

No. 25-888

IN THE
Supreme Court of the United States

ANOKA HENNEPIN EDUCATION MINNESOTA
(AMERICAN FEDERATION OF TEACHERS LOCAL 7007),
Petitioner,

v.

DON HUIZENGA, NANCY POWELL, JIM BENDSTEN, AND
INDEPENDENT SCHOOL DISTRICT No. 11,
Respondents.

**On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Eighth Circuit**

**BRIEF FOR *AMICUS CURIAE* AMERICAN
FEDERATION OF LABOR AND CONGRESS
OF INDUSTRIAL ORGANIZATIONS
IN SUPPORT OF PETITIONER**

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INTEREST OF *AMICUS CURIAE*¹

The American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) is a federation of 64 national and international labor organizations that represent 15 million working people.

Over the course of its 140-year history, the AFL-CIO and its affiliates have garnered significant experience advocating in federal court, both as plaintiffs and as defendants. The AFL-CIO thus has an interest in clarifying the standing principles applicable to federal litigation.

Additionally, many of the AFL-CIO's affiliates have members who work in local government. Those members, too, have an interest in seeing their jobs, their livelihoods, and—for the many who live where they work—their general well-being determined by policies enacted through local legislatures, rather than courts hearing grievances from disgruntled, unaffected local taxpayers.

SUMMARY OF ARGUMENT

I. Nearly 150 years have passed since this Court last decided that merely paying taxes to one's local government is enough to make federal remedies available in challenges to a local government's policy. That decision, *Crampton v. Zabriskie*, 101 U.S. 601 (1879), relied on state-court equity practice without attempting to square its holding with Article III requirements. Four decades later, the Court offered dicta attempting

¹ No counsel for a party authored this brief in whole or in part, and no person or entity, other than the *amicus curiae*, made a monetary contribution to the preparation or submission of this brief. As required by Rule 37.2, on February 18, 2026, counsel of record advised the parties' counsel of the AFL-CIO's intent to file this brief.

to justify municipal taxpayer standing while rejecting federal taxpayer standing. *Frothingham v. Mellon*, 262 U.S. 447 (1923).

From that inauspicious start, a wildfire of municipal taxpayer standing cases have scorched the lower courts. *Frothingham's* justification rests on an insupportable analogy between the relationship of municipal taxpayers to municipalities and shareholders to corporations. The analogy was questionable at the time—the leading treatise devoted an entire chapter to distinguishing municipal and private corporations. Today, it is wholly inapt, as it rested on “Dillon’s rule.” Under that rule, which prevailed throughout the country in the 19th century, local governments had only narrow powers and acted *ultra vires* whenever they exceeded express delegations. Today, most local governments enjoy home rule and have far wider autonomy to enact municipal policy. Whatever may have been said in 1923 about the resemblance between limited municipal and private-corporate power, today municipal power isn’t nearly so limited. Today’s municipal governments have powers nearly as broad as the police powers of the states that create them. The same rule that applies to state taxpayers—paying taxes alone isn’t enough to establish federal standing to challenge state policy—should now apply at the municipal level, too.

II. Even at the turn of the 20th century, states typically required plaintiffs challenging municipal policy to show an impact on their own taxes or the municipal fisc. The lower court’s rule in this case, however, jettisoned those requirements. Its approach cannot be justified by state practice in *Frothingham's* time any more than by current standing doctrine.

III. Current trends in municipal finance further undermine the basis for municipal taxpayer standing.

Frothingham imagined that municipal taxpayer standing may be warranted because municipalities have relatively few taxpayers with identifiable, direct interests in the municipal fisc. Even if that were true a century ago, it isn't true today. Modern city-dwellers often live among millions of co-residents. And municipal budgets have more than doubled in the last 50 years alone, making any individual municipal taxpayer's share a smaller, more widely spread interest in a larger pot. What's more, municipal taxes no longer fill up modern municipal coffers; today's municipal treasuries are filled substantially by federal and state dollars. That's certainly true in Anoka and Hennepin counties, as it is throughout the country.

