



**NOTICE OF PUBLIC MEETING  
AND POSSIBLE EXECUTIVE SESSION OF THE  
STATE OF ARIZONA  
CITIZENS CLEAN ELECTIONS COMMISSION**

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**Location:** Citizens Clean Elections Commission  
1110 W. Washington, Suite 250  
Phoenix, Arizona 85007

**Date:** Thursday, April 18, 2024

**Time:** 9:30 a. m.

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the Commissioners of the Citizens Clean Elections Commission and the general public that the Citizens Clean Elections Commission will hold a regular meeting, which is open to the public on April 18, 2024. This meeting will be held at 9:30 a.m. **This meeting will be held in person and virtually. The meeting location will be open by 9:15 a.m. at the latest.** Instructions on how the public may participate in this meeting are below. For additional information, please call (602) 364-3477 or contact Commission staff at [ccec@azcleanelections.gov](mailto:ccec@azcleanelections.gov).

The meeting may be available for live streaming online at <https://www.youtube.com/c/AZCCEC/live>. You can also visit <https://www.azcleanelections.gov/clean-elections-commission-meetings>. Members of the Citizens Clean Elections Commission may attend in person, by telephone, video, or internet conferencing.

**Join Zoom Meeting**

<https://us02web.zoom.us/j/87908094220>

**Meeting ID: 879 0809 4220**

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Please note that members of the public that choose to use the Zoom video link must keep their microphone muted for the duration of the meeting. If a member of the public wishes to speak, they may use the Zoom raise hand feature and once called on, unmute themselves on Zoom once the meeting is open for public comment. Members of the public may participate via Zoom by computer, tablet or telephone. A dial-in option is also available but you will not be able to use the Zoom raise hand feature, so the meeting administrator will assist phone attendees. Please keep yourself muted unless you are prompted to speak. The Commission may allow time for public comment on any item on the agenda. Commission members may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to

A.R.S. § 38-431.01(H), action taken as a result of public comment will be limited to directing Commission staff to study the matter, responding to any criticism, or scheduling the matter for further consideration and decision at a later date. The Commission may vote to go into executive session, which will not be open to the public, for the purpose of obtaining legal advice on any item listed on the agenda, pursuant to A.R.S. § 38-431.03 (A)(3). The Commission reserves the right at its discretion to address the agenda matters in an order different than outlined below.

Any person with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Commission at (602) 364-3477. Requests should be made as early as possible to allow time to arrange accommodations.

**The agenda for the meeting is as follows:**

- I. Call to Order.
- II. Welcome Commissioner Christina Estes-Werther.
- III. Discussion and Possible Action on Meeting Minutes for March 28, 2024.
- IV. Discussion and Possible Action on Executive Director’s Report, Enforcement and Regulatory Updates, and Legislative Update.

Note: The executive director’s report includes announcements about elections and campaign finance, a report on voter education activities, including a survey of voter views and a forthcoming report on election in Arizona, administrative information, information on candidates running clean, reports on legal proceedings involving Clean Elections and other Arizona election officials, a report on correspondence from other agencies, appointments, enforcement status, and regulatory agenda. It is included in the Commission packet available on the Commission’s website or by request at [ccec@azcleanelections.gov](mailto:ccec@azcleanelections.gov).

- V. Discussion and Possible Action on Advisory Opinion Request 2024-01 and Draft Advisory Opinion 24-03 relating to the application of the definition of campaign media spending in A.R.S. § 16-971 to public communications involving candidates, elected officials, and parties.
- VI. Discussion and Possible Action on Advisory Opinion Request 24-02 and Draft Advisory Opinion 24-02 relating to whether activities performed by an employee of a political party qualify as campaign media spending as defined in A.R.S. § 16-971.
- VII. Public Comment.  
This is the time for consideration of comments and suggestions from the public. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date or responding to criticism
- VIII. Adjournment.  
This agenda is subject to change up to 24 hours prior to the meeting. A copy of the agenda background material provided to the Commission (with the exception of material relating to possible executive sessions) is available for public inspection at the Commission’s office, 1110 W Washington St, #250, Phoenix, AZ 85007.

Dated this 16th day of April, 2024  
Citizens Clean Elections Commission



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THE STATE OF ARIZONA  
CITIZENS CLEAN ELECTIONS COMMISSION  
  
REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona  
March 28, 2024  
9:30 a.m.

By: Kathryn A. Blackwelder, RPR  
Certified Reporter  
Certificate No. 50666



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1 PUBLIC MEETING BEFORE THE CITIZENS CLEAN  
2 ELECTIONS COMMISSION convened at 9:30 a.m. on March 28,  
3 2024, at the State of Arizona, Clean Elections  
4 Commission, 1110 West Washington, Conference Room,  
5 Phoenix, Arizona, in the presence of the following  
6 Board Members:  
7  
8 Mr. Mark Kimble, Chairman  
9 Mr. Galen Paton  
10 Ms. Amy Chan  
11 Mr. Steve Titla  
12 Mr. Damien Meyer

13 OTHERS PRESENT:  
14  
15 Thomas M. Collins, Executive Director  
16 Paula Thomas, Executive Officer  
17 Mike Becker, Policy Director  
18 Gina Roberts, Voter Education Director  
19 Alec Shaffer, Web Content Manager  
20 Kara Karlson, Assistant Attorney General  
21 Mary O'Grady, Osborn Maledon  
22 Cathy Herring, Meeting Planner, KCA  
23 Jessica Painter, KCA  
24 Paige Jarrell, KCA  
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1 P R O C E E D I N G  
2 CHAIRMAN KIMBLE: My name is Mark Kimble.  
3 And Agenda Item I is the call to order. It is  
4 9:30 a.m. on March 28th, 2024. I call this meeting of  
5 the Citizens Clean Elections Commission to order.  
6 With that, we will take attendance.  
7 Commissioners, please identify yourselves for the  
8 record.  
9 COMMISSIONER MEYER: Good morning.  
10 Damien Meyer.  
11 COMMISSIONER CHAN: Amy Chan.  
12 CHAIRMAN KIMBLE: I think we have  
13 Commissioner Titla and Commissioner Paton also with us,  
14 is that correct? You both appear to be on mute.  
15 COMMISSIONER TITLA: Yes, sir. It's  
16 Steve Titla here. Good morning, everybody.  
17 CHAIRMAN KIMBLE: Good morning,  
18 Commissioner Titla.  
19 Commissioner Paton, are you with us too? I  
20 see you appear to be on mute.  
21 COMMISSIONER PATON: Galen Paton.  
22 CHAIRMAN KIMBLE: Thank you. We have all  
23 five Commissioners present.  
24 Item II, possible -- discussion and possible  
25 action on minutes for the February 29th, 2024 meeting.

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1 Commissioners, you have the minutes from the February  
2 meeting in the packet. Is there any discussion?  
3 COMMISSIONER CHAN: Mr. Chairman, I'd like  
4 to --  
5 CHAIRMAN KIMBLE: Commissioner Chan.  
6 COMMISSIONER CHAN: I'd like to move that we  
7 adopt the minutes as written.  
8 CHAIRMAN KIMBLE: Thank you,  
9 Commissioner Chan.  
10 We have a motion to adopt the minutes. Is  
11 there a second?  
12 COMMISSIONER MEYER: I'll second that motion.  
13 CHAIRMAN KIMBLE: Seconded by  
14 Commissioner Meyer.  
15 I will call the roll. Commissioner Chan.  
16 COMMISSIONER CHAN: Aye.  
17 CHAIRMAN KIMBLE: Commissioner Meyer.  
18 COMMISSIONER MEYER: Aye.  
19 CHAIRMAN KIMBLE: Commissioner Titla.  
20 COMMISSIONER TITLA: Aye.  
21 CHAIRMAN KIMBLE: Commissioner Paton.  
22 COMMISSIONER PATON: Aye.  
23 CHAIRMAN KIMBLE: Chair votes aye.  
24 The motion to approve the minutes is approved  
25 unanimously.

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1 Item III is discussion and possible action on  
2 the Executive Director's Report. Tom.  
3 MR. COLLINS: Yes. Thank you, Commissioners,  
4 and thank you all for being here. And I know all of  
5 you have a lot of different things going on, whether --  
6 you know, obviously Mr. Chairman's voice and other  
7 things, so I really appreciate you all making it here  
8 today. I think that's an important thing, because I  
9 think it's important to reflect on the fact that --  
10 that this is an active board that manages the program  
11 that it administrates and has continued to do that  
12 month after month even under circumstances that aren't  
13 always ideal, so -- so I -- I just want to thank you  
14 for being here.  
15 I'll try to get through this -- the  
16 highlights of the report pretty quickly. The  
17 presidential preference election was on March 19th.  
18 The final canvass will be on April 4th. And so far the  
19 unofficial turnout rate is 39 -- close to 40 percent.  
20 And then we'll have another local election on our -- on  
21 May 21st, 2024, and Alec will be doing the really  
22 intensive labor of making sure that our website is up  
23 to date for anybody who has an election, any local  
24 jurisdiction that has an election in that -- on that  
25 date.

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1 I wanted to hit a couple -- highlight a  
2 couple of things in our voter education. I had the  
3 opportunity to go out and -- and Gina and Avery  
4 obviously did the work of being at the Arizona Civics  
5 Coalition's Civics Night at the museum at -- at the --  
6 the Arizona -- an Arizona historical museum on  
7 College -- on College and Curry. I still can't quite  
8 get the name down, but it's a very beautiful facility.  
9 And there were lots of teachers -- civics teachers from  
10 around the state, and our table there got a lot of -- a  
11 lot of visitors, and that's great.  
12 You know, it's interesting, the -- last year  
13 Avery was on a panel at the McCain Institute that  
14 involved some very high-profile national pollsters on  
15 youth voting, and so that continues to -- so he  
16 continues to generate media off of that through -- both  
17 internationally and then nationally through this  
18 interview he did with the students from Montclair  
19 State.  
20 And then Gina was a panelist on the follow-up  
21 to the ASU Pastor Center's -- in the next installation  
22 of the ASU Pastor Center's Diversifying Political  
23 Engagement Series, and so that's available -- available  
24 to watch.  
25 I think that -- I have a couple of highlights

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1 I need to mention quickly on the legal front. So  
2 the -- you'll note just since the -- this report was  
3 published, I'll just note that the Center for Arizona  
4 Policy versus Arizona Secretary of State, which is one  
5 of the Prop -- Prop 211 cases, so Center -- they filed  
6 their notice of appeal on Monday. And then my  
7 understanding is that they then very quickly filed a  
8 motion to have their case transferred up to the State  
9 Supreme Court, along with where the -- where there is a  
10 motion pending in this case called Toma v. Fontes,  
11 where there is a motion to transfer that case from the  
12 Court of Appeals to the Arizona Supreme Court.  
13 The Toma v. Fontes case, the Court of Appeals  
14 yesterday issued a stay that was asked for by the  
15 plaintiffs to stay the plaintiffs' lawsuit at the  
16 Superior Court level pending the plaintiffs' appeal  
17 from the denial of the plaintiffs' motion for  
18 preliminary injunction. So for the lawyers on the  
19 call, that's kind of an odd procedural posture; but  
20 nevertheless, at this point the Court of Appeals has  
21 granted that stay to the plaintiffs of the plaintiffs'  
22 action.  
23 And then, of course, importantly, and lest I  
24 forget, last week the District Court granted the  
25 Commission and the other defendants' motion to dismiss

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1 the Americans for Prosperity's claim against Prop 211.  
2 So a lot of action happening there. I  
3 believe that the Supreme Court will conference the  
4 motion to transfer in April at its conference. And  
5 then, if things stay status quo, there should -- there  
6 would be an argument in the Toma case in the first week  
7 of May.  
8 There's obviously a lot of other court  
9 activity going on around the state involving elections.  
10 I don't want to spend too much time on that other than  
11 to say, please let us know if you need to know more  
12 about any of that.  
13 I wanted to -- you know, quickly, before I  
14 get into one other item, I wanted to, you know, also,  
15 you know, say, you know, we've had -- as we'll see in  
16 the forthcoming presentations today, we're doing a lot  
17 of work on the voter education front and we're doing  
18 quite a bit of work with candidates as we come into  
19 filing season. And so I also wanted to, you know,  
20 mention that, you know, what that has done is it's  
21 meant that, you know, Paula has had a -- probably a  
22 bigger and more -- and different and more diverse array  
23 of transactions to negotiate and get through for us as  
24 we -- as we get through this -- you know, as we launch  
25 our new debate program and the things that Gina will be

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1 talking to you about, and not to mention just  
2 maintaining the day-to-day operation of this -- of this  
3 meeting and these other things. So I wanted to make  
4 sure to acknowledge that it's been -- it's been a  
5 very -- you know, the last two quarters for Paula have  
6 been probably as busy as they've been for some time,  
7 but I really appreciate that work by her.  
8 And I also wanted to also say that, you know,  
9 I've had the opportunity to just be in the office and  
10 talking to some of the candidates. You know, Mike  
11 handles so many candidate conversations on a day-to-day  
12 basis with candidates who are interested in running  
13 clean, candidates who have questions about campaign  
14 finance, candidates who have questions about, you know,  
15 the paperwork, I mean, just any number of things. And  
16 I can tell you, from talking to the folks who call,  
17 that the level of rapport and trust that our  
18 constituents -- those customers applauded Mike's  
19 responsiveness and -- both substantive responsiveness  
20 and his timely responsiveness is something that I want  
21 to -- I wanted to mention as well.  
22 I did want to spend a little time on this  
23 Attorney General's Office correspondence issue, in part  
24 because, you know, it's something I want to put in some  
25 context. You know, we -- so as you can see if you've

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1 read the report, we got this letter on March 5th that  
2 said, hey, we've had this what they describe in their  
3 words as an investigation open into the Commission  
4 since they arrived in office in March, because it was  
5 apparently waiting for them in November -- in  
6 December '22. You know, so why -- why does this  
7 matter? Well, I think it's pretty self-evident. We  
8 tried to lay out here, in as -- or, I tried to lay out  
9 here, in as neutral of terms as I could, the factual  
10 history, as we understand, from our perspective.  
11 Because, you know, we've gone through some of  
12 these things before with, you know, other offices, I  
13 really want to first say, you know, so we can sort of  
14 reestablish, so that folks understand this, why are we  
15 -- why am I talking about this to you in public, as I  
16 get a chance to sit here, and -- and the reason for  
17 that is not to start some stevedore's brawl with the  
18 Attorney General's Office, but it's because this, as I  
19 said at the beginning, this board actively  
20 administrates and enforces the Clean Elections Act and  
21 the Voters' Right to Know Act.  
22 This is not an absentee board. This is a  
23 board that is here at every meeting and intimately  
24 involved in the decisions we make, and we have working  
25 meetings in public about public matters. And that's

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1 because, as an institution for the past 20 years, with  
2 many of the same staff members as we have now, we have  
3 been focused on ensuring that we follow the open  
4 meeting law as well as we possibly can, in addition to  
5 other transparency laws.  
6 So, you know, to boil this down a little bit,  
7 you know, the things that sort of stand out as why I'm  
8 saying -- why I plan to seek some outside assistance on  
9 how to get my arms around this relationship is, you  
10 know, the decision that the Solicitor General's Office  
11 Government Accountability Division made about whether  
12 or not to keep this case seems to be based on whether  
13 or not, you know, an attorney gave specific advice, I  
14 guess, on the placement of the minutes on our website,  
15 but not the role of the AG in advising us on the open  
16 meeting law, or, in this case, the specific person who  
17 filed the complaint, and we can't -- we haven't been  
18 able to identify any formal screen. This is an adverse  
19 position, and we weren't given any notice of it.  
20 And then, you know, I think problematically,  
21 rather than just dismiss the matter because there was  
22 no legal violation, the person who wrote this letter  
23 thought it was a good idea to take a shot at our  
24 website maintenance and our compliance as a, quote,  
25 unquote, recommendation. Well, that's not -- that's

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1 not what you do in an enforcement matter, especially  
2 when, you know, you're already dealing with your own  
3 client.  
4 You know, and this is complicated because if  
5 what this means is that either conflicts don't count  
6 when it comes to the Solicitor General's Office or  
7 we're not clients when we talk to the Solicitor  
8 General's Office, those raise real issues around what's  
9 confidential, what's privileged, it implicates the  
10 public records law, it implicates discovery.  
11 And here this letter validated a complainant  
12 who had already established himself as adverse to the  
13 Commission and who we had already been advised on  
14 dealing with in an open meeting by an attorney for the  
15 Attorney General's Office. So that's slicing the onion  
16 pretty fine, and it doesn't appear that anyone in the  
17 Solicitor General's Office had a second thought before  
18 this letter rolled out.  
19 So I think that, you know, we can -- we will  
20 hear -- we could hear, I'm sure, and I know from past  
21 experience with other Attorney Generals we often hear  
22 something about how complicated the nature of  
23 governmental attorneys is, there's all kinds of  
24 in-and-outs and that kind of thing. I don't think this  
25 one is that complicated: I think we're the client; I

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1 think they're the law firm. And so, you know, like I  
2 say, I have an obligation to make these reports the way  
3 I do. It's based on 25 years of precedent and this  
4 body being transparent about these kind of issues.  
5 And so my goal is to get this back on the  
6 right track, but -- you know, but the number of  
7 decisions -- you know, in a relatively small  
8 transaction, the number of decisions that went against  
9 the client is a lot. I mean, it's like five different  
10 decision points there were to get off this train, and  
11 at no time did they get off the train, and I think that  
12 that's something that we've just got to have some  
13 real -- real conversation with them, and that's -- and  
14 I intend to do that.  
15 So that's, you know, that's kind of the  
16 report. I know that last one may sound a little  
17 dramatic, but, you know, at this point this is nothing  
18 if not ordinary to have a little -- a little -- a  
19 little -- I don't know what the right word is because I  
20 don't know sports metaphors well enough. But, you  
21 know, between the two agencies I think we'll work that  
22 out, but on this one the lines are pretty -- the lines  
23 are pretty clear.  
24 So that concludes my report, I believe,  
25 unless anybody thinks I'm missing anything. Anyone

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1 want me to keep talking? Mr. Chairman, if you have any  
2 questions for me on my report, I'm happy to take those.  
3 CHAIRMAN KIMBLE: Thank you. Thank you, Tom.  
4 Do we have any discussion or questions from  
5 Members of the Commission?  
6 (No response.)  
7 CHAIRMAN KIMBLE: Hearing none, we'll move  
8 on.  
9 Item IV, discussion and possible action on  
10 2024 voter education activities, including candidate  
11 debates and the Voter Education Guide. We're a few  
12 days away from the filing deadline for candidates for  
13 the July 30th primary and about a month away from the  
14 kickoff of our debate program. Gina Roberts, our voter  
15 education director, will have a report on our progress  
16 on these projects.  
17 Gina.  
18 MS. ROBERTS: Good morning, Commissioners.  
19 Yes, what we have for you today is an overview of where  
20 we are. We are knee deep in preparing for our debates  
21 and for the Voter Education Guide, so we thought it  
22 would be timely to provide an update to the Commission.  
23 So I do have some slides, just to help me stay on  
24 track, of our updates.  
25 And we'll go ahead and get started with this

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1 first slide, please. Thank you.  
2 So our schedule is now public. It is  
3 available on our website. And we have our schedule for  
4 all of our federal, statewide, and legislative debates  
5 that are published. We are working on a handful of  
6 county races, and we'll get that information up  
7 shortly.  
8 Previously, when we were working through the  
9 schedule, we did send out save the dates to all of the  
10 candidates so they would be able to have that  
11 information as soon as possible and be able to go ahead  
12 and get those on their calendar. We will send official  
13 invitations out once we know who the final candidates  
14 that have qualified for the ballot will be.  
15 As the Chairman mentioned, we're coming up on  
16 the close of the candidate filing period, and that will  
17 tell us who the candidates that have filed petitions to  
18 qualify for the ballot are, and then, of course, we  
19 have our challenge period. And so once we know the  
20 final ballot makeup, which will be around April 15th,  
21 we'll know for sure who gets an official invite into  
22 the Clean Elections debate.  
23 And just a reminder, our debates, we will  
24 only have them if there's a contested primary. So  
25 somebody has to actually be in a contested election,

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1 have a competitor in order for us to host the debate.  
2 So, again, the schedule is available. We do  
3 kick off at the beginning of May with our first debate.  
4 And voters are able to see that schedule as well on our  
5 website.  
6 We can go to the next slide, please.  
7 So an update on our broadcast debates. So  
8 our broadcast debates are going to be our federal and  
9 statewide debates. And we -- as we had mentioned  
10 previously in the voter education report for 2024, we  
11 have a new partnership that we are working with,  
12 Riester and the Arizona Media Association. And so with  
13 that comes a new filming location, which will be at  
14 BitFire Studios. That's located in northern Phoenix,  
15 and we were able to take a tour of it, and it is a  
16 beautiful facility that is very state of the art. And  
17 so with the technology that they have, I'm very excited  
18 that I -- I believe we will be able to at least  
19 visually create a new and improved debate style. So it  
20 should look really well. We're very excited with the  
21 tools that are available to us through this new studio.  
22 And right now we're in the process of  
23 developing our stage design and the graphics that  
24 voters will see on screen. As we mentioned, with this  
25 partnership with the Arizona Media Association, every

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1 media partner in the state of Arizona will have the  
2 option to pick up these debates. And so with that,  
3 they'll be able to put their own branding on it, but we  
4 will always have the Clean Elections logo in there, and  
5 so it's a great opportunity to expand reach to the  
6 voters of Arizona.  
7 In regards to the debate format, this is  
8 really exciting too, the Arizona Media Association has  
9 put together a steering committee, and these are --  
10 it's just really another opportunity to showcase that  
11 stakeholders are having their input heard and respected  
12 and received by the Commission on what these debates  
13 should look like. And it's also being -- the format is  
14 also being created in conjunction with what the debate  
15 workgroup recommendations were.  
16 So what we're looking at right now is  
17 editorial control, which will be fully retained by the  
18 moderator of the debate. One interesting point too  
19 that I think that came up was how we are going to be  
20 handling our mics. So during the debates for the  
21 broadcast we will not have hot mics all the time. It  
22 would -- only the person who is speaking will have  
23 their mic actually on. So that will help the moderator  
24 control the flow of the discussion, and the moderator  
25 will ensure that candidates get near equal speaking

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1 time, that no one candidate dominates a discussion.  
2 We will have some standard time limits in  
3 place. We'll have two minutes for opening statements,  
4 one minute for closing. And then each candidate that  
5 gets asked a question, they'll have their two-minute  
6 initial response time, and then candidates will also  
7 get a one-minute rebuttal.  
8 So, again, this format is really derived  
9 from, one, those recommendations from the debate  
10 workgroup, but also in consultation with the  
11 stakeholder steering committee through the Arizona  
12 Media Association, which, again, we're talking about  
13 our folks here who are journalists across the state,  
14 media members, and have a lot of experience in the  
15 debate process.  
16 We are also currently finalizing our  
17 moderator selections. So we put out a call for  
18 moderators to folks who have those journalistic  
19 backgrounds and we are working through those  
20 selections. We hope to finalize that by the end of  
21 this week and get them on board hopefully by early next  
22 week. And with that comes -- as I mentioned, every  
23 media partner in the state has the option to pick up  
24 the debates, so they have all been notified of the  
25 schedule.

