was on that ground that *W.R. Grace* entertained and rejected the precise equivalence Appellants press: that an exemption granted to others "would not seem to differ in substance from the spending of tax monies." *Id.* The Court declined to treat the two as equivalent. *Civic League* is thus the direct-expenditure benchmark against which the take-up-the-slack theory was measured and found wanting; it offers Appellants no support. Appellants themselves concede that no Missouri court has accepted the theory since *Manzara*. App. Br. at 48. The Court should not accept it here.

B. The theory is doubly speculative.

The "take up the slack" theory rests on two contingent premises. First, the theory assumes that credits will be claimed in some material amount; a contingency that depends on private parties' choices to participate in the credit programs. Second, the theory assumes that any resulting revenue reduction will be made up through increased taxation rather than through reduced spending, or any number of other revenue-and-budget choices the General Assembly may make. Neither contingency is pleaded as a fact; both are conjectures about future legislative and executive decisions.

If "you might pay more in the future because of a reduction in revenue someone else's tax behavior may cause" were enough for standing, every taxpayer in Missouri would have standing to challenge every tax credit, every tax deduction, every revenue-reducing statute, and every appropriation. The doctrine has never extended that far, in this Court or in any other.

C. The legislative perspective.

Tax credits, deductions, exemptions, and other revenue measures are core features of the General Assembly's constitutional taxing power. The chambers enact such measures every session. If Appellants' "take up the slack" theory carried standing, every revenue measure the chambers passed would

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arrive with built-in taxpayer standing for everyone outside the favored class; an outcome the chambers could not legislate around and that this Court has consistently rejected. The institutional consequence of accepting Appellants' theory would be to make the chambers' tax authority effectively unexercisable without inviting universal challenge.

D. Conclusion

Manzara controls. The "take up the slack" theory adds nothing that this Court has not already rejected. Under Point V, the dismissal should be affirmed.

VI. Missouri does not recognize legislative standing for individual legislators who lost a vote (Responds to Appellants' Point VI).

A. Precedent dictates Appellants' theory of legislative standing should be rejected.

A legislator does not acquire standing merely because a case implicates the powers, duties, or future prerogatives of the governmental body on which he serves. *State ex rel. Mathewson v. Bd. of Election Comm'rs of St. Louis Cnty.*, 841 S.W.2d 633, 635 (Mo. banc 1992). In *Mathewson*, the then President Pro Tempore of the Missouri Senate sought to challenge the Governor's ordering of a special election for a resigning Senator. *Id.* at 634. Senator Mathewson appeared in his official capacity and claimed an interest that the Senate might later be required to exercise its constitutional authority to judge the "qualifications, election and returns" of the winner. *Id.* at 635. The Court, however, determined that such an interest was not personal to him but rather institutional to the Senate as a whole. *Id.* The Court highlighted that there must be a personal claim of right and that an official's generalized concern with the lawful operation of government does not meet such a requirement. *Id.*

This case alone is fatal to any claim of generalized legislative standing

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in Missouri. A legislator who was outvoted may disagree with the resulting enactment, may believe it procedurally defective, and may even believe it impairs the institutional prerogatives of the General Assembly. But those objections remain official, institutional, and generalized. They do not become personal injuries merely because they are voiced by a member of the legislature. Standing turns on whether the challenged action affects the legislator himself in a present and concrete way. Not whether the legislator can identify some abstract or institutional interest arising from his office.

That legislative standing does not exist for want of a personal injury is likewise not unique to Missouri. *See Raines v. Byrd,* 521 U.S. 811, 821 (1997). In *Raines*, six Members of Congress challenged the Line Item Veto Act as unconstitutional. *Id.* at 814. All six members of Congress had voted against the act before its passage, all six for the same reason: that it was unconstitutional. *Id.* Despite this opposition, the Act passed and went into effect. *Id.* The day after the Act went into effect, the six Members of Congress brought suit alleging that the Act was unconstitutional. *Id.* Before getting to the merits, the Court first analyzed whether any of the Plaintiffs had standing. *Id.* at 818. The Court observed:

> First, appellees have not been singled out for specially unfavorable treatment as opposed to other Members of their respective bodies. Their claim is that the Act causes a type of institutional injury (the diminution of legislative power), which necessarily damages all Members of Congress and both Houses of Congress equally. See n. 7, infra. Second, appellees do not claim that they have been deprived of something to which they personally are entitled—such as their seats as Members of Congress after their constituents had elected them. Rather, appellees' claim of standing is based on a loss of political power, not loss of any private right, which would make the injury more concrete. Unlike the injury claimed by Congressman Adam Clayton Powell, the injury claimed by the Members of Congress here is not claimed in any private capacity but solely because they are Members of Congress.