Changes in the tax base reinforce these demographic and fiscal developments. For example, at the end of the 19th century, property taxes were the main source of municipal revenue—and, at the time, less than half the population owned property and paid taxes on it. The tax base was thus more readily identifiable as a discrete subset of the municipal population contributed the substantial majority of funding to each municipality's budget. Today, however, income taxes supplement property taxes, and significantly more adult residents own property and pay taxes. Today's tax base is not an easily identifiable club. It's all of us. As a result, municipal taxpayer standing today truly does open the federal courthouse doors to generalized grievances.

This approach is intolerable. The Court should grant the petition to finally extinguish the conflagration plaguing lower courts.

ARGUMENT

I. Municipal taxpayer standing rests on an insupportable analogy between the relationship of municipalities to their residents and business corporations to their shareholders.

A. Nearly 150 years have passed since this Court last decided that merely paying taxes to one’s local government is enough to make federal remedies available in challenges to a local government’s policy. That case, *Crampton v. Zabriskie*, 101 U.S. 601 (1879), located the “right of resident tax-payers” to sue in a federal court of equity in state-court equity practice and principles. *Id.* at 609. *Crampton* did not itself cite the authorities on which it relied but referred generally to “Mr. Dillon’s excellent treatise on the Law of Municipal Corporations.” *Id.* at 609.² While noting this “right has been recognized by the *State* courts in numerous cases,” *Crampton* did not discuss the basis for *federal* jurisdiction, any federal cause of action, or Article III standing. *Id.* (emphasis added).

² The Court presumably referred to the first edition of John F. Dillon’s treatise on municipal corporations, John F. Dillon, *Treatise on the Law of Municipal Corporations* (1st ed. 1872)), and likely to Chapter XXII, which addresses remedies to prevent, correct, and redress illegal corporate acts. More specifically, it likely referred to sections 727–38 of the treatise, on equitable remedies, particularly sections 731–34, which discuss state cases allowing resident taxpayers to sue in state equity courts. Section 735 indicates that New York followed the contrary rule, denying resident taxpayers the right to seek equitable relief based solely on taxpaying. *Crampton* did not explain why the rule in Connecticut, Maryland, and Illinois—but not New York’s—should apply in federal court. *Cf.*, *Crampton*, 101 U.S. 601. Moreover, *Crampton* itself it involved New Jersey residents but none of the authorities cited in sections 731–35 of Dillon’s treatise came from New Jersey.

Municipal taxpayer standing gained its only attempted justification by this Court four decades later in dicta found in *Frothingham v. Mellon*, 262 U.S. 447 (1923). *Frothingham* held only that paying federal taxes is not in and of itself sufficient to warrant standing to sue in federal court. But in the course of dismissing the federal taxpayer’s case for lack of standing, the Court—relying on *Crampton* as its sole precedential support—distinguished federal and municipal taxpayers. *Id.* at 486–89.

Citing the 5th edition of Dillon’s treatise, *Frothingham* reasoned that making “equitable remed[ies]” available to municipal taxpayers rests on “the peculiar relation of the corporate taxpayer to the corporation, which is not without some resemblance to that subsisting between stockholder and private corporation.” *Id.* at 487 (citing 4 Dillon, *Municipal Corporations* (5th Ed.) § 1580 et seq.) (1911)). The Court did not explain the features of the relationship between a municipality and its taxpayers that make the relationship so “peculiar.” But the following language distinguishing federal taxpayers offers clues:

1. Federal taxpayers share an interest in the federal fisc with millions of other taxpayers.
2. Federal taxpayers’ individual interest in the federal treasury is “comparatively minute and indeterminate.”
3. The federal fisc is funded “partly” from taxes and “partly from other sources.”
4. The effect of future taxation on an individual federal taxpayer is “so remote, fluctuating and uncertain” as to be insufficient to support an equitable remedy.

