IN THE

ARIZONA COURT OF APPEALS

DIVISION ONE

LIVING UNITED FOR CHANGE IN ARIZONA, et al.,
Plaintiffs/Appellants,

v.

STATE OF ARIZONA,
Defendant/Appellee.

No. 1 CA-CV 25-0966

FILED 09-10-2026

Appeal from the Superior Court in Maricopa County
No. CV2025-011729
The Honorable Michael Valenzuela, Judge

AFFIRMED

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OPINION

Vice Chief Judge David D. Weinzweig delivered the opinion of the Court, in which Presiding Judge D. Steven Williams and Judge Anni Hill Foster joined.

W E I N Z W E I G, Vice Chief Judge:

¶1 Arizona voters adopted a comprehensive package of border security reforms in November 2024 when they passed Proposition 314, the Secure the Border Act ("Act"). *See* H.C.R. 2060, 56th Leg., 2d Reg. Sess. (2024). Living United for Change in Arizona and Arizona Center for Empowerment ("Organizational Plaintiffs"), and Martin Hernandez and Arnold Montiel Jr. ("Individual Plaintiffs") sued the State, arguing the Act contravenes the Arizona Constitution in three ways: (1) it violates the Revenue Source Rule, (2) it infringes on the judiciary's authority to define probable cause and (3) it unlawfully delegates lawmaking power to Texas. The superior court dismissed the complaint. Plaintiffs appeal. We affirm because Plaintiffs lack standing to pursue some of their claims and the rest fail on the merits.

FACTS AND PROCEDURAL BACKGROUND

¶2 Because the superior court dismissed the complaint for a failure to state a claim upon which relief can be granted, we accept and recount Plaintiffs' well-pled factual allegations as true. Ariz. R. Civ. P. 12(b)(6); *Swift Transp. Co. of Ariz. v. Ariz. Dep't of Revenue*, 249 Ariz. 382, 383, ¶ 3 (App. 2020).

¶3 The Act does three things that matter here. First, it requires state and local agencies to use the federal Systematic Alien Verification for Entitlements program to verify the immigration status of public-benefit applicants ("SAVE Requirement"). A.R.S. § 1-504(A). The U.S. Citizenship and Immigration Services ("USCIS") runs that program. *Id.*

¶4 Second, the Act creates a state-based system to police and regulate the illegal entry of noncitizens into Arizona from foreign nations

("Illegal Entry System"), codified at A.R.S. §§ 13-4295.01 to -4295.06. Plaintiffs challenge three provisions in the Illegal Entry System:

- The Probable Cause Provision provides that a noncitizen may be arrested for illegal entry only with "probable cause." A.R.S. § 13-4295.01(C). Probable cause may be shown by a law enforcement officer who witnesses the violation, a recording of the violation or "any other constitutionally sufficient indicia of probable cause." *Id.*

- The Transport Provision directs state courts to order a defendant convicted of illegal entry to be returned to his or her country of origin, and requires the court to authorize, but not compel, state or local law enforcement to transport the defendant to a port of entry or to federal custody. A.R.S. § 13-4295.03(C)–(D).

- The Custody Provision directs the Arizona Department of Corrections, Rehabilitation & Reentry ("Corrections Department") to accept defendants arrested for or convicted of illegal entry when a county or local law enforcement agency lacks the capacity to hold them. A.R.S. § 13-4295.06.

¶5 Third, the Act includes a Trigger Provision that blocks enforcement of the Illegal Entry System until § 2 of Texas's S.B. 4, 88th Leg., 4th Called Sess. (2023), or a similar law in any other state, has been in effect for sixty consecutive days. A.R.S. § 13-4295.04.

¶6 Plaintiffs sued the State, arguing the Act contravenes the Arizona Constitution. Their complaint asserted three counts for declaratory and injunctive relief:

- Count I alleged the SAVE Requirement, the Transport Provision and the Custody Provision violate the Revenue Source Rule because the Act mandates spending without a funding source. Ariz. Const. art. 9, § 23(A).