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1 And the broadcast, we are making our progress  
2 on ensuring that all broadcasts include an ASL inbox  
3 feed and we will also have a Spanish feed. So this  
4 goes to making sure that the debates are as accessible  
5 as possible.  
6 Next, we can move on to the next slide, which  
7 is an overview of our legislative debates. So our  
8 broadcast debates, again, those are going to be  
9 available on TV. With our legislative debates, we host  
10 those through Zoom and we stream them through the Clean  
11 Elections YouTube channel. However, again, through our  
12 partnership with the Arizona Media Association, we will  
13 make sure that any media entity that wants to have  
14 access to the stream, they will be able to pick it up.  
15 We have brought on a debate consultant to  
16 help us with our legislative debate process. That is  
17 actually Steve Goldstein. He's a very well-known name  
18 in the state of Arizona. He has over 25 years of  
19 journalist experience. He's award winning at national  
20 and local levels. And so Steve has a lot of experience  
21 with debates, and, in fact, he's moderated some of our  
22 debates in the past.  
23 And so we are very excited to bring him on to  
24 help us coordinate, one, with the new recommendations  
25 of the debate workgroup, but also -- one thing I'll

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1 talk about in the next slide too is, again, some of the  
2 post-debate activities that we'll be implementing to  
3 help to continue to push content out to the voters once  
4 the debate concludes, but I'll talk about that in the  
5 next slide. So we're very excited to bring Steve on  
6 board.  
7 He will also be hosting our moderator  
8 training for us, and we plan to have that done in the  
9 middle of April. And for our legislative debates we  
10 also did a call for moderators, and so we're working  
11 through finalizing that -- those moderator assignments  
12 as well.  
13 In addition to a debate consultant, we've  
14 also brought on a debate writer that we've used in the  
15 past, and this writer is Hank Stephenson with the  
16 Arizona Agenda, and he will help us create some stock  
17 debate questions. So typically with our debates we  
18 like the questions to come from the voters, we want  
19 them to come from the voters, and we ask voters to  
20 submit those to us either in advance of the debate or  
21 they can submit them live during the debate actually  
22 happening.  
23 With that, we also do our issue research,  
24 which we've -- are actually close to wrapping up and we  
25 will have our final report on April 1st for that. And

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1 that's where we put out a poll to voters across the  
2 state about what issues they think are important and  
3 want to hear the candidates talk about. So with all of  
4 that content and Hank's background as a journalist, he  
5 will develop stock questions for us for the moderators  
6 to have in their back pocket just in case, you know,  
7 maybe we have, you know, some quiet voters in a certain  
8 district, and so that way we have questions that are  
9 prepared and available for the moderator to use that  
10 are still reflective of the issues that we know are  
11 important to voters in those particular regions.  
12 With that, for our legislative debates, we  
13 are also finalizing the format. This was perhaps one  
14 of the biggest changes to our debate process that came  
15 out of the debate workgroup. This is where we decided  
16 to structure our debates by party and by chamber. So  
17 essentially we have one legislative event per evening,  
18 but within that we have our subdebates. So we worked  
19 through a format and a template for our moderators to  
20 follow seamlessly once again to ensure that candidates  
21 have near equal speaking time, but that it's also very  
22 clear for the voters about who the true competitors  
23 are.  
24 Our debates, again, for -- on the legislative  
25 side, we try to make them as accessible as possible.

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1 We will have closed captioning available. And, as I  
2 mentioned before, with streaming they will be available  
3 for all of our media partners to pick up.  
4 We can go to the next slide.  
5 So for debates, voter education and outreach.  
6 We have these debates, we're working on the production  
7 of them, that's one component of it, but how do we get  
8 the voters engaged, how do we get them to tune in, and  
9 also, how do we ensure that the debates are tailored to  
10 the voter, that they're relevant and meaningful to the  
11 voter.  
12 So as I mentioned, we do that issue research.  
13 We have that poll that's out so that we can talk to  
14 voters and have a better understanding about, you know,  
15 again, what issues do you care about, and we have our  
16 moderators who will take that information to help shape  
17 and guide the discussion at the debates.  
18 We plan on creating subject matter expert  
19 videos. So if we hear that water conservation is one  
20 of those top issues that voters have identified, then  
21 we intend to bring in a water conservation specialist  
22 and just create an educational and informational video  
23 to further help voters understand what these issues are  
24 and how it's currently affecting the state. And that  
25 would be, again, just more from an educational

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1 standpoint, not necessarily policy as the candidates  
2 would discuss.  
3 We also plan to do behind-the-scenes videos  
4 of the debate process; that's always interesting  
5 content to help capture voters' eyes. And we'll create  
6 preview videos as where -- as well where we will be  
7 able to -- let's say, for example, we'll film Tom  
8 talking about, okay, here is this upcoming U.S. Senate  
9 debate. Here is what we expect the candidates to talk  
10 about and the top issues. And so we'll be able to push  
11 them onto social media to help, again, capture the  
12 attention of voters and get them interested in watching  
13 the debate.  
14 We also have our paid media which we'll push  
15 out to let voters know across the state, here is the  
16 schedule and here is how you can submit your questions.  
17 We're looking at hosting a media day where  
18 we'd like to bring in media members to help them  
19 understand, here is the debate process, here is how you  
20 can cover it, here is how you can be involved, here is  
21 how you can attend and, you know, be in the media room  
22 during our broadcast debates.  
23 We also intend to host meetings with the  
24 political parties and talk to them about what this new  
25 debate season looks like and the rules of engagement

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1 for candidates and, again, the top issues voters are  
2 talking about. All of this is intended to create that  
3 buy-in to the debate process.  
4 We also are creating toolkits for the  
5 candidates and the voters; toolkits for the candidates  
6 so that they can promote their participation in the  
7 Clean Elections debates and toolkits for voters so they  
8 can participate.  
9 Avery actually has a meeting coming up where  
10 he'll be working with NAU and their student association  
11 on how to host a debate watch party, so great things  
12 there. I mean, one of the things he mentioned was  
13 possibly doing a debate bingo card, so things like that  
14 to get people engaged and excited about watching the  
15 debates, that's part of our grassroots outreach as  
16 well.  
17 We are also -- as part of the debate  
18 workgroup recommendation, we have a texting service  
19 that we'll be piloting. So one of the recommendations  
20 was, you know, hey, maybe a voter can just get a quick  
21 text message saying, your legislative district debate  
22 is tonight, tune in. So we started researching how we  
23 could utilize a texting service, we implemented it, and  
24 started beginning sign-ups for voters. So we will be  
25 kicking that off on a soft level to try to get voters

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1 educated about the schedule through this texting  
2 service.  
3 And then another opportunity that we have,  
4 and this goes back to what I was mentioning with Steve  
5 Goldstein, is our post-debate efforts. So once the  
6 debate happens, it's not over. We want these debates  
7 to continue to be able to be available for voters up  
8 until they cast their ballot. So our schedule has us  
9 wrapping up our debates near the start of early voting,  
10 but what we want to do, and this is, again, in  
11 alignment with the debate workgroup, is take that  
12 debate content and create bite-sized pieces of  
13 information, highlights, social media reels, Instagram  
14 reels, if you will, where we can further promote these  
15 debates and try to get voters engaged and interested in  
16 watching the entire debate.  
17 So what we intend to do is, after the --  
18 after all of our debates conclude, we'll have the  
19 moderators come in and Steve will interview them.  
20 Steve Goldstein has -- is a podcaster. He has great  
21 experience as -- hosting podcasts and doing interviews.  
22 So he will talk to the moderators and talk about, okay,  
23 you know, what surprised you, things like that, and  
24 then he will also go through the videos and identify  
25 those bookmarks for us to take from the debates and

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1 create those reels. So we're excited about creating  
2 these bite-sized pieces of content that will hopefully  
3 drive voters to watch the full debate.  
4           And then we're also looking at an opportunity  
5 to bring debates into the classroom. So this is an  
6 exciting opportunity for us to work with the educator  
7 community across the state. As Tom mentioned in the  
8 Executive Director's Report, we were at a civics event  
9 and we had the opportunity to talk to a lot of  
10 educators. And our table was quite full. We had a lot  
11 of folks coming to talk to us both about our debates  
12 and our Voter Education Guide, because they find these  
13 tools to be very useful for the students in the  
14 classroom. They like to get the students engaged in  
15 discussion about debates, and also actually flipping  
16 through the physical Guides to research the candidates,  
17 to talk about government, to talk about elections. And  
18 so the tools that we are providing for voters, our  
19 educators are also finding them very useful.  
20           So what we want to offer the opportunity is  
21 we are always available to come out and talk to  
22 classrooms, to talk about elections. We can host mock  
23 elections, but we can also host mock debates. And then  
24 we can work with not just the student government  
25 teachers, but also the English teachers and the student

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1 council and the debate club, the debate team to help  
2 bring forward these debates.  
3           And then another piece here that we have, all  
4 in the name of encouraging people to participate in the  
5 debate process and utilize these tools, we are looking  
6 to create a segment that talks about unforgettable  
7 debates and historic moments. So this is where we will  
8 look back in history on important debates that have  
9 occurred and, again, kind of highlight those and drive  
10 home the importance of why debates matter.  
11           So this quote here that I have, "By embracing  
12 debate, individuals can become more adept at navigating  
13 complex issues and engaging with diverse perspectives,  
14 ultimately contributing to a more informed and  
15 understanding world." And this is coming from Oxford.  
16 And the intent here is to show that we, as humans,  
17 we've been debating for our entire lives, going back to  
18 historical debates and important events, such as, you  
19 know, the Athenian democracy in ancient Greece and, you  
20 know, the Han dynasty in imperial China.  
21           We all -- we have seen in history how  
22 debates -- whether they're philosophical or political  
23 or religious, debating is a part of our culture, of our  
24 history. And so creating this series, it will help,  
25 again, showcase why debates matter, why they're

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1 important, important to not only the candidates, but to  
2 the voters and how they contribute to that informed  
3 perspective. So we have a lot going on in the voter  
4 education and outreach front for debates.  
5           We can go to the next slide.  
6           I can jump into the Voter Education Guide  
7 here, Mr. Chairman, if you'd like, or I can pause for  
8 questions on the debate process.  
9           CHAIRMAN KIMBLE: Do we have any questions  
10 from Commissioners on the debate process? Very, very  
11 impressive, Amy -- I mean, Gina.  
12           (No response.)  
13           CHAIRMAN KIMBLE: No, no questions at this  
14 point?  
15           COMMISSIONER CHAN: I wish I could take  
16 credit for all the work Gina is doing and her team.  
17           CHAIRMAN KIMBLE: Okay. Gina, why don't you  
18 continue.  
19           MS. ROBERTS: Thank you, Mr. Chairman. Yes,  
20 it is pretty impressive. We like that.  
21           So for our Voter Guide, again, this -- I'll  
22 share -- I'll remind, the Voter Education Guide is  
23 consistently ranked, in all of our research where we  
24 talk to voters, as one of the top tools that voters  
25 trust and look forward to and utilize during the

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1 election process. So we are constantly looking at ways  
2 to make sure that the Voter Guide continues to remain  
3 relevant and important and meaningful for our voters.  
4           So we had a kickoff meeting with our process  
5 where we met with the United States Postal Service,  
6 which is very important to keep them involved in our  
7 process. We simply don't want to show up at the post  
8 office and drop 2.3 million pieces of mail and say,  
9 here you go. So they are a very critical partner to  
10 us. And so Paula was able to coordinate a meeting  
11 where we had all of our representatives from across the  
12 state. Because, again, we're mailing these across the  
13 state, so it's important that we are not just looking  
14 at Maricopa County, but all of our counties and how  
15 mail is processed.  
16           We met with the USPS, we had our print  
17 vendor, we had our partners at Riestler, we had the  
18 Secretary of State's Office there, and so it was a very  
19 productive meeting where we explained how our process  
20 works so that everybody could be kept informed. We  
21 have a timeline with them -- to share with them about  
22 when we will stagger dropoffs for our deliveries. And  
23 they understand that, again, this is official election  
24 mail and prompt delivery is important, so we had great  
25 conversations with that. And we've always had a

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1 wonderful partnership with the United States Postal  
2 Service, so I'm very pleased with that because, again,  
3 they appreciate very much the importance of election  
4 mail.  
5           We had that kickoff meeting, and we are  
6 currently in the process of collecting our candidate  
7 submissions. So candidates right now are submitting  
8 their picture, their profile, all of their information  
9 to be printed in the Guide. We do have a deadline in  
10 place for those submissions; that is April 8th, so that  
11 is coming up. Staff will be working and reaching out  
12 to all of the candidates that have qualified for  
13 the ballot to ensure everybody is represented in the  
14 Guide.  
15           We are also making preparations for all of  
16 the different versions of the Voter Guide that we  
17 create, whether that's American Sign Language or our  
18 partnership with Sun Sounds for an audio version or the  
19 different other languages that we translate them into.  
20 We are getting those contracts in place and we are  
21 working to create those translations. That way, again,  
22 this election and important voting information, it's --  
23 again, it's not just a one size fits all. We make sure  
24 that we provide this in different -- very different  
25 versions so we can meet voters where they are and

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1 provide them the information they need in a manner  
2 that's most comfortable to them.  
3           A couple of new things for the Voter Guide  
4 that we had previously hinted at. We are now including  
5 an "I voted" sticker, which is very exciting, because  
6 we know the "I voted" sticker is important social  
7 currency and people love stickers. So it's really  
8 exciting to be able to offer that into the Voter Guide.  
9 It will be stitched in into the center of the Guide.  
10 This is an example of what the cover will look like.  
11 It's not final, we do have some changes to make, but I  
12 wanted to give you an idea -- a general idea of what it  
13 will look like. And as I mentioned before briefly, we  
14 are anticipating we'll have approximately 2.3 million  
15 pieces that will go out for the primary election.  
16           Next slide.  
17           So, what education and outreach do we do with  
18 this? We create the Guide, we automatically send it to  
19 households with a registered voter, and we have to, of  
20 course, let people know that it's available too. So in  
21 addition to sending it to every household, we will also  
22 do bulk shipments. We will send bulk shipments of the  
23 Guides to all of our county partners, which is  
24 wonderful because they're great about putting them in  
25 voting locations. We will send them out to libraries.

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1 We will send them out to Native American chapter  
2 houses, to post offices that specifically service our  
3 Native American communities, because we know sometimes  
4 with mail and having nonstandard addresses, the post  
5 office is a central point for voters to have access to  
6 information. We will send them to community centers,  
7 to our colleges, our universities, our classrooms, as I  
8 mentioned, our schools. And essentially anybody who  
9 likes them, who would want them, if they reach out to  
10 us, we're happy to ship them a box. We will also  
11 employ our paid media tactics where we can let voters  
12 know, hey, check your mailbox or read the Guide online.  
13           And then we're also looking at reimagining  
14 the Voter Education Guide. So we have our standard  
15 Guide that we will absolutely and always send out in  
16 mail -- you know, print to the households with  
17 registered voters. But again, it's important to make  
18 sure the Guide is accessible and meet voters where they  
19 are and produce content that they are willing to  
20 consume in a way that works for them.  
21           So one of the things we're looking at are  
22 illustrations of kind of how to -- a guide to the  
23 Guide, how to use the Guide. And we also want to reach  
24 out to our high school and college STEM clubs to maybe  
25 take a look at this printed piece of paper and how

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1 would you, you know, with a STEM background, take this  
2 Guide and turn it into something more, what would you  
3 do, and create it in a digital world or this visual  
4 component in kind of like a robotics challenge. So  
5 this is something that we felt, again, knowing the  
6 feedback that we've received from the educator  
7 community and how do they utilize the Guide in  
8 classrooms, this is another opportunity to get the STEM  
9 side involved and, again, sort of reimagine what that  
10 Voter Guide would look like.  
11           Our first in-home drop for the Voter Guide is  
12 expected to be around June 12th and our last drop is  
13 expected to be June 26. This is well in advance of the  
14 July 3rd early voting period. And we will also  
15 continue to push the Guide out at grassroots events.  
16 So Avery and I will be attending a Celebrate Mesa event  
17 or any of our other on-the-ground events that we have  
18 coming up, we'll make sure that we have these Guides  
19 available for community members.  
20           All right. Next slide.  
21           And that's all. So I'm happy to answer any  
22 questions regarding our debates or our Voter Guide,  
23 but, yes, we are knee deep in working through these  
24 things and, one, the production of both debates and  
25 Voter Guide, but also making sure that people are aware

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1 it exists and how they can engage with it.  
2 CHAIRMAN KIMBLE: Thank you very much, Gina.  
3 Any questions from Members of the Commission?  
4 (No response.)  
5 CHAIRMAN KIMBLE: Very impressive  
6 undertaking. Thank you, Gina.  
7 MS. ROBERTS: Thank you, Mr. Chairman. Thank  
8 you, Commissioners.  
9 CHAIRMAN KIMBLE: Item V on our Agenda,  
10 discussion and possible action on Advisory Opinion  
11 2024-03 relating to the application of the definition  
12 of campaign media spending in A.R.S. 16-971 to public  
13 communications involving candidates, elected officials,  
14 and parties.  
15 We have an advisory opinion request filed by  
16 an organization called Opportunity Arizona. The  
17 questions presented involve the application of three  
18 definitions of campaign media spending to a particular  
19 set of public communications. As you will see in your  
20 materials, staff is asking us to allow additional --  
21 excuse me -- public comment on this draft ahead of the  
22 deadline for responding, which is April 23rd. Tom is  
23 going to provide an overview of the issues in the draft  
24 and then we'll take some questions.  
25 Tom.

