

STATE OF MICHIGAN
COURT OF CLAIMS

MACKINAC CENTER FOR PUBLIC POLICY,
a domestic nonprofit corporation,

Plaintiff,

v.

DEPARTMENT OF LABOR AND ECONOMIC
OPPORTUNITY, a state government entity,

Defendant,

The PEOPLE OF THE STATE OF MICHIGAN,

Intervening Defendant.

No. 25-000082-MM

HON. BROCK A. SWARTZLE

**INTERVENING
DEFENDANT'S 09/03/25
RESPONSE TO PLAINTIFF'S
5/20/25 MOTION FOR
PRELIMINARY INJUNCTION**

**ORAL ARGUMENT
REQUESTED**

Patrick J. Wright (P54052)
Derk A. Wilcox (P66177)
Stephen A. Delie (P80209)
Attorneys for Plaintiff
Mackinac Center Legal Foundation
140 West Main Street
Midland, MI 48640
(989) 631-0900
wright@mackinac.org

Christopher W. Braverman (P70025)
Adam R. DeBear (P80242)
Sandra A. Karpinsky (P87720)
Assistant Attorneys General
Attorneys for Defendant
Michigan Dep't of Attorney General
P.O. Box 30736
Lansing, MI 48909
(517) 335-7641
bravermanc@michigan.gov
debeara@michigan.gov
karpinskys@michigan.gov

Kyla L. Barranco (P81082)
Assistant Solicitor General
Rebecca A. Aboona (P81977)
Assistant Attorney General
Attorneys for Intervening Defendant
People of the State of Michigan
Michigan Dep't of Attorney General
P.O. Box 30212, Lansing, MI 48909
(517) 335-7628
BarrancoK@michigan.gov
AboonaR1@michigan.gov

**INTERVENING DEFENDANT'S 09/03/25 RESPONSE TO PLAINTIFF'S
5/20/25 MOTION FOR PRELIMINARY INJUNCTION**

ORAL ARGUMENT REQUESTED

Kyla L. Barranco (P81082)
Assistant Solicitor General

Rebecca A. Aboona (P81977)
Assistant Attorney General

Attorneys for Intervening Defendant
People of the State of Michigan
Michigan Dep't of Attorney General
P.O. Box 30212, Lansing, MI 48909
(517) 335-7628
BarrancoK@michigan.gov
AboonaR1@michigan.gov

TABLE OF CONTENTS

	<u>Page</u>
Table of Contents.....	i
Introduction	1
Statement of Facts.....	2
Standard of Review.....	6
Argument	7
I. The Mackinac Center is not likely to succeed on the merits of its claims that the challenged appropriations violate § 30.	7
A. The Jackson Field appropriation does not violate § 30 because it serves a non-local purpose.	8
B. The Jimmy John’s Field appropriation does not violate § 30 because it serves a public, non-local purpose.....	13
1. The Jimmy John’s Field appropriation serves a public purpose.....	13
2. The Jimmy John’s Field appropriation serves a non-local purpose.....	19
Conclusion and Relief Requested.....	20

INTRODUCTION

On the merits of its claim regarding the constitutionality of appropriations directed toward two ballparks in Michigan, the Mackinac Center for Public Policy strikes out swinging. Under caselaw interpreting Article 4, § 30 of Michigan’s 1963 Constitution, neither the appropriation to Jackson Field nor the appropriation to Jimmy John’s Field violate the prohibition on “the appropriation of public money or property for local or private purposes” absent two-thirds-majority support in each house of the Legislature. Const 1963, art 4, § 30.

Seemingly recognizing this fact, the Mackinac Center attempts an infield shift, seeking to divert this Court’s attention from modern caselaw interpreting the current version of § 30 to an assortment of other historical sources—including caselaw interpreting prior versions of § 30, caselaw interpreting different sections of the Michigan Constitution, a handful of citizen initiative petitions boasting varying success, and the 1961 Constitutional Convention record—which the Mackinac Center believes outline the “proper” interpretation of § 30. This Court should decline the invitation to disregard binding precedent in favor of these sources.

Both appropriations serve a public purpose: they are aimed at enhancing and preserving recreational opportunities for Michigan residents. Because neither appropriation was made for a “local or private purpose” as those terms are interpreted in modern, applicable caselaw, both pass muster under § 30. The Mackinac Center’s motion for preliminary injunction should therefore be denied.