Id. at 487. Based on these features of the relationship between federal taxpayers and the federal fisc, the

Court concluded that the fiscal impact of federal statutes on individual taxpayers is “essentially a matter of public and not of individual concern.” *Id.* Absent any “ministerial duties of officials” or “some direct injury suffered” by the plaintiff or “threatened” against her, this generalized interest was insufficient, under our constitutional separation of powers, to present a “justiciable issue” susceptible to judicial review and thus could not support standing to sue in federal court. *Id.* at 488.

From this inauspicious start, an entire doctrine of Article III municipal taxpayer standing has spread like wildfire in the lower courts. *See* Pet. Br. 19–21, 28–29. To be sure, the doctrine has faced withering criticism from respected jurists of varying jurisprudential philosophies. *See, e.g., Bauer v. Elrich*, 8 F.4th 291, 302–05 (4th Cir. 2021) (Quattlebaum, J., dissenting); *Davis v. Detroit Public Sch. Comm. Dist.*, 835 Fed. Appx. 18, 23 n.4 (6th Cir. 2020) (Nalbandian, J.); *Protect Our Parks, Inc. v. Chi. Park Dist.*, 971 F.3d 722, 733–34 (7th Cir. 2020) (Barrett, J.); *Smith v. Jefferson Cty. Bd. of Sch. Comm’rs*, 641 F.3d 197, 221–23 (6th Cir. 2011) (en banc) (Sutton, J., concurring); *D.C. Common Cause v. Dist. of Columbia*, 858 F.2d 1, 11–15 (D.C. Cir. 1988) (Williams, J., concurring); *Feldman v. Bowser*, 315 F. Supp.3d 299, 312 n.5 (D.D.C. 2018) (K.B. Jackson, J.). The critics rightly note that municipal taxpayer standing is out of step with modern Article III standing jurisprudence.

B. Additionally, the municipal taxpayer standing doctrine rests on an insupportable analogy between municipal and private corporations.

Even when the Court penned *Crompton* and *Frothingham*, municipal and business corporations had more differences than similarities. Dillon’s 1872 and

1911 treatises each devote an entire chapter to those differences. John F. Dillon, *Treatise on the Law of Municipal Corporations* 70–94 (1st ed. 1872); 1 John F. Dillon, *Commentaries on the Law of Municipal Corporations* 57–78 (5th ed. 1911). The two corporations, Dillon wrote, operate under such a “*fundamental division*” that the importance of this division “cannot be too much emphasized” *Id.* (1st ed.), § 29. In the late 19th and early 20th centuries, private corporations, once created, couldn’t be destroyed or materially altered without their consent because their charters were contracts protected by the Contracts Clause. *Id.* Municipal corporations, by contrast, were creatures of state legislatures, which held “supreme and transcendent” power over those localities and could “erect, change, divide, and even abolish [them], at pleasure,” as the legislatures deem “the public good to require,” subject only to federal or state constitutional limits. *Id.* (1st ed.), §§ 30, 37–38; *see also id.* § 43 (States had “full control over the *public property* and the *subordinate rights* of municipal corporations”). Municipal governments had only those powers expressly delegated to them by the state or necessarily implied by a clear, affirmative delegation. *See Merriam v. Moody’s Executors*, 25 Iowa 163, 170 (1868) (Dillon, J.)³ This system of narrow local government powers, limited to express grants, is known as “Dillon’s Rule.” *See* Richard Briffault & Laurie Reynolds, *State and Local Government* 266 (West 6th ed. 2004). Municipalities, in short, acted as agents of the state, whereas private corporations were their own agents, not subservient to the state. Dillon, *Municipal Corporations* (1st ed.), § 31.

³ Dillon served as Justice of the Iowa Supreme Court before becoming a federal judge and writing his treatise.