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1 MR. COLLINS: Yes. Thank you, Mr. Chairman,  
2 Commissioners. So as Chairman Kimble said, and you  
3 have in your materials the e-mail I sent out to the --  
4 sort of the regulated community list that we have, you  
5 know, we are looking for some additional comment on  
6 this. I wanted to, you know, say that, you know, part  
7 of the -- part of the thing here is that, you know --  
8 you know, we're looking at this -- we have to look at  
9 this from the perspective of it's a statute, right, and  
10 it has findings in it and it has language in it and  
11 obviously there is a First Amendment overlay, and so  
12 this is a complicated process, in part, because of --  
13 this is a particularly -- this advisory opinion request  
14 asks a lot of that process and asks for an evaluation  
15 on a lot of different particular communication pieces.  
16 But, you know, the heart of Prop 211, which,  
17 you know, is obviously consistent with the First  
18 Amendment -- well, it may not be obvious to everyone,  
19 but it's obvious under the case law and the First  
20 Amendment itself, you know, is that voters ought to  
21 have the ability to have information about who's vying  
22 to influence their vote and they ought to be able to --  
23 and we ought to be able to have measures in place that  
24 prevent corruption and the appearance of corruption.  
25 So, you know, I think that it's important

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1 to -- you know, as we're looking at this, we are -- we  
2 are always trying to, you know, understand the  
3 regulated community's perspective and get as much  
4 information as we can. That's very important to us as  
5 staff members in terms of our ability to advise the  
6 Commission, but it also -- you know, at the heart of  
7 it, you know, this is -- the voters passed a disclosure  
8 regime consistent with the First Amendment, so that's  
9 sort of a premise I wanted to start with.  
10 So if we could, Cathy, is that okay to go to  
11 the next thing.  
12 So what we tried to do in this PowerPoint,  
13 which hopefully won't take too long, is outline the key  
14 provisions that this particular request regards. The  
15 first is a provision of 16-971 that talks about a  
16 publication that promotes, supports, attacks, or  
17 opposes a candidate within six months preceding an  
18 election involving that candidate. And we'll go  
19 through, in a little bit, some examples of that.  
20 You'll see in the draft memo that, you know,  
21 look, I mean, promotes, supports, attacks, or opposes,  
22 those are pretty simple terms. We think the language  
23 is plain. And, in fact, the U.S. Supreme Court  
24 precedent on that in the case called McConnell v. FEC  
25 says that those terms are, in fact -- you know, are

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1 clear and not vague.  
2 The next provision is a provision that deals  
3 with a public communication that refers to a clearly  
4 identified candidate within 90 days before a primary  
5 election until the time of the general election and  
6 that is disseminated in the jurisdiction where the  
7 candidate's election is taking place. As you'll see in  
8 the letter -- in the AOR, you know, the -- you know,  
9 part of the question there is, well, does that mean --  
10 you know, how does that work in the -- you know, how  
11 should that work and the Opportunity Arizona's concerns  
12 with that. We'll talk about that more generally -- or,  
13 more in a bit.  
14 And then finally, activities or public  
15 communications that support the election or defeat of  
16 candidates of an identified political party or the  
17 electoral prospects of an identified political party.  
18 So those are the three subdefinitions of  
19 campaign media spending we're really working with  
20 today. So if you don't mind, Mr. Chairman, I think  
21 probably to help deal with this it would be better if  
22 we could go to the next slide where we start putting  
23 these in some context here.  
24 So, Cathy, if that's...  
25 So, first question we got, basically there's

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1 a number of examples that are in the letter, the AOR,  
2 and they're reproduced in this brief PowerPoint or --  
3 I've heard that if you say PowerPoint, it  
4 tags you as a Gen Xer. You're supposed to say deck,  
5 but I'm not sure I'm -- I don't know. What are you  
6 going to do.  
7 Anyways, and we -- and like I said, we -- in  
8 our draft we sought to apply the plain meaning of those  
9 terms.  
10 Cathy, if we could go to the next one.  
11 So --  
12 COMMISSIONER CHAN: Tom, I just learned  
13 something new. I think your audience here on the  
14 Commission is also going to say PowerPoint, but no  
15 longer.  
16 MR. COLLINS: Well, just so we all know. You  
17 know, I mean, I read a -- I read a -- I saw a reel  
18 about it, so -- because I'm a Gen Xer and I get my  
19 video shorts from reels.  
20 So this first one, this is an example that  
21 was included in the AOR. It says, click to send a  
22 thanks to a senator for investing in housing  
23 affordability. And then it says, visit Opportunity  
24 Arizona to learn more. So the letter presumes, for  
25 purposes of the analysis, that the -- that the

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1 Opportunity Arizona is looking for our advisory opinion  
2 on that this senator is, in fact, a candidate and that  
3 we are in the six months prior to an election involving  
4 the candidate.  
5 And, you know, the sort of short bottom line,  
6 and you can, you know, look more at the text, is that  
7 this would promote or support a candidate because it  
8 contributes to the growth or prosperity of the  
9 candidate. I mean, to put -- to boil it down perhaps  
10 even more simply, there's nothing more definitively  
11 supporting a candidate than thanking the candidate for  
12 supporting an issue. I mean, so, you know -- and  
13 again, this is time -- and it's important, and the  
14 draft talks about this, it's time limited by six months  
15 and it's financially -- you know, you have to be at the  
16 thresholds that are -- that are required before the  
17 Prop 211 factors in, so...  
18 Cathy.  
19 So, similarly --  
20 And, Mr. Chairman, because, you know, I don't  
21 always see whatever -- if anyone wants -- if you want  
22 to interrupt me or whatever, just let me know, or if  
23 anyone has questions.  
24 So this is sort of the flip side of the thank  
25 you. This is the, you know, tell this lawmaker to stop

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1 making barriers to voting in Arizona. So, you know,  
2 again, we would say -- in the draft we say this is an  
3 attack, it's language to show that, you know, in this  
4 case, Opportunity Arizona, is placed opposed to or  
5 opposite the candidate's stance. You know, again, you  
6 know, it's sort of the plain meaning of attack, you  
7 know, it -- you know, we think that that is accurate.  
8 So then the next slide -- the next slide, we  
9 didn't see a candidate there, so I guess we can go to  
10 the next one. Sorry.  
11 Okay. So this one is a little different,  
12 we'll get one -- there's one more after this example  
13 that I think is -- ties together the first two pretty  
14 well, but this one is kind of a unique thing. This is  
15 a tactic that Opportunity Arizona uses and says that  
16 they'll continue to use called a patch call where --  
17 this is where you're at -- you have a person call a  
18 number, the person picks up, you ask them essentially  
19 do you want to talk -- you know, do you want to tell  
20 Senator or Representative So-and-So, you know, whatever  
21 you want to tell them about the bill -- a bill or what  
22 have you, you know, that -- which the AOR assumes is a  
23 public communication, and we take that assumption.  
24 It's a direct solicitation to immediately contact the  
25 elected official, so we saw that as not falling within

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1 the PASO definition.  
2 And then I think the next one, Cathy, if we  
3 could.  
4 So the next one, you know, this is -- this  
5 is -- we do not think in the draft that this is -- that  
6 this promotes, supports, attacks, or opposes a  
7 candidate. It doesn't identify the candidate's  
8 position on the issue. It simply directs -- similar,  
9 in fact, to the patch call, it simply directs a  
10 communication to the elected official who is a  
11 candidate and says -- you know, asks them to tell them  
12 to protect our freedom to vote.  
13 So you can see, the way that we have in the  
14 draft and as I said in my e-mail to our -- to the  
15 extent I've been able to reach the regulated community  
16 and I'll say here again, you know, we are obviously  
17 looking for substantive comments on this particular  
18 aspect. And that's, in part, because, other than the  
19 AOR itself, we received zero comments about -- about  
20 the PASO definition.  
21 And the reason I want to highlight that here  
22 is because I have been told, either through  
23 communications or -- formal communications and  
24 otherwise, that -- whether it's letters from -- you  
25 know, letters, for example, that the PASO standard is

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1 the standard people are very concerned about, that we  
2 have understood this from -- from people who purport to  
3 represent regulated entities under this Act. So if --  
4 you know, obviously our goal with these advisory  
5 opinions is to provide, you know -- well, first of all,  
6 they cabin the Commission's discretion going forward,  
7 and second of all, they are intended by rule to be  
8 reliable.

9 So we would like to have that feedback, and  
10 if, you know -- but we can't generate the feedback  
11 ourselves. In other words, if this is an issue, as  
12 it's been articulated to us over the course of the last  
13 few months, then, you know, we would really like --  
14 whether people like it or hate it, we would like to  
15 hear from them as soon as possible on the draft, so --  
16 but you can see, you know, obviously there -- under the  
17 plain terms of the Act and the way that the two  
18 advertisements at the beginning juxtapose with this  
19 third, you know, you can see a very obvious bright line  
20 between them, it's predictable, it's consistent with  
21 the plain terms, and that's why that is what the draft  
22 says at this point.

23 CHAIRMAN KIMBLE: Tom, can you hear me?  
24 MR. COLLINS: Yes.  
25 CHAIRMAN KIMBLE: I'm not sure I see a huge

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1 difference between the ad you have here, call to tell  
2 Senator So-and-So to protect our freedom to vote, and  
3 the one you used earlier that says, click to send a  
4 thanks to Senator So-and-So for investing in housing  
5 affordability. But you see a difference between those  
6 two?

7 MR. COLLINS: Right. Yes. Mr. Chairman,  
8 that's a very good question, and actually I think  
9 that's a really -- really the question.

10 So what do these things have in common? They  
11 both have desert vistas. They both are calling for  
12 contact to the candidate or the elected official. They  
13 both mention issues, right. So in that sense, you  
14 know, match, match, match, match, match.

15 So the difference is that on the one hand the  
16 ad is asking -- is asking you to express your support  
17 to the candidate and also expressing Opportunity  
18 Arizona's support for the candidate's position. The  
19 other is not telling you anything about the candidate's  
20 position or Opportunity Arizona's position vis-a-vis  
21 that candidate.

22 So, to me, that's the difference is one is  
23 saying, Senator Such-and-Such did a thing Opportunity  
24 Arizona likes, express support; the other one is  
25 saying, here is an issue, we support the issue, express

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1 that to the candidate, right, or the elected official.  
2 So to me it's the difference between promote, support,  
3 attack, and oppose, as opposed to what the Opportunity  
4 Arizona folks refer to as actual issue advocacy. So  
5 one focuses on the issue; the other one, the subject is  
6 truly -- the call to action is, Opportunity Arizona  
7 supports this candidate/elected official and so should  
8 you. Does that answer the question?

9 CHAIRMAN KIMBLE: Not really.

10 MR. COLLINS: I mean, that's -- okay. Well,  
11 this is very important, so I'd like to -- I'd like to  
12 hear a little more about what --

13 CHAIRMAN KIMBLE: Well, I don't see much  
14 difference between protect our freedom to vote and  
15 investing in housing affordability.

16 MR. COLLINS: Oh.

17 COMMISSIONER CHAN: Mr. Chairman, Tom.

18 CHAIRMAN KIMBLE: I think it's clear what  
19 Opportunity Arizona wants, they want to protect our  
20 freedom to vote.

21 Commissioner Chan.

22 COMMISSIONER CHAN: I think -- I don't know  
23 if this will be helpful, but to me the difference is in  
24 the one that's on screen where it says, you know, for  
25 30 years Arizonans have voted by mail, contact this

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1 senator to tell her to protect our freedom to vote,  
2 without naming which position the senator has taken,  
3 versus the earlier one where it says, thank this person  
4 for voting this way, indicates that the senator -- or,  
5 I don't remember if it was a senator or representative  
6 in the other example -- indicates that legislator's  
7 position. Tom, is that the distinction between the  
8 two?

9 MR. COLLINS: Yes. Yes. Yes. That's  
10 exactly -- Mr. Chairman, Commissioner Chan, yes. The  
11 distinction is -- so just to put this in terms of the  
12 statute, the statute says promote, support, attack, or  
13 oppose a candidate within six months of an election  
14 where they're going to appear, okay. So, thank you,  
15 Senator X, is an -- is a -- is a -- for your position  
16 on Issue X is a direct expression of support for the  
17 candidate in relation to the issue, and therefore it is  
18 supporting the candidate.

19 Exactly as Commissioner Chan said, these may  
20 optically look very similar -- and I agree with you,  
21 Chairman, that probably Opportunity Arizona's view on  
22 this is understood, but the difference is, is it  
23 promote, support, attack a candidate.

24 Here we stipulate that this is a candidate,  
25 but we're not identifying -- we're not telling -- we're

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1 not calling to thank Senator B for their position on  
2 voted by -- on vote by mail or any other thing. We're  
3 just saying -- we're just saying the issue. We're  
4 saying, call Senator So-and-So and tell her you support  
5 this issue, but the plain language of this piece does  
6 not take a position upon whether or not Senator B, as  
7 opposed to Senator A, is doing good, bad, or  
8 indifferent. It's not expressing support for the  
9 candidate at all. It doesn't talk about the candidate;  
10 it's talking about the issue.

11 So to me that's the line. So you can do  
12 something that, you know, on a surface level looks very  
13 similar, but, you know, it is -- it is -- it is the  
14 statute that overlays that says promote, support a  
15 candidate within six months. This one is promoting or  
16 supporting something, obviously I agree with that, it's  
17 just it's promoting or supporting the protection of the  
18 freedom to vote.

19 So obviously we have more time on this, and  
20 that's part of the reason we wanted -- because this is  
21 complex, we wanted to build in this additional time for  
22 additional comment, but, you know, that's sort of the  
23 -- it really is in the language, it's what's the object  
24 of the communication. I don't know if that -- if  
25 that's -- if that's getting closer, Mr. Chairman.

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1 CHAIRMAN KIMBLE: Well, I see a slight  
2 difference. I don't know that I see much of a  
3 distinction. This seems like this is going to lead to  
4 arguments down the line about did we go over this line  
5 or not, because I -- I just don't see a huge difference  
6 here that -- I don't know how else to explain it, but  
7 I'm not persuaded that they're that --

8 MR. COLLINS: That's fair. I mean,  
9 Mr. Chairman, I think that's --

10 COMMISSIONER PATON: Tom.

11 MR. COLLINS: Yes. Sorry.

12 COMMISSIONER PATON: This is  
13 Commissioner Paton. I would echo the Chairman's  
14 position. I think that this kind of opens up a  
15 free-for-all where we're going to be referee for like  
16 hundreds of items.

17 MR. COLLINS: Well, so to -- if I may,  
18 Mr. Chairman, if I should -- I don't know if I  
19 should -- if I could go to Commissioner Paton's  
20 question first.

21 CHAIRMAN KIMBLE: Of course.

22 MR. COLLINS: I mean, I think,  
23 Commissioner Paton, you're right. I mean, the reality  
24 is that the Act makes the Commission the referee of  
25 that. That's what we've been asked to do.

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1 How -- what we hope to do -- and if we don't  
2 -- if we aren't there yet, obviously that's part of the  
3 issue and that's part of the reason we are obviously  
4 seeking additional feedback about that. So what we're  
5 trying to do with this AO is at least provide a  
6 sufficient -- you know, sufficient information, to your  
7 point, Commissioner Paton, that, you know, someone can  
8 pick it up and know where they are -- and this, I  
9 guess, answers both of your questions, Mr. Chairman --  
10 know where they are and not have to feel like they have  
11 to ask us again, right, that's the goal.

12 So if we're not there, that's the purpose of  
13 this extra month -- or, not extra month. We're still  
14 within the rule timeline, but that's the purpose of  
15 this discussion.

16 COMMISSIONER PATON: Okay. So you think --

17 COMMISSIONER MEYER: Mr. -- oh.

18 COMMISSIONER PATON: I mean, just to -- so  
19 you think there is a black and white thing here in  
20 that, whereas with us --

21 MR. COLLINS: Right.

22 COMMISSIONER PATON: -- we're thinking that's  
23 kind of very, very blurry. And, I don't know, I'm not  
24 a lawyer and, you know, I know that -- I mean, if you  
25 think there's a distinction, I guess -- to me, I agree

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1 with the Chairman that I feel -- I feel like I'm not  
2 sure I could justify that little difference, I guess.

3 MR. COLLINS: Well, sure. No. Mr. Chairman,  
4 Commissioner Paton, I hear what you're saying. I mean,  
5 the other way to think about this is, and this would be  
6 for your consideration as we move along, would you  
7 think that the line that you would draw would be  
8 inclusive, such that this one that is on the screen now  
9 would be considered promoting -- promoting or  
10 supporting or opposing or attacking a candidate within  
11 six months of the election, or do you think that you  
12 would draw the line so that --

13 COMMISSIONER PATON: I think they should both  
14 be disallowed.

15 MR. COLLINS: They should both be -- they  
16 should both trigger the campaign media spending  
17 definition?

18 COMMISSIONER PATON: Right.

19 MR. COLLINS: Okay. Okay. All right.

20 Well --

21 COMMISSIONER PATON: Right.

22 MR. COLLINS: Okay. Well, I mean, from my  
23 point of view, Mr. Chairman --

24 COMMISSIONER PATON: I mean, I'm sure -- and  
25 then I'm sure they could find another -- another way to

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1 try to come up to the line too, I guess, but -- I  
2 understand you've got language that you think is cut  
3 and dried, but for us, I guess, a layman, it's really  
4 hard to tell the difference. And these people, this is  
5 their business, and they -- and I just -- I see  
6 arguments all over that, so --  
7 MR. COLLINS: Sure. Well, Mr. Chairman,  
8 Commissioner Paton, I take that point and I think  
9 that -- I mean, again, like that's part of the reason  
10 we wanted to make sure -- I mean, what we've done in  
11 the past with these other AOs -- I just want to draw a  
12 -- just kind of point out where we are procedurally.  
13 With the other AOs that were more discrete and focused  
14 on -- more on the text of the actual statute and  
15 focused on a discrete question, we were able to do this  
16 in one meeting without a problem.  
17 This one we knew, because of the volume of  
18 material that Opportunity Arizona wanted reviewed, and  
19 in addition the fact that we had, like I said, heard --  
20 to your point, heard that this particular aspect of the  
21 statute is something people wanted to talk about, and  
22 yet received no additional comment about it from anyone  
23 in the regulated community, is exactly -- your  
24 questions are precisely highlighting why we're doing it  
25 this way. And so I think --

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1 COMMISSIONER PATON: Yeah.  
2 MR. COLLINS: -- as staff, I mean, our --  
3 what I take as the direction on that is we need to --  
4 we need to think about that from -- through those  
5 issues and be in a position to have a better answer for  
6 both you and Commissioner Kimble. So that would be the  
7 direction I take from that.  
8 COMMISSIONER PATON: I mean, I would say -- I  
9 would say that if they're advocating for an issue and  
10 they're mentioning the candidate within six months of  
11 the election, maybe that's like -- that's a cutoff  
12 that's very apparent, right?  
13 MR. COLLINS: Mr. Chairman,  
14 Commissioner Paton, yes, that's right. I mean, if that  
15 was the standard, that would be -- that would be a  
16 black letter or bright line, whatever the right term  
17 for that, yes.  
18 CHAIRMAN KIMBLE: Tom, there's a -- there's a  
19 lengthy comment that you've included here from the  
20 Campaign Legal Center --  
21 MR. COLLINS: Yeah.  
22 CHAIRMAN KIMBLE: -- which I've read a couple  
23 times. And is it possible for you to say what their  
24 feelings are on this question that we're talking about  
25 now?