STATEMENT OF FACTS

Background

On June 27, 2024, the Legislature passed the general omnibus budget for the 2024–2025 fiscal year (FY 2024–25 Budget), adopted with a vote of 56-54 in the House and 21-17 in the Senate. (Verified Compl, ¶¶ 2–3.) The Governor signed the budget into law on July 24, 2024, and it took effect on October 1, 2024. See 2024 PA 121; (Verified Compl, ¶ 3).

Because the FY 2024–25 Budget did not pass with a two-thirds majority in both chambers, under the Michigan Constitution, it could not appropriate public money or property “for local or private purposes.” Const 1963, art 4, § 30. The Mackinac Center argues that two one-time “community enhancement grant” appropriations violate this rule: one directed to Jackson Field in Lansing, and one directed to Jimmy John’s Field in Utica. (Verified Compl, ¶¶ 8, 10, 15, 18.)

Jackson Field appropriation

The FY 2024–25 Budget provided numerous one-time grants. Relevant here, 2024 PA 121, Article 9, § 1050c(8) provides as follows:

From the funds appropriated in part 1 for community enhancement grants, \$1,000,000.00 shall be awarded to a baseball stadium located in a city with a population between 112,000 and 113,000 according to the most recent federal decennial census to support infrastructure improvements.

Consistent with the language of the statute and the legislative sponsorship letter, this appropriation was awarded to Jackson Field. (Verified Compl, ¶¶ 16–18; LEO Resp Br, Ex A, Sponsorship Letter.) This stadium is owned by the Lansing Entertainment and Public Facilities Authority, which “provide[s] professional

management toward the administration, operation, marketing and maintenance of Lansing Center, Jackson Field, Groesbeck Golf Course and community/regional interest events.” (Verified Compl, ¶ 22; see also LEPFA¹.) It also aims to “serve as a catalyst to enhance both local and regional economic growth.”² The funds appropriated to Jackson Field “will go towards the renovation of the field . . . to follow Major League Baseball requirements.” (LEO Resp Br, Ex A, Sponsorship Letter.) State Senator Sarah Anthony (D – Lansing) sponsored this one-time appropriation and “certif[ied] that . . . [it] is for a public purpose.” (*Id.*)

Jackson Field is an 11,000-seat stadium that is home to the Lansing Lugnuts, a Minor League Baseball team within the Midwest League.³ The Lugnuts host teams from across the Midwest, including two Michigan-based teams: the West Michigan Whitecaps and the Great Lakes Loons.⁴ Jackson Field also serves as a venue for collegiate baseball, hosting Michigan State University games and a yearly tournament for the Great Lakes Intercollegiate Athletic Conference (GLIAC).⁵

Beyond baseball, Jackson Field is a year-round event space. The venue hosts a variety of events, from corporate functions to festivals like Beerfest at the

¹LEPFA, <https://www.lepfa.com/> (last accessed August 19, 2025).

² *Id.*

³ Megan Rabaut, *Experience the Lansing Lugnuts at Jackson Field* (April 30, 2025), <https://www.lansingsports.org/blog/post/experience-the-lansing-lugnuts-at-jackson-field/> (last accessed August 19, 2025).

⁴ Stephanie Sheehan, *Then and now: Midwest League* (March 30, 2022), Major League Baseball, <https://perma.cc/WC7Y-TMRA> (last accessed August 15, 2025).

⁵ Rabaut, *supra* note 3.

Ballpark and the Common Ground and Taste of Country Music Festivals.⁶ The stadium is a “key component in revitalizing Lansing’s downtown while providing fun, affordable, family entertainment to fans in Mid-Michigan and beyond.”⁷

Jimmy John’s Field appropriation

The FY 2024–25 Budget also provided a one-time appropriation for Jimmy John’s Field:

From the funds appropriated in part 1 for community enhancement grants, \$1,500,000.00 shall be awarded to support capital and security improvements to a ballpark located in a city with a population between 5,000 and 5,500 in a county with a population between 800,000 and 900,000 according to the most recent federal decennial census. [PA 121, art 9, § 1050c(6).]

