

**IN THE SUPREME COURT**

**STATE OF ARIZONA**

ANDY BIGGS, et al.

Petitioners,

v.

HONORABLE KATHERINE COOPER,  
Judge of the Superior Court of the State of  
Arizona, in and for the County of  
Maricopa,

Respondent Judge,

and

JANICE K. BREWER, et al.,

Real Parties in Interest.

Supreme Court

No. CV-14-0132-PR

Court of Appeals, Division One

No. 1 CA-SA 14-0037

Maricopa County Superior Court

Case No. CV2013-011699

**COMBINED RESPONSE TO PETITION FOR REVIEW AND  
ALTERNATIVE CROSS PETITION FOR REVIEW**

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## **TABLE OF CONTENTS**

TABLE OF CONTENTS.....	i
TABLE OF AUTHORITIES.....	ii
INTRODUCTION.....	1
ISSUES PRESENTED FOR REVIEW BY CROSS PETITION.....	2
MATERIAL FACTS AND PROCEDURAL HISTORY.....	2
I.    Attempt to fund Medicaid expansion with an unconstitutional tax.....	2
II.   Lawsuit to enjoin unconstitutional taxes and expenditures .....	4
ARGUMENT.....	5
I.    The Petition for Review should not be granted because it is well- established that Legislator-Plaintiffs have standing to challenge the nullification of their votes.....	5
1.    Legislators are proper and only plaintiffs who can challenge the tax.....	6
2.    This Court recognizes standing for individually injured legislators.....	7
3.    This Court should not deny Legislators their day in court to suit Petitioners’ political expediency.....	11
II.   Alternatively, this Court should grant the Cross-Petition because Jenney has standing as Statutory Private Attorney General.....	13
CONCLUSION.....	16

## **TABLE OF AUTHORITIES**

### **CASES**

<i>Bennett v. Napolitano</i> , 206 Ariz. 520, 81 P.3d 311 (2003) .....	7, 8, 9, 10
<i>Biggs v. Cooper</i> , 2014 WL 1598322 (App. Apr. 22, 2014) .....	passim
<i>Coleman v. Miller</i> , 307 U.S. 433 (1939) .....	5, 7, 8, 10
<i>Dobson v. State of Arizona</i> , 233 Ariz. 119, 309 P.3d 1289 (2013) .....	7, 10, 11
<i>Forty-Seventh Legislature v. Napolitano</i> , 213 Ariz. 482, 143 P.3d 1023 (2006) .....	8, 9
<i>Heath v. Kiger</i> , 217 Ariz. 492, 176 P.3d 690 (2008).....	3
<i>Raines v. Byrd</i> , 521 U.S. 811 (1997) .....	10
<i>State v. Block</i> , 189 Ariz. 269, 942 P.2d 428 (1997) .....	15

### **STATUTES**

A.R.S. § 12-341 .....	5
A.R.S. § 12-348 .....	5
A.R.S. §35-212(A).....	14
A.R.S. § 35-213 .....	5, 14
A.R.S. § 36-2901.08 .....	2, 3, 4, 6
A.R.S. § 35-2901.09 .....	14

### **RULES**

Ariz. R. Civ. App. P. 21(a) .....	5
Ariz. R. Civ. P. 23(c)(3).....	13

## CONSTITUTIONAL PROVISIONS

Ariz. Const. Art. III.....	4
Ariz. Const. Art. IV, pt. 1, § 1 .....	4
Ariz. Const. Art. IX §§ 22 .....	3, 4

## **INTRODUCTION**

Petitioners<sup>1</sup> have failed to provide a cogent reason why this Court should make a radical departure from its well-established precedent on legislator standing in order to carve out an exception allowing legislative losers to determine by fiat that they had prevailed. Unable to induce a supermajority vote through political ploys (Appendix 4 to Petition for Special Action (“PSA App. 4”) at ¶¶ 57-59), Petitioners signed into law and are enforcing a new Medicaid tax despite its failure to garner the constitutionally required two-thirds legislative supermajority, nullifying the votes of those legislators who had defeated the bill. Now Petitioners ask this Court to overturn a unanimous, routine application of this Court’s standing precedent in order to deny legislators their day in court, diluting the robustness of voter-enacted Proposition 108 and stripping Arizonans of a vital check on government power.

For the reasons set forth below, Respondents respectfully request that this Court deny the Petition for Review or, alternatively, grant the Cross-Petition for Review and hold that both Legislator and Private Attorney General Plaintiffs have standing.