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Id. at 821.

Accordingly, the Court held "these individual members of Congress do not have a sufficient 'personal stake' in this dispute and have not alleged a sufficiently concrete injury to have established Article III standing." *Id.* at 830. In reaching that conclusion, the Court invoked Justice Powell's admonition that the judicial power exists to protect individual rights, not to superintend the operations of government:

> The irreplaceable value of the power articulated by Mr. Chief Justice Marshall [in *Marbury v. Madison*, 1 Cranch 137, 2 L.Ed. 60 (1803),] lies in the protection it has afforded the constitutional rights and liberties of individual citizens and minority groups against oppressive or discriminatory government action. It is this role, not some amorphous general supervision of the operations of government, that has maintained public esteem for the federal courts and has permitted the peaceful coexistence of the countermajoritarian implications of judicial review and the democratic principles upon which our Federal Government in the final analysis rests.

Id. at 829 (quoting *United States v. Richardson*, 418 U.S. 166, 192 (1974) (Powell, J., concurring)).

Raines forecloses Appellants' theory for a second, more specific reason. The only case in which the Supreme Court has sustained legislative standing for an institutional injury is *Coleman v. Miller*, 307 U.S. 433 (1939), where state senators whose votes would have defeated ratification alleged that their votes had been "overridden and virtually held for naught." *Id.* at 438. *Raines* confined *Coleman* to that circumstance—complete vote nullification—and rejected the very argument Appellants advance here: that a vote is injured because its "effectiveness" was diminished. *Raines*, 521 U.S. at 825–26. Using "effectiveness" to invoke *Coleman*, the Court explained, "stretches the word far beyond the sense in which the *Coleman* opinion used it," because there is "a vast difference between the level of vote nullification at issue in *Coleman* and

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the abstract dilution of institutional legislative power" alleged by legislators who simply lost a vote. *Id.* at 826. Appellants' claim that being required to vote on an allegedly multi-subject bill "diminished" the effectiveness of their votes is precisely the abstract-dilution theory *Raines* rejected.

Senator Moon and Representative Wolfin assert the same theory *Raines* rejected. Like the Members of Congress there, they voted against legislation they believed unconstitutional. Petition ¶ 28; D2, p. 6; App. Br. at 51. Like the Members of Congress in *Raines*, they lost the vote. App. Br. at 51. And like the Members of Congress in *Raines*, they identify no injury personal to them. They were not singled out for unfavorable treatment. They were not deprived of their seats, their votes, their salaries, or any private legal right. Their asserted injury is only that the Act passed over their objection and thereby produced an alleged loss of political power. But a losing vote is not a legal injury, and disagreement with the constitutionality of an enacted law is not a personal stake. Because Senator Moon and Representative Wolfin allege only an institutional grievance shared by every legislator, they have failed to allege a specific **personal stake**. Accordingly, *Raines* forecloses standing.

Further, *Kinder v. Holden* removes any remaining doubt that *Mathewson* or *Raines* are isolated cases rather than a rejection of generalized legislative standing. *See Kinder*, 92 S.W.3d at 804 n.5. There, the Western District recognized that Senator Kinder and Representative Troupe would not have had standing had they sued only in their official capacities. The reason is the same as in *Mathewson* and *Raines*: official status is not a personal stake sufficient to confer standing. A legislator's disagreement with executive or legislative action, even when framed as a defense of constitutional structure, remains an institutional grievance unless the challenged action affects that legislator in a concrete and individualized way. Thus, *Kinder* confirms that

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Missouri courts do not permit legislators to manufacture standing from their office.