As provided in the one-time grant agreement, the purpose of the appropriation “is to conduct capital and security improvements . . . that will help to maintain the facility as a major community asset site for affordable family entertainment as well as local youth and high school baseball, graduation ceremonies, . . . [and] non-profit fundraisers.” (LEO Resp Br, Ex B, Grant Agreement, p 3.) State Senator Michael Webber (R – Rochester Hills) sponsored this one-time appropriation and “certify[ied] that . . . [it] is for a public purpose.” (*Id.*, Sponsorship Letter.)

⁶ Taylor Gattoni, *Jackson Field hosts Beerfest at the Ballpark* (April 19, 2025), available at <https://www.wilx.com/2025/04/19/jackson-field-hosts-beerfest-ballpark/>; Vickki Dozier, *Got a taste for country? Music festival returns to Lansing on Saturday* (June 5, 2018), <https://www.lansingstatejournal.com/story/news/2018/06/05/taste-country-music-festival-cooley-law-school-stadium-drew-baldrige-keith-eldredge-frankie-ballard/672424002/> (last accessed August 15, 2025).

⁷ *Jackson Field – Home of the Lansing Lugnuts*, Pure Michigan, <https://www.michigan.org/property/jackson-field-home-lansing-lugnuts> (last accessed August 28, 2025).

Jimmy John’s Field, home to the United Shore Professional Baseball League⁸ (USPBL), (Verified Compl, ¶ 14), seats 4,500 fans, and is located “on the M-59 expressway, with 150,000 cars passing by daily”—“providing easy access to most anywhere in metro Detroit.”⁹ In addition to baseball, it features a wiffle ball field, a children’s playground, and family picnic areas.¹⁰ It also hosts community events like Girl Scouts Night, the USPBL Reading Program for southeastern Michigan schools, and a Nike Baseball Camp for kids across the State.¹¹ The ballpark “is owned by GS Entertainment LLC,” a private company. (Verified Compl, ¶ 13; see also LEO Resp Br, Ex B, Grant Agreement.)

Mackinac Center’s lawsuit

On May 20, 2025, the Mackinac Center filed a lawsuit against the Department of Labor and Economic Opportunity (LEO). Two days later, it amended the complaint to include a verification under MCL 600.6431. The complaint contains two counts—one related to the Jackson Field appropriation and another related to the Jimmy John’s Field appropriation—alleging that the appropriations are unconstitutional under § 30 because they serve a local or private purpose and did not pass with the required two-thirds majority. (Verified Compl, ¶¶ 36–51.)

⁸ The USPBL “is an independent professional developmental baseball league for Major League Baseball[.]” *Frequently Asked Questions*, USPBL, <https://uspbl.com/faq/> (last accessed August 19, 2025).

⁹ *History of Jimmy John’s Field*, USPBL, <https://uspbl.com/jimmy-johns-field/history/> (last accessed August 19, 2025).

¹⁰ *Id.*

¹¹ See the USPBL website’s “Community” tab.

Specifically, the complaint alleges that both the Jackson Field appropriation and the Jimmy John’s Field appropriation are for a local purpose because the individual appropriations can “only apply to Jackson Field” and “only refer to Jimmy John’s Field[,]” and neither was “made for a general purpose that benefited the state as a whole.” (*Id.*, ¶¶ 37–38, 47, 49.) The complaint further alleges that the Jimmy John’s Field appropriation is also for a private purpose because it “primarily benefits a corporation or individual.” (*Id.*, ¶ 39.)

The Mackinac Center seeks injunctive relief and filed a motion for preliminary injunction along with their complaint.

STANDARD OF REVIEW

To obtain a preliminary injunction, the moving party “bears the burden of proving that the traditional four elements favor the issuance of a preliminary injunction.” *Detroit Fire Fighters Ass’n, IAFF Local 344 v Detroit*, 482 Mich 18, 34 (2008); see also MCR 3.310(A). Relevant here, “[a] court must consider . . . the likelihood that the party seeking the injunction will prevail on the merits[.]” *Mich AFSCME Council 25 v Woodhaven Brownstown Sch Dist*, 293 Mich App 143, 145 (2011) (citation omitted). Because the preliminary injunction stage involves less formal procedures and “evidence that is less complete than in a trial on the merits,” *Univ of Texas v Camenisch*, 451 US 390, 395 (1981), courts can consider evidence that does not strictly comply with the rules of evidence, *Mullins v City of New York*, 626 F3d 47, 52 (CA 2, 2010).