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<sup>1</sup> This brief refers to Petitioners/Special Action Real Parties in Interest Brewer and Betlach as “Petitioners” and Respondents/Cross-Petitioners/Special Action Petitioners Legislators and Tom Jenney as “Respondents.”

## **ISSUES PRESENTED FOR REVIEW BY CROSS PETITION**

(1) Did the Court of Appeals err in dismissing the Proposition 108 and separation-of-powers claims of Private Attorney General taxpayer Tom Jenney, who challenges both the payment of illegally collected money to fund Medicaid expansion and the payment of public monies to administer and collect the illegal tax?

## **MATERIAL FACTS AND PROCEDURAL HISTORY**

### **I. Attempt to fund Medicaid expansion with an unconstitutional tax.**

To fund the substantial costs Arizona incurred by voluntarily transforming its Medicaid program, proponents of expansion opted to charge hospitals a mandatory provider tax. A.R.S. § 36-2901.08 (2013); (PSA App. 4 ¶ 52.) Given the risks and expenses associated with expanding Medicaid – and the lack of accountability mechanisms to protect taxpayers and ensure the integrity of the program – many legislators objected, especially to the new tax. (*Id.* ¶ 54.)<sup>2</sup>

To protect taxpayers and to “restrain growth in state government” (PSA App. 4 ¶¶ 55-6; PSA App. 8 at p. 46), Arizonans in 1992 voted overwhelmingly to impose constitutional limits on the legislature’s authority, “mak[ing] it more

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<sup>2</sup> See Senate Floor Session Part 7, COW #4 (51st Leg., 1st Reg. Sess., May 16, 2013), available at [http://azleg.granicus.com/ViewPublisher.php?view\\_id=21](http://azleg.granicus.com/ViewPublisher.php?view_id=21).

difficult to raise taxes” (PSA App. 4 ¶ 55; PSA App. 8 at p. 46),<sup>3</sup> even when “respond[ing] to emergency situations, court directives and federal requirements,” (*Id.*), or “[i]f there is a crisis . . . [such as] a great need for the poor.” (PSA App. 8 at p. 49.) That provision, Proposition 108, empowers a minority of legislators to block any “act that provides for a net increase in state revenues.” (PSA App. 4 ¶ 56); Ariz. Const. Art. IX §§ 22(A)-(B). In other words, proponents of establishing or increasing any tax, fee, or assessment must garner two-thirds support in both houses of the legislature before that measure can become law. *Id.*

Proponents simply were unable to win a legislative vote to pass the Medicaid tax. Twenty-seven members of the House and eleven senators voted against the bill, enough to prevent the Medicaid tax from becoming law under Proposition 108’s supermajority requirement. (PSA App. 4 ¶ 60.) Rather than accepting defeat or funding the program constitutionally, proponents abandoned the constitutional supermajority requirement and, adding insult to injury, ceded the power to levy taxes to AHCCCS Director Betlach, including full discretion to determine who must pay the tax and in what amount. A.R.S. § 36-2901.08; (PSA App. 4 ¶¶ 62-3.)

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<sup>3</sup> “To determine the intent of the electorate, courts . . . look to the publicity pamphlet.” *Heath v. Kiger*, 217 Ariz. 492, 496, 176 P.3d 690, 694 (2008).

By signing this constitutionally deficient bill into law and collecting the tax, Petitioners nullified the votes of – and thus inflicted a substantial injury on – the legislators who opposed it, and ceded the taxing power to an appointed administrator. (PSA App. 4 ¶ 61.)

## II. **Lawsuit to enjoin unconstitutional taxes and expenditures.**

On September 12, 2013, thirty-six legislators who voted against the Medicaid tax (*id.* ¶¶ 4-39), two constituents whose representatives voted against the tax (*id.* ¶¶ 40-41), and taxpayer Tom Jenney filed a lawsuit in Maricopa County Superior Court to enjoin Petitioners Governor Brewer and Director Betlach from enforcing A.R.S. § 36-2901.08 (the Medicaid tax, not the expansion itself) because the tax violates (1) Proposition 108’s supermajority requirement (Ariz. Const. Art. IX, § 22), and (2) the separation-of-powers doctrine (Ariz. Const. Art. III and Art. IV, pt. 1, § 1). The superior court dismissed the complaint in its entirety on February 10, 2014 and ruled that legislators lacked standing to challenge the unconstitutional tax because “[w]hether a bill is subject to Proposition 108 is determined by the Legislature itself.” *See* Trial Court Decision attached as Exhibit A to Petition for Special Action (“PSA Ex. A”) at p. 2.