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1 MR. COLLINS: As I read their comment, they  
2 did not touch this issue at all.  
3 CHAIRMAN KIMBLE: Okay. I mean, their  
4 general tone is more things should be -- should be  
5 covered than fewer.  
6 MR. COLLINS: To that point, Mr. Chairman,  
7 yeah. I read their comment as focused on the second  
8 question, which has to do with the 90-day clearly  
9 identified candidate standard.  
10 Certainly, given our call to have people  
11 focus on this specific textual language, that call  
12 includes the Campaign Legal Center if they want to  
13 provide that, as well as every other person. I mean,  
14 I -- but I didn't -- I -- you know, I reviewed that  
15 letter several times and, yeah, I agree with you that,  
16 both in their prior communications and in this one with  
17 respect to the 90-day statute we'll talk about next,  
18 they are in favor of more disclosure rather than less.  
19 It's not -- I don't -- I mean, obviously, given the  
20 context here, I'm not in a position to sort of ask them  
21 why they chose to focus on one aspect of the AOR versus  
22 another, but, you know, maybe we'll get something from  
23 them on this -- on this second round, and other people  
24 too hopefully.  
25 CHAIRMAN KIMBLE: Okay. Any more comments on

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1 this issue before we let Tom move on?  
2 COMMISSIONER CHAN: I thought  
3 Commissioner Meyer might have had a comment,  
4 Mr. Chairman.  
5 CHAIRMAN KIMBLE: Commissioner Meyer.  
6 COMMISSIONER MEYER: Sure. Thank you. I  
7 guess, going back to the comments that  
8 Commissioner Kimble and Commissioner Paton had and  
9 Commissioner Chan, I see the distinction. And I guess,  
10 you know, the more time I look at this and spend  
11 thinking about this the greater -- or, the easier it is  
12 for me to see that distinction.  
13 So I think, you know, as this sort of  
14 develops and matures and people are working with this  
15 rule, they'll understand that -- I think, you know, the  
16 first -- the first issue -- the first slide that you  
17 showed was, hey, you know, thank your congressperson  
18 because they did a great job on this. And then the  
19 second one is basically, hey, call your congressperson  
20 about this issue. It's not trying to influence them at  
21 all. And to me, that's -- you know, the more time I  
22 spend with this, the more -- the more I see a  
23 distinction.  
24 And so I think, you know, at first it  
25 seems -- at least to me, at first it seemed like more

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1 of a gray area. But the more time I spend thinking  
2 about this and hearing you talk about it, it becomes  
3 more distinct for me. And I think -- or, hope that  
4 that's the impact or the way others reading this would  
5 eventually learn to interpret it and I think that there  
6 would be less, you know, confusion than maybe we  
7 initially think. That's all I wanted to say.  
8 CHAIRMAN KIMBLE: Okay. Thank you,  
9 Commissioner Meyer. That was helpful.  
10 Any other comments before we move on?  
11 (No response.)  
12 CHAIRMAN KIMBLE: Okay. Tom.  
13 MR. COLLINS: Thank you.  
14 Cathy, can we go to the next.  
15 Okay. So Question 2 focuses on the section  
16 of the Act that talks about this sort of clearly  
17 identified candidate term, which is a term in Title 16,  
18 Chapter 6, Article 1 that, although we don't -- the  
19 actual definition is not in 6.1, it's a term of art  
20 that we think is -- we're sort of -- we are bound by  
21 case law, and we'll talk about it in a minute.  
22 But basically that -- this is where we're  
23 talking about the kind of an advertisement that would  
24 say -- you know, that would essentially, you know,  
25 refer to a clearly identified candidate within the 90

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1 days before their election cycle starts -- or, their  
2 election, rather. So that -- this is the kind -- and  
3 we'll go through some of this. But, for example, a  
4 thing that might not be a -- promote, support, attack,  
5 or oppose a candidate in the six months, within the 90  
6 days that referral to the candidate might be -- might  
7 kick in.  
8 So, in other words, if you think about this  
9 on a timeline, the two issues -- and this is something  
10 maybe we need to focus on in the draft a little bit.  
11 But if you think about this on a time continuum, prior  
12 to six months you're in one space. At six months,  
13 you're at this PASO standard. At 90 days, when voters  
14 are going to be most focused and most interested in  
15 what -- how their vote is sought to be influenced and  
16 the other values of the campaign finance laws that are  
17 there -- as you get to 90 days, it's the referral to  
18 the clearly identified candidate. So you're going from  
19 promote at six months to refer at 90 days on that  
20 continuum. So --  
21 COMMISSIONER MEYER: Mr. Chairman.  
22 Mr. Chairman.  
23 CHAIRMAN KIMBLE: Commissioner Meyer.  
24 COMMISSIONER MEYER: Apologies for  
25 interrupting, but I just -- I just want to jump in

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1 here. So does that mean, if we go back to the prior  
2 slide, that this slide would be treated differently at  
3 the, you know, six-month stage as opposed to the 90  
4 days simply because it has a reference to, you know,  
5 essentially say call your congressman in it?  
6 MR. COLLINS: Mr. Chairman,  
7 Commissioner Meyer, the statutes are different and use  
8 different words for different time frames. So I'm not  
9 sure that I can say, because I can't remember if we  
10 actually reached the question whether or not that  
11 particular advertisement would be within the 90 days.  
12 I'm not sure I'm in a position to say that right now.  
13 But I can tell you that there are going to be public  
14 communications that at six months are not campaign  
15 media spending, that very well could be at 90 days,  
16 because we're capturing a broader set under the terms  
17 of the -- terms of the statute, a broader set of public  
18 communications at 90 days than we are at six months.  
19 COMMISSIONER MEYER: Thank you.  
20 CHAIRMAN KIMBLE: Thank you,  
21 Commissioner Meyer.  
22 Okay. Tom.  
23 MR. COLLINS: So trying to anticipate some of  
24 the discussion, I wanted to here highlight some of  
25 Opportunity Arizona's arguments. Whether or not, you

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1 know, I captured -- I hope I've captured this with some  
2 accuracy, you know. Basically their point is a mere  
3 reference to the individual should not automatically  
4 take a public communication and turn it into one that  
5 refers to a clearly identified candidate.  
6 I wonder if that's a quote. Because if it's  
7 a quote, it's kind of --  
8 Well, anyways -- anyways, so that essentially  
9 is their position, like, look, if we -- if we make a  
10 reference to a clearly identified candidate, it should  
11 be a reference to a candidate as a candidate. In other  
12 words, it should -- clearly identified, in their view,  
13 should be the -- you know, refers to a person as  
14 Senator Such-and-Such, a candidate for governor, or,  
15 you know, that kind of -- that kind of thing. It needs  
16 to call out, in the view of Opportunity Arizona, the  
17 fact of this person's candidacy in order to trigger a  
18 campaign media -- campaign media spending event, if you  
19 will.  
20 And I want to make clear, it's a good time to  
21 make it clear, none of this stops anyone from talking.  
22 This is -- none of this is -- none of this is -- you  
23 know, I've heard in the regulated community the word  
24 violate Prop 211 to mean, well, when we have -- when we  
25 have to report. That's -- that is -- you know, that is

<p style="text-align: right;">Page 58</p> <p>1 -- to coin a phrase, that is misinformation about what 2 it takes to violate Prop 211. Complying with Prop 211 3 is not violating Prop 211, so -- 4           And then the other thing Opportunity Arizona 5 says is, look, we want to do what we see as issue 6 advocacy. And if we have to think about whether or not 7 this person is clearly identified as -- other than 8 labeled by us as a candidate, that's going to be a 9 problem for us. 10           So we can go to the next slide. 11           So that, for us -- from a staff perspective, 12 our point of view on this is essentially we already 13 have this term defined by case law in Arizona in a case 14 where there was an advertisement involving a person who 15 was running for one office, who then -- who at that 16 time occupied another office. So the advertisement did 17 not mention the office that that person was running 18 for; it only mentioned the office they were currently 19 occupying. 20           And the Court of Appeals, in a case that was 21 reported that's not over -- been overruled, basically 22 explained that, no, clearly identified candidate means 23 to -- the information identified actually in 16-901(9), 24 you know, name, photograph, drawing that appears, and 25 the identity -- the identity of the candidate is</p>	<p style="text-align: right;">Page 60</p> <p>1 political party or the electoral prospects of an 2 identified political party. So, you know, in these we 3 have three examples we'll go through here, and then 4 we'll have -- and then we'll talk a little bit more 5 about the pitch call or whatever it is, patch call. 6           So here -- okay. So here we have the 7 question really -- we understood the question to focus 8 on the electoral prospects of an identified political 9 party. Here, on the communication on my left, which I 10 don't know if that's your left, you know, has a 11 headline from Salon.com describing -- you know, saying, 12 Arizona GOP advances voting bills inspired by 13 conspiracy theories, but the call to action there is 14 e-mail the lawmaker or candidate. 15           And so, you know, our assessment at this 16 point was that this -- you know, so we've already said 17 we think this attacks the senator, but we don't see 18 this as being about the electoral prospects of the 19 identified political party because that headline is 20 there to serve to provide context for the call to 21 action. 22           The second one is a little easier because 23 there's no concurrent candidate mentioning, right, it's 24 just a list of criticisms that are denominated at the 25 Republican -- at Republicans.</p>
<p style="text-align: right;">Page 59</p> <p>1 otherwise apparent by unambiguous reference. So what 2 the court said was, it's unnecessary for the 3 advertisement to further identify the position being 4 sought. So despite the fact the ad in that case 5 involved a Republican running for Attorney General and 6 only referred to him as a Superintendent of Public 7 Instruction, that was, nevertheless, a clearly 8 identified candidate. 9           So we think that question of how that should 10 be treated is handled by the case law. You know, if 11 there are -- again, since we are soliciting additional 12 comments, if there's reasons why that's not so, 13 obviously that would be helpful to hear. 14           So I don't know if we have anything else on 15 this one. I don't know. Cathy, could we go to the 16 next slide just to see. 17           Okay. So that's all I have on Question 2, 18 Mr. Chairman. I'm going to -- with your permission, 19 I'll go on to Question 3. 20           CHAIRMAN KIMBLE: Okay. Any questions for 21 Tom on Question 2? 22           (No response.) 23           CHAIRMAN KIMBLE: Okay. Go ahead, Tom. 24           MR. COLLINS: Okay. So Question 3, support 25 the election or defeat of candidates of an identified</p>	<p style="text-align: right;">Page 61</p> <p>1           In case it's not self-evident, I mean, 2 Opportunity Arizona seems to tend to favor policies of 3 one party over the other. 4           And then -- but then if you read through all 5 the language and you take it together, it is driving 6 people to find out about the Republican Legislature 7 from Opportunity Arizona. So, you know -- so our 8 thought on that was, well, you know, again, is it -- is 9 it -- you know, it's a -- to get to the electoral 10 prospects of the Republican Legislature, you have to 11 get -- you have to do two steps, not one, right. 12 There's two steps. There's a step of you have to first 13 join Opportunity Arizona, and then they're going to 14 find -- and then they're going to find more. 15           Now, you might say, well, tax breaks for 16 private jet owners, giveaways for big business, and 17 rigging the system for the elite are obviously critical 18 of the policies of whatever party you're using those 19 kind of terms to refer to. But in this particular 20 case, you know -- you know, we think that the context 21 matters, and the call to action here is to -- is to 22 become a member or get information from Opportunity 23 Arizona. You know, that may ultimately mean that you 24 get information from Opportunity Arizona or someone 25 else that is -- that is supporting or defeating the</p>

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1 electoral prospects of an identified party, but this is  
2 the invitation to that. And I think -- and we saw --  
3 in the draft we saw a distinction there. Again, open  
4 to additional comment.  
5           So then, Cathy, if we could.  
6           Then on the next slide we do the patch call.  
7 And again, we think that because this -- although  
8 there's a reference to party, you know, we just -- we  
9 maintain the same point of view as we had on the other  
10 matter that this was evaluated under, which is this is  
11 a narrow form of communication directly to a person who  
12 picks up the phone at the office of the elected  
13 official.  
14           So I think that's -- I think that that is --  
15 I think that is all we have. Yeah, that is all we have  
16 on those. So, anyway, Mr. Chairman, I don't know if  
17 there are -- if there are additional questions on these  
18 at this point, I'm happy to try to answer those.  
19           CHAIRMAN KIMBLE: Well, I just wanted to  
20 clarify one point. So the ad with the Salon headline  
21 would be covered; the tax breaks for private jet owners  
22 would not?  
23           MR. COLLINS: We think the ad with the Salon  
24 headline would be covered because of the reference to  
25 the candidate, not because of the reference to

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1 Republicans.  
2           CHAIRMAN KIMBLE: Right.  
3           MR. COLLINS: Yeah.  
4           CHAIRMAN KIMBLE: But the tax breaks for  
5 private jet owners would not be covered?  
6           MR. COLLINS: Yes. It could be, if you -- if  
7 it was -- if it had different language, but the  
8 language there --  
9           CHAIRMAN KIMBLE: Right. But as it stands  
10 here.  
11           MR. COLLINS: Yeah.  
12           CHAIRMAN KIMBLE: And the patch call would  
13 not be covered?  
14           MR. COLLINS: Correct.  
15           CHAIRMAN KIMBLE: Okay. Thank you.  
16           Any other questions, comments from  
17 Commissioners?  
18           (No response.)  
19           CHAIRMAN KIMBLE: Boy, I feel like we're  
20 wading through some pretty tall legal grass here.  
21           MR. COLLINS: Well, Mr. Chairman, yeah. I  
22 mean, that's exactly right. I mean, this is -- this is  
23 a -- like I said, this is a hefty request that -- and  
24 that's part of the reason why we wanted to break this  
25 into a couple of different meetings to talk about --

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1 talk about it. But, you know, the best we can do, and  
2 our hope as we go forward here, is to be in a position  
3 to, you know, have a process that will ultimately lead  
4 to some answers that folks can rely on. That's what  
5 the rule talks about.  
6           And then secondly, I think that -- I'm  
7 hopeful that folks -- and there are some folks who  
8 don't appear, but do listen to our meetings on YouTube  
9 and other places -- will see that the Commission is  
10 engaged specifically in analyzing the text of this Act  
11 and its application. And I think that -- so from my  
12 perspective as a staff member, this is precisely the  
13 kind of conversation you want to have to do this.  
14           So, yes, Mr. Chairman, I appreciate the  
15 preparation all of you obviously put into understanding  
16 this to have these questions ready.  
17           CHAIRMAN KIMBLE: So any other questions,  
18 comments from Commissioners?  
19           COMMISSIONER CHAN: Mr. Chairman, I do have a  
20 question for Tom.  
21           CHAIRMAN KIMBLE: Commissioner Chan.  
22           COMMISSIONER CHAN: Based on -- based on the  
23 questions raised by some of the Commissioners, Tom, and  
24 your comments regarding taking more time, are -- should  
25 we vote on this as a Commission today? Do we need to

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1 wait and see if others from the regulated community are  
2 going to weigh in? I feel like time is of the essence  
3 because of the elections coming, but --  
4           MR. COLLINS: Right. So, Mr. Chairman, if I  
5 may.  
6           CHAIRMAN KIMBLE: Yes, Tom.  
7           MR. COLLINS: Two points on that.  
8 Number one, we have a deadline imposed on -- that the  
9 Rule imposes on us of either issuing an opinion or  
10 explaining why we're not issuing an opinion of  
11 April 23rd. We're currently scheduled to meet on  
12 April 18th.  
13           The staff's recommendation is to at least --  
14 is to have, in order to allow us to process it and work  
15 with it, to have additional written comments due by  
16 April 5th. And staff's further recommendation is that  
17 the Commission formalize that in a vote, that the  
18 Commission formally vote to request additional written  
19 comments between now and April 5th.  
20           COMMISSIONER CHAN: Okay. Mr. Chairman.  
21           CHAIRMAN KIMBLE: Commissioner Chan.  
22           COMMISSIONER CHAN: In that case, I would  
23 move that the Commission officially seek additional  
24 comment on this draft advisory opinion -- or, the  
25 advisory opinion request prior to the next -- by

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1 April 5th.  
2 CHAIRMAN KIMBLE: By April 5th. Thank you.  
3 Is there a second to Commissioner Chan's  
4 motion?  
5 COMMISSIONER PATON: This is Paton. Yes,  
6 I'll second that.  
7 CHAIRMAN KIMBLE: Okay. It's been moved and  
8 seconded that we'll take additional comment through  
9 April 5th on -- on these matters. I'll call the roll.  
10 Commissioner Chan.  
11 COMMISSIONER CHAN: Aye.  
12 CHAIRMAN KIMBLE: Commissioner Meyer.  
13 COMMISSIONER MEYER: Aye.  
14 CHAIRMAN KIMBLE: Commissioner Paton.  
15 COMMISSIONER PATON: Aye.  
16 CHAIRMAN KIMBLE: Commissioner Titla.  
17 COMMISSIONER TITLA: Aye.  
18 CHAIRMAN KIMBLE: And Chair votes aye.  
19 The motion is approved 5-to-nothing.  
20 Thank you, Tom. Thank you, Commissioners.  
21 Item VI. Commissioners, you all should have  
22 had the chance to review the dates that Paula has  
23 proposed for our future meetings. Just to be clear,  
24 they are April 18th, May 30th, June 27th, July 25th,  
25 and August 29th.

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1 Is there any discussion on this? If not, do  
2 we have a motion to approve these meeting dates?  
3 COMMISSIONER CHAN: Mr. Chairman, I move we  
4 approve the meeting dates, the proposed meeting dates.  
5 CHAIRMAN KIMBLE: Thank you,  
6 Commissioner Chan.  
7 Is there a second?  
8 COMMISSIONER PATON: This is Paton. I'll  
9 second it.  
10 CHAIRMAN KIMBLE: Thank you,  
11 Commissioner Paton.  
12 It's been moved and seconded that these  
13 meeting dates be approved. I'll call the roll.  
14 Commissioner Chan.  
15 COMMISSIONER CHAN: Aye.  
16 CHAIRMAN KIMBLE: Commissioner Meyer.  
17 COMMISSIONER MEYER: Aye.  
18 CHAIRMAN KIMBLE: Commissioner Paton.  
19 COMMISSIONER PATON: Aye.  
20 CHAIRMAN KIMBLE: Commissioner Titla.  
21 COMMISSIONER TITLA: Aye.  
22 CHAIRMAN KIMBLE: Chair votes aye.  
23 The meeting dates are approved 5-to-nothing.  
24 Item VII, public comment. This is the time  
25 for consideration of comments and suggestions from the

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1 public. Action taken as a result of public comment  
2 will be limited to directing staff to study the matter  
3 or rescheduling the matter for further consideration  
4 and decision at a later date or responding to  
5 criticism. Please limit your comment to no more than  
6 two minutes.  
7 Does any member of the public wish to make  
8 comments at this time or does any member of the public  
9 on Zoom wish to make a comment? I don't see anyone.  
10 Cathy, are you aware of anyone?  
11 MS. HERRING: There are not any members of  
12 the public.  
13 CHAIRMAN KIMBLE: Okay. Thank you. The  
14 public may also send comments to the Commission by  
15 e-mail at ccec@azcanelections.gov.  
16 At this time, I would entertain a motion to  
17 adjourn.  
18 COMMISSIONER CHAN: Mr. Chairman, I move we  
19 adjourn.  
20 CHAIRMAN KIMBLE: Thank you,  
21 Commissioner Chan.  
22 Is there a second?  
23 COMMISSIONER MEYER: I'll second.  
24 COMMISSIONER PATON: This is Paton.  
25 CHAIRMAN KIMBLE: Thank you,

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1 Commissioner Meyer, for the second.  
2 I will call the roll on the motion to  
3 adjourn. Commissioner Chan.  
4 COMMISSIONER CHAN: Aye.  
5 CHAIRMAN KIMBLE: Commissioner Meyer.  
6 COMMISSIONER MEYER: Aye.  
7 CHAIRMAN KIMBLE: Commissioner Paton.  
8 COMMISSIONER PATON: Aye.  
9 CHAIRMAN KIMBLE: Commissioner Titla.  
10 COMMISSIONER TITLA: Aye.  
11 CHAIRMAN KIMBLE: Chair votes aye.  
12 We are adjourned. Thank you very much.  
13 (The meeting adjourned at 10:58 a.m.)  
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1 STATE OF ARIZONA )  
 ) ss.  
2 COUNTY OF MARICOPA )  
3

4 BE IT KNOWN that the foregoing proceedings  
5 were taken by me; that I was then and there a Certified  
6 Reporter of the State of Arizona; that the proceedings  
7 were taken down by me in shorthand and thereafter  
8 transcribed into typewriting under my direction; that  
9 the foregoing pages are a full, true, and accurate  
10 transcript of all proceedings had and adduced upon the  
11 taking of said proceedings, all to the best of my skill  
12 and ability.  
13

14 I FURTHER CERTIFY that I am in no way related  
15 to nor employed by any of the parties hereto nor am I  
16 in any way interested in the outcome hereof.  
17

18 DATED at Tempe, Arizona, this 29th day of  
19 March, 2024.  
20

21   
22

23 Kathryn A. Blackwelder, RPR  
24 Certified Reporter #50666  
25

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**CITIZENS CLEAN ELECTIONS COMMISSION  
EXECUTIVE DIRECTOR REPORT  
April 18, 2024**

**Announcements:**

**Welcome Commissioner Estes-Werther**

Governor Hobbs appointed Christina Estes-Werther to the Commission. Commissioner Estes-Werther served as deputy general counsel for Governor Jan Brewer, state elections director under Secretary of State Ken Bennett, and as a member of the Bipartisan Elections Task Force established by Governor Hobbs in 2023.