ARGUMENT

Consistent with the parties' motion to allow the People's intervention in this case, this response will be limited to Mackinac Center's likelihood of success on the merits of their claims.

I. The Mackinac Center is not likely to succeed on the merits of its claims that the challenged appropriations violate § 30.

The Mackinac Center challenges the constitutionality of two appropriations within Michigan's FY 2024–25 Budget directed at two Michigan ballparks. Specifically, it claims that the ballpark appropriations violate article 4, § 30 of the Constitution because: (1) the Jackson Field appropriation serves a local purpose; and (2) the Jimmy John's Field appropriation serves either a local or private purpose.

When courts interpret appropriations passed by the Legislature, they begin with two underlying principles. First, a court “ ‘must presume a statute is constitutional and construe it as such, unless the only proper construction renders the statute unconstitutional.’ ” *Grebner v State*, 480 Mich 939, 940 (2007), quoting *In re Petition by Wayne Co Treasurer*, 478 Mich 1, 9 (2007). Second, because the appropriation of state funds “is primarily the responsibility of the Legislature,” *Advisory Opinion on Constitutionality of 1975 PA 227*, 396 Mich 465, 496 (1976), “considerable deference is owed to the Legislature’s determination,” *Grebner*, 480 Mich at 940, citing *Baker v Carr*, 369 US 186, 217 (1962).

With these principles in mind, a proper construction of the ballpark appropriations shows that neither violates § 30's prohibition on the appropriation of "public money or property for local or private purposes[.]" as set forth below.

A. The Jackson Field appropriation does not violate § 30 because it serves a non-local purpose.

To serve a local purpose under § 30, an appropriation must be solely "for the benefit of the locality where it is expended" as opposed to for "the state at large." *Moreton v Haggerty*, 240 Mich 584, 589 (1927) (interpreting prior version of § 30).¹² In *Moreton*, the Supreme Court upheld an appropriation directed toward several counties for the construction and maintenance of highways. *Id.* at 588. Despite recognizing the "local interest in" and the "reasonable local control over highways," *id.* at 589, citing *Loomis v Rogers*, 197 Mich 265, 276 (1917), the Court held that the improvement and repair of roads was "a matter of state-wide concern rather than of any particular locality," *id.* at 588–589; see *id.* at 589 (noting that the improvement of highways "is not to be regarded as solely and exclusively a matter of local concern, but of general public interest and state-wide concern") (quotation omitted).

Attorney General Opinions also shed light on what constitutes a local versus a non-local purpose under § 30.¹³ For example, in Opinion No. 303, former Attorney

¹² The predecessor provision of § 30, Const 1908, art 5, § 24, provided that "[t]he assent of two-thirds of the members elected to each house of the Legislature shall be requisite to every bill appropriating the public money or property for local or private purposes."

¹³ "Attorney General opinions are not binding, but can be persuasive authority." *Williams v City of Rochester Hills*, 243 Mich App 539, 557 (2000) (citations omitted).

General Frank Kelley opined that an appropriation to the City of Detroit for the Detroit Institute of Arts (DIA) served a non-local purpose because the DIA “is utilized by the citizens of this state without regard to residency in the city.” 303 OAG 1984, No. 6,225, 1984 WL 192567, at *6 (May 7, 1984). Borrowing from caselaw interpreting a comparable provision in the New York Constitution, NY Const 1921, art 1, § 9, the Opinion defined “local purpose” as one that “has reference to the citizens or interest of a particular locality not to a large or extensive area[.]” *Id.* at *6, citing *People v Allen*, 42 NY 378 (1870). Noting that the DIA is a “tourist attraction utilized by tourists and their families” and that its “facilities are readily and regularly available to Michigan students,” *id.*, the Attorney General opined that the appropriation was for a non-local purpose despite it being “expended in a particular locality,” *id.*, citing *People v Allen*, 1 Lans 248, 251 (1869).

The Jackson Field appropriation serves a non-local purpose in that it does not solely benefit Lansing or Ingham County. Located in Michigan’s capital city, Jackson Field seats 11,000 and serves as the home field for the Lansing Lugnuts, a Minor League Baseball team in the Midwest League and a High-A affiliate of the Oakland Athletics.¹⁴ The Midwest League “plays host to 12 clubs across six states[,]” “including three teams in Michigan.”¹⁵ The Lugnuts play each of these teams at Jackson Field during the Midwest League season. Just this month,

Given the lack of binding caselaw on what constitutes a “local purpose,” the People submit Opinion No. 303 as persuasive authority.