Respondents appealed the dismissal to the court of appeals, and in a unanimous decision, the Court of Appeals accepted special action jurisdiction and reinstated the lawsuit, holding that legislators have standing to challenge the tax on



the basis that “the plaintiff legislators experienced an unconstitutional ‘overriding’ that ‘virtually held [their votes] for naught.’” *Biggs v. Cooper*, 2014 WL 1598322, \*\* 1, 5 ¶¶ 4, 15 (App. Apr. 22, 2014) (quoting *Coleman v. Miller*, 307 U.S. 433, 438 (1939)). The court observed that legislator standing in this case comports with “standing recognized by the United States Supreme Court in *Coleman* and the Arizona Supreme Court in *Bennett*,” *id.* ¶ 16, because “Legislators, like private citizens, have a constitutional right to have their votes count a certain amount, and if a vote is properly alleged to have counted less than the constitutionally required amount, standing exists to claim a constitutional injury.” *Id.* The court affirmed the trial court regarding constituent and Private Attorney General standing and remanded the claims to the trial court for full consideration. Petitioners request for review followed.<sup>4</sup>

## **ARGUMENT**

### **I. The Petition for Review should not be granted because it is well-established that Legislator-Plaintiffs have standing to challenge the nullification of their votes.**

Petitioners’ alarmist insistence that the decision below expands Arizona’s standing jurisprudence is patently false. Denouncing the court of appeals’ routine application of well-established Arizona law, it is *Petitioners* who seek to change

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<sup>4</sup> Respondents request attorney fees and costs for this Combined Response and Cross Petition pursuant to Ariz. R. Civ. App. P. 21(a), A.R.S. § 12-341, 12-348, 35-213, and the private attorney general doctrine.

the law of standing in Arizona, denying minorities their day in court and leaving important constitutional issues to the mercy of legislative majorities—indeed, the very majorities the constitutional provisions were written to limit.

**1. Legislators are proper and only plaintiffs who can challenge the tax.**

Petitioners insist that hospitals' lack of ability to sue is irrelevant to "whether *these* Legislators have standing." Pet. Rev. at 5. Yet they attack Legislator-Plaintiffs by offering examples of parties other than legislators challenging constitutionally deficient legislation (*Id.* at 12-13) and devote an entire section of their Petition to hospital standing. *Id.* at 9-11. Petitioners cannot have it both ways.

However, if Petitioners were successful in barring all plaintiffs but hospitals from challenging the Medicaid tax, the vital constitutional issues at stake would almost certainly evade review. A large coalition of hospitals have pledged their "support [for] the legislation" (PSA App. 1 at 1, 2, 6) because they expect to receive financial benefits from Medicaid expansion. (*Id.*) Hospitals that may benefit initially will be time-barred from bringing a constitutional challenge later. And those with sufficient political muscle who do not benefit can seek exemptions, thereby eliminating a potential lawsuit or even mooted a pending lawsuit. A.R.S. § 36-2901.08(C). Indeed, the Director's plan already exempts *eight* hospitals from

paying the tax, although some will realize immediate financial benefits from expansion. (*See* PSA App. 3 at 6.)

Of course, Respondents’ standing – and the decision below – do not depend on whether hospitals or *anyone else* sue. Legislator-Plaintiffs in this case defend different interests and suffer different injuries than hospitals. Hospital plaintiffs would complain of financial injuries, while Legislator Plaintiffs suffer from vote nullification. Both are cognizable injuries in Arizona and confer standing.

**2. This Court recognizes standing for individually injured legislators.**

Although generally legislators do not possess standing to sue, it is well-established in Arizona that plaintiffs may challenge the dilution of an individual vote that affects the outcome of a government body’s course of action. *See, e.g., Dobson v. State of Arizona*, 233 Ariz. 119, 122-23, 309 P.3d 1289, 1292-93 (2013) (plaintiffs had standing because their vote was rendered “ineffective unless [they] can secure the support of a two-thirds majority”); *Bennett v. Napolitano*, 206 Ariz. 520, 526, 81 P.3d 311, 317 (2003) (*quoting Coleman v. Miller*, 307 U.S. 433, 438 (1939) (legislators have standing when their votes are “virtually held for naught although . . . their votes would have been sufficient to defeat” an act)). As the court of appeals correctly acknowledged below, *Biggs*, 2014 WL 1598322, \*5 ¶ 14, this Court recognizes legislator standing under two circumstances: (1) the legislature as a whole has suffered an institutional injury, or (2) individual legislators have

suffered injuries that are “particularized to the individual claimants.” *Bennett*, 206 Ariz. at 526, 81 P.3d at 317 (citations and quotations omitted). While a lawsuit derived from the former requires legislative authorization, *Forty-Seventh Legislature v. Napolitano*, 213 Ariz. 482, 486, 143 P.3d 1023, 1027 (2006) (citations and quotations omitted), the latter does not. Respondents’ injuries easily fit within the latter category, as they “experienced an unconstitutional ‘overriding’ that ‘virtually held [their votes] for naught.’” *Biggs*, 2014 WL 1598322, \*5 ¶ 15 (quoting *Coleman*, 307 U.S. at 438)).

