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, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

BRIEF OF *AMICI CURIAE* STATES MINNESOTA, ARIZONA, HAWAIʻI, MICHIGAN, NEVADA, VERMONT, AND WEST VIRGINIA IN SUPPORT OF PETITIONER ANOKA HENNEPIN EDUCATION MINNESOTA

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QUESTIONS PRESENTED

1. Should this Court repudiate the municipal taxpayer exception to the general rule against taxpayer standing?

2. If there is a municipal taxpayer exception to the general rule against taxpayer standing, must a municipal taxpayer challenging a municipal policy at least show that the policy imposes a measurable cost on the municipality and that the policy necessarily implicates funds attributable to municipal taxes?

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INTERESTS OF AMICI CURIAE[1]

The States of Minnesota, Arizona, Hawai'i, Michigan, Nevada, Vermont, and West Virginia file this brief as amici curiae in support of Petitioner.

Amici have a direct institutional interest in the proper application of Article III limits to municipal taxpayer suits, particularly given modern funding structures that blend federal, state, and local revenue. Modern public programs are commonly delivered through local entities using accounts that blend federal, state, and local revenue. If plaintiffs can sue without a net municipal cost or a meaningful municipaltax nexus, municipal taxpayer standing stops being municipal. It becomes generalized-grievance litigation under a different label. *See DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 345–47 (2006) (rejecting state taxpayer standing); *Frothingham v. Mellon*, 262 U.S. 447, 486–87 (1923) (rejecting federal taxpayer standing). The decision below illustrates that risk.

By untethering municipal taxpayer standing from Article III limits, the Eighth Circuit creates one circuit split, entrenches another, and leaves courts without administrable rules to enforce standing limits. The resulting expansion of municipal taxpayer standing is not abstract. It creates a substantial risk that routine disputes over how States deliver public services will increasingly wind up in federal court, compelling federal judges to

1. Counsel for all parties received at least 10 days' notice that this amicus brief would be filed under Rule 37.2.

supervise fiscal administration of local governments when they are charged by State or Federal law to implement.

Amici have an interest in ensuring the municipal taxpayer standing does not persist as an Article III anomaly. And even if the Court declines to repudiate the doctrine in this case, municipal taxpayer standing must at minimum be confined by two administrable guardrails that track Article III's injury and traceability requirements. Those limitations are especially important when the challenged program is financed overwhelmingly by federal and state dollars that are commingled in local budgets, and federal and state programs are administered by local government actors. Here, the challenged practice imposes no measurable net municipal cost, is not traceable to uniquely municipal funds, and yields an asserted injury that is indistinguishable from a generalized policy grievance. The Eighth Circuit's decision deepens circuit conflicts and warrants this Court's review.

Amici take no position on the merits of the underlying policy dispute. The questions here relate only to whether plaintiffs may invoke federal jurisdiction to litigate it.

SUMMARY OF THE ARGUMENT

This case shows why municipal taxpayer standing should be repudiated—and why, if retained, it should remain a narrow, pocketbook doctrine with administrable Article III limits. Plaintiffs challenge expenditures that fund one term in a collective-bargaining agreement approved by an elected school board under state law. But they cannot show any measurable depletion of the school district's treasury: the district sets the reimbursement rate and may adjust it unilaterally, and the challenged payments—like other payroll expenses—flow through a general operating fund that blends federal, state, and local revenue. Plaintiffs therefore cannot show that the challenged outlay was funded by uniquely municipal taxes, or by any municipal taxes at all.

On those facts, the Eighth Circuit nonetheless held that Plaintiffs had municipal taxpayer standing. Pet. App. 1a-17a. That was error. The decision departs from core Article III limits, creates an end-run around the prohibition on state taxpayer standing, and creates or entrenches circuit splits on two recurring questions.

The Petition correctly asks this Court to repudiate municipal taxpayer standing, which sits uneasily within modern Article III doctrine and risks functioning as state- or federal-taxpayer standing by proxy. In the alternative, if the Court declines to repudiate the doctrine, it cannot be "dispensed in gross," and requires administrable Article III guardrails. *Cuno*, 547 U.S. at 353. This Court should at minimum require two administrable guardrails: that municipal taxpayer standing requires (1) a measurable

net fiscal injury, and (2) a nexus between the challenged expenditure and uniquely municipal tax revenues. The Eighth Circuit removed both guardrails—treating a fully reimbursed outlay as injury based on an alleged "misuse," and holding that commingling in a general fund does not "dilute" the taxpayer's interest even when plaintiffs cannot trace the expenditure to municipal taxes. Pet. App. 8a–10a. Because modern state programs are routinely administered through local entities using blended funds, the rule below risks turning ordinary state administrative arrangements into standing triggers—expanding federal jurisdiction where political accountability and state-law remedies are ordinarily the primary checks.