When *Frothingham* justified municipal taxpayers’ right to equitable remedies by analogizing private and municipal corporations, it failed to account for these differences. To be fair, it did so in reliance on Dillon himself, whose treatise tried to rationalize the holdings of state-court authorities that found equitable remedies available to municipal taxpayers on that basis alone. *See Frothingham*, 262 U.S. at 487 (citing 4 Dillion, *Municipal Corporations* § 1580 (5th ed. 1911)). Dillon reasoned that municipal and business corporations are trustees of the funds they hold; they have limited, specified powers and act *ultra vires* should they spend money beyond their limited authority; those wrongful acts should be redressed; and if corporate officers refuse to do so, the ultimate beneficiaries—corporate stockholders and taxpaying, property-owning municipal residents—shouldn’t be left “without effectual remedy.” 4 Dillon, *Commentaries on the Law of Municipal Corporations*, § 1580.

Most jurists who have criticized municipal taxpayer standing (*supra* at 6) have done so because this every-wrong-needs-a-federal-court-remedy philosophy is out of step with modern Article III jurisprudence. *See, e.g., FDA v. Alliance for Hippocratic Medicine*, 602 U.S. 367, 381–82 (2024). They rightly recognize the modern approach to standing undermines the remedial premise of Dillon’s analogy. Even apart from that remedial premise, the second premise in Dillon’s argument—that municipalities have only limited, specified powers—has now been fully overtaken by intervening legal developments.

Dillon’s rule—local governments have only narrow, express powers—is now a minority rule that applies in only a handful of states. *See* Briffault & Reynolds, *State and Local Government* at 268; Darin M. Dalmat, *Bringing Economic Justice Closer to Home: The*

Legal Viability of Local Minimum Wage Laws Under Home Rule, 39 Colum. J.L. & Soc. Probs. 93, 138 & n.48 (2005). The overwhelming majority of states now delegate broad powers to most of their local governments. Dalmat, 39 Colum. J.L. & Soc. Probs. at 101. The shift began in 1875, when Missouri amended its constitution to create the first home rule regime in America. *Id.* at 102. Dillon's 1911 edition of his treatise recognized this development. 1 Dillon, Commentaries on the Law of Municipal Corporations, § 63 (identifying five states that had adopted some form of home rule since 1875).⁴ But, perhaps because that development was still nascent in 1911,⁵ Dillon did not tease out its implications for municipal taxpayers' access to equitable remedies.

Today, nearly every state in the Nation delegates broad, substantial powers to its local governments. The vast majority of today's municipalities thus bear little resemblance to the localities with narrow, limited, express-only powers contemplated by Dillon and his rule. Today's home rule municipalities enjoy powers nearly as broad—or, sometimes, equally as broad—as states' traditional police powers. The standing rules governing state taxpayers should therefore apply with full force to municipal taxpayer standing. *See DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 340–346

⁴ Home rule was thus a newborn when the Court issued *Crampton*.

⁵ The home rule movement gained steam in the 1950s, when the American Municipal Association proposed model constitutional provisions for home rule powers. *See* Jefferson Fordham, *AMA's Model Constitutional Provisions for Municipal Home Rule* (1953). And that momentum accelerated further when the National Municipal League proposed similar model provisions a decade later. National Municipal League, *Model State Constitution* (6th ed. 1963).

(2006) (rejecting state taxpayer standing as such and requiring state taxpayers to show a direct, particularized injury—not a generalized grievance—traceable to the challenged policy).

II. Even at the turn of the 20th century, state equity practice usually required plaintiffs to show some impact on their own taxes or the municipal fisc.

The lower court blessed not only garden-variety municipal taxpayer standing but also an especially robust version of the doctrine that would relieve the plaintiff of any requirement to show an impact on his own taxes or the municipal fisc. Pet. App. 5a–9a. Even before the widespread adoption of home rule, that approach wasn't supported by the state equity practice on which Dillon, and thus *Frothingham*, relied.