- Count II claimed the Probable Cause Provision violates the Distribution of Powers Provision in Article III of the Arizona Constitution because the Act lets the Legislature define probable cause, a judicial function.

- Count III alleged the Trigger Provision unlawfully delegates Arizona's legislative power to Texas.

¶7 After Plaintiffs sued the State in April 2025, the Speaker of the Arizona House of Representatives and the President of the Arizona Senate ("Intervenors") intervened as defendants.

¶8 The State and the Intervenors moved to dismiss. They argued lack of ripeness, lack of standing and failure to state a claim. No party requested oral argument, and the superior court ruled on the briefs. In a detailed minute entry, the court:

- Dismissed the Transport Provision claim in Count I and the Probable Cause Provision claim in Count II as unripe because the Illegal Entry System was not then enforceable;
- Held that the Individual Plaintiffs lacked standing to pursue Counts II and III, a ruling not challenged on appeal;
- Held that the Organizational Plaintiffs lack standing to pursue Count II, but have standing to pursue Count III;
- Dismissed the SAVE Requirement claim in Count I for failure to state a claim because that requirement costs the State nothing at present; and
- Dismissed Count III for failure to state a claim because the Trigger Provision does not delegate lawmaking power to Texas.

¶9 As to the first ruling, the superior court dismissed the challenges to the Transport and Probable Cause Provisions in Counts I and II in part because the Trigger Provision never triggered—a federal district court preliminarily enjoined the Texas law in February 2024. *United States v. Texas*, 719 F. Supp. 3d 640, 702 (W.D. Tex. 2024), *vacated en banc*, 173 F.4th 659 (5th Cir. 2026). That has since changed. The Fifth Circuit vacated that injunction, *United States v. Texas*, 173 F.4th 659, 662 (5th Cir. 2026) (en banc), and stayed a second injunction entered against related provisions in a separate case, *L.M.L. v. Martin*, No. 26-50418, 2026 WL 1617149, at *1 (5th Cir. May 29, 2026). We do not resolve what effect these developments have on the Illegal Entry System's enforceability, if any, because we affirm on independent grounds set forth below.

¶10 The superior court dismissed the complaint with prejudice. It entered final judgment under Arizona Rule of Civil Procedure ("Rule") 54(c). Plaintiffs timely appealed. We have jurisdiction under A.R.S. § 12-2101(A)(1).

DISCUSSION

¶11 We review de novo the dismissal of a complaint for failure to state a claim and lack of standing. *Conklin v. Medtronic, Inc.*, 245 Ariz. 501, 504, ¶ 7 (2018) (failure to state a claim); *Ariz. Creditors Bar Ass'n v. State*, 257 Ariz. 406, 409, ¶ 8 (App. 2024) (standing). We disregard legal conclusions couched as factual allegations. *Jeter v. Mayo Clinic Ariz.*, 211 Ariz. 386, 389, ¶ 4 (App. 2005). We presume the Legislature acts constitutionally. *Gallardo v. State*, 236 Ariz. 84, 87, ¶ 9 (2014). We may affirm on any ground the record supports. *R.O.I. Props. LLC v. Ford*, 246 Ariz. 231, 235, ¶ 13 (App. 2019).

I. Count I Fails to State a Claim.

¶12 The Revenue Source Rule in the Arizona Constitution requires funding for mandatory spending. Ariz. Const. art. 9, § 23(A). An initiative "that proposes a mandatory expenditure of state revenues for any purpose . . . must also provide for an increased source of revenues sufficient to cover the entire immediate and future costs of the proposal." *Id.* The Revenue Source Rule applies only when a measure "itself affirmatively requires an expenditure of state revenues" or "expressly requires state action that inherently requires a non-discretionary expenditure of state revenues." *Ariz. Chamber of Com. & Indus. v. Kiley*, 242 Ariz. 533, 537–38, ¶¶ 11, 13 (2017). A measure does not violate the Revenue Source Rule just because it "indirectly causes" higher costs, particularly when those costs come from the State's "discretionary policies and spending decisions or third-party contracts," and not from the measure's own terms. *Id.* at 540, ¶¶ 24–25.