¹⁴ Sheehan, *supra* note 4.

¹⁵ *Id.*

Jackson Field has hosted or will host teams, their employees, and their fans from Cedar Rapids, Iowa, Dayton, Ohio, and Lake County, Illinois.¹⁶ Fans from across Michigan also visit Jackson Field when the Lugnuts play the West Michigan Whitecaps (Comstock Park, MI), the High-A Affiliate for the Detroit Tigers, the Great Lakes Loons (Midland, MI), and Michigan State University’s baseball team in the annual Crosstown Showdown (which this year featured a crowd of 3,733 fans).¹⁷ And the GLIAC hosts a collegiate baseball tournament at Jackson Field each year, featuring teams from six Michigan colleges and universities.¹⁸

Beyond the attractions provided for baseball fans, Jackson Field serves as a “year round special events venue” and “offers a unique alternative for hosting an array of events including holiday parties, corporate meetings, association events, employee functions and private social gatherings.”¹⁹ Many of the events it hosts attract vendors and crowds from across the State, including the annual Beerfest at the Ballpark,²⁰ the Common Ground Music Festival,²¹ and the Taste of Country

¹⁶ *2025 Schedule*, Lansing Lugnuts, <https://perma.cc/C9RS-XHWC> (last accessed Aug 15, 2025).

¹⁷ *Spartans Top Lugnuts, 1-0, Tuesday in Crosstown Showdown* (April 1, 2025), MSU Spartans, <https://perma.cc/46BL-42UW> (last accessed Aug 15, 2025).

¹⁸ *2025 GLIAC Baseball Tournament*, GLIAC, <https://perma.cc/AL9V-62ZZ> (last accessed Aug 15, 2025).

¹⁹ Pure Michigan, *supra* note 7.

²⁰ Gattoni, *supra* note 6.

²¹ Eric Lacy, *Vanilla Ice, Coolio, Kid ‘n Play, C+C, Music Factory and more ‘90s stars coming to Lansing* (Jan 23, 2019), <https://www.lansingstatejournal.com/story/news/2019/01/23/music-pop-festivals-concerts-summer-2019-common-ground-lugnuts/2657424002/> (last accessed Aug 15, 2025).

Music Festival.²² Pure Michigan’s website notes that the stadium “continues to be the key component in revitalizing Lansing’s downtown while providing fun, affordable, family entertainment to fans in Mid-Michigan and beyond.”²³

Given the statewide reach of Jackson Field events, an appropriation aimed at improving the stadium cannot “be regarded as solely and exclusively a matter of local concern.’” *Moreton*, 240 Mich at 589, quoting *Loomis*, 197 Mich at 276. Rather, like the DIA, Jackson Field “is utilized by the citizens of this state without regard to residency in the city.” 1984 WL 192567, at *6. Any appropriation directed at the ballpark thus serves a non-local purpose of enhancing opportunities for recreation and family-friendly entertainment for Michiganders.

The cases on which the Mackinac Center relies only bolster this conclusion. Take, for example, *State v Wayne County Clerk*, 466 Mich 640, 642–643 (2002), in which the Supreme Court held that a statute requiring the City of Detroit to place a certain proposal on its August 6, 2002, ballot was “local” in nature. Putting aside the fact that the challenge arose under a different provision of the constitution—Article 4, § 29 (prohibiting “local or special act[s] . . . where a general act can be made applicable” without a two-thirds majority)—the provision at issue was directed at the City of Detroit itself and could *only* affect the city and its residents. The Jackson Field appropriation, in contrast, is directed at a baseball stadium (not a city) that attracts fans and hosts events for people across the State.

²² Dozier, *supra* note 6.

²³ Pure Michigan, *supra* note 7.