After stating the general state-court rule making equitable remedies available to municipal taxpayers (§ 1579), attempting to rationalize it (§ 1580), and noting that seven states—New York, California, Massachusetts, Maine, Wisconsin, Michigan, and Louisiana—followed another course and did not make equitable remedies available to municipal residents without individualized harm (§ 1585, n.1), Dillon offered his “general conclusions” regarding this area of state jurisprudence (§ 1587).

His first conclusion was that plaintiffs may “resort to equity,” which will “entertain jurisdiction of their suit,” where the challenged municipal acts “*affect injuriously the property owner or the taxable inhabitant.*” § 1587 (emphasis added). The lower court reads this fundamental requirement completely out of the *Frothingham* doctrine, turning a relatively narrow exception for adversely affected municipal taxpayers into an open-invitation to all comers.

The Court should grant certiorari to clarify that Article III applies to municipal residents as much as to their state and federal counterparts.

III. Current trends in municipal finance further undermine the basis for municipal taxpayer standing.

A. Every fiscal characteristic this Court identified as inconsistent with injury-free standing now generally applies to municipal finance.

As discussed above, *Frothingham* suggested that the interests of municipal taxpayers were sufficient to confer standing because, unlike federal taxpayers, municipal taxpayers (1) do not share an interest in the relevant fisc with millions of other taxpayers; (2) have a comparatively large and determinable interest in the government's funds; (3) contribute their taxes to a fund that is not partly derived from other sources; and (4) are affected by future taxation from payment of funds directly and concretely. *See Frothingham*, 262 U.S. at 487. Even if these factors accurately characterized municipalities in 1923 when *Frothingham* was decided, none of them apply to municipalities today.

First, the modern municipal taxpayer often shares an interest in their local government fisc with millions of other taxpayers. The population of the United States has more than tripled in the last century. *See* U.S. Census Bureau, *Historical Population Change Data (1910–2020)* (Apr. 26, 2021). In 1920, only six counties had populations of over one million, compared to 49 counties in 2020. Van Leuven, Andrew J, 2024, “Historical U.S. County Population Data: 1900 to 2020”, <https://doi.org/10.7910/DVN/WLS5GF>, Harvard Dataverse, V1. New York City today has a great-

er population than 39 out of 50 states. In fact, the six largest cities in the United States today have greater populations than each of the eleven smallest states and the District of Columbia. U.S. Census Bureau, *City and Town Population Totals: 2020–2024* (May 28, 2025); U.S. Census Bureau, *Historical Population Change Data (1910–2020)* (Apr. 26, 2021). As such, in 2026, millions of municipal taxpayers share an interest in their local government’s funds with millions of other taxpayers—just like the federal taxpayers at the time of *Frothingham* with respect to federal funds.

Indeed, this growth—and the corresponding increase in the complexity of municipality finance—is why municipal taxpayers today have just as “minute” and “indeterminable” an individual interest in the funds of their local government as federal taxpayers do with respect to the federal government. Municipal budgets have ballooned in the last century—more than doubling since the 1970s alone and often reaching billions of dollars in revenue for a single municipal government. *See US Census Bureau Annual Survey of State and Local Government Finances, 1977–2022* (compiled by the Urban Institute via State and Local Finance Data: Exploring the Census of Governments; accessed 27-Jan-2026 03:56), <https://state-local-finance-data.taxpolicycenter.org>. Not only does an individual’s tax contribution make up just a sliver of the modern municipality’s budget, but his share is mixed in with millions of dollars poured in from outside the locality. Funding received from intergovernmental transfers, i.e., from the state and federal government, has increased over 80% in the past fifty years, making up a significant percentage of the average municipality’s budget. *See Tax Policy Center, “What are the sources of revenue for state and local governments?”* (Jan. 2024), <https://taxpolicycenter.org/briefing-book/>

what-are-sources-revenue-state-and-local-governments. And municipal bonds—a rapidly growing market where municipal debt is purchased by people nationwide—contributes hundreds of billions of non-resident dollars to local government budgets each year. *See* Talmon Joseph Smith, “A Municipal Debt Boom is Driving Public Projects and Tax Breaks for Investors” (N.Y. Times, Jan. 28, 2026); Tax Policy Center, “What are municipal bonds and how are they used?” (Jan. 2024), <https://taxpolicycenter.org/briefing-book/what-are-municipal-bonds-and-how-are-they-used>.