Because the challenged expenditures are fully reimbursed and drawn from a commingled general fund, Respondents cannot satisfy either guardrail on these undisputed facts. Reversal therefore follows whether the Court municipal taxpayer standing altogether, adopts both guardrails, or enforces either.

ARGUMENT

Petitioner persuasively argues that this Court should repudiate municipal taxpayer standing, and this case is the vehicle to do so. Pet. Br. 11–21. Amici agree that the doctrine cannot be reconciled with modern Article III principles. Taxpayer objections to government spending are ordinarily generalized grievances, not concrete personal injuries. *See Frothingham*, 262 U.S. 486–87; *Cuno*, 547 U.S. at 345–46; *Lance v. Coffman*, 549 U.S. 437, 439 (2007) (per curiam). And whatever historical logic once supported a municipal carveout is harder to defend today, when local budgets routinely blend municipal, state,

and federal revenues—making an unbounded exception a potential pathway around the settled bar on state and federal taxpayer standing. *Cuno*, 547 U.S. at 345–47.

The Court should reach that question. But if the Court chooses not to repudiate the doctrine, the Court can resolve this case by adopting modest, administrable guardrails that properly cabin the doctrine: requiring a plausible net municipal cost or a meaningful municipal-tax nexus. On undisputed facts, respondents cannot satisfy either requirement. And the Eighth Circuit created circuit splits by rejecting both guardrails.

I. ARTICLE III PREVENTS COURTS FROM TURNING POLITICAL DISPUTES INTO CONSTITUTIONAL LITIGATION.

This case shows why Article III keeps political disputes out of federal court. Plaintiffs invoke federal jurisdiction to challenge a cost-neutral policy choice made by an elected school board under state law. Absent a concrete pocketbook injury and a non-speculative municipal-tax nexus, Article III leaves that dispute to democratic correction—not federal adjudication. Standing doctrine preserves the separation of powers by limiting federal court jurisdiction to cases involving redressable, concrete injuries, not where they are asked to supervise policy decisions correctable through electoral accountability or state law.

Modern States deliver public services through layered structures and intergovernmental finance. Discarding net-cost and municipal tax-nexus limits turns those ordinary design choices into standing triggers, expanding

federal jurisdiction precisely where political accountability is supposed to do the work.

A. Plaintiffs Challenge an Electorally Accountable, Cost-Neutral Contract Choice—Not a Concrete Pocketbook Injury.

Plaintiffs invoke municipal taxpayer standing to obtain federal-court review of a cost-neutral policy disagreement arising from a local school board's implementation of Minnesota's constitutionally mandated public-education system and statutorily governed public-sector bargaining framework. That use of standing doctrine turns routine administration of a statewide program into federal litigation by proxy.

The Minnesota Constitution requires the Legislature to establish a "general and uniform system of public schools" to ensure the "stability of a republican form of government."[2] Minnesota creates local school districts to deliver public education, financed by federal, state, and local tax revenues.[3] Minnesota law permits and governs collective bargaining between school districts and their employees.[4] Within this state structured public education regime, Plaintiffs object to one leave provision

2. Minn. Const. art. XIII, § 1.

3. *See*, *e.g.*, Minn. Stat. chs. 123A, 123B (authorizing creation of local school districts and providing powers and limitations); Minn. Stat. § 127A.09 (providing for acceptance and administration of Federal Aid for Education funds and disbursement to local school districts); Minn. Stat. 126C.10 (providing state per-pupil funding to local school districts); Minn. Stat. § 126C.17 (authorizing and prescribing rules for school district referenda).

4. *See* Minn. Stat. § 179A, *et seq.*

in a collective-bargaining agreement that was negotiated and approved by their elected school board: the AHEM leave provision.[5] The term allows paid leave up to a cap and requires the union to reimburse substitute teacher costs dollar-for-dollar at a rate the school board unilaterally sets—making the arrangement budget-neutral. Any payroll outlay also comes from a commingled operating fund, so attributing a payment to uniquely municipal taxes is speculation. The decision below nonetheless found Article III standing—an approach with no administrable stopping point for modern, multi-source local budgets or self-financed expenditures.