She is a partner at Pierce Coleman, PLLC, where she serves as legal counsel for municipal governments on a variety of subjects, including election matters.

She is a registered independent and a resident of Maricopa County.

**The next local election is May 21, 2024.**

- Voter Registration Deadline: April 22<sup>nd</sup>
- Voting Begins: April 24<sup>th</sup>

**Proposition 211 litigation**

The legislative leadership's appeal in *Toma v. Fontes*, a separation of powers challenge to Proposition 211 will be held May 7th.

**Voter Education and Outreach:**

- Avery was featured on a panel at Avery was a panelist at a panel discussion at Defending Democracy in the Disinformation Age, a daylong event organized by Arizona State University's McCain Institute and Cronkite School of Journalism and Mass Communication. The panel, *The Arizona Effect: Arizona's Impact on American Democracy*, also included Maricopa County Supervisor Bill Gates and Don Henninger of the Carter Center. The moderator was Dawn Wallace of the Flinn Foundation. More about the event: [www.mccaininstitute.org/resources/events/defending-democracy-in-the-disinformation-age/](http://www.mccaininstitute.org/resources/events/defending-democracy-in-the-disinformation-age/).
- Gina was a contributing author for the Arizona Town Hall report "Voting and Elections in Arizona" and is a feature panelist at the report launch on April 24th. See the attached report.
- Clean Elections wrapped up its pre-primary election poll, conducted by Noble Predictive Insights, for voters on the issues that matter most to them. This information will be used to help shape the debates. See the attached report.
- Clean Elections has partnered again with the Arizona Commission for the Deaf and Hard of Hearing to translate the voter education guide in American Sign Language. Work is underway!
- Avery joined a town hall at the University of Arizona about voter participation and civic engagement joining Secretary of State Adrian Fontes and Pima County Recorder Gabriella Cázares-Kelly on stage.

- Avery met with Emma Burns with Campus Vote Project to discuss collaborations
- Avery attended the Teengage Summit to inform students about Clean Elections resources.
- Gina and Avery tabled the 2024 Celebrate Mesa event to inform voters
- Avery regularly meets with the Arizona African American Legislative Council, NAU Votes, and plays an active role in the Secretary of State's Engagement Advisory Board committee.
- Gina and Tom met with the Arizona Republican Party chairwoman to discuss debates and voter education. They will meet with the Arizona Democratic Party chairwoman soon.
- Tom and Gina met with Arizona Town Hall and the Arizona Democracy Resiliency Network/Carter Center on possible collaboration for on the ground voter education and outreach events.

### **Administration:**

- 20 Candidate Workshops have been held, with more to be scheduled through the end of the year. Workshops are held virtually on Tuesdays from 1-2pm. 60 candidates have attended the workshops.
- Filing for the Voter's Right to Know Act is available via the Secretary of State's Beacon system.
- Two pending Advisory Opinion requests are on the agenda today. Advisory opinion requests and commission rulemaking are available at [azcleelections.gov/rule-making](http://azcleelections.gov/rule-making).

### **Legal:**

#### **Commission**

- Center for Arizona Policy v. Arizona Secretary of State, CV2022-016564, Superior Court for Maricopa County.
  - Plaintiffs filed a motion to accelerate the court of appeals' proceedings, by limiting our time to respond to the briefing on the issues. Our attorneys filed a response objecting to acceleration.
- Americans for Prosperity v. Meyer, No. 2:23-cv-00470-ROS (D. Ariz.)
  - Plaintiff filed its notice of appeal.
- Toma v. Fontes, CV2023-011834, Superior Court for Maricopa County.
  - Oral argument in Plaintiffs' appeal from the denial of a motion for preliminary injunction will be held May 7. Please contact Tom if you would like more information or would like to view the argument.
- The Power of Fives, LLC v. Clean Elections, CV2021-015826, Superior Court for Maricopa County & Clean Elections v. The Power of Fives, LLC et al. CV2022-053917, Superior Court for Arizona. No new developments.

## Others

- Monday was the deadline to challenge the petitions of candidates for the July 30th. Petition challenges are being heard this week in Superior Court.
- Arizona Free Enterprise Club v. Fontes, SI300CV202300202 (Yavapai County). Lawsuit challenges process Maricopa and many other counties use to verify signatures on vote by mail affidavit envelopes.
- Arizona Free Enterprise Club v. Fontes (Yavapai County). Lawsuit challenging the use of what the Complaint refers to as “unstaffed” drop boxes for the return of mail ballots to the county recorder pursuant to the Elections Procedures manual. Case number unavailable at this time.
- Challenges to the recently approved Elections Procedures Manual. There are three challenges filed against aspects of EPM. Some lawsuits challenge particular procedures adopted in the manual, a set of rules for election procedures that, like other administrative rules, carry the force of law. Please let Tom know if you would like further information on these cases.

## Appointments:

- The Governor appointed Christina Estes-Werther to the Commission.

## Enforcement:

- MUR 21-01, TPOF, pending.

## 2024 Regulatory Agenda:

The Commission may conduct a rulemaking even if the rulemaking is not included on the annual regulatory agenda. The following information is provided under A.R.S. § 41-1021.02:

- Notice of Docket Opening: **None**.
- Notice of Proposed Rulemaking: **None**.
- Federal funds for proposed rulemaking: **None**
- Review of existing rules: **None pending**
- Notice of Final Rulemaking: **None**.
- Rulemakings terminated: **None**.
- Privatization option or nontraditional regulatory approach considered: **None Applicable**.

# 2024 Legislative Bills

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## HB2065 - Early ballots; Friday deadline

### Sponsor

Rep. Selina Bliss (R)

### Summary

Repeals the expectation of having ballots tabulated at a designated polling place as criteria affecting the decision to consolidate polling places and precinct boards for the election. Repeals considering the number of early voting ballots that were tabulated at a prior election when considering ways to reduce voter wait time at the polls in primary and general elections. Defines the verbiage to be included in early voting instructions to include exceptions and a instructions on who to deliver early ballots to and the deadline for filing them. Requires early ballots sent by mail to be received by 7 p.m. on election day at the County Recorder's office or other officer in charge of elections in the political subdivision the elector is registered. Repeals the 7 p.m. the Friday before election day deadline for ballots received on site or at an early voting location. Establishes the new deadline for ballots received on site or at an early voting location to be 5 p.m. the Friday before election day. Establishes the signature comparison criteria for early ballots. Mandates that the County Recorder or other officer in charge of elections be present and open to receive mailed early ballots on election day until 7 p.m. and prohibits said officials from accepting hand delivered ballots. Mandates that ballots received in the mail be entered into the County's ballot tracking system, starting the day after the election. Repeals any notices necessary for compliance with early ballot on-site tabulation procedures and Sections 16-579.01 and .02 ARS.

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## HB2080 - Elections; municipal vacancies; primary

### Sponsor

Rep. Laurin Hendrix (R)

### Summary

Provides that if the person holding an office is appointed at the time of the primary, their term of office ends when an elected candidate takes the oath of office and that the candidate that receives a majority of votes at the primary election shall be declared elected to that office upon canvass and certification of results and on taking the oath of office.

### Action Taken

Passed House Municipal Oversight & Elections 8-1

Passed the House 34-24 and was sent to the Senate

Passed Senate Elections 5-3

Passed the Senate 16-14

Signed by the Governor

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## **HB2145 - Candidate challenges; primary residence**

### **Sponsor**

Rep. David L. Cook (R)

### **Summary**

Requires the assumption that the county and location of a candidate's listed residence and record of taxation is the candidate's primary residence if their nomination petition is challenged on the basis of residency.

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## **HB2153 - Mail ballot elections; technical correction**

### **Sponsor**

Rep. Alexander Kolodin (R)

### **Summary**

Minor change in Title 16 (Elections and Electors) related to streamlining and standardizing the bill's language. Apparent striker bus.

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## **HB2154 - Certificate of election; technical correction**

### **Sponsor**

Rep. Alexander Kolodin (R)

### **Summary**

Minor change in Title 16 (Elections and Electors) related to streamlining the bill's language. Apparent striker bus.

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## **HB2336 - Early ballot collection; limitations; repeal**

### **Sponsor**

Rep. Stephanie Stahl Hamilton (D)

### **Summary**

Removes the requirement that notification of ballot handling requirements be included in Board of Supervisors' voter and election guidance materials, specifically, verbiage that states that a person may only handle their own ballot or the ballot of "family member" (defined) or "household member" (defined) or persons they are a "caregiver" (defined.) Removes the designation of a Class 6 felony for and individual that collects voted or unvoted early ballots and the exclusion covering an election official or US mail carrier and the exclusion of elections held by special taxing districts, family or household members or caregivers.

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## **HB2338 - Early voting; weekend hours**

### **Sponsor**

Rep. Stephanie Stahl Hamilton (D)

### **Summary**

Requires early voting locations, including Recorder Office locations, to be open until 7:00 PM on the Saturday, Sunday, and Monday immediately preceding Election Day.

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## **HB2339 - Campaign finance; corporate recipients; registration**

### **Sponsor**

Rep. Stephanie Stahl Hamilton (D)

### **Summary**

Requires a corporation, limited liability company or labor union that contributes an aggregate of in excess of \$5,000 in one or more statewide races, or \$2,500 in legislative races, or \$1,000 in a "local election" (defined) in any county, city, town or other local jurisdiction, to register with the Secretary of State (SoS) and notify the appropriate filing officer within one day of making the contribution, excluding Saturdays, Sundays and holidays. Designates the SoS as the filing officer for registration and notifications for all registration and notification pertaining to the above campaign contribution thresholds. Stipulates that once registered for exceeding the limits set forth, the entity that registered does not have to do it again in a campaign cycle. Requires the SoS to develop the mechanisms for compliant filing and notifications and make that information available on its public website. Requires registrations to include the name and address of the entity filing, and the name, title, email address and telephone number of the person authorizing the contribution, and that each notification include the name and address of the entity, the amount of the contribution, the name of the candidate and race that will receive the contribution and the date of the contribution. Requires a covered contributor to file with the SoS or appropriate filing officer within five days after an initial threshold contribution a notarized, sworn statement that the person, agent of officer filing the registration and notice is authorized to make the contribution in question and until that is done, the notification is considered unverified and if it is not done in the prescribed timeframe, the notification will be deemed unverified and delinquent and the filing entity will be liable in a civil action brought by the Attorney General, county attorney or city or town attorney for up to three times the amount of the contribution. Designates that a person that makes knowingly false filings pursuant to the contributions covered in this bill is guilty of a Class 1 misdemeanor. Stipulates that no civil or criminal enforcement action may be filed until after the filing officer issues a reasonable cause determination.

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## **HB2340 - Campaign finance; caregiving expenditures**

### **Sponsor**

Rep. Stephanie Stahl Hamilton (D)

### **Summary**

Permits a candidate's committee to pay for direct care, protection and supervision of a child or another individual the candidate has direct caregiving responsibilities for, and for the cost of that care to be counted as a lawful expenditure of candidate committee monies.

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## **HB2341 - Independent expenditures; corporations; funding disclosure**

### **Sponsor**

Rep. Stephanie Stahl Hamilton (D)

### **Summary**

Requires an individual, corporation, limited liability company, or labor organization not required to register per state law that makes an expenditure for advertising or a fundraising solicitation to use the words "paid for by" followed by the name of the person making expenditures for the advertisement for solicitation and to state whether the expenditure was authorized by any candidate, followed by the identity of the authorizing candidate, if any. Requires a person making an expenditure for an advertisement to include the names of the top four funding sources making the largest aggregate contribution to the person making the expenditure. Designates an out-of-state contributor or group of out-of-state contributors that are a "major funding source" (defined) and a corporation, limited liability company, or labor organization as an out of state contributor. Requires a corporation, limited liability company, or labor organization making an independent expenditure, that also accepts donations or contributions to file a campaign Finance Report pursuant the state law.

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## **HB2350 - Voting centers; board of supervisors**

### **Sponsor**

Rep. Stephanie Stahl Hamilton (D)

### **Summary**

Permits a County Recorder or other officer in charge of elections to use additional types of voting and determine alternative voting locations under a specific resolution of the Board of Supervisors (BOS,) including "voting centers" (defined) constituting, on election day, polling places, early voting locations, and ballot replacement locations, and early voting drop-off locations provided each is managed per state law. Requires the BOS to appoint a Voting Center Election Board for each voting center and outlines the criteria to be a member of those Boards, to serve as a reappointment to the board, and for removal from the board. Permits the BOS to appoint a person ineligible to vote to a Voting Center Election Board and provides the criteria for that person to serve. Prohibits requiring a school district or charter school to reduce its average daily membership for an absent pupil who is serving on a Voting Center Election Board, or the school district or charter school to count that pupil's absence against any mandatory attendance policies. Allows the County Recorder or other officer in charge of elections to operate an on-site early voting location during the three-day period immediately preceding an election day provided either is able to update precinct registers and other election materials for use during that period.

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## **HB2351 - Election procedures; registrations; campaign finance**

### **Sponsor**

Rep. Stephanie Stahl Hamilton (D)

### **Summary**

Numerous changes to statutes relating to elections. For every person who provides proof of U.S. citizenship when applying for, renewing or replacing a driver license or nonoperating identification license, or updating the person's existing residence address or name on file with the Arizona Department of Transportation (ADOT), ADOT is required to electronically collect and transmit voter

registration information to the Secretary of State for the purpose of registering the person to vote or updating an existing voter registration record. The Secretary of State and ADOT Director, after consulting with all county recorders, are required to adopt rules to implement a secure automatic electronic voter registration system that collects and transmits voter registration information. The Secretary of State is required to evaluate implementation of a secure automatic electronic voter registration system at other agencies, including the Arizona Health Care Cost Containment System (AHCCCS). By December 31, 2022, any agency that allows a person to affirmatively register to vote or to update the person's registration through the internet must allow the person to complete the registration without a driver license or nonoperating identification license and with any proof of citizenship that is valid under Arizona law. Eliminates the requirement for a voter to live in the boundaries of an election district for 29 days prior to an election to be eligible to vote in that election. By the 2024 primary election and for each election thereafter, each county recorder is required to designate at least one election official at each polling place, voting center or early voting location in the county to serve as a registration clerk to facilitate and enable eligible persons to register to vote on-site on election day or during early voting. A registration clerk must be present for all hours during which a polling place, voting center or early voting location is open. Every qualified voter in Arizona has the right, after registering to vote, to vote a secret ballot in all elections for which that voter is eligible to vote. By December 31, 2026, the Secretary of State, county recorders and other officers in charge of elections are required to evaluate incorporating "risk-limiting audit" (defined) protocols into ballot hand count procedures. Reduces individual and political action committee contributions limits to \$1,000 to candidates for legislative, county, municipal or district office, from \$6,250, and to \$2,500 for candidates for statewide office, from \$6,250. Much more. Due to voter protection, several sections of this legislation require the affirmative vote of at least 3/4 of the members of each house of the Legislature for passage.

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## **HB2352 - Ballot measure amendments**

### **Sponsor**

Rep. Stephanie Stahl Hamilton (D)

### **Summary**

Allows a political committee that intends to file an application for initiative petition or referendum petition to request the Attorney General determine whether the description is lawful and sufficient. Requires the Attorney General to approve or reject the description within 10 days after submittal, and, if rejected define the reasons for the rejection. If approved, requires that any challenge to the description be filed in the Superior Court within 10 days after the Attorney General's approval. Allows a court to enforce a subpoena against a registered circulator as provided by law and if evidence is provided that shows that circulator is ineligible to circulate petitions or engaged in fraud with respect to some or all signatures obtained, and if so, the court may order those signatures collected by that circulator as invalid. Requires the Secretary of State and the Attorney General to prominently post the approved the impartial summary of any ballot measure on their respective websites, at least thirty days before the earliest date that the official ballots and publicity pamphlet are sent to be printed, and the Secretary of State shall provide a copy of the impartial summary to the committee that filed the ballot measure.

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## **HB2353 - Ballot measures; descriptive title; summary**

### **Sponsor**

Rep. Stephanie Stahl Hamilton (D)

### **Summary**

Requires the Secretary of State and the Attorney General to prominently post the approved impartial summary of the official ballot on their respective websites at least 30 days before the earliest date that the official ballots and publicity pamphlet are sent to be printed. Requires the Secretary of State to provide an impartial summary of the ballot measure to the committee that filed the ballot measure.

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## **HB2354 - Election laws; revisions; appropriation**

### **Sponsor**

Rep. Stephanie Stahl Hamilton (D)

### **Summary**

Numerous changes to statutes relating to election law. A conviction for a felony no longer suspends the person's right to vote. The hours for on-site early voting are extended through 5:00PM on the Monday preceding the election, instead of 5:00PM on the Friday preceding the election, and emergency voting during that time period is eliminated. If a county recorder determines that a provisional ballot voter is not properly registered to vote, the county recorder is required to use the information from the provisional ballot to register the person to vote for subsequent elections. An electronic pollbook used in Arizona is required to comply with the requirements in the election instructions and procedures manual adopted by the Secretary of State. Appropriates \$100,000 from the general fund in FY2024-25 and 2025-26 to the Secretary of State to provide risk-limiting audit grants to officers in charge of elections to conduct risk-limiting audits for the 2024 general election instead of a hand count audit. The Secretary of State is required to report any findings and recommendations related to the use of risk-limiting audits to the Legislature by March 31, 2026.

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## **HB2394 - Candidates; digital impersonation; injunctive relief**

### **Sponsor**

Rep. Alexander Kolodin (R)

### **Summary**

A candidate or citizen of Arizona is entitled to bring an action for digital impersonation within two years after the date the person knows, or should know, that a digital impersonation of that person was published. The plaintiff must prove that a digital impersonation was published without the person's consent, and that on publication, the publisher did not take reasonable steps to inform the person whom the publication was made that the recording or image was a digital impersonation, or that reality was not obvious to anyone viewing the recording or image. The person bringing the action is entitled to obtain a preliminary judicial declaration that a recording or image is a digital impersonation within two judicial days after seeking relief, provided that person can prove by a preponderance of evidence that the person is a candidate for public office and an election is scheduled to be held for that office within 180 days of the date relief was requested, the impersonation depicts the person engaging in a sexual act or depicts unclothed breasts, buttocks or genitals of the person, or a criminal act and the person can be reasonably expected to suffer significant personal, financial or employment hardship, and their reputation be irreparably harmed, in the absence of expedited relief.

### **Action Taken**

Passed House Municipal Oversight & Elections 9-0

Passed the House 55-0 and was sent to the Senate

Passed Senate Elections 5-2

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## **HB2404 - Voter registration cards; mailing limitation**

### **Sponsor**

Rep. John Gillette (R)

### **Summary**

Prohibits the county recorders from providing an initial or updated voter registration card to a person whose mailing address is outside the state, except for persons on active duty military services outside the state and their family members, and persons who are residents of this state and who are not served by a United States Post Office in this state.

### **Action Taken**

Passed House Municipal Oversight & Elections 5-3

Passed the House 31-28 and was sent to the Senate

Passed Senate Elections 5-2

Passed the Senate 17-11 and sent back to the House

Passed the House 31-28

Vetoed by the Governor

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## **HB2405 - Voter registrations; recorder; inactive status**

### **Sponsor**

Rep. John Gillette (R)

### **Summary**

Permits the county recorders to place a person's voter registration information in inactive status and provide the person with notice of the action, if the County Recorder believes the person provided fraudulent or incorrect voter registration information.

### **Action Taken**

Passed House Municipal Oversight & Elections 5-4

Passed the House 31-28 and was sent to the Senate

Passed Senate Elections 4-3

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## **HB2421 - Election worker communications platform; pilot**

### **Sponsor**

Rep. Laura Terech (D)

### **Summary**

Appropriates the sum of \$200,000 from the state general fund in FY 2024 - 2025 to the secretary of state to establish a communications platform for election officials and workers. Requires the Secretary of State to collaborate with County Recorders and election officers to develop an election worker communications platform suitable for mobile application and use by election administrators and workers, including poll workers, drivers, warehouse and supply workers, voter registration workers and central count center workers. Mandates that the communications system be deployed in a pilot program involving one or more counties, jurisdictions or portions of both. Permits the Secretary of State to offer the communications platform to counties at reduced or no cost. Self repeals on Jan 1, 2026.

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## **HB2422 - Voter registration; same day**

### **Sponsor**

Rep. Laura Terech (D)

### **Summary**

A person who is otherwise qualified to register to vote may register during the 28 days immediately preceding an election and is eligible to vote in that election if the person has been a resident of the county and the precinct in which the person resides for at least 29 days immediately preceding the election. A person who is otherwise qualified to register to vote may register on election day by appearing at the polling place, completing a registration form, and providing proof of residence. A person registering in this manner may vote using a provisional ballot per state law. Registration under these circumstances does not qualify a person to vote in a partisan primary election.