One need not look further than Anoka and Hennepin counties themselves to see the impossibility of tracing an individual’s taxes to specific local government spending. Anoka County, Minnesota, had approximately \$309 million in revenue at the time of the 2017 Census of Local Governments. About 39% of that revenue, or \$119,168,000, came from intergovernmental transfers. That same year, Hennepin County, Minnesota, had approximately \$2.74 billion in revenue. About 24.7% of that revenue, or \$675,941,000, came from intergovernmental transfers. In Anoka County, property taxes made up less than half of county revenue; in Hennepin, property taxes made up less than a third.⁶ *See* Government Finance Officers Association, *Local Government Revenue Sources—Counties*, <https://www.gfoa.org/revenue-dashboard-counties>. Anoka and Hennepin are representative of counties across the country; they demonstrate how the modern municipi-

⁶ Property taxes make up the largest share of local tax revenue at 72%. Consumption taxes—which cannot be tied directly to municipal residents—make up the next largest share at 18%. *See* Rita Jefferson & Galen Hendricks, Brief, *How Local Governments Raise Revenue—and What it Means for Tax Equity* (Institute on Taxation and Economic Policy, Dec. 5, 2024), <https://itep.org/how-local-governments-raise-revenue-2024/>.

pality relies on funding from outside its borders for a significant portion of its revenue. As such, the modern municipal fisc is undoubtedly “partly realized from taxation and partly from other sources.”⁷

This dilution of the tight link between municipal taxpayers and municipal fiscs is why paying municipal taxes has an imperceptibly small effect on municipal treasuries, just as paying federal taxes has on the federal treasury. With municipal governments spending hundreds of millions of dollars each year on local projects, it is impossible to trace the effect on future taxation of a single, isolated expenditure. Any attempt to do so would ignore the innumerable complexities of contemporary municipality budgets and local tax levy procedures. See Christy McFarland & Spencer Wagner, “Local Budget Pressures are Real. So Why Don’t Cities Just Raise Taxes?” (National League of Cities, Jun. 1, 2020), <https://taxpolicycenter.org/briefing-book/how-do-state-and-local-property-taxes-work>. Accordingly, every factor that *Frothingham* identified to show that the federal taxpayer’s interest is not sufficiently direct nor immediate to confer standing applies to the modern municipal taxpayer.

B. Additional legal and factual developments further dilute the relationship between individual municipal taxpayers and municipal fiscs today.

Not only does the swell in population and municipal budgets over the last century weaken the link between

⁷ This reality is reflected even more clearly in the respondent school district’s general fund, which, as petitioner points out, received about 75% of its funding from the state and 5% of its funding from the federal government during the 2020–2021 school year. See Pet. at 6, 19; App. 33a.

the municipal taxpayer and his home municipality's expenditures, but the reality of *who* and *what* was taxed at the time of *Crampton* and *Frothingham* fully severs any remaining connection.

At the time of *Crampton*, which underlay *Frothingham*'s dicta suggesting municipal taxpayers ipso facto have standing to sue in federal court for expenditures of municipal funds, the group of people who contributed to a municipality's tax base was narrower and more easily defined than the population of the municipality itself. At the end of the 19th century, before the legalization of a federal income tax and before any state enacted its own income tax, local governments relied on property taxes for a large majority of their revenue. See Scott Drenkard, "When Did Your State Adopt Its Income Tax?" (Tax Foundation; Jun. 10, 2014), <https://taxfoundation.org/data/all/state/when-did-your-state-adopt-its-income-tax/>; John Joseph Wallis, *A History of the Property Tax in America* (University of Maryland) at 1 ("When the first comprehensive census of governments was taken in 1902, property taxes comprised 73 percent of all revenues collected by local governments."). During this time, less than half of the U.S. population were homeowners. See Don Layton, "The Homeownership Rate and Housing Finance Policy—Part 1: Learning from the Rate's History," Harvard University Joint Center for Housing Studies (Aug. 2021) at 2–3, https://www.jchs.harvard.edu/sites/default/files/research/files/harvard_jchs_homeownership_rate_layton_2021.pdf. Accordingly, less than 50% of the people in each municipality provided the substantial majority of funding for their local government—a marked difference from the multitude of funding sources, discussed above that exist today.