Standing is the line that prevents citizens from converting their dissatisfaction with a democratically accountable bargain into federal court supervision of ordinary public administration. Without a concrete municipal injury, federal litigation becomes a substitute for school-board meetings, elections, and state-law remedies. Article III does not allow federal courts to referee contested local governance choices—especially where the objector remains free to press the issue "in the political forum or at the polls." *United States v. Richardson*, 418 U.S. 166, 175, 179 (1974) (rejecting taxpayer standing to air "generalized grievances"). That is especially true where the challenged term arises within a State's constitutional and statutory architecture for providing core governmental services and regulating public employment.

Minnesota structured public education to be delivered locally, financed through intergovernmental revenue streams, and governed by a public-sector bargaining

5. Pet. App. 64a.

framework tempered by local electoral accountability and state-law remedies. Federal jurisdiction should not be available where Plaintiffs' objection is to a policy choice that can be revisited by the same elected board that adopted it. *FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 396–97 (2024) (rejecting "if not us, who?" as a basis for standing; some disputes are left to "political and democratic processes," not federal litigation).

All these concerns are reasons why the Court should repudiate municipal taxpayer standing. But whether the Court does so or adopts the guardrails advocated here, local taxpayers are not without recourse: they can press the issue with the elected board, support candidates who will bargain differently, and pursue state-law remedies—including, as Plaintiffs did here, state labor-relations claims.[6] Those paths preserve political accountability.

B. State Decisions to Govern Through Local Instrumentalities Should Not Trigger Federal Jurisdiction.

States' sovereign authority over municipal and other subordinate units of government is a core feature of our federal system. *See Nixon v. Mo. Mun. League*, 541 U.S. 125, 140 (2004). Municipalities, whatever degree of local autonomy state law may afford them, always remain political subdivisions of the State. They "are created as convenient agencies for exercising such of the

6. Plaintiffs' complaint alleges, *inter alia*, that the challenged contract provision violates the Minnesota Public Employment Labor Relations Act. *See* Complaint ¶¶ 31 – 33, 45 – 47, *Huizenga, et al. v. Indep. Sch. Dist. No. 11, et al.*, No. 0:20-cv-02445 (D. Minn. filed December 2, 2020) (ECF No. 1).

governmental powers of the State as may be entrusted to them in its absolute discretion." *Id*. Necessarily, when States retain the power to "create and regulate the affairs of their own municipalities," they retain the power to abolish them, reorganize their boundaries, or alter their powers. *Williams v. Mayor & City Council of Balt.*, 289 U.S. 36, 40 (1933). States do not surrender sovereignty by delegating governance to municipalities, and that delegation should not supply the 'something more' needed to trigger federal standing. *Hunter v. City of Pittsburgh*, 207 U.S. 161, 178–79 (1907).

An expansive municipal taxpayer standing doctrine predictably reshapes state incentives. It turns a State's choice to deliver services through local instrumentalities a jurisdictional vulnerability—inviting federal suits over disputes that would otherwise be resolved through state political accountability or state-law remedies. *Cuno*, 547 U.S. at 346. The consequence is structural: federal jurisdiction expands precisely where States have chosen cooperative, intergovernmental delivery—pressuring States to retreat from governance designs that rely on municipalities to implement state policy. *Nixon*, 541 U.S. at 140–41.

That distortion is amplified by a second, modern reality: intergovernmental finance. Article III should not operate as a hidden lever that pressures States to redesign how they administer routine public programs. A State should not face broader federal-court exposure for choosing local implementation over centralization merely because local entities serve as the operational arms and check-writers.

C. Intergovernmental Finance Makes the Eighth Circuit's Rule a Standing Template to Federalize Contested Policy Choices.

Modern intergovernmental finance routinely routes federal and State dollars through local operating and payroll accounts that also include some local-tax revenue. In that setting, the Eighth Circuit decision makes commingling dispositive in the wrong direction: once any local-tax revenue is involved, the local disbursement itself becomes the "injury," and traceability is presumed.