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## **HB2423 - Automatic voter registration.**

### **Sponsor**

Rep. Laura Terech (D)

### **Summary**

Every person who is applying for a driver license or renewal, including a nonoperating identification license or renewal, or who is making changes to drive license information and who is otherwise qualified to register to vote must be registered to vote automatically on completion of the license application unless the applicant declines to register. A person who is not qualified to register to vote and who unknowingly registers under this provision is not guilty of false registration or false swearing. Effective January 1, 2025.

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## **HB2441 - Electoral college; support**

### **Sponsor**

Rep. Steve Montenegro (R)

### **Summary**

Affirms that the legislature recognizes the importance of the electoral college and provides the reasoning behind that support.

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## **HB2464 - Presidential preference election; independent voters**

### **Sponsor**

Rep. Jennifer Pawlik (D)

### **Summary**

Voters registered without a political party designation may vote in the presidential preference election and may select the ballot of any political party at that election.

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## **HB2469 - Elections; signatures; public record**

### **Sponsor**

Rep. Cory McGarr (R)

### **Summary**

Requires voting officials to compare the signature on the envelope of an early voting ballot with the signature on record and to classify both as a public record, subject to requests for disclosure. Requires that the County Recorder or Officer in Charge of elections provide access to or copies of signatures of voter registrants and early envelope ballots within 48 hours after a request and if the request is for a noncommercial purpose.

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## **HB2472 - Election contests; procedures**

### **Sponsor**

Rep. Cory McGarr (R)

### **Summary**

Permits challenging an election based on counting votes where the chain of custody is broken and early votes present inconsistent signatures or personal information. Requires an appeal of a final judgment from a court to be filed and heard by the Arizona Supreme Court within 10 days of the issuance of the final judgment, a response filed within 5 days of the appeal filing and a reply filed within 3 days after the date on which the response is filed. Requires the state supreme court to schedule a hearing to be held within five days after the filing date of the reply and to render a decision within five days after the hearing. Considers an organization a person for the purposes of inspecting a ballot and may rotate staff to inspect ballots on behalf of the organization or entity. Permits involved parties to inspect physical ballots, ballot images, early ballot envelopes and registration records. Permits discovery on any matter that could pertain to an election and directs the court to liberally consider discovery requests and not limit discovery where possible. Permits each participating party to depose up to 10 persons.

**Action Taken**

Passed House Municipal Oversight & Elections 5-4

Passed the House 31-28 and was sent to the Senate

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**HB2474 - New party recognition; signatures; circulators****Sponsor**

Rep. Alexander Kolodin (R)

**Summary**

Disqualifies new party petitions collected more than 24 months before the primary election the party is seeking to be involved in and prohibits the filing officer from accepting the petition. Requires persons circulating a petition to be registered as circulators with the Secretary of State (SOS) before circulating petitions. Requires the SOS to develop a process for receiving service of process for petition circulators and procedures for registering circulators and receiving service of process and include those procedures in the general instructions and procedures manual issued by that office. Requires petitions to be strictly construed and those petitioning for a new party inclusion to completely apply to all pertinent statutes.

**Action Taken**

Passed House Municipal Oversight & Elections 8-0

Passed the House 57-2 and was sent to the Senate

Passed Senate Elections 7-0

Passed the Senate 28-1 and was sent back to the House

Passed the House 55-3

Signed by the Governor

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**HB2482 - Voter registration changes; text notice****Sponsor**

Rep. Barbara Parker (R)

**Summary**

Requires the County Recorder to notify an elector of any changes made to their registration record via a text message or email alert within 24 hours of making the change and if the elector has not subscribed to the Voter Registration Alert System, the Recorder shall notify the elector in writing within 10 days of the record change. Requires the notice to include how an elector may check their registration status, revise their registration information and notify the Recorder if no change was requested by the elector.

**Action Taken**

Passed House Municipality Oversight & Elections 9-0

Passed the House 57-0 and was sent to the Senate

Passed Senate Elections 5-2

Passed the Senate 20-7

Signed by the Governor

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## **HB2544 - Legislative intent; secrecy; mail voting**

### **Sponsor**

Rep. Rachel Jones (R)

### **Summary**

Bans voting by mail in Arizona. Persons who are unable to go to the polls will be provided alternate means of voting that ensure secrecy in voting to the greatest extent possible. Does not apply to persons covered by the Uniformed and Overseas Citizens Absentee Voting Act and Arizona citizens who are temporarily residing out of state. The Legislature is required to put in place additional measures to ensure as much secrecy as possible for these voters, including confirming that the person is an Arizona resident and registered voter, ensuring that the mailed ballot is sent to the correct address, and having a certified witness attest that the voter voted in the absence of others and that the voter did not show any other person the voted ballot before placing it in the envelope. Contains a legislative intent section.

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## **HB2547 - Voting centers ban; precinct size**

### **Sponsor**

Rep. Rachel Jones (R)

### **Summary**

Requires election precincts not contain more than 1,000 registered voters at the time precincts are designated. Prohibits the Board of Supervisors from using voting centers in place of designated polling places. Removes the requirement that early voting sites allow electioneering and other political activity. Prohibits the County Recorder from establishing on-site early voting locations at the recorder's office. Removes designating interfering with a voter within 72 feet of a main entrance to an on-site, early voting location a misdemeanor.

### **Action Taken**

Passed House Municipal Oversight & Elections 5-4

Passed the House 31-24 and was sent to the Senate

Passed Senate Elections 4-3

Failed in the Senate 15-15

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## **HB2580 - Election officer certification training; yearly**

### **Sponsor**

Rep. Alexander Kolodin (R)

### **Summary**

Requires that an election officer's certificate expires on December 31 in the year after the general election.

**Action Taken**

Passed House Municipal Oversight & Elections 5-4

Passed the House 31-28 and was sent to the Senate

Passed Senate Judiciary 4-3

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**HB2581 - Physical presence; resident****Sponsor**

Rep. John Gillette (R)

**Summary**

Determines a resident to be an individual with a physical presence in the state for at least 181 days with the intent to remain in the state for tax purposes, vehicle registration and voter registration. Permits the County Assessor, Director of the Arizona Department of Transportation (ADT) to determine a person is a resident if they demonstrate an intent to remain in the state and provide evidence of in-state employment, purchase of real property, rental of residential property, purchase of real property for residential purposes, the enrollment of the individual or their children in a school district or charter school, or upon showing an active duty military service member identification for the service member or their dependents. Requires the Legislative Council to prepare proposed legislation to conform the ARS with the provisions established by this bill to be considered in the fifty-seventh legislature, first regular session.

**Action Taken**

Passed House Government 7-0

Passed the House 31-28 and was sent to the Senate

Passed Senate Government 4-2

Passed the Senate 16-10 and was sent back to the House

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**HB2585 - Military poll workers; party representatives****Sponsor**

Rep. John Gillette (R)

**Summary**

Permits a county board of supervisors to appoint an active duty military member with assignment orders to a post of duty in this state and a family member of an active duty military member with assignment orders to a post of duty in this state and who has identification as a military dependent to an election board, or as ballot challengers or a party representative, regardless of their residency or voter status.

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## **HB2590 - Voter registration database; updates; counties**

### **Sponsor**

Rep. Timothy M. Dunn (R)

### **Summary**

Minor changes in Title 16 (Elections and Electors) related to the qualification and registration of electors. Apparent striker bus.

### **Action Taken**

Passed House Municipality Oversight & Elections 6-2

Passed the House 39-18 and was sent to the Senate

Passed Senate Elections 5-2

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## **HB2620 - Voting equipment; requirements; origin**

### **Sponsor**

Rep. Steve Montenegro (R)

### **Summary**

Beginning January 1, 2028, the Secretary of State is prohibited from certifying a vote recording and vote tabulating machine or device used for elections for federal, state or county offices unless 100% of all the machine's or device's parts and components were sourced from the United States, and 100% of all the machine's or device's manufacturing and assembly was performed in the United States. Vote recording and vote tabulating machines and devices that were acquired before January 1, 2028 would have been exempt.

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## **HCR2001 - Voting; qualifications; methods**

### **Sponsor**

Rep. Alexander Kolodin (R)

### **Summary**

The 2024 general election ballot is to carry the question of whether to amend the state constitution to require that anyone voting in an Arizona election be a citizen of the United States, 18 years or older and a qualified, registered voter, prohibit a person from voting for more candidates for an office than number of offices to be filled, and requires that a person's vote be the sole means of determining the outcome of an election for public office that is required by federal or state law.

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## HCR2027 - House of representatives; designated seats

### Sponsor

Rep. Cory McGarr (R)

### Summary

The 2024 general election ballot is to carry the question of whether to amend the Arizona Constitution to require the seats for the House of Representatives be designated "A" and "B" in the alphabetic order of the surnames, then first names of elected members of each district and thereafter candidates shall run for and be elected from either seat "A" or "B" in a legislative district, beginning with the Inauguration of the Members of the fifty-seventh legislature in 2025.

### Action Taken

Passed House Municipal Oversight & Elections 5-3

Failed in the House 29-31, was put up for reconsideration, but no vote has been taken

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## HCR2028 - Elections; signature verification process

### Sponsor

Rep. Alexander Kolodin (R)

### Summary

The 2024 general election ballot is to carry the question of whether to amend ARS Title 16, Chapter 4, Article 8 pertaining to voter "signature verification" (defined). Defines the physical and electronic signature verification process an election official must follow when processing early ballots, procedures if the election official discovers inconsistencies with the signatures. Exempts certain ballot affidavits from signature verification provided certain features are present and requires that election officials use the 2020 Secretary of State Signature Verification Guide for reference when performing signature verification.

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## HCR2032 - Voting centers; precinct voting

### Sponsor

Rep. Rachel Jones (R)

### Summary

The 2024 general election ballot is to carry the question of whether to amend ARS 16 to specify that at the time election precincts are designated, an election precinct may not contain more than 1,000 registered voters, the Board of Supervisors may not authorize the use of voting centers in place of or in addition to specifically designated polling places, the County Recorder may not establish early voting locations at the Recorder's office, and an elector that appears no later than 9 p.m. on the Friday prior to an election at an early voting location established by the County Recorder may not receive a ballot or update their registration information.

### Action Taken

Passed House Municipal Oversight & Elections 5-4

Passed the House 31-28 and was sent to the Senate

Passed Senate Elections 4-3

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## **SB1003 - Prohibition; photo radar**

### **Sponsor**

Sen. Wendy Rogers (R)

### **Summary**

Prohibits the use of "photo enforcement systems" (defined) by law enforcement and local authorities to enforce traffic laws. Contains a legislative intent clause.

### **Action Taken**

Passed Senate Transportation, Technology, and Missing Children 4-3

Passed Senate 16-13 and was sent to the House

Failed in House Transportation and Infrastructure 5-5

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## **SB1008 - Voter registration events; posting**

### **Sponsor**

Sen. Jake Hoffman (R)

### **Summary**

The Secretary of State and each County Recorder are required to post on their public websites a list of events that either office attends and provides voter registration services within 24 hours of attendance, including listing the location, event title and associated organizations in attendance

### **Action Taken**

Passed Senate Elections 5-3

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## **SB1060 - Federal candidates; observers; elections**

### **Sponsor**

Sen. J.D. Mesnard (R)

### **Summary**

Limits ballot challenges to one per party if an agreed upon number cannot be reached between the Chairs of each political party represented on the ballot. Requires that representatives for each party represented may not approach an election official's table or equipment any closer than is necessary to perform their stated function. Allows each representative to observe election officials and requires each representative to provide their own materials and necessities. Prohibits any representatives from obstructing the administration of an election, election board procedures, or ballot processing. Requires representatives to present any questions regarding procedures to the Supervisor of the Early Election Board of Resolution. Requires that representatives for each party be registered voters in Arizona. Prohibits anyone on the ballot from serving in the role of ballot challenger.

### **Action Taken**

Passed Senate Elections 5-2

Passed the Senate 16-14 and was sent to the House

Passed House Municipal Oversight & Elections 5-4

Passed the House 31-28 and was sent back to the Senate

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## **SB1063 - Political signs; removal; elections**

### **Sponsor**

Sen. John Kavanagh (R)

### **Summary**

Removes reference to a specific primary election and adds a reference to a first election and extends the period it is a misdemeanor to remove, alter, deface or cover a political sign of a winner of a primary or first election until 15 days after the general or runoff election. Adds signs that support or oppose a "question or issue" to the prohibition of cities, towns and counties removing, altering, defacing or covering a political sign and stipulates that the prohibition only applies to 45 days before any election and 15 days after an election, except for candidates that advance to a general or runoff election, provided there are no more than 45 days between those elections and a general election. Adds that the prohibition of removing, altering, defacing or covering a political sign applies to any election held by a city, state, county, school district, special taxing district or other governing entity including the state of Arizona.

### **Action Taken**

Passed Senate Elections 8-0

Passed the Senate 23-5 and was sent to the House

Passed House Municipal Oversight & Elections 8-1

Passed the House 58-1 and was sent back to the Senate

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## **SB1094 - Automatic voter registration**

### **Sponsor**

Sen. Christine Marsh (D)

### **Summary**

Every person who is applying for a driver license or renewal, including a nonoperating identification license or renewal, or who is making changes to drive license information and who is otherwise qualified to register to vote must be registered to vote automatically on completion of the license application unless the applicant declines to register. A person who is not qualified to register to vote and who unknowingly registers under this provision is not guilty of false registration or false swearing. Effective January 1, 2025.

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## **SB1097 - School districts; partisan elections**

### **Sponsor**

Sen. Justine Wadsack (R)

### **Summary**

Requires all elections for a School District Governing Board member to use a partisan primary election followed by a general election and in a form that is like a countywide or statewide election. Defines how ballots should be presented by the County School Superintendent. Effective date is January 1, 2025.

### **Action Taken**

Passed Senate Education 4-3

Passed the Senate 16-10 and was sent to the House

Passed House Municipal Oversight & Elections 5-4

Passed the House 31-28 and was sent to the Governor

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## **SB1114 - Write-in candidates; deadlines; ballots**

### **Sponsor**

Sen. Ken Bennett (R)

### **Summary**

Changes the deadline for a write-in candidate to file nomination paperwork to the seventeenth day before an election. Modifies the ballot format to accommodate as many blank lines as there are qualified write-in candidates, plus one additional blank line for each office, up to the total number of offices to be filled. Requires that there be one blank line for write-in candidates if no write-in candidates have qualified for an office and that each blank line will have a space for an elector to put a mark.

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## **SB1115 - Election mailings; third-party disclosures**

### **Sponsor**

Sen. Ken Bennett (R)

### **Summary**

Requires a nongovernmental person or entity that mails or delivers by hand an official election-related document or a document that resembles an official election-related document from the county recorder, county officer in charge of elections, or the Secretary of State, including a voter registration application or an early ballot request to include the words "not from a government agency" in boldfaced, clearly legible print on the outside of the envelope.

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## **SB1116 - Voter registrations; payment prohibited**

### **Sponsor**

Sen. Ken Bennett (R)

### **Summary**

Prohibits a person from paying or receiving money or any other thing of value based on the number of voter registrations or voter registration forms collected, completed or submitted.

### **Action Taken**

Passed Senate Elections 4-3

Passed the Senate 16-13 and was sent to the House

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## **SB1126 - Election; contest; technical correction**

### **Sponsor**

Sen. Wendy Rogers (R)

### **Summary**

Minor changes to Title 16 (Elections and Electors) related to the conduct of elections. Apparent striker bus.

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## **SB1128 - State agencies; payments; cryptocurrency**

### **Sponsor**

Sen. Wendy Rogers (R)

### **Summary**

State agencies are authorized to accept "cryptocurrency" (defined) as a payment method for taxes, fees, fines, civil penalties, financial obligations, and special assessments by entering into an agreement with a "cryptocurrency service provider" (defined) to provide a method to accept cryptocurrency as a payment for any amount due to that agency or the state. Requirements for the agreement are listed. Effective January 1, 2025

### **Action Taken**

Passed Senate Finance and Commerce 4-2

Passed the Senate 16-10 and was sent to the House

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## **SB1131 - Low voter turnout elections; repeat**

### **Sponsor**

Sen. John Kavanagh (R)

### **Summary**

Requires that for any non-statewide or federal election, any election that receives less than 25% of the eligible registered voters casting a ballot, the results are declared void and the election is required to be repeated on an election date with a statewide or federal office on the ballot.

### **Action Taken**

Passed Senate Elections 5-3

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## **SB1158 - Presidential candidates; qualification; no exclusion**

### **Sponsor**

Sen. Janae Shamp (R)

### **Summary**

Prohibits a candidate for President from being excluded or removed from the general election ballot on the basis of a claimed violation of the 14th Amendment of the United States Constitution if the candidate is the official nominee of the National Convention of delegates of a political party that is entitled to continued representation on the ballot, a qualified independent candidate for president, or a qualified writing candidate for president.

### **Action Taken**

Passed Senate Elections 5-2

Passed the Senate 16-13 and was sent to the House

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## **SCR1001 - Photo radar prohibition**

### **Sponsor**

Sen. Wendy Rogers (R)

### **Summary**

Bans local authorities and state agencies from using automated photo enforcement systems to identify excessive speed violations or failures to obey traffic control devices. More.

### **Action Taken**

Failed in Senate Transportation, Technology, and Missing Children 3-3

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## **SCR1011 - Voting; qualifications; methods.**

### **Sponsor**

Sen. Wendy Rogers (R)

### **Summary**

The 2024 general election ballot is to carry the question of whether to amend the state constitution to require that anyone voting in an Arizona election be a citizen of the United States, 18 years or older and a qualified, registered voter, prohibit a person from voting for more candidates for an office than number of offices to be filled, and requires that a person's vote be the sole means of determining the outcome of an election for public office that is required by federal or state law.

### **Action Taken**

Passed Senate Elections 5-3

Passed the Senate 16-13 and was sent to the House

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## **SB1153 - Regulatory costs; rulemaking; legislative ratification**

### **Sponsor**

Sen. Anthony Kern (R)

### **Summary**

Requires any proposed rule that will increase regulatory costs by more than \$500,000 within five years of implementation to be ratified through legislation. Requires the proposed rule be submitted to the Administrative Rules Oversight Committee no later than 30 days before the next regular legislative session and the Committee to submit the proposed rule to the legislature as soon as is practicable. Permits any member of the legislature to introduce the rule and exempts the rule from provisions covered under time and manner of rulemaking laws. Prohibits an agency from filing a final rule with the Secretary of State before obtaining legislative approval and if the legislature does not ratify the proposed rule in that legislative session, the agency is required to terminate the proposed rule by publishing a Notice of Termination in the register. Exempts emergency rules and the Corporation Commission. All rules that fall into this classification of rules are determined upon the effective date of this bill to be void and unenforceable without legislative ratification.

### **Action Taken**

Passed Senate Government 5-2

Passed the Senate 16-10 and was sent to the House

Passed House Regulatory Affairs 4-3

Passed the House 31-28 and was sent to the Governor

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## **HB2166 - Statewide voter registration database; costs**

### **Sponsor**

Rep. Timothy M. Dunn (R)

### **Summary**

Replaces “county contribution” with “state contribution” to voter registration system fund and specifies that the Arizona Secretary of State manages the allocations, rather than the counties. Eliminates the requirement for an agreement between the county and Secretary for developing and administering a statewide voter database.

### **Action Taken**

Passed House Municipality Oversight & Elections 8-0

Passed the House 58-0 and was sent to the Senate

Passed Senate Elections 7-0

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## **SCR1023 - General election day; all offices**

### **Sponsor**

Sen. J.D. Mesnard (R)

### **Summary**

The 2024 general election ballot is to carry the question of whether to amend the Arizona Constitution Article VII, Section 11, to include city, town and school district elections in general elections.

### **Action Taken**

Passed Senate Elections 4-3

Passed the Senate 16-13 and was sent to the House

Passed House Municipal Oversight & Elections 5-4

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## **SB1375 - Ballots; categories; count; identification number**

### **Sponsor**

Sen. Shawna Bolick (R)

### **Summary**

Requires each ballot to bear a unique identification number that allows ballots to be linked to specific voting locations. Specifies methods for numbering. Requires the officer in charge of the election to choose the method to use. Requires that a count of the physical ballots that are printed as early ballots, regular ballots, provisional ballots, federal-only ballots, and electronic ballots, including any overlap, be posted on the county’s website in real time.