The federal government, on the other hand, was funded primarily through a combination of customs

duties and excise taxes during this time. See CRS, *U.S. Federal Government Revenues: 1790 to the Present* (Sept. 25, 2006) (RL33665) at 2; CRS, *Federal Excise Taxes: Background and General Analysis* (Oct. 15, 2021) (R46938). Not only was the federal government funded by millions more people, but the federal government's funding mechanisms had the capacity to reach a far greater proportion of the population: the property taxes funding municipal governments applied to less than half of a municipality's population; while the taxes funding the federal government applied to importers and anyone who manufactured, sold, or purchased spirits or tobacco. Thus, as of *Crampton*, the line between the taxpayer and the municipal fisc was much easier to discern than both the line between the taxpayer and the federal treasury, and the line between the taxpayer and today's municipal fisc.

The *Frothingham* era did not do much to spread the municipal tax base further. The federal income tax was still then in its infancy, with an average tax rate of 2.67% in 1923 (compared to an average of 14.48% in 2022). See IRS, *Statistics of Income from Returns of Net Income for 1923* (1925); IRS, *SOI Tax States—Individual statistical tables by tax rate and income percentile*, <https://www.irs.gov/statistics/soi-tax-stats-individual-statistical-tables-by-tax-rate-and-income-percentile>. Most states did not adopt their own income tax until the 1930s or later. See Drenkard, *supra*. As a result, local property taxes still made up the majority of municipal income, with little money available to fund local governments from state or federal sources. See James A. Maxwell, "Federal Grants, Unemployment, and State-Local Finance, 1920–1949" in *Federal Grants and the Business Cycle*, National Bureau of Economic Research

(1952) at 23 (local governments “restricted mainly to property taxes” when the Great Depression started), available at <https://www.nber.org/system/files/chapters/c4901/c4901.pdf>; *id.* at 18–19 (federal grants made up less than 4% of state and local expenditures between 1920 and 1934). Moreover, homeownership rates were more or less stagnant at this time, remaining under 50%; accordingly, just like in the *Crompton* era, the line between taxpayers—majority property owners—and the municipal fisc was still easy to see.

It was not until after 1940 that the majority of Americans started owning and thus paying taxes on homes. See HUD, “A History of the Rise of Homeownership in the United States,” (July 10, 2025), <https://www.huduser.gov/portal/pdredge/pdr-edge-housingat250-article-071025.html>. Around that time, income taxes became the primary source of federal revenue and federal grants became a significantly larger source of state and local funding. See R46938, *supra*; Maxwell, *supra*, at 18–19. In other words, the expansion of the traditional municipal funding source (homeowners’ property taxes) coincided with an influx of intergovernmental funds sourced from income taxes paid by Americans throughout the country—birthing a complex scheme of local government funding, involving millions more people both inside and outside the municipality, that persists today.

These facts show that, to the extent the *Frothingham* Court assumed the average taxpayer had an easily identifiable interest in their municipal fisc in 1923, that assumption no longer holds true today, insofar as the taxpaying population contemplated by *Frothingham* was a mere fragment of the many, varied sources that now fund municipal governments.

CONCLUSION

The Court should grant the petition to eliminate, or at least substantially cabin, municipal taxpayer standing.

Respectfully submitted,

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