Under the Eighth Circuit decision, federal and State programs across the policy spectrum become vulnerable to municipal taxpayer suits. For example, School Resource Officer positions may be funded in substantial part through COPS Hiring Program grants, which cap the federal share at 75% of salary and fringe costs and require a non-federal cash match—yet the officer is paid from a commingled municipal payroll account.[7] Immigration-enforcement partnerships may likewise be administered through local payroll and operating accounts even where the federal government reimburses incremental local cost.[8] Under the Eighth Circuit rule, a municipal taxpayer

7. 34 U.S.C. § 10381(g) (grant share generally may not exceed 75% of the costs of a program, project, or activity unless the Attorney General waives the non-federal contribution requirement).

8. *See* 8 U.S.C. § 1357(g)(1) (authorizing written agreements under which state or local officers may carry out immigration-officer functions "at the expense of the State or political subdivision," subject to federal supervision and training requirements); *see also The 287(g) Program: State and Local Immigration Enforcement* (CRS IF11898) (Aug. 12, 2021) (discussing participation costs and potential reimbursements).

could plead standing based on the payroll disbursement itself and treat the mere presence of local-tax revenue in the account as enough to press Fourth or Fourteenth Amendment challenges to policing or immigration-enforcement practices—without any showing of net municipal "pocketbook" loss, even when incremental costs are fully reimbursed. The same standing template would apply regardless of the program's policy valence—public safety, immigration cooperation, public health, housing, climate resilience, or refugee services. Amici offer these examples only to illustrate administrability and federalism consequences of the standing rule, not to endorse or oppose any program.

These intergovernmental arrangements are not a loophole to avoid federal jurisdiction. They are simply how States and the Federal Government deliver public services at scale.[9] And they underscore why municipal taxpayer standing—whatever its continuing role—must remain a narrow pocketbook doctrine. In a blended-funding system, the mere presence of some municipal revenue in a commingled fund cannot substitute for actual injury or traceability. Otherwise, any payment from that account becomes "municipal" by definition, simply because municipal revenue once entered it.

Even while recognizing that the school district's operating fund contains multiple sources of revenue, the Eighth Circuit concluded that a municipal taxpayers'

9. *See Freedom From Religion Found., Inc. v. Olson*, 566 F. Supp. 2d 980 (D.N.D. 2008) (in Establishment Clause litigation, describing intergovernmental programs with commingled federal, state, and local funding that complicate any administrable effort to isolate "municipal" dollars).

interest is "not diluted where the General Fund contains municipal, state, and federal funds." Pet. App. 10a. But absent a tracing requirement, the mere presence of any municipal revenue becomes enough to re-label all mixed-source spending as "municipal" spending for standing purposes. Plaintiffs can turn a municipality's role as administrator—or a nominal municipal contribution to a commingled budget—into a jurisdictional lever to challenge state- or federally-shaped programs in federal court. But "standing is not dispensed in gross." *Cuno*, 547 U.S. at 353. And then the "municipal taxpayer" exception stops being municipal. And where budgets are fungible, even a favorable judgment may not predictably reduce any taxpayer's burden—underscoring why speculative attribution and fiscal substitution cannot do Article III work. *Id*. at 350; *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 562 (1992); *Dep't of Com. v. New York*, 588 U.S. 752, 768 (2019). That move erases cornerstone Article III limits.

This Court has warned against a taxpayer standing doctrine that would "interpose the federal courts as virtually continuing monitors" of a sovereign's fiscal administration, because it undermines fundamental federalism principles. *Cuno*, 547 U.S. at 346. The rule below invites that oversight not only of States, but of the many local instrumentalities through which States deliver policy—and, because the funds are commingled, without any principled way to cabin the litigation or relief to an actual municipal fiscal injury. In each instance, the asserted "injury" would be the local disbursement from a commingled account rather than any measurable net fiscal loss. That is exactly this case: a local payroll outlay from a commingled fund with no net municipal loss, recast as a justiciable constitutional dispute. The rule below thus

furnishes a standing mechanism capable of federalizing contested policy choices of every stripe whenever a local entity helps administer the program or cuts a check.

This case presents a clean vehicle to repudiate municipal taxpayer standing. In the alternative, the Court can reverse by holding that Article III requires at the very least a measurable net fiscal injury and a non-speculative nexus to uniquely municipal tax revenues. Plaintiffs cannot establish either.