Legislator-Plaintiffs allege individual, particularized injuries unique to them when their individual votes were nullified and would have made a difference to the outcome of the vote but for the nullification. (PSA App. 4 ¶¶ 59-61, 76-79); *see, e.g., Bennett*, 206 Ariz. at 526-27, 81 P.3d at 317-18; *Forty-Seventh Legislature*, 213 Ariz. at 486-87, 143 P.3d at 1027-28; *Coleman*, 307 U.S. at 438. Respondents’ labored effort to recast this Court’s clear rules governing legislator standing perverts the rationale behind these enforcement actions – a legislator’s “right to have their votes count a certain amount,” as the court of appeals acknowledged below. *Biggs*, 2014 WL 1598322, \*5 ¶ 16. Conveniently ignoring both that underlying principle and relevant injury – which are essential to understanding and applying the governing precedents, Respondents instead focus solely on the *subjects* of those cases, which are immaterial. Pet. Rev. 6-9.

In urging this Court to reverse the unanimous decision below, Petitioners’ reliance on *Bennett v. Napolitano* is misplaced. Pet. Rev. 8. That case involved legislative standing for *institutional* injuries to the legislative body as a whole. In *Bennett*, only four legislators challenged the constitutionality of the Governor’s exercise of the line-item-veto as an encroachment on the legislative power, but sued individually—not on behalf of the legislature. 206 Ariz. at 522, 81 P.3d at 313. As this Court later explained, those legislators lacked standing *as individuals* because “no legislator’s vote was nullified”; rather, the injury was “an institutional injury.” *Forty-Seventh Legislature*, 213 Ariz. at 486, 143 P.3d at 1027 (citations and quotations omitted). Here, Respondents’ injury is not premised on the legislature’s *institutional* authority to make law by majority vote, but rather on a legislator’s *individual* authority to have his vote valued in the manner prescribed by the Constitution. (PSA App. 4 ¶¶ 60, 72, 75-76.)

Moreover, Petitioners erroneously contend that this Court in *Bennett* “limited *Coleman* to its unique facts” and ignored that case’s core holding. Pet. Rev. 8. Instead, *Bennett* embraced *Coleman*, but simply compared the harm in *Coleman* (“votes [that] had . . . been nullified by illegal interference within the legislative process”) with the plaintiffs’ grievances in *Bennett* (“no legislator’s vote was nullified” but the “injury is wholly abstract and widely dispersed”), determining that the *Bennett* plaintiffs did not suffer individual injuries like those

in *Coleman*.<sup>5</sup> *Bennett*, 206 Ariz. at 526, 81 P.3d at 317 (quotations and citations omitted). As the decision below recognized, this Court “ultimately concluded that the plaintiff legislators in *Bennett* were alleging an injury that more rightly resembled a ‘loss of political power’ as analyzed in *Raines*, and as a result they lacked standing.” *Biggs*, 2014 WL 1598322, \*5 ¶ 14 (quoting *Bennett*, 206 Ariz. at 526-27, 81 P.3d at 317-18). Thus, *Coleman* stands “for the proposition that legislators whose votes would have been sufficient to defeat (or enact) a specific legislative Act have standing to sue if that legislative action goes into effect (or does not go into effect), on the ground that their votes have been completely nullified.” *Raines v. Byrd*, 521 U.S. 811, 823 (1997). Likewise, although sufficient to defeat the Medicaid tax under Proposition 108, Legislators’ votes were nullified when the Governor signed the tax into law.