### **Action Taken**

Passed Senate Elections 4-3

Passed the Senate 16-13 and was sent to the House

Passed House Municipal Oversight & Elections 5-3

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## SCR1014 - Presidential electors; constitutional appointments

### Sponsor

Sen. Anthony Kern (R)

### Summary

The Legislature resolves that no voting system or component of a voting system may be used or purchased as the primary method for casting, recording, and tabulating ballots used in any election held in Arizona for federal office unless all components have been designed, manufactured, integrated, and assembled in the U.S. from trusted suppliers, the source code is made available to the public, and the ballot images and system log files from each tabulator are recorded on a secure write-once, read-many media with clear chain of custody and posted on the Secretary of State's website free of charge to the public within 24 hours after the close of the polls.

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## SB1429 - Candidates; electronic signatures; limit

### Sponsor

Sen. Ken Bennett (R)

### Summary

Permits a statewide and legislative candidate to choose up to 25% more than the full number of required nomination petition signatures or up to an amount equal to 25% more than the full number of required contribution qualification forms, or both, by use of the online signature collection system prescribed by this legislation. Permits a town or city candidate to choose to collect up to 25% more than the minimum number of required nomination petition signatures by use of the online signature collection system. Permits a candidate for United States Senator or Representative to collect up to 25% more than the full number of required nomination petition signatures by use of the online signature system. This legislation is effective upon an affirmative vote of at least three-fourths of the legislature.

### Action Taken

Passed Senate Elections 6-0

Passed 27-2 and was sent to the House

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## SB1009 - Voting registrations; ballot requests; source

### Sponsor

Sen. Jake Hoffman (R)

### Summary

Prohibits the use of a signature a voter submitted on a non-official form being used as the sole evidence for signature comparisons by the County Recorder when processing a request for an early ballot or to amend a voter's registration information. Mandates that only a political party, county recorder or election official can distribute early ballot request forms to voters, removing candidates from the list of allowable distributors. Exempts elections for special taxing districts formed for the purpose of protecting or providing services to agricultural lands and crops from these changes.

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## **SB1288 - Electronic ballot adjudication; prohibition**

### **Sponsor**

Sen. Jake Hoffman (R)

### **Summary**

The county board of supervisors and officer in charge of elections are prohibited from using an electronic vote adjudication. A duplicate copy of a damaged or defective ballot must be made by hand in the presence of witnesses and substituted for the damaged or defective ballot.

### **Action Taken**

Passed Senate Elections 4-3

Passed the Senate 16-13 and was sent to the House

Passed House Municipal Oversight & Elections 5-4

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## **HB2481 - Open meetings; public body; legislature**

### **Sponsor**

Rep. Barbara Parker (R)

### **Summary**

Requires all “public bodies” (defined as no longer including the legislature) provide an opportunity for public comment in person before any final decision is made, subject to reasonable time, place and manner restrictions. Requires at least 48 hours’ notice and the official agenda to be available to the public (with a hyperlink to all relevant documents, contracts, agreements or proposals under consideration in the meeting) for any public meetings and allows a meeting to be recessed with less than 48 hours’ notice if the initial session of the meeting adheres to all state laws. Stipulates that any 48-hour requirements includes Saturdays if the public has access to the physically posted notice. Removes the ability of the legislature to provide exemptions from requirements or to be met by technological means.

### **Action Taken**

Passed House Government 6-3

Passed the House 31-28 and was sent to the Senate

Passed Senate Government 4-3

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## **HB2787 - Voting equipment; inspection; elected officials**

### **Sponsor**

Rep. Rachel Jones (R)

### **Summary**

Allows any elected official to inspect voting equipment while accompanied by an expert of the elected official's choice. Requires the inspection to include access to all source code and other proprietary material related to the voting equipment if requested. Allows the elected official to conduct the

inspection at any time but prohibits disruption of the voting process on election day. Requires the elected official and accompanying expert to keep all information received confidential unless the elected official or the accompanying expert has a good faith belief that the voting equipment is malfunctioning or being exploited in any manner that violates any election law.

**Action Taken**

Passed House Municipal Oversight & Elections 5-4

Passed the House 31-29 and was sent to the Senate

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## **HB2876 - Elections; mailing; curing; canvassing; precincts**

**Sponsor**

Rep. Michael Carbone (R)

**Summary**

Eliminates the use of voting centers, early voting locations or similar methods of voting. Requires that all voting occur through individual precinct voting locations with preprinted ballots. Limits those who may vote an early ballot to qualified electors who are students temporarily absent from the state for the purpose of attending school; required to temporarily reside outside of the state; required to travel on election day; elderly or disabled persons; and eligible electors under the Uniformed and Overseas Citizens Absentee Voting Act. Extends the beginning of the early ballot distribution period from no more than 27 days to no more than 34 days prior to the election and if an early ballot is requested 38 days or more prior to an election, the early ballot must not be distributed earlier than 34 days prior to the election. Reduces the signature curing period from no later than the fifth business days after a primary, general or special election with a federal office or the third business days after any other election to the second business day following any election. Revises the period elections must be canvassed from between 6 and 20 days to between 6 and 12 days following an election. Instructs the Secretary of State to canvass all state offices 14 calendar days following a general election as opposed to the fourth Monday following a general election. Requires the legislative council staff to prepare proposed legislation conforming to the provisions of this Act for consideration in the 57th legislature, first regular session.

**Action Taken**

Passed House Municipal Oversight & Elections 5-4

Passed the House 31-28 and was sent to the Senate

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## **HB2852 - Voter registrations; organizations; prohibition**

**Sponsor**

Rep. Justin Heap (R)

**Summary**

Prohibits this state and any of its political subdivisions from being a member of any multistate voter registration or voter registration list maintenance organization that requires Arizona to provide certain confidential voter registration information, such as social security numbers and driver license numbers; and from joining or entering into an agreement with any organization that imposes a duty on this state, such as mailing voter registration forms to voters that are not registered to vote. Prohibits a political subdivision of Arizona from joining an organization or entering an agreement with any

organization that imposes a duty on the political subdivision, unless otherwise expressly required by Arizona law.

**Action Taken**

Passed House Municipal Oversight & Elections 5-4

Passed the House 31-28 and was sent to the Senate

Passed Senate Elections 4-2

Passed the Senate 16-13 and was sent to a conference committee

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**HB2851 - Elections; ballot chain of custody**

**Sponsor**

Rep. Justin Heap (R)

**Summary**

Requires the Board of Supervisors to provide a chain of custody record for ballot printing location; ballot transportation; storage and delivery of ballots to the county recorder or other officer in charge of elections; and any voting location. Asserts that the chain of custody record must include the time and signature for each point of contact and other specified information. Specifies that unvoted ballots delivered to a voting location where there is no election board worker requires the person delivering the ballots to note that the ballots were delivered and secured without a designated recipient. Adds that a ballot box, before receiving ballots, must be locked with a tamper evident seal. Specifies that the tamper evident seal must be checked by two board members in case of an emergency transfer. Details that at the close of the polls and if a ballot box has been transferred or opened, a report must be made including the date, time and name of any election officer witnessing the transfer or opening of a ballot box. Requires the county recorder or other officer in charge of elections to prepare a chain of custody record, with specified information, for the transportation and delivery of voted ballots. States that all damaged and defective ballots replaced with a duplicate ballot must be included in a chain of custody record that includes specified information. Requires the county recorder or election officer in charge to provide a live video, with full visibility of the ballots, at various stages of the ballot's cycle. Instructs the county recorder or election officer in charge to maintain a specified record of all voting irregularities that occur during specified elections. Specifies that the voting irregularities record must be sent to the President of the Senate, Speaker of the House and the Secretary of State.

**Action Taken**

Passed House Municipal Oversight & Elections 5-4

Passed the House 31-28 and was sent to the Senate

Passed Senate Elections 4-2

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**HCR2058 - Legislative districts; population; census; citizenship**

**Sponsor**

Rep. Justin Heap (R)

**Summary**

Directs the Independent Redistricting Commission (IRC) or other officer or body designated by the Legislature, to take a census that must be completed by December 31 of years ending in zero.

Requires the census to include a tabulation of the number of United States citizens residing in Arizona and their residences. Specifies the census may be conducted consistent with the procedures and methods adopted by the United States Census Bureau or its successor agency. Prohibits the IRC, or other designated body, from employing federal practices inconsistent with this Act. Instructs the IRC to use the data collected from the census to determine the citizen population of each Legislative district. Specifies, if no census is timely completed, the IRC must use the most current data from the United States Census Bureau or its successor agency to determine the citizen population of each Legislative district. Requires the IRC, during the commencement of the mapping process for legislative districts, to create districts of equal citizen population in a grid-like pattern across Arizona. Specifies any member of the Legislature has standing to initiate any action or proceedings to enforce the provisions of this Act.

**Action Taken**

Passed House Municipal Oversight & Elections 5-4

Passed the House 31-28 and was sent to the Senate

Passed Senate Appropriations 6-4 – was amended to include a section that takes \$5 million from the Clean Elections Fund and gives it to the State Census Fund

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**HCR2049 - Ballot measures; challenges.**

**Sponsor**

Rep. Neal Carter (R)

**Summary**

The 2024 general election ballot is to carry the question of whether to amend the state statutes to stipulate that beginning in 2025 - 2026, if the amount of monies available to the Permanent State School Fund exceeds the amount required, pursuant to state law and there are no outstanding state school facilities revenue bonds, qualified zone academy bonds, state school trust revenue bonds issued to correct existing deficiencies, the Arizona State Land Department shall transfer those monies to the School Facilities Revenue Bond Debt Service Fund. Prohibits the State Treasurer from transferring monies pursuant to state law before meeting all obligations mentioned above.

**Action Taken**

Passed House Municipal Oversight & Elections 5-4

Passed the House 31-28 and was sent to the Senate

Passed Senate Transportation, Technology, and Missing Children 4-3

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## **SB1571 - Campaign finance report; statewide office (Strike Everything Amendment)**

### **Sponsor**

Sen. Thomas "T.J." Shope (R)

### **Summary**

A candidate committee for a statewide candidate shall file a campaign finance report only during the eight calendar quarters comprising the twenty-four-month period preceding the general election for the office for which the candidate is seeking election.

### **Action Taken**

Passed Senate Elections 7-0

Passed the Senate 28-0 and was sent to the House

Passed House Municipal Oversight & Elections 9-0

Passed the House 54-0 and was sent back to the Senate

Passed the Senate 30-0

Signed by the Governor

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## **HB2393 - Presidential preference; parties; voting methods**

### **Sponsor**

Rep. Alexander Kolodin (R)

### **Summary**

For any party that chooses not to participate in a publicly administered presidential preference election and chooses to select a nominee for President by way of a vote open to the entire membership of the party, the party must provide a voting method for uniformed services or uniformed overseas citizens and persons with disabilities. The political party can choose its means of voting and is not obligated to hold a presidential preference election or select a nominee for President by popular vote.

### **Action Taken**

Passed House Municipal Oversight & Elections 5-4

Passed the House 31-24 and was sent to the Senate

Passed Senate Elections 5-2

Passed the Senate 16-12 and was sent back to the House

Passed the House 31-28

Vetoed by the Governor

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## **SB1357 - Early ballots; affidavits; privacy**

### **Sponsor**

Sen. J.D. Mesnard (R)

### **Summary**

Requires an early ballot affidavit to be concealable when delivered or mailed to the county recorder or other officer in charge of elections. Strike Everything Amendment passed and the bill now refers to records maintained by the County Recorders, their confidentiality, and who is allowed to have their records kept confidential.

### **Action Taken**

Passed Senate Elections 5-3

Passed the Senate 16-13 and was sent to the House

Failed House Municipal Oversight & Elections 4-5

A Strike Everything Amendment passed House Municipal Oversight & Elections 6-3

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# AZ Citizens Clean Elections Commission Public Opinion Survey Results

March 2024

# Topics

- ❖ The backdrop: Arizona voters want change, ideological fights – and compromise too
- ❖ Update: fresh data on the issues that Arizonans want to hear about most
- ❖ Drilling into the top three: Abortion, Immigration, and the Economy
- ❖ Quick note on foreign policy – that matters too!
- ❖ Where and how to reach people: regional breakdowns and best mediums
- ❖ Takeaways and Insights

**Presented by...**

**Mike Noble**  
**Founder & CEO, NPI**

# Project Goals

## Identify

- Gauge perceptions of Arizona registered and likely voters on top issues
- Learn what issues and debate topics resonate most with Arizona voters in each region and party

1

## Discover

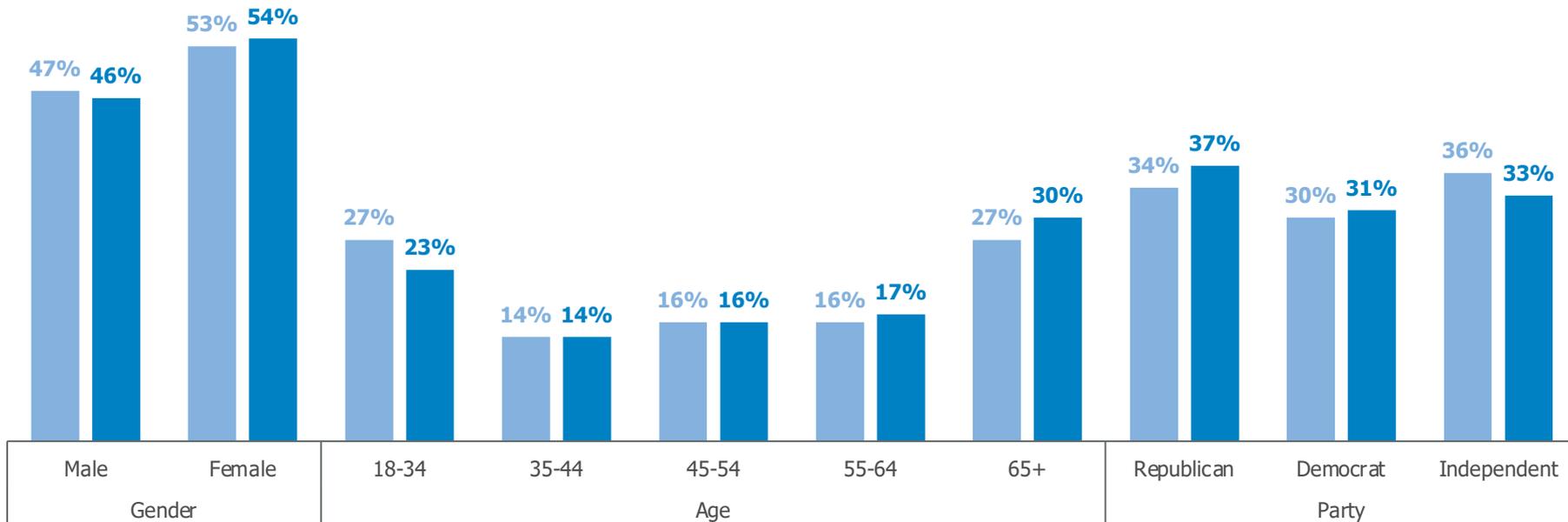
- Look into broad issue categories and granular, smaller issues that matter to Arizonans
- Drill deep on three key issues – economics, immigration, and abortion – driving the conversation
- Provide actionable, strategic recommendations for voter education and debate discussions

2

# Note before getting started: Enthusiasm for voting is high, and LVs/RVs are similar. Big ideas in this deck will apply regardless of if you're thinking about LVs or RVs.

## Sample Demographics

■ Registered Voters ■ Likely Voters - General Election



Demographics: Gender, Age, Party (n=1634 registered voters)

Subgroup: Likely general election voters (n=1438)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

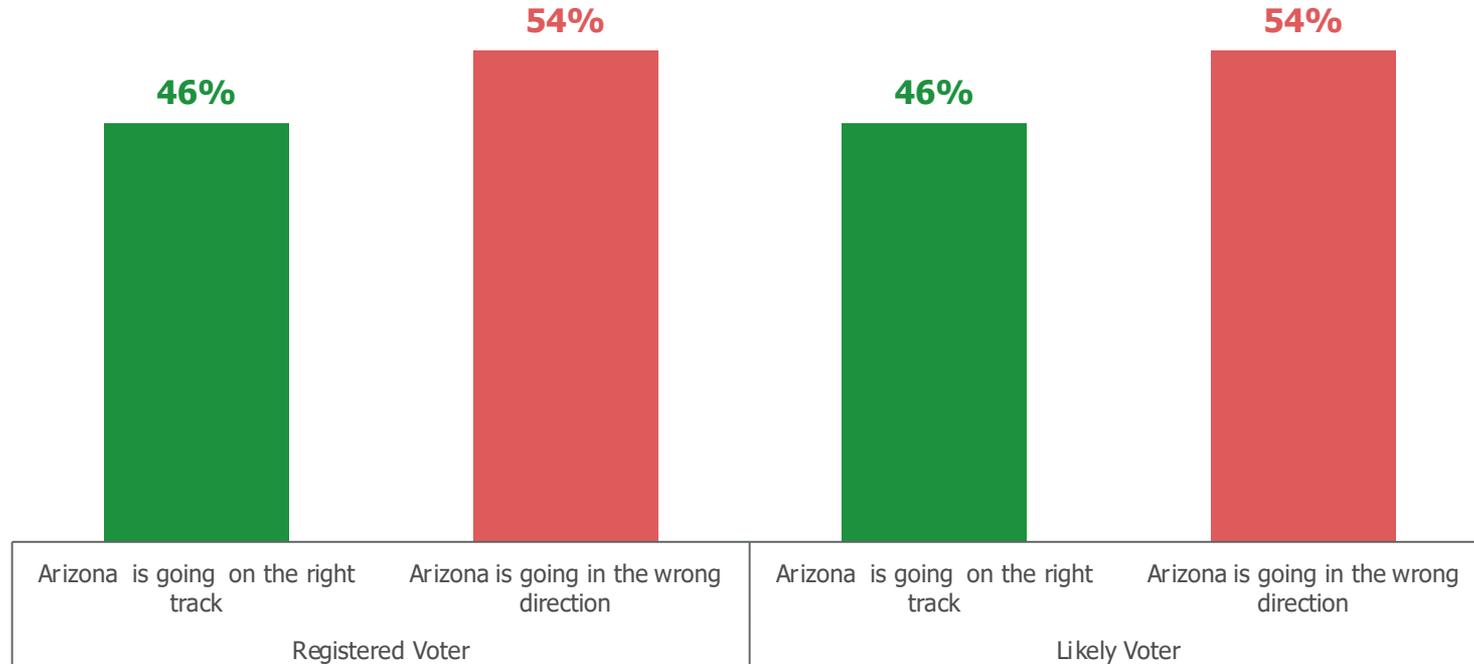
**Arizona voters want change.**

**To get there, fights – and compromise  
– are encouraged.**

# An appetite for change

# Arizona is (still) heading in the wrong direction...

## Direction of Arizona



Arizona is going on the right track

Arizona is going in the wrong direction

Registered Voter

Arizona is going on the right track

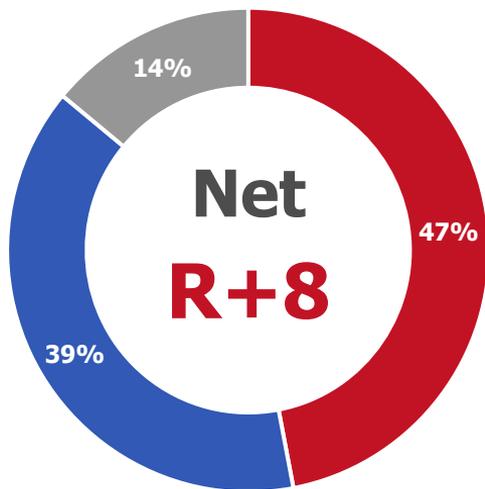
Arizona is going in the wrong direction

Likely Voter

# Growing discontent could be huge for Republicans in 2024. Republicans are ahead, but race is still in the single digits.