II. ANY MUNICIPAL TAXPAYER EXCEPTION MUST REQUIRE A NET COST TRACEABLE TO MUNICIPAL TAXES.

Article III requires injury in fact and traceability. *Lujan*, 504 U.S. at 560–61. In taxpayer cases, those requirements prevent courts from adjudicating generalized objections to public programs under the guise of financial harms. *Frothingham*, 262 U.S. at 486–87; *Cuno*, 547 U.S. at 344–46. And that is why municipal taxpayer standing—a sui generis exception from general taxpayer standing doctrine—should be abolished. But if it persists, the municipal-taxpayer plaintiff must at least show a net cost traceable to municipal taxes. These guardrails implement *Frothingham*'s own explanation for why municipal taxpayer suits were ever treated differently. *Frothingham* distinguished municipal taxpayers on the premise that their interest in municipal spending can be "direct and immediate," unlike the federal taxpayer's diffuse stake in a treasury funded "partly realized from taxation and partly from other sources." 262 U.S. at 486–87. But that premise is not a self-serving label; it is an evidentiary showing. The party invoking federal jurisdiction must

be able to show a concrete pocketbook impact and a non-speculative link to municipal tax revenues—not merely that they "suffer[] in some indefinite way in common with people generally." *Id.* at 488. The Eighth Circuit's approach drains *Frothingham*'s limiting principle of content by allowing standing where the asserted injury is neither direct (cost-neutral) nor immediate (not traceable to uniquely municipal funds). Pet. App. 8a – 10a.

A. Injury in Fact Requires a Net Fiscal Impact.

Municipal taxpayer standing cannot be reconciled with Article III's injury requirement. At a minimum, if the Court declines to repudiate the doctrine, a municipal taxpayer must show a "pocketbook" injury in substance, not just in form. *Doremus v. Bd. Of Ed. Of Borough of Hawthorne*, 342 U.S. 429, 434 (1952). A clear injury requirement screens out suits driven by policy disagreement, rather than tangible fiscal harm. And it aligns municipal taxpayer standing with the central premise of the doctrine: that municipal taxpayers may feel the effects of municipal spending in a more direct way than federal taxpayers feel federal spending. *Frothingham*, 262 U.S. at 486–87. If that founding premise has any continuing validity, the asserted fiscal injury must have a net negative effect on the municipal fisc. But where money merely moves through a municipal account, or where disbursements are reimbursed dollar-for-dollar, the municipal treasury is not depleted. If there is no depletion—no measurable net cost—there is no "pocketbook" injury to the taxpayer.

Even when some net cost can be alleged, municipal taxpayer standing remains a doctrinal anomaly because it invites courts to treat a single, integrated expenditure as

if it were divisible into separate "taxpayer injuries" based on the provenance of commingled revenues. The case below shows the problem: the district pays the challenged expense from one General Fund fed by federal, state, and municipal dollars and spent as a single, undifferentiated outlay. Yet the doctrine would allow a taxpayer to litigate the municipal "share" in federal court while Article III bars the same taxpayer from challenging the state or federal funding streams that finance the identical payment. That mismatch confirms that municipal-taxpayer standing—however narrowed by a net-cost requirement—remains an exceptional departure from ordinary injury principles. *Cf. Cuno*, 547 U.S. at 345, 350 (rejecting theories of taxpayer injury that are speculative, attenuated, or shared by all taxpayers).

Here, it is undisputed that the challenged payments are reimbursed (or otherwise budget-neutral) to the municipal entity.[10] The only incremental budget outlay Plaintiffs identify—substitute teacher pay to cover absent teachers—is reimbursed at a rate set by the elected school board. Under any sensible understanding of "pocketbook injury," that defeats standing—or at least requires plaintiffs to plead and prove a concrete net fiscal harm. *Doremus*, 342 U.S. at 434; *Lujan*, 504 U.S. at 560–61. Article III injury cannot rest on gross outlays while ignoring reimbursement that leaves the public fisc unchanged. Absent a net fiscal impact, a reimbursed municipal expenditure is not a pocketbook injury. Otherwise, municipal taxpayer standing becomes available whenever a municipality acts as a temporary payor or an implementing agent of the federal or State

10. Pet. App. 5a, 29a, 33a, 64a.

government, even when the challenged expenditure is budget neutral and imposes no municipal loss.