This Court’s most recent case on point, *Dobson*, further clarifies this point. In *Dobson*, four *individual* Commissioners challenged a new “requirement of a supermajority vote to send fewer than five [judicial] nominees to the governor.” 233 Ariz. at 121-22, 309 P.3d at 1291-92. Like the Respondents here, the defendants in *Dobson* argued that the individual Commissioners lacked standing

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<sup>5</sup> In *Coleman*, the Lieutenant Governor cast the deciding senate vote in favor of a bill. *Coleman*, 307 U.S. at 435-36. The Court held that the 20 senators who voted “no” had standing to sue because their “votes . . . have been overridden and virtually held for naught although if they are right in their contentions their votes would have been sufficient to defeat” the bill. *Id.* at 438.

because they were bringing “organizational claims” *Id.* But the Court disagreed because the claims, like those of legislators here, do not involve “the collective action of the [legislature], but instead directly alter[] how the votes of individual [legislators] will determine the [legislature’s] action.” *Id.* As in *Dobson*, signing the Medicaid tax into law “render[ed] [the individual legislators’] opposition . . . ineffective.” *Id.*

Petitioners attempt to distinguish *Dobson* because Legislator-Plaintiffs do not challenge “a statute imposing a supermajority requirement.” Pet. Rev. 7. That is true – Petitioners challenge a tax that is being enforced as law despite its *failure* to garner a constitutionally required supermajority approval – but the distinction is immaterial to the issue of standing. The basis for standing in *Dobson* was the “alter[ation of] how the votes of individual commissioners will determine the Commission’s action,” as distinguished from an injury to “the collective action of the Commission.” 233 Ariz. at 122, 309 P.3d at 1292. In both *Dobson* and the instant case, the injury is the same: *dilution or nullification of an individual vote*, which is even more pronounced here than in *Dobson*.

**3. This Court should not deny Legislators their day in court to suit Petitioners’ political expediency.**

Although the decision below rejected the claim that recognizing standing here “expands the holding of *Bennett* . . . [or] open[s] the proverbial floodgates for legal challenges,” *Biggs*, 2014 WL 1598322, \*5 ¶ 16, Petitioners urge this Court to

deviate from its precedent so that unconstitutional legislation can evade review. Pet. Rev. 11-12. They provide an exhibit purporting to illustrate that “no fewer than 89 fees or other ‘net increase[s] in state revenues’ were passed by the Legislature without Proposition 108 language,” *Id.* (referencing Pet. Ex. 1), but their exhibit is inaccurate and irrelevant to the issue before this Court. Petitioners’ exhibit is not a mere duplication of 89 “bill summaries and text on the legislature’s web site” subject to judicial notice, *Id.* at 12, n.6; but is rather a subjective compilation of 40 distinct bills that Petitioners have unilaterally concluded should have been subject to Proposition 108. (*See* Response to Petition for Review, Exhibit 1 (“Ex. 1”).) If petitioners mean to show that unconstitutional legislation has gone unchallenged in the past, that is all the more reason that this case should be allowed to proceed, so that the courts can provide adequate guidance for the future application of Proposition 108.

At any rate, well over half of the bills Petitioners identified were passed by the required two-thirds supermajority and thus would not have been subject to a Proposition 108 challenge. (*See* Ex. 1 attached hereto (including vote tally from <http://www.azleg.gov/Bills.asp>, which was omitted from Petitioners’ exhibit.) Legislators’ “constitutional right to have their votes count a certain amount” enable them to challenge a bill only when it becomes law *despite the fact that their votes*



were sufficient to defeat it, not when a bill is properly enacted but improperly labeled. *Biggs*, 2014 WL 1598322, \*5 ¶ 16 (PSA App. 4, ¶ 76.)

Petitioners urge this Court to overturn a routine application of well-established and consistently applied precedent to permit a *bare majority* to decide whether a *supermajority* requirement has been satisfied. Far from addressing an issued of first impression or settling conflicting decisions below (*see* Ariz. R. Civ. P. 23(c)(3)), granting the Petition would create confusion for future courts and litigants. The Petition should be denied.

**II. Alternatively, this Court should grant the Cross-Petition because Jenney has standing as Statutory Private Attorney General.**

If this Court grants the Petition for Review on the issue of legislator standing, it should also grant Respondents' Cross-Petition for Review on the issue of Private Attorney General standing. Respondent Jenney alleges that the law unconstitutionally cedes the legislative taxing power to the AHCCCS Director (Count II, brought by Jenney) in an attempt to evade Proposition 108 (Count I, brought by Legislators), the claims are inextricably intertwined. (PSA, App. 4 ¶ 2.) Denying Jenney standing will leave the breathtaking delegation of the tax power to Director Betlach unchallenged, paving the way for special interests to hijack the lawmaking process.

The court of appeals erred in holding that Jenney lacks standing to challenge the Medicaid tax under the Private Attorney General Statute because “the

collection of funds authorized by this statute does not establish any identifiable payment that may be prevented or recovered.” *Biggs*, 2014 WL 1598322, \*6 ¶ 19. Jenney *does* challenge illegal payments, on two separate grounds: (1) the payment of public money to collect and administer the illegal tax, and (2) the expenditure of illegally collected tax money to fund Medicaid expansion. (PSA App. 4 ¶¶ 65, 90.)