Yet manufacturing standing is exactly what Appellants attempt here. Appellants claim that, "[b]ecause Senator Moon and Representative Wolfin were forced to vote on a bill with multiple subjects, the effectiveness of their vote was diminished." Petition ¶69; App. Br. at 51-52. But that is not a personal injury; it is a repackaged objection to the legislative process. Appellants do not allege that their votes were rejected, miscounted, overridden, or nullified. Nor do they claim they would have voted differently absent the alleged constitutional infirmities. They voted, their votes counted, and they lost. Calling that loss a "diminished" vote does not make it a concrete injury. Their theory is not vote dilution; it is vote dissatisfaction. They lost in the political process and now ask this Court to convert that legislative loss into a judicial victory.

B. The out-of-state authorities Appellants cite are non-binding and, properly read, defeat their theory of legislative standing.

Furthermore, the Appellants' cited cases are non-binding. Appellants have failed to, and indeed cannot, explain why this Court should go against its own precedent and the logic of the United States Supreme Court to instead endorse a dissenting opinion in another state. *See Campbell v. White*, 856 P.2d 255, 268 (Okla. 1993) (Opala, J., dissenting); App. Br. at 51-52.

Beyond this invitation to disregard settled law, Appellants further direct this Court to *Silver v. Pataki*, 755 N.E.2d 842 (N.Y. 2001). *See* App. Br. at 52. Yet, the quoted portion of the Appellants' brief addresses a challenge to the Legislator's **capacity** to sue, not standing. *Silver*, 755 N.E.2d at 847 ("Thus, Mr. Silver does have **capacity** to sue as a Member of the Assembly.") (emphasis added). Perhaps Appellants misrepresent capacity as standing

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because a more in-depth reading of *Silver*'s standing analysis magnifies, rather than cures, their lack of standing. As *Silver* said:

> Cases considering legislator standing generally fall into one of three categories: lost political battles, nullification of votes and usurpation of power. Only circumstances presented by the latter two categories confer legislator standing (see, e.g., *Coleman v. Miller*, 307 U.S. 433, 59 S.Ct. 972, 83 L.Ed. 1385 [vote nullification]; *Dodak v. State Admin. Bd.*, 441 Mich. 547, 495 N.W.2d 539 [usurpation of power belonging to legislative body]; cf., *Raines v. Byrd*, 521 U.S. 811, 117 S.Ct. 2312, 138 L.Ed.2d 849 [no standing to challenge lost vote]; *Matter of Posner v. Rockefeller*, 26 N.Y.2d 970, 311 N.Y.S.2d 15, 259 N.E.2d 484 [same]).

Id. at 847.

Yet, *Silver* also provides an illustrative example of when a legislator **may** have standing. In *Silver*, the Governor of New York used the power of a Line-Item Veto to reject several provisions of apportionment bills that had been enacted by the New York General Assembly. *Id.* at 844. Silver, then the Speaker of the New York Assembly, challenged that this veto had **nullified** his vote. *Id.* at 848. In their review, the New York Court of Appeals, observed that plaintiff is not "'seeking to obtain a result in a courtroom which he failed to gain in the halls of the Legislature.'" *Id.* (citing *Silver v. Pataki*, 179 Misc. 2d 315, 322, 684 N.Y.S.2d 858 (Sup. Ct. 1999)). Instead, "plaintiff as a Member of the Assembly won the legislative battle and now seeks to uphold that legislative victory against a claimed unconstitutional use of the veto power nullifying his vote." *Id.* The Court continued:

> If plaintiff's allegations are correct, and at this point in the litigation we must assume they are, the vetoed provisions were improperly invalidated and should be in effect. Such a direct and personal injury is clearly within a legislator's zone of interest and unquestionably represents a " 'concrete and particularized' " harm.

Id.

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Finally, in comparing *Raines* and *Posner*,[14] the Court observed:

> In each case, the plaintiff-legislators lost their political battles when legislation was validly enacted over their opposition. No vote nullification was alleged; they suffered no direct, personal injury beyond an abstract institutional harm. Thus, each lacked standing to sue.

Id.

Accordingly, the Court held that Silver had standing.