B. Traceability Requires a Municipal Tax Nexus.

Traceability is the line between a concrete fiscal injury and an undifferentiated objection to government finance. *Lujan*, 504 U.S. at 560–61; *Allen v. Wright*, 468 U.S. 737, 759 (1984). In commingled-fund settings, it is not enough to say that *some* municipal dollars are in the pot. A plaintiff must show that the challenged expenditure draws on uniquely municipal tax revenues consistent with their fiscal injury theory. *See Protect Our Parks, Inc., v. Chi. Park Dist.*, 971 F.3d 722, 730, 735–36 (7th Cir. 2020) (Barrett, J.) ("It would be far too simplistic to conclude that the City is spending *tax* money on a project simply because it is spending *some* money on a project") (emphasis in original). That limiting principle keeps the municipal taxpayer standing exception from swallowing the Article III rule. When different sources of taxpayer money are commingled, it is easy to say that all taxpayers were injured (federal, State, and local), but much harder to show a link between specific municipal tax revenues and the challenged expenditure. Article III requires the latter, not the former. *Cuno*, 547 U.S. at 345–46; *Lujan*, 504 U.S. at 560–61.

Without a link between the challenged spending and municipal tax revenues, the plaintiff's asserted stake is indistinguishable from the "minute and indeterminable" interest this Court deems insufficient for State and federal taxpayers. The Eighth Circuit's rule allows municipal taxpayer standing to become a pathway to federal court for generalized grievances whenever a local entity contributes a nominal amount of municipal taxes to a federal or State

program. In cases like this one, the municipal taxpayer label does the work that injury and causation are supposed to do. *See Lujan*, 504 U.S. at 560–61; *Allen*, 468 U.S. at 759. And when a challenged expenditure is funded by an indistinguishable mix of federal, State, and local taxes, municipal taxpayer standing becomes a proxy for State- or federal-taxpayer standing. The decision here enables just that outcome, which this Court rejected in *Cuno*. 547 U.S. at 349–53 (rejecting plaintiffs' effort to leverage municipal standing to challenge state tax).

What's more, a municipal-tax nexus requirement is also administrable. It does not require precise dollar-for-dollar tracing at the margins. Rather, it asks whether the challenged expenditure necessarily draws on municipal tax revenues in a way that plausibly affects the taxpayer's burden. *Protect Our Parks*, 971 F.3d at 730. That inquiry can be answered using ordinary budget documents, and it aligns with how State and local budgeting works: if a taxpayer cannot show that a challenged expenditure is attributable to municipal tax sources, the taxpayer's asserted fiscal injury is not traceable to her status as a municipal taxpayer.

Here, the school district's general operating funds are heavily supported by non-municipal sources, with only a minority of operating revenue derived from municipal property-tax levies and the balance from State and federal coffers.[11] An undifferentiated portion of that budget goes

11. Pet. App. 33a; *see, e.g.*, *Smith v. Jefferson Cnty. Bd. of Sch. Comm'rs*, 641 F.3d 197, 222 (6th Cir. 2011) (Sutton, J., concurring) (citing data showing that on average state governments supply 48.7% of public school system funds, the federal government 8.5% of the funds, and local sources 42.8% of the funds).

to pay staff salaries, and an undefined and much smaller portion funds the leave provision Plaintiffs challenge here, which is immediately reimbursed dollar-for-dollar. Attributing the challenged spending to specific municipal revenue is pure speculation. *Cuno*, 547 U.S. at 345–46.

III. THE EIGHTH CIRCUIT REMOVED TWO ARTICLE III GUARDRAILS, CREATING ONE CIRCUIT SPLIT AND ENTRENCHING ANOTHER.

The Eighth Circuit removed both guardrails that most courts require for municipal taxpayer standing: a net fiscal injury and a municipal-tax nexus. Because reimbursement and commingling are undisputed here, this case cleanly presents both splits and permits resolution as a matter of law. Viewed against the backdrop of modern intergovernmental finance, the Eighth Circuit decision is not a modest adjustment to a narrow doctrine. By discarding the limiting principles that keep municipal taxpayer standing confined, the court's approach threatens to convert municipal taxpayer standing into a general-purpose vehicle for policy challenges. That circumvents this Court's repeated refusal to allow generalized taxpayer standing to challenge state and federal fiscal policy. *Cuno*, 547 U.S. at 345–46; *Frothingham*, 262 U.S. at 487.

This petition presents two recurring questions that often decide municipal taxpayer standing: net cost (injury) and municipal-tax nexus (traceability). The Eighth Circuit rejected both requirements on undisputed facts, creating one circuit split and entrenching another.