The Private Attorney General Statute empowers “any taxpayer of the state” after making a written request upon the Attorney General may “institute [an] action in his own name and at his own cost” to “enjoin the illegal payment of public monies.” A.R.S. §§ 35-213(A), 212(A). Here, the challenged laws render the unconstitutional tax collection an illegal payment to fund the new Medicaid program by requiring the Director to collect the tax for the sole purpose of funding Arizona’s share of Medicaid expansion. (PSA App. 4 ¶ 65); A.R.S. § 36-2901.09(A). *See also* § 35-2901.09(C)(1)-(3) (funds are continuously appropriated and do not revert to the general fund). Because Jenney has alleged that this tax is unconstitutional, spending the tax money to fund the Medicaid program is also illegal. (PSA App. 4 ¶¶ 78-9, 90-1.)

Additionally, challenging the authority to collect the Medicaid tax is itself a challenge to the “illegal payment of public monies.” Collecting and administering the Medicaid tax to fund Arizona’s sizeable share of the new program necessarily requires spending public money. The decision below erred in affirming the

dismissal of Jenney’s claims on the basis that the challenged statutes “do not grant an express expenditure power as did the statutes reviewed in *Block*.” *Biggs*, 2014 WL 1598322, \*6 ¶ 19 (citing *State v. Block*, 189 Ariz. 269, 942 P.2d 428 (1997)). *Block* did not turn on whether the statute in question included an additional grant of funds to carry out the allegedly unconstitutional power. Instead, that decision permitted a challenge to an agency’s authority on separation-of-powers grounds even *without* “specifically challeng[ing] any particular expenditure of funds by” that agency because the “request to prohibit [an agency] from exercising its power . . . necessarily includes a request to prohibit payment for such” exercise of power. *Block*, 189 Ariz. at 274, 942 P.2d at 433. Just as in *Block* the newly delegated “power to employ attorneys for litigation is meaningless without funding,” *Id.*, so too the Director’s power to administer and collect the new tax is impossible without employing public resources, regardless of the location of the statutory source of funding.

Because Jenney challenges both the unlawful payment of public money *to collect* the illegal tax and the unlawful payment of public money *collected from* the illegal tax, this Court should reinstate Jenney’s authority to litigate his claims.

## **CONCLUSION**

Petitioners respectfully request that this Court deny the Petition for Review or alternatively grant the Cross-Petition for Review and hold that both Legislator-Plaintiffs and Jenney have standing.

**Respectfully submitted this 3rd day of June , 2014 by:**

/s/ Christina Sandefur

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**Scharf-Norton Center for Constitutional  
Litigation at the GOLDWATER  
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**Vote Count for Petitioners' Selection of Bills Purportedly Involving Fees**

**Exhibit 1**

Bill #	Agency	Bill #	Provision	House votes	Senate votes
<b>2012, Second Regular Session</b>					
SB 1532	Agriculture	SB 1532	All fees	40/20	21/9
	Water Resources	SB 1532	All fees	40/20	21/9
SB 1424	Charter School Board	SB 1424	Sponsor fees	54, with 6 not voting	30/0
HB 2466	ADOA	HB 2466	Online Portal fee	60/0	26, with 4 not voting
HB 2748	Board of Technical Registration	HB 2748	Alarm Agent Fingerprint fees	47/12, with 1 not voting	27/3
HB 2442	Executive Clemency	HB 2442	Drug Testing Fee on Parolees	39/19, with 2 not voting	30/0
SB 1526	Real Estate	SB 1526	Certificate to Operate a Real Estate School	40/20	21/9
	Real Estate	SB 1526	Instructor or Other Official Approval or Renewal	40/20	21/9
	Real Estate	SB 1526	Live Classroom Continuing Education Course	40/20	21/9
	Real Estate	SB 1526	Live Classroom Pelicense Education Course	40/20	21/9
	Real Estate	SB 1526	Continuing Education Distance Learning Course	40/20	21/9
	Pest Management	SB 1526	All fees	40/20	21/9