¶13 The SAVE Requirement does not affirmatively require any expenditure of state revenues. *See id.* at 537, ¶ 11. Instead, it directs state agencies to verify benefit eligibility through a federal database. A.R.S. § 1-504(A). The federal government (USCIS) determines what that verification costs, and the cost is presently nothing. We take judicial notice of that undisputable adjudicative fact. *See* Ariz. R. Evid. 201(a), (b)(2); *Ariz. Pub. Integrity All. v. Fontes*, 250 Ariz. 58, 65, ¶ 28 n.2 (2020). Count I fails to state a Revenue Source Rule claim for the SAVE Requirement.

¶14 Plaintiffs stress the SAVE program was not free between the Act's effective date, November 25, 2024, and April 1, 2025, when USCIS eliminated state and local fees, and they note USCIS can reinstate charges at any time. But that does not show a Revenue Source Rule violation. What matters is whether the fee fluctuates at the sole discretion of a federal agency. Here, it does. *See supra* ¶ 12. Indeed, the vacillating price itself

confirms the cost is not "inherent" in the Act's mandate but instead stems from USCIS's own, independently revisable policy. *See Kiley*, 242 Ariz. at 538, ¶¶ 13–14. *Kiley* placed that category of cost outside the Revenue Source Rule's reach because it "stem[s] from the [third party]'s discretionary policies and spending decisions," not from anything the Act itself commands. *Id.* at 540, ¶ 24.

¶15 Plaintiffs would have the Act's constitutionality turn on the unilateral and reversible fee decisions of a federal agency—decisions that do not involve Arizona's legislative process. That would turn the Revenue Source Rule into a moving target, not a fixed requirement measured against the initiative's own text. We decline to adopt that approach.

¶16 Plaintiffs' challenge to the Transport and Custody Provisions also fail to state a claim. A taxpayer may not seek declaratory relief "without showing a direct expenditure of funds generated by taxation or a transaction resulting in a pecuniary loss." *Am. Fed'n of State, Cnty. & Mun. Emps., AFL-CIO, Council 97 v. Lewis*, 165 Ariz. 149, 152 (App. 1990). And because Plaintiffs assert a facial challenge, they must allege facts showing the State would always bear these costs. *See Fann v. State*, 251 Ariz. 425, 433, ¶ 18 (2021) (a facial challenge requires a showing that no set of circumstances exists under which the statute would be valid). They did not.

¶17 The Transport Provision authorizes "state *or* local law enforcement" to transport a defendant, meaning a local agency may perform that function and incur the cost, not the State. A.R.S. § 13-4295.03(D) (emphasis added). The Custody Provision likewise provides that the Corrections Department acts only when "a county or local law enforcement agency does not have the capacity to hold a person." A.R.S. § 13-4295.06. That is a contingency, not a mandate.

¶18 We affirm the dismissal of Count I's remaining claims—the Transport Provision and Custody Provision—on this ground. We need not consider what effect, if any, the developments described above have on their enforceability. *See supra* ¶ 8.

II. The Organizational Plaintiffs Lack Standing to Pursue Count II.

¶19 Arizona courts treat standing as a prudential requirement, not a constitutional one. *Montenegro v. Fontes*, 260 Ariz. 443, 448, ¶ 18 (2025). But standing is not lightly waived, "especially in actions in which constitutional relief is sought against the government." *Bennett v. Napolitano*, 206 Ariz. 520, 524, ¶ 16 (2003). A "rigorous" showing of standing is required. *Fernandez v. Takata Seat Belts, Inc.*, 210 Ariz. 138, 140,

¶ 6 (2005). An organization suing for its members must show its members would have standing to sue on their own. *Arcadia Osborn Neighborhood v. Clear Channel Outdoor, LLC*, 256 Ariz. 88, 95, ¶ 24 (App. 2023).