Houston v Governor fares no better for the Mackinac Center. 491 Mich 876 (2011). That memorandum order reversed a Court of Appeals’ decision holding that a provision in 2011 PA 280 was a local act in violation of Article 4, § 29. *Id.* at 876. The Court distinguished *Wayne Co Clerk* by reasoning that the act at issue in that case was closed-ended, meaning that “[n]o locality other than Detroit could ever have been brought within the operation of the act,” whereas 2011 PA 280 had broader future impacts. *Id.* at 808. The Mackinac Center likewise argues that 2024 PA 121 is “close-ended” because “appropriations exist for a year.” (Pl’s Br, pp 9–10.) But under that logic, *every* provision in *every* omnibus budget would qualify as a “local” in nature. See *Advisory Opinion*, 396 Mich at 500 (appropriations are made “on a year-to-year basis”).²⁴ The inquiry under § 30, however, is not whether an appropriation is “close-ended”; it is whether “it is for the benefit of the locality where it is expended” as opposed to “for the state at large.” *Moreton*, 240 Mich at 589. As explained above, the benefits of Jackson Field—and, thus, any appropriation to improve the benefits of Jackson Field—extend beyond Lansing.

For these reasons, the Mackinac Center is not likely to succeed on the merits of Count II because the Jackson Field appropriation has a non-local purpose. The ballpark provides recreational activities and enjoyment for Michiganders throughout the State, and the funding for the required renovations of the field will allow these activities and enjoyment to continue.

²⁴ This fact demonstrates why utilizing caselaw interpreting § 29’s “local act” provision is inappropriate when determining whether an appropriation serves a “local purpose” under § 30.

B. The Jimmy John’s Field appropriation does not violate § 30 because it serves a public, non-local purpose.

Likewise, the Jimmy John’s Field appropriation withstands constitutional scrutiny because it serves both a public and non-local purpose.

1. The Jimmy John’s Field appropriation serves a public purpose.

The Mackinac Center devotes pages of its brief discussing historical caselaw and other sources to bolster its argument that the term “public purpose” within § 30 should not encompass economic development. (Pl’s Br, pp 16–26.) But the purpose of the Jimmy John’s Field appropriation goes beyond economic development—it promotes recreational and related family- and community-oriented events for Michiganders. Equally as important, however, *binding* caselaw interpreting the *current* version of § 30 confirms that “the concept of public purpose has been construed quite broadly in Michigan[.]” *Advisory Opinion*, 396 Mich at 498. Indeed, the Michigan Supreme Court has recognized that “Michigan cases have steadily broadened the concept of public purpose.” *Id.* at 498 & n 38 (quotation omitted).

While a “public purpose” must serve society at large, “[t]he fact that certain individuals benefit from [an] appropriation does not necessarily imply that . . . [it] is lacking a public purpose.” *Advisory Opinion*, 396 Mich at 496. Rather, “[t]he question is whether society at large has an interest in having those individuals benefited.” *Id.*, citing *Gaylord v Gaylord City Clerk*, 378 Mich 273, 299–300 (1966). As Justice Cooley opined in *People v Township Board of Salem*, 20 Mich 452, 475 (1870), “a wise statesmanship must look beyond the expenditures which are

absolutely needful . . . and embrace others which may tend to . . . advance the present and prospective happiness and prosperity of the people.”

In this vein, one Michigan court has already held that a sports stadium serves a public purpose even “if used and intended only for use primarily by private profit making sports organizations.” *Alan v Wayne Co*, 388 Mich 210, 320 (1972). In *Alan*, Wayne County issued a bond to build a proposed stadium, which would be used by the Detroit Tigers. *Id.* at 238–239. The plaintiff argued that the stadium was “not a public purpose under the Constitution,” contending that the authorizing statute did not contain “appropriate standards and principles to protect the public interest and to assure public use thereof.”²⁵ *Id.* at 318. The Supreme Court rejected this argument, relying on an earlier case in which “ ‘the [e]xclusive use of a factory by U.S. Plywood under a lease purchase arrangement with the City of Gaylord using revenue bonds’ ” was held to be a public purpose. *Alan*, 388 Mich at 320–321, quoting *City of Gaylord*, 378 Mich at 299–301.