**Vote Count for Petitioners' Selection of Bills Purportedly Involving Fees**

**Exhibit 1**

Bill #	Agency	Bill #	Provision	House votes	Senate votes
<b>2011, First Regular Session</b>					
SB 1621	DOC	SB 1621	Visitation Background Check fees	36/22, with 2 not voting	21/8, with 1 not voting
	DOC	SB 1621	Inmate Trust Account fees	36/22, with 2 not voting	21/8, with 1 not voting
SB 1623	Racing	SB 1623	Regulatory Wagering Assessment	40/19, with 1 not voting	21/9
	Racing	SB 1623	Regulatory Purse Assessment	40/19, with 1 not voting	21/9
	Racing	SB 1623	Dark Day Assessment	40/19, with 1 not voting	21/9
	Racing	SB 1623	Racing Licenses	40/19, with 1 not voting	21/9
	Racing	SB 1623	Boxing Licenses	40/19, with 1 not voting	21/9
SB 1616	Pest Management	SB 1616	All fees	39/20, with 1 not voting	21/8, with 1 not voting
SB 1624	DWR	SB 1624	Muni. Fee	40/19, with 1 not voting	21/8, with 1 not voting
	Agriculture	SB 1624	All fees	40/19, with 1 not voting	21/8, with 1 not voting
SB 1460	Liquor	SB 1460	Fingerprint Services	48/11, with 1 not voting	24/5, with 1 not voting
	Liquor	SB 1460	Site Inspections	48/11, with 1 not voting	24/5, with 1 not voting
	Liquor	SB 1460	Sampling Privileges	48/11, with 1 not voting	24/5, with 1 not voting
SB 1120	Chiropractic	SB 1120	Chripractic Businesses	32/26, with 2 not voting	21/8, with 1 not voting
HB 2705	DEQ	HB 2705	Waste Tire Collection	41/19	16/14
	DEQ	HB 2705	Waste Tire Storage	41/19	16/14
	DEQ	HB 2705	Solid Waste Transport	41/19	16/14
	DEQ	HB 2705	Solid Waste Regulation	41/19	16/14
	DEQ	HB 2705	General Permits for Waste	41/19	16/14
	DEQ	HB 2705	Landfill Registration	41/19	16/14
	DEQ	HB 2705	Biohazardous Medical Waste Transporter	41/19	16/14
	DEQ	HB 2705	Solid Waste Facility Plan	41/19	16/14
	DEQ	HB 2706 [sic]	Waste Tire Shredding and Processing Facility fee	41/19	16/14
	DEQ	HB 2705	Per Ton Special Waste fee	41/19	16/14
	DEQ	HB 2705	Application fee	41/19	16/14
	DEQ	HB 2705	Hazardous Waste Generation Fee, per ton fee	41/19	16/14
	DEQ	HB 2705	Hazardous Waste Disposal fee	41/19	16/14

**Vote Count for Petitioners' Selection of Bills Purportedly Involving Fees**

**Exhibit 1**

Bill #	Agency	Bill #	Provision	House votes	Senate votes
<b>2010, Seventh Special Session</b>					
HB 2007	Agriculture	HB 2007	All fees	34/25, with 1 vacancy	17/12, with 1 not voting
	DEQ	HB 2007	All fees	34/25, with 1 vacancy	17/12, with 1 not voting
	Water Resources	HB 2007	All fees	34/25, with 1 vacancy	17/12, with 1 not voting
HB 2011	DES	HB 2011	Support Payment Clearinghouse	34/25, with 1 vacancy	17/12, with 1 not voting
HB 2012	DOR	HB 2012	One-time TPT License Renewal fee	34/25, with 1 vacancy	16/13, with 1 not voting
	DOR	HB 2012	TPT New License	34/25, with 1 vacancy	16/13, with 1 not voting
	ADOT	HB 2012	Abandoned Vehicle fee	34/25, with 1 vacancy	16/13, with 1 not voting
	Pest Management	HB 2012	All fees	34/25, with 1 vacancy	16/13, with 1 not voting
<b>2010, Second Regular Session</b>					
SB 1123	DOC	SB 1123	Community Supervision fees	31/23, with 6 not voting	30/0
	DOC	SB 1123	Electronic Monitoring Costs	31/23, with 6 not voting	30/0
SB 1351	Board of Appraisal	SB 1351	Appraisal Management Companies	44/12, with 4 not voting	21/7, with 2 not voting
HB 2037	Secretary of State	HB 2037	Notary Training Course fee	55/3, with 2 not voting	16/14
SB 1039	Charter School Board	SB 1039	Online Instruction Processing	43/12, with 5 not voting	28/0, with 2 not voting
HB 2123	Board of Physical Therapy	HB 2123	Physicla Therapy Business Entity	51/4, with 5 not voting	20/9, with 1 not voting
SB 1195	Land Department	SB 1195	Selling and Admin fees	48/11, with 1 not voting	24/6
HB 2767	DEQ	HB 2767	Aquifer Protection Permit	51/7, with 2 not voting	20/9, with 1 not voting
	DEQ	HB 2767	AZ Pollution Discharge Elimination	51/7, with 2 not voting	20/9, with 1 not voting
<b>2009, Fourth Special Session</b>					
SB 1003	ADOT	SB 1003	Duplicate Drivers Licenses	51/4, with 5 not voting	23/4, with 3 not voting
	Agriculture	SB 1003	Fee increase authority for operations	51/4, with 5 not voting	23/4, with 3 not voting
	DHS	SB 1003	Fee increase authority for operations	51/4, with 5 not voting	23/4, with 3 not voting
	Radiation	SB 1003	Fee increase authority for operations	51/4, with 5 not voting	23/4, with 3 not voting
	Land	SB 1003	Fee increase authority for operations	51/4, with 5 not voting	23/4, with 3 not voting
	Pest Management	SB 1003	Fee increase authority for operations	51/4, with 5 not voting	23/4, with 3 not voting