¶20 The Uniform Declaratory Judgments Act has its own standing requirements. A plaintiff must show that there is "an actual controversy ripe for adjudication," and that the parties have "a real interest in the questions to be resolved." *Ariz. Creditors Bar Ass'n*, 257 Ariz. at 410, ¶ 12 (quoting *Bd. of Supervisors of Maricopa Cnty. v. Woodall*, 120 Ariz. 379, 380 (1978)).

¶21 The Organizational Plaintiffs first allege that the Probable Cause Provision injures their members because those members share the "race, ethnicity or national origin of the immigrants who enter Arizona from the southern border," and therefore face more "vulnerab[ility] to misapplication" of the Act than the public at large.

¶22 We are not persuaded. For starters, the Organizational Plaintiffs allege no facts describing how the Probable Cause Provision might be misapplied, only the possibility that some future enforcement in some undescribed circumstances might be wrongly applied to someone who shares a member's background. "[D]eclaratory relief should be based on an existing state of facts, not those which may or may not arise in the future." *Land Dep't v. O'Toole*, 154 Ariz. 43, 47 (App. 1987). We do not imagine the missing facts and foreclose any constitutional infringement in advance, and general allegations do not establish standing. *Ariz. Creditors Bar Ass'n*, 257 Ariz. at 413, ¶ 26 ("The fact that a statute might operate unconstitutionally under some conceivable set of circumstances is insufficient to render it wholly invalid." (quoting *United States v. Salerno*, 481 U.S. 739, 745 (1987))).

¶23 Beyond that, the Organizational Plaintiffs do not explain how the Probable Cause Provision alters the existing constitutional landscape. It requires that law enforcement possess probable cause before an arrest and adds that probable cause may be shown by an officer's own observation, a recording or "[a]ny other constitutionally sufficient indicia of probable cause." A.R.S. § 13-4295.01(C). That is the same standard already required for an arrest under the Fourth Amendment. *State v. Morris*, 246 Ariz. 154, 157, ¶ 9 (App. 2019). The Probable Cause Provision does not lower that standard, and the Organizational Plaintiffs do not allege that it does.

¶24 The Organizational Plaintiffs next allege the Probable Cause Provision injures them because it will force them to "devote resources" to educate members about the Act. But that showing "did not establish actual injury" in *Arizona Creditors Bar Ass'n*, 257 Ariz. at 410, ¶ 14, and it fares no better here.

¶25 In the alternative, if the alleged injuries do not convey standing, the Organizational Plaintiffs argue no injury was required, relying on *Arizona Creditors Bar Ass'n*, 257 Ariz. at 410, ¶ 12. Not so. There, the plaintiffs were professional debt collectors who challenged the Predatory Debt Collection Act, which "ma[de] it more difficult for [them] to collect on judgments." *Id.* at 411, ¶ 16 ("The Judgment Creditors are regulated parties—the Act is in effect, so the Judgment Creditors must comply with it."). The Organizational Plaintiffs identify no member with a comparable present relationship to the Probable Cause Provision—none is alleged to have engaged, or to intend to engage, in the conduct addressed by the Probable Cause Provision. Absent that, the actual controversy *Arizona Creditors Bar Ass'n* found is missing here.

¶26 We affirm the dismissal of Count II for lack of standing.

III. Count III Fails to State a Claim.

¶27 The superior court held that the Organizational Plaintiffs have standing to pursue Count III. The State disputes that ruling but never cross appealed, so the issue is not properly before us, and we will not revisit the decision. *See* ARCAP 13(b)(2) (a cross appeal is needed to raise issues that would enlarge the appellee's rights); *Aegis of Ariz., L.L.C. v. Town of Marana*, 206 Ariz. 557, 564, ¶ 26 (App. 2003) (an appellee may urge affirmance on any ground the record supports, but a request to alter the judgment in the appellee's favor requires a cross appeal). We turn to the merits of Count III, which the superior court resolved against Plaintiffs under Rule 12(b)(6).