City of Gaylord is also instructive. In holding that the lease purchase arrangement at issue served a public purpose, the Supreme Court explained that “Michigan cases have steadily broadened the concept of public purpose.” 378 Mich at 299. For example, it noted that stimulation of the Michigan apple industry, *id.*, citing *Miller v Mich State Apple Comm*, 296 Mich 248 (1941), expenditure of funds

²⁵ Notably, Defendants countered that “the stadium . . . had special design features included to provide for any other kinds of activities and public uses and there is no showing that the stadium will not benefit and be used by the public for other purposes than professional sports.” *Id.* at 320.

for a city’s membership in a private, nonprofit corporation, *id.*, citing *Hays v City of Kalamazoo*, 316 Mich 443 (1947), and “transfer of city property to the Federal government, without consideration, for use as an armory,” *id.*, citing *Sommers v City of Flint*, 355 Mich 655 (1959), all were found to be public purposes. And although it noted that courts had not attempted to define “‘a public as distinguished from a private purpose,’” it also explained that courts had “‘liberally construe[d] the term . . . in considering State and municipal activities sought to be brought within its meaning.’”²⁶ *Id.* at 470–471, quoting *Hays*, 316 Mich at 453–454. See also, e.g., *Horton*, 81 Mich App at 80, 82 (holding that, under Const 1963, art 7, §§ 21, 26, “[p]ayments made to private parties may serve a public purpose”); *City of Mt Pleasant v State Tax Comm*, 477 Mich 50, 56 (2007) (holding that, under MCL 211.7m, a “city’s efforts at economic development and enhancing the tax base were for ‘public purposes’ ”); *County of Wayne v Hathcock*, 471 Mich 445, 462 (2004) (holding that, under MCL 213.23, “drawing commerce to metropolitan Detroit and its environs . . . is within th[e] definition of ‘public purpose’ ”).

Like in *Alan* and *City of Gaylord*, this Court should hold that the Jimmy John’s Field appropriation is for a public purpose. While the appropriation benefits the private owner of Jimmy John’s Field, “society at large has an interest in having

²⁶ The Mackinac Center attempts to import caselaw interpreting the term “public use”—which is explicitly defined in the Michigan Constitution to exclude economic development—as a reason to refrain from granting deference to a legislative determination of public purpose. (See Pl’s Br, p 15.) The lack of a similar exclusion for “public purpose” within the Constitution is fatal to this argument, especially given the judiciary’s ongoing willingness to recognize appropriations such as those at issue here as serving a public purpose, with or without such deference.

th[at entity] benefited.” *Advisory Opinion*, 396 Mich at 496. In particular, the appropriation for “capital and security improvements” at the field, (Verified Compl, ¶ 9), will ensure continued access to a safe “family environment of independent professional baseball.”²⁷ And the ballpark offers more than just baseball—it serves as a hub for families with picnic areas, a wiffle ball field, and a children’s playground.²⁸ Jimmy John’s Field also hosts community events such as Girl Scout Night, an event providing Girl Scouts of Southeastern Michigan to achieve a patch; the USPBL Reading Program, which participates with southeast Michigan schools to encourage students (68,000+ in 2024) to read more by offering free tickets to baseball games; and a Nike Baseball Camp for 7–12 year olds across the state.²⁹ Ensuring Michiganders’ access to safe and family-oriented sporting events and related activities undoubtedly serves a public purpose.

That appropriations for a sports stadium serve a public purpose is well recognized nationwide. The Tennessee Court of Appeals, for example, affirmed that

²⁷ USPBL, *supra* note 9. This purpose also distinguishes this case from *In re Advisory Opinion on Constitutionality of Act No. 346*, 380 Mich 554 (1968). The appropriation at issue there allowed the state housing authority to act as a bank, providing loans and advances to nonprofits and private sponsors. *Id.* at 563. The connection between this appropriation and the public purpose of the statute—“to meet the housing needs of low-income persons or moderate-income persons who are displaced by slum clearance”—was tenuous at best. *Id.* at 591. In contrast, the Jimmy John’s Field appropriation has a direct, causal connection to a valid public purpose: ensuring continued safe access to the recreational activities that the ballpark provides for members of the public.

²⁸ *Id.*

²⁹ See USPBL’s “Community” and “Fan Zone” tabs on its website for more information about these events.