**Vote Count for Petitioners' Selection of Bills Purportedly Involving Fees**

**Exhibit 1**

Bill #	Agency	Bill #	Provision	House votes	Senate votes
<b>2009, First Regular Session</b>					
HB 2486	DFI	HB 2486	Loan Originator License Transfer Application	59/0, with 1 not voting	27/1, with 2 not voting
HB 2318	DFI	HB 2318	Loan Originator License Transfer Application	50/2, with 8 not voting	25/3, with 2 not voting
	DFI	HB 2318	Conversion from Mortgage Banker to Mortgage Broker License	50/2, with 8 not voting	25/3, with 2 not voting
SB 1115	Agriculture	SB 1115	Equine Rescue Facilities	53/1, with 6 not voting	28/1, with 1 not voting
SB 1256	Mine Inspector	SB 1256	Education and Training of Miners	49/1, with 10 not voting	24/4, with 2 not voting
HB 2396	ADOT	HB 2396	Unsolicited Project Proposal fee	43/11, with 6 not voting	21/8, with 1 not voting
SB 1104	Nursing Care Administrators Board	SB 1104	[L]ifts statutory caps on all fees	39/12, with 9 not voting	19/9, with 2 not voting
<b>2008, Second Regular Session</b>					
SB 1028	DFI	SB 1028	Loan Originator License Application	48/4, with 8 not voting	20/6, with 4 not voting
	DFI	SB 1028	Loan Originator Renewal	48/4, with 8 not voting	20/6, with 4 not voting
	DFI	SB 1028	Inactive Status Loan Originator Renewal	48/4, with 8 not voting	20/6, with 4 not voting
	DFI	SB 1028	Loan Originator License Transfer Renewal	48/4, with 8 not voting	20/6, with 4 not voting
HB 2834	Boxing Commission	HB 2834	Unarmed Combat Events	50/6, with 4 not voting	21/8, with 1 not voting
SB 1419	Cosmetology	SB 1419	Aesthetician Registration as Laser	45/9, with 6 not voting	22/5, with 3 not voting
SB 1167	Game and Fish	SB 1167	Educational fees	42/13, with 5 not voting	16/7, with 7 not voting
	Game and Fish	SB 1167	Off-highway User Indicia	42/13, with 5 not voting	16/7, with 7 not voting
HB 2771	Water Resources	HB 2771	Application fees for Water	60/0	25/1, with 4 not voting
HB 2210	Supreme Court	HB 2210	subsequent filing fees	31/29	16/10, with 4 not voting
	Supreme Court	HB 2210	superior court fees	31/29	16/10, with 4 not voting
	Supreme Court	HB 2210	probationer fees	31/29	16/10, with 4 not voting
	Justice Courts	HB 2210	Justice Court fees	31/29	16/10, with 4 not voting
HB 2275	Psychology	HB 2275	Application fees	31/29	16/10, with 4 not voting
	Psychology	HB 2275	Renewal fees	31/29	16/10, with 4 not voting
	Psychology	HB 2275	Licensure fees	31/29	16/10, with 4 not voting
HB 2156	ADOT	HB 2156	Railroad Project Review	40/12, with 8 not voting	18/6, with 6 not voting
HB 2462	Agriculture	HB 2462	Fee increase authority for operations	31/29	16/10, with 4 not voting
<b>2007, First Regular Session</b>					
HB 2300	Water Resources	HB 2300	[U]ser fees	55/5	22/4, with 4 not voting
	Water Resources	HB 2300	[R]evenue bonds	55/5	22/4, with 4 not voting