¶28 The Arizona Constitution vests legislative authority in the Legislature. Ariz. Const. art. 4, pt. 1, § 1. The Legislature may not delegate that power to make laws. *Crane v. Frohmiller*, 45 Ariz. 490, 496 (1935). But the Legislature may condition a statute's operation, or its enforceability, on a future contingency. That does not delegate lawmaking authority. *State v. Birmingham*, 95 Ariz. 310, 314 (1964) ("[T]he legislature may make the application of a statute contingent or dependent upon the existence or occurrence of certain conditions."), *on reh'g*, 96 Ariz. 109 (1964). The Constitution forbids something different and narrower: Legislation that

leaves a statute incomplete, with language so indefinite that a person cannot, "by reading the law, [] know what his rights and obligations are and how the law will operate when put into execution." *Id.* at 312–13.

¶29 The Act is complete and self-contained on its face. It defines the offense of illegal entry. A.R.S. § 13-4295.01. It sets out ways to establish probable cause. A.R.S. § 13-4295.01(C). It specifies transport and custody procedures. A.R.S. §§ 13-4295.03(C)–(D), -4295.06. And it identifies a condition that must occur before the Illegal Entry System may be enforced: Sixty consecutive days of a substantially similar law in effect in Texas or any other state. A.R.S. § 13-4295.04. That is enough. *See supra* ¶ 27.

¶30 Arizona's appellate courts have repeatedly upheld statutes whose effective date turns on other states' legislative action. Interstate compacts do this routinely:

- A.R.S. § 30-721, art. 7(E) (low-level radioactive waste disposal compact, effective once California and one other eligible state enact it);

- A.R.S. § 32-1660, art. X(A) (nurse licensure compact, effective once twenty-six states enact it, or by a date certain); and

- A.R.S. §§ 5-1213(A), -1321(A) (tribal gaming compact amendments).

These statutes work like the Trigger Provision: They make Arizona's own, already-enacted law contingent on an outside legal development. They do not surrender legislative authority to the jurisdictions that supply the contingency. *See, e.g.*, *Phoenix Ins. Co. of N.Y. v. Welch*, 29 Kan. 672, 678 (1883) ("[I]t is the law of the home government which is enforced, and the action of the foreign government only makes the contingency upon which the law becomes operative.").

¶31 Plaintiffs' reliance on *State v. Williams*, 119 Ariz. 595 (1978), is misplaced. *Williams* condemned a statute that automatically adopted whatever a federal or other body later decided to enact. *Id.* at 598–99. The Trigger Provision does no such thing. It does not import Texas's statutory language into Arizona's code. It does not provide that future amendments to Texas law will automatically join Arizona's Illegal Entry System.

¶32 Plaintiffs argue the Act is "incomplete" because a future consent decree in the Texas litigation could shape how, or whether, the Illegal Entry System gets enforced. Not so. The Act was complete when passed and does not become an unlawful delegation just because future

events might affect when, or whether, it takes effect. *See supra* ¶¶ 28–29. No further legislative or executive action, by any Arizona official, is needed for it to take effect.

¶33 This is no different than the trigger our supreme court approved in *Planned Parenthood Arizona, Inc. v. Mayes*, 257 Ariz. 137, 147, ¶ 40 (2024). There, the court inferred a trigger provision from legislation limiting Arizona's abortion regulations "only by the federal Constitution and the Supreme Court's interpretation of it." *Id.* That trigger, too, depended on the resolution of federal constitutional litigation over another state's law—litigation that could likewise have ended in a settlement or consent decree rather than a final judgment. The possibility that unresolved litigation ends in something other than a clean final ruling does not make a trigger provision incomplete.

¶34 The Trigger Provision conditions enforcement of a complete, self-contained Arizona law on an objective, externally verifiable event. It does not delegate Arizona's lawmaking power to Texas or anyone else. Count III fails to state a claim. We affirm its dismissal.

CONCLUSION

¶35 We affirm. Plaintiffs request an award of attorney fees on appeal under A.R.S. § 12-348. Given our holding, and in an exercise of our discretion, we decline their request.

MATTHEW J. MARTIN • Clerk of the Court
FILED: JR