public funds used to finance a multipurpose arena served a public purpose. *Ragsdale v City of Memphis*, 70 SW3d 56, 74 (Tenn Ct App, 2001). Similarly, the Minnesota Supreme Court in *Lifteau v Metro Sports Facilities Comm* held that the construction of a sports facility that would be used by a private, professional sports organization had a public purpose for which public funds could be expended. 270 NW2d 749, 754–755 (Minn, 1978). The court acknowledged that “the public desire for sports facilities [is] great,” and recognized it “the important part that professional sports plays in our social life.” *Id.* at 754. It also noted the facility’s broad use by various community groups, from “recovered alcoholics” to “rock fans.” *Id.* at 755. These decisions are consistent with numerous rulings in other states holding that publicly funded sports stadiums and facilities serve a public purpose. See, e.g., *In re Develop Don’t Destroy v Urban Dev Corp*, 874 NYS 2d 414, 424 (2009) (“[I]t is established that a sports arena, even one privately operated for profit, may serve a public purpose.”) (citation omitted); *CLEAN v State of Washington*, 130 Wash 2d 782, 796 (Wash, 1997) (“[V]enue for professional sports franchises serves a public purpose in that the presence in a community of a professional sports franchise provides jobs, recreation for citizens, and promotes economic development and tourism.”); *Martin v Philadelphia*, 420 Pa 14, 17 (1966) (“A sports stadium is for the recreation of the public and is hence for a public purpose[.]”); *Meyer v City of Cleveland*, 35 Ohio App 20, 23–24 (1930) (“[A]nything calculated to promote the education, the recreation or the pleasure of the public is to be included within the legitimate domain of public purposes.”).

One final note: The Mackinac Center takes great issue with the deference that courts often show to legislative determinations of public purpose. (E.g., Pl’s Br, pp 15, 24–25.) But notably, given the evidence outlined above that Jimmy John’s Field benefits the public as a whole, this Court need not employ such deference to find that the Jimmy John’s Field appropriation serves a “public purpose.”

Regardless, time and again, Michigan caselaw has confirmed that “courts are especially deferential toward legislative determinations of public purpose.”³⁰ *Horton v City of Kalamazoo*, 81 Mich App 78, 81 (1978). This deference is due, in part, to the fact that the “determination of what constitutes a public purpose involves consideration of economic and social philosophies and principles of political science and government.” *Gregory Marina, Inc v Detroit*, 378 Mich 364, 394 (1966).

For these reasons, the Jimmy John’s Field appropriation does not violate § 30 because it serves a public purpose.

³⁰ This deference is not unique to Michigan. Courts around the country afford state legislatures a wide berth in determining what constitutes a “public purpose.” See, e.g., *Turken v Gordon*, 223 Ariz 342, 349 (2010) (“We find a public purpose absent only in those rare cases in which the governmental body’s discretion has been ‘unquestionably abused.’”) (en banc) (citation omitted); *Dickinson v Porter*, 240 Iowa 393, 416 (1949) (collecting cases and explaining that “the legislature has the broadest discretion as to what is a public purpose”) (citations omitted); *State v Dammann*, 280 NW 698, 709 (Wis, 1938) (noting that “courts will not interfere unless at first blush the act appears to be so obviously designed in all its principal parts to benefit private persons and so directly or remotely to affect the public interest that it constitutes the taking of property”).

2. The Jimmy John's Field appropriation serves a non-local purpose.

As an initial matter, Plaintiff does not explain why an appropriation to a private entity should be analyzed under the "local purposes" portion of § 30. But, to the extent the Court is inclined to consider the "local purposes" portion of § 30 in the context of the Jimmy John's Field appropriation, the appropriation passes muster because it serves a non-local purpose. Like the Jackson Field appropriation, the Jimmy John's Field appropriation does not solely benefit Utica or Macomb County. Rather, as the Jimmy John's Field website recognizes, the ballpark "has the advantage of being located directly on the border of Oakland County, right on the M-59 expressway, with 150,000 cars passing by daily and providing easy access to most anywhere in metro Detroit." The field also offers non-local benefits through its community events, such as a Girl Scouts Night that welcomes girls from across southeast Michigan, a reading program that reached over 68,000 southeast Michigan students, and a baseball camp for kids across the entire state.

In short, the appropriation serves a non-local purpose by benefiting not just Utica, but the entirety of metro Detroit and beyond. See Part B.1.

CONCLUSION AND RELIEF REQUESTED

Because the Jackson Field appropriation and Jimmy John's Field appropriation do not run afoul of § 30 for the reasons stated above, the People respectfully request that this Court deny the Mackinac Center's motion for preliminary injunction.

Respectfully submitted,

/s/ Kyla L. Barranco
Kyla L. Barranco (P81082)
Assistant Solicitor General

Rebecca A. Aboona (P81977)
Assistant Attorney General

Attorneys for Intervening Defendant
People of the State of Michigan

Dated: September 3, 2025