Silver does not rescue Appellants' standing theory; it defeats it. *Silver* drew the precise line Appellants ask this Court to ignore: legislators lack standing when they merely lost a political battle but may have standing when their successful votes were later nullified or when legislative power was usurped. Appellants fall on the wrong side of that line. Senator Moon and Representative Wolfin did not "win the legislative battle" and then seek to preserve that victory from executive nullification. They lost the legislative battle. The bill passed over their objection. Their votes were counted, given effect, and defeated by the ordinary operation of the legislative process. That is the very circumstance *Silver* identified as insufficient for standing.

Nor can Appellants transform their loss into vote nullification by claiming that being required to vote on an allegedly multi-subject bill "diminished" the effectiveness of their votes. "Nullify" means to make legally null and void. *Webster's Third New International Dictionary* 1549 (2002). Accordingly, a vote is nullified when it is treated as if it does not count, even though it is legally sufficient to produce a result. A vote is not nullified merely because it is cast against a bill that passes. Appellants allege no rejection, miscounting, or cancellation of their votes. They allege only that the legislative

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[14] *Posner* was likewise concerned with a legislator's lack of standing when seeking to challenge a lost political battle, identical to the Appellants in the present action. *Posner v. Rockefeller*, 259 N.E.2d 484, 485 (1970).

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package presented to them made their votes less politically effective. That is not a personal injury; it is the ordinary consequence of losing in a representative body. Under *Silver*'s own framework, that is a lost political battle, not vote nullification.

Thus, even if this Court looks beyond Missouri for guidance, it should look to the rule repeatedly affirmed by courts over the last half-century and embraced by a majority in *Silver* itself: legislative standing does not arise from disagreement, defeat, or diminished political leverage.[15] It arises, if at all, only when a legislator's legally effective vote is nullified or when legislative authority is usurped in a way that inflicts a direct, personal injury. Appellants offer neither. Appellants have not and cannot explain how this Court should adopt a theory from an out-of-state isolated dissent when its own precedent, *Mathewson* and *Kinder*, and Supreme Court precedent, *Raines*, requires the theory's rejection. Precedent does not permit a defeated legislator to run to the Court to turn their legislative loss into a judicial victory.

C. Conclusion

This Court's and the Supreme Court's precedents entirely negate the legislative standing arguments of Appellants Moon and Wolfin. This Court should follow *Mathewson*, *Kinder*, and *Raines* and affirm the trial court. Under

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[15] Beyond the Federal, Missouri, and New York precedent, virtually every other state agrees with the rejection of a generalized legislative standing to vindicate a political loss. *See Wilt v. Beal*, 26 Pa. Cmwlth. 298, 305, 363 A.2d 876, 881 (1976); *Dodak v. State Admin. Bd.*, 441 Mich. 547, 560, 495 N.W.2d 539, 546 (1993); *Conant v. Robins, Kaplan, Miller & Ciresi, L.L.P.*, 603 N.W.2d 143, 150 (Minn. Ct. App. 1999); *Am. Civil Liberties Union of Tenn. v. Darnell*, 195 S.W.3d 612, 625 (Tenn. 2006); *McDermott v. Ige*, 135 Hawai'I 275, 286, 349 P.3d 382, 393 (2015); *Morrow v. Bentley*, 261 So. 3d 278, 294 (Ala. 2017); *Turner v. Shumlin,* 2017 VT 2, ¶ 13, 204 Vt. 78, 89, 163 A.3d 1173, 1179 (2017); *Reeves v. Gunn*, 307 So. 3d 436, 439 (Miss. 2020) (overruling a previous grant of general legislative standing).

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Point VI, the dismissal should be affirmed.

CONCLUSION

For the foregoing reasons, Intervenor-Respondents respectfully request that this Court affirm the judgment of the Circuit Court of Cole County dismissing the Petition with prejudice for lack of standing, because no Appellant pleaded facts establishing a direct expenditure of tax funds without an intervening agency or step, Calzone's direct-standing theory was neither preserved nor pleaded, and Missouri does not recognize legislative standing for individual legislators who lost a vote.

Respectfully submitted,

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CERTIFICATE OF SERVICE AND COMPLIANCE

A copy of this document was served on counsel of record through the court's electronic notice system on June 22, 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 13,737, excluding the cover, table of contents, table of authorities, signature block, 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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