A. Split One: Net Fiscal Impact.

To establish municipal taxpayer standing, most courts require a "good faith pocketbook" injury—an actual, measurable municipal cost. *See, e.g., Thomson v. County of Franklin,* 15 F.3d 245, 253 (2d Cir. 1994); *Nichols v. City of Rehoboth Beach*, 836 F.3d 275, 280 (3d Cir. 2016); *Doe v. Duncanville Indep. Sch. Dist.*, 70 F.3d 402, 408 (5th Cir. 1995); *Protect Our Parks*, 971 F.3d at 733–35; *Doe v. Madison Sch. Dist. No. 321*, 177 F.3d 789, 793 (9th Cir. 1999) (en banc); *Am. Humanist Ass'n v. Douglas Cnty. Sch. Dist. RE-1,* 859 F.3d 1243, 1258 (10th Cir. 2017)[12]; *D.C. Common Cause v. District of Columbia,* 858 F.2d 1, 4 (D.C. Cir. 1988).

The Eighth Circuit adopted the opposite rule: a gross budget outlay is a sufficient injury in fact even when it poses no net fiscal injury on the municipal fisc. Pet. App. 8a. The Eighth Circuit claimed to align itself with the Sixth Circuit, but *Smith v. Jefferson County* did not involve, and did not endorse, municipal taxpayer standing based on a disbursement that does not impose a net fiscal injury on the municipal fisc. 641 F.3d at 215. The Eighth Circuit extends municipal taxpayer standing materially beyond *Smith*'s facts and rationale.

12. Although the Tenth Circuit said it "need not decide whether to adopt the good-faith pocketbook standard," its standing analysis functionally applied that standard by requiring a concrete, taxpayer-pocketbook injury. 859 F.3d at 1259–60.

B. Split Two: Municipal Tax Nexus.

Most courts also require a meaningful municipal tax nexus between the challenged expenditure and municipal tax revenues, especially where accounts also contain non-municipal sources of revenue. *See, e.g.*, *Citizens United to Protect Our Neighborhoods v. Village of Chestnut Ridge,* 98 F.4th 386, 393 (2d Cir. 2024); *Protect Our Parks*, 971 F.3d at 735–36; *ACLU-NJ v. Township Of Wall,* 246 F.3d 258, 263 (3d Cir. 2001) (Alito, J.); *Cantrell v. City of Long Beach*, 241 F.3d 674, 683–84 (9th Cir. 2001); *Am. Humanist Ass'n*, 859 F.3d at 1260.

The Eighth Circuit again went the other way, creating a circuit split by holding that commingling does not "dilute" the municipal taxpayer interest in the revenue, and finding that the taxpayer's inability to trace the challenged expenditure to specific municipal revenues could not defeat standing. Pet. App. 10a.[13] That rule transforms

13. The Eighth Circuit cited the D.C. and Ninth Circuits to defend its relaxed traceability rule. Pet. App. 10a (citing *Cammack v. Waihee*, 932 F.2d 765, 771–72 (9th Cir. 1991), and *D.C. Common Cause*, 858 F.2d at 6). But neither helps here.

Cammack arose in an Establishment Clause case, where lower courts have extended "traditional judicial hospitality" to taxpayer plaintiffs—an exceptional context that does not support loosening municipal-tax traceability in ordinary challenges to municipal governance. 932 F.2d at 772. The court also held that the plaintiff had "standing as both state and municipal taxpayers to challenge the expenditure." *Id*. Because the plaintiffs invoked both taxpayer capacities, the presence of state and municipal funding did not present the commingled-funds traceability problem asserted here. And *Cammack* predates this Court's clarification that the rationale for rejecting federal taxpayer standing applies "with undiminished force" to state taxpayers—so it cannot be read to endorse post-*Cuno* dilution of the municipal-tax nexus in commingled-funds cases.

municipal taxpayer standing into a jurisdictional lever for challenging mixed-source programs—precisely the sort of generalized budget grievance this Court rejected in *Cuno*. 547 U.S. at 345–46.

CONCLUSION

For all these reasons, the Court should grant the petition for a writ of certiorari.

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March 2, 2026

D.C. Common Cause is further removed still. The District of Columbia is a federal creation, not a political subdivision of a State exercising reserved state authority. *D.C. Common Cause*, 858 F.2d at 6. The D.C. Circuit therefore did not confront the federalism concerns that limit taxpayer standing in suits challenging state or municipal fiscal decisions.

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