## Preferred Party to Lead AZ

■ Republicans ■ Democrats ■ Neither



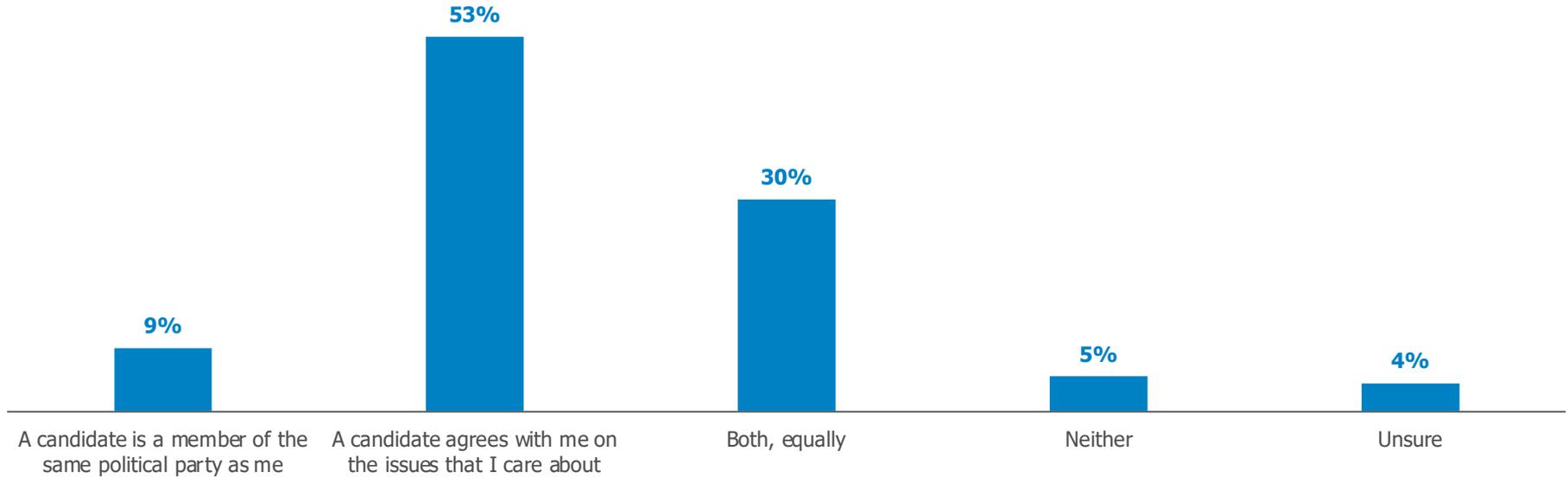
### Key Demographics:

- HHI \$50k-\$100k: **R+12**
- Independents: **R+6**
- Maricopa County: **R+6**
- Hispanic/Latinos: **R+4**

**Arizonans want  
ideological fighters**

# Arizonans care about issues more than party – they want their ideas represented

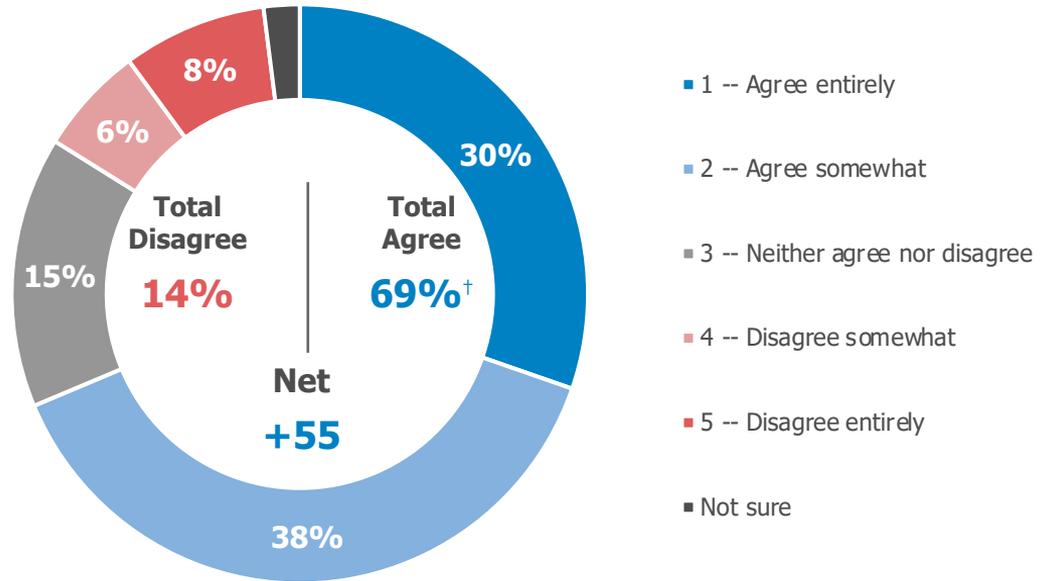
## Ideology versus Party



# Two-thirds of likely voters reported they would vote for a candidate from a party they disliked if that candidate agreed with them on issues they cared about

- Demographics likely to cross party lines:
  - Independents: +71
  - Ages 35-44: +71
  - Hispanic/Latinos: +67

## I am willing to vote for a candidate who is from a political party I dislike, if they agree with me on most issues



Please rate your agreement with the following statements, on a scale of 1 to 5, with 1 meaning you agree entirely and 5 meaning you disagree entirely. (I am willing to vote for a candidate who is from a political party I dislike, if they agree with me on most issues) (n=1438 Likely voters)

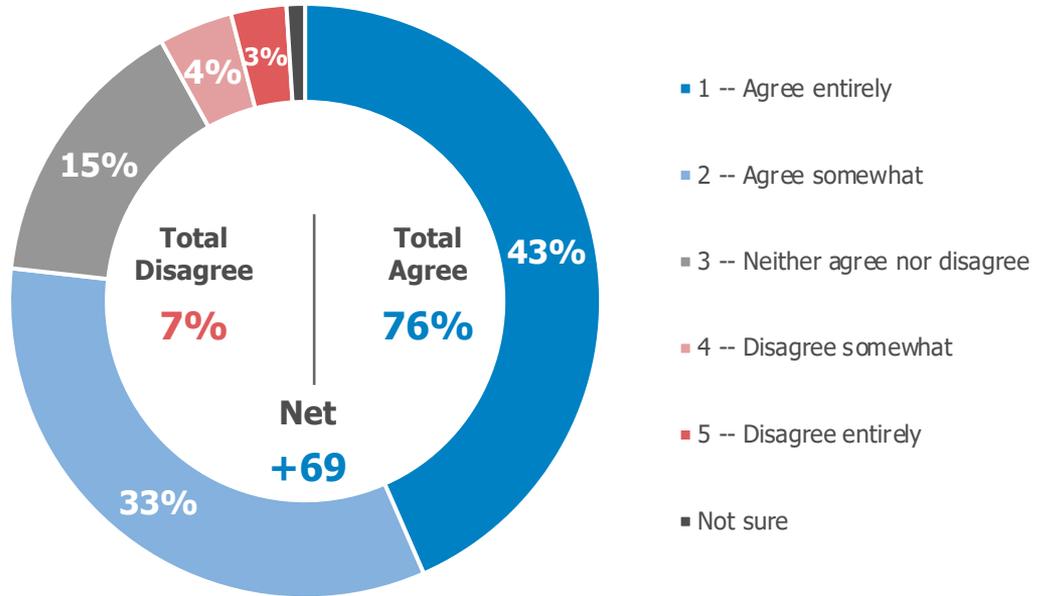
Subgroups: Independents (n=369), 18-34 year olds (n=213), Hispanics/Latinos (n=201)

<sup>†</sup> Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# On issues Arizona likely voters care about, they want a fighter – someone so committed they'll anger others

- Key demographics who want a 'puncher':
  - HS or less: +76
  - Republicans: +75
  - Urban: +74
  - Democrats: +72
  - Men: +72

## I want a candidate who will fight for my issues, even if it means angering other politicians



Please rate your agreement with the following statements, on a scale of 1 to 5, with 1 meaning you agree entirely and 5 meaning you disagree entirely. (I want a candidate who will fight for my issues, even if it means angering other politicians) (n=1438 Likely voters)

Subgroups: Men (n=572), Republicans (n=563), Democrats (n=506), HS or Less (n=219), Urban (n=459)

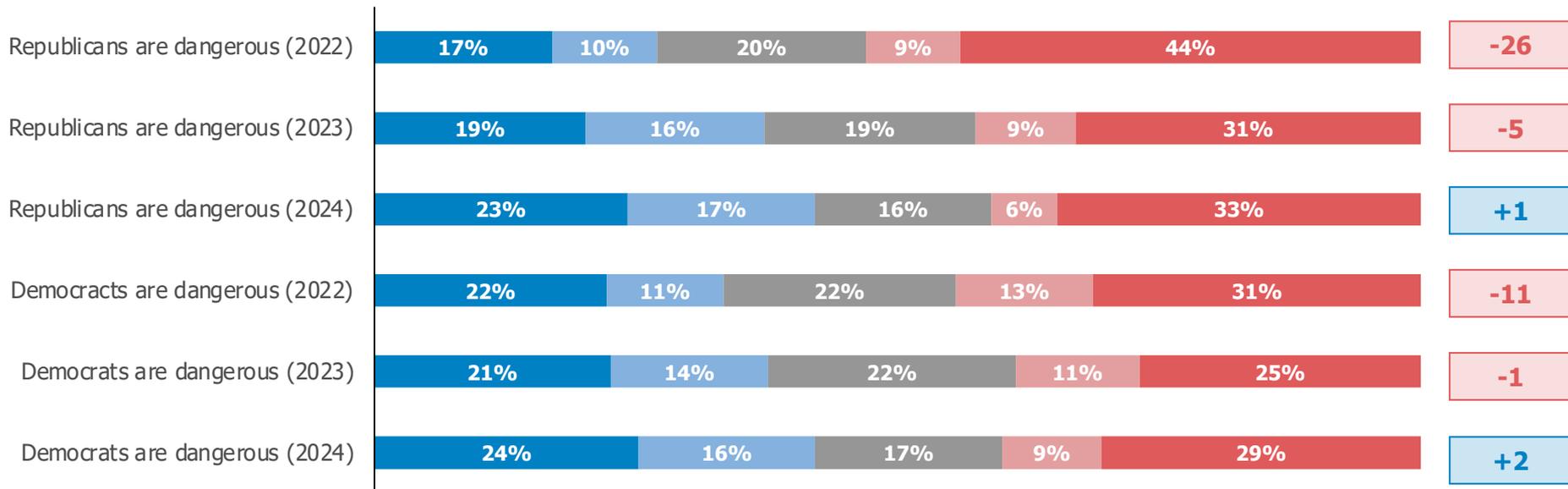
† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# And Arizona voters are increasingly likely to see the major parties as dangerous

## Respondents' Belief in the Danger of the 'Other' Party

■ Agree entirely  
 ■ Agree somewhat  
 ■ Neither agree nor disagree  
 ■ Disagree somewhat  
 ■ Disagree entirely

**Net**



Please rate your agreement with the following statements, on a scale of 1 to 5, with 1 meaning you agree entirely and 5 meaning you disagree entirely. (Democrats are a danger to democracy; I cannot see myself voting for a Democrat) (Republicans are a danger to democracy; I cannot see myself voting for a Republican) (n=1438 likely voters)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

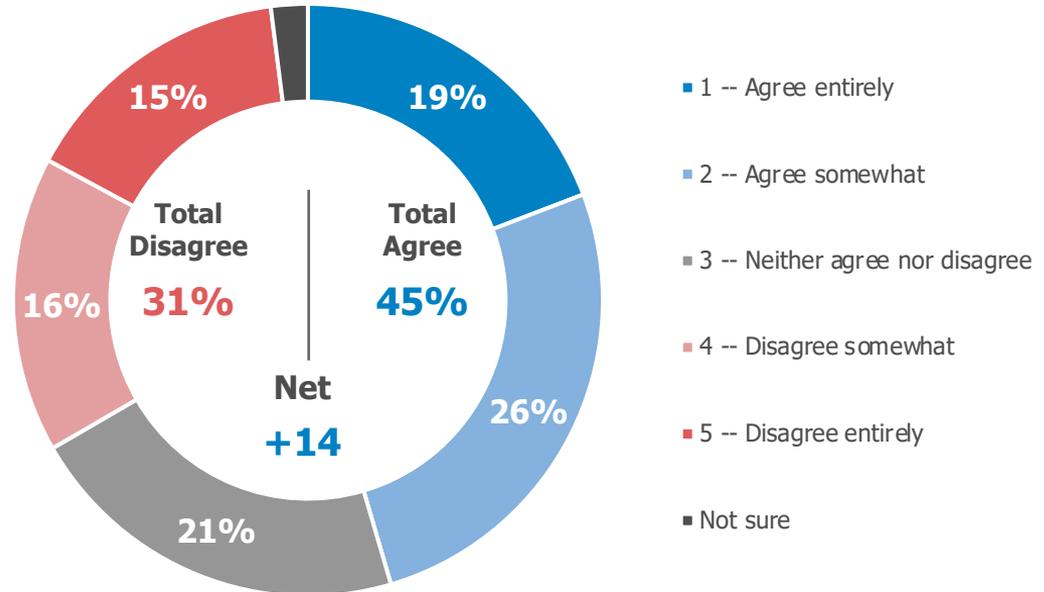
**All that being said,  
Arizonans want  
compromise too**

# Fighting and principles are healthy.

## But not everyone wants government to grind to a halt.

- Voters ages 18-34 (+36) are much more likely than voters ages 65+ (-11) to put ideological purity over efficient government
- By a huge margin, Republicans (+32) are more likely than Democrats (+3) or Independents (+6) to be willing to slow down the government over issues they care about

## I want my representatives to stand firm on their beliefs, even if it means not much gets done in government



Please rate your agreement with the following statements, on a scale of 1 to 5, with 1 meaning you agree entirely and 5 meaning you disagree entirely. (I want my representatives to stand firm on their beliefs, even if it means not much gets done in government) (n=1438 Likely voters)

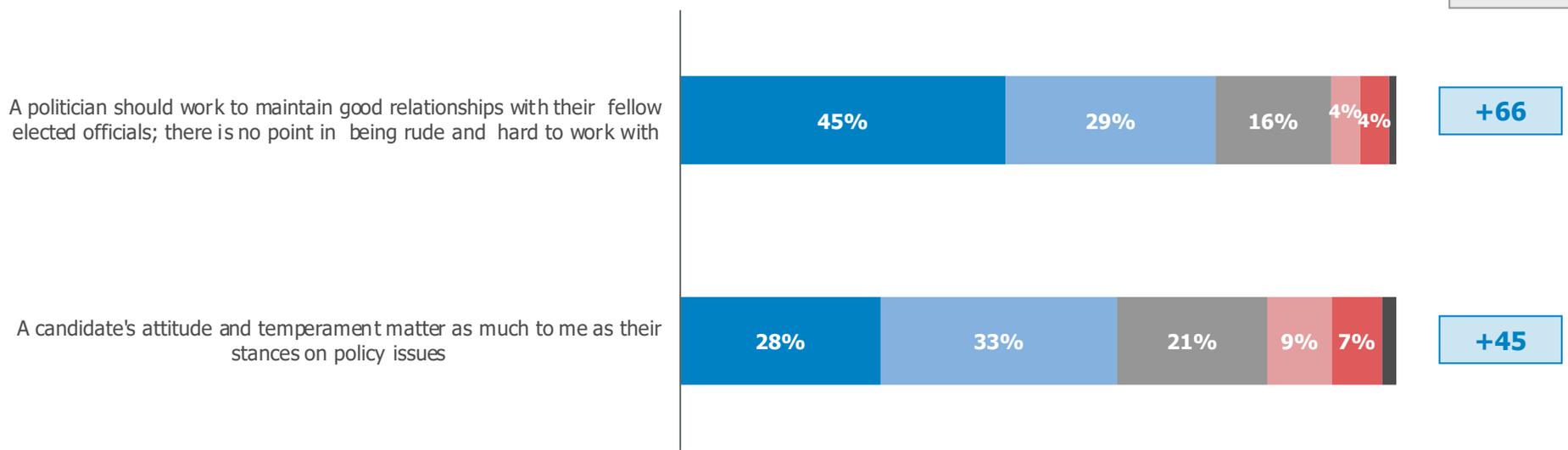
Subgroups: 18-34 year olds (n=213), 65+ year olds (n=498), Republicans (n=563), Democrats (n=506), Independents (n=369)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# And principled fighting does NOT mean mean-spiritedness. No reason to be rude.

## Importance of Candidate Collegiality Temperament

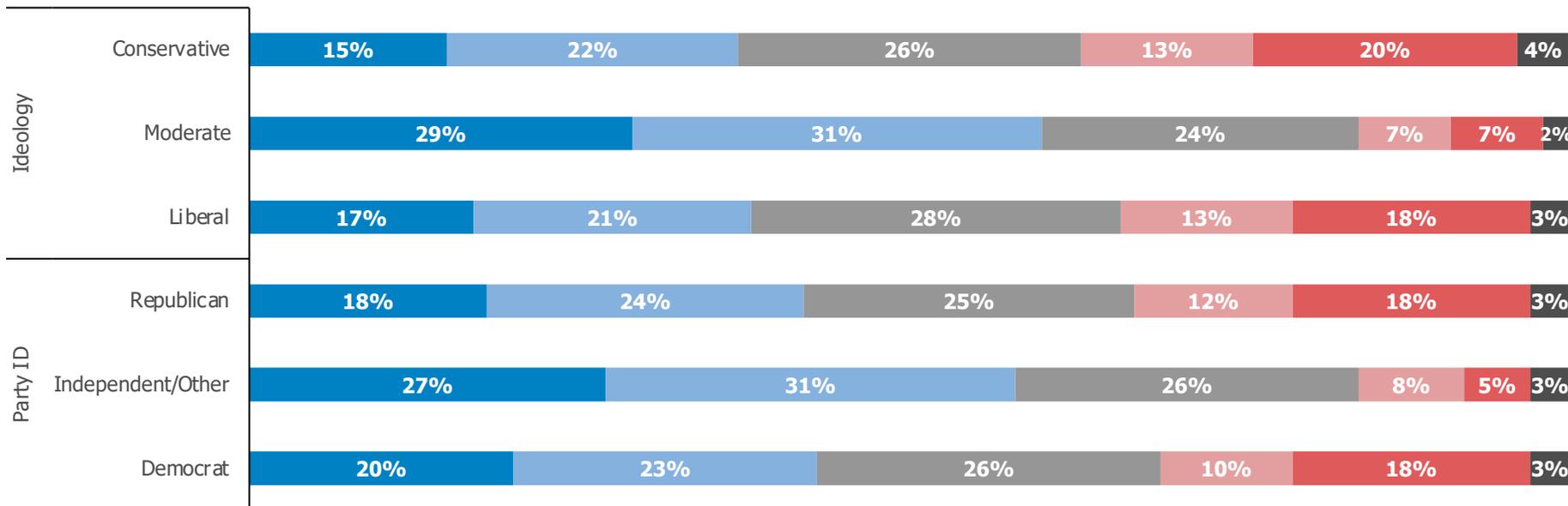
■ 1 -- Agree entirely   ■ 2 -- Agree somewhat   ■ 3 -- Neither agree nor disagree   ■ 4 -- Disagree somewhat   ■ 5 -- Disagree entirely   ■ Not sure



# Many voters – especially those who see themselves in the middle of the ideological spectrum – like policies from BOTH sides

## Respondents who Like Policies from Both Parties

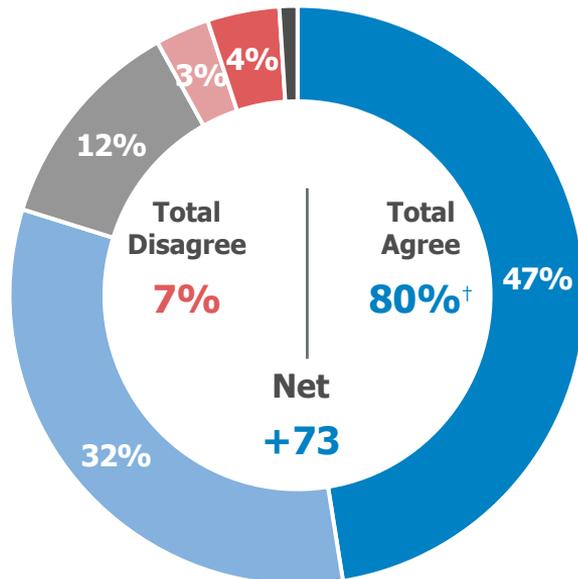
1 -- Agree entirely   2 -- Agree somewhat   3 -- Neither agree nor disagree   4 -- Disagree somewhat   5 -- Disagree entirely   Not sure



# But at the end of the day, likely Arizona voters want the parties to work together, even if it means compromising some issues

**I want both political parties to work together, even if it means compromising on some important issues**

- 1 -- Agree entirely
- 2 -- Agree somewhat
- 3 -- Neither agree nor disagree
- 4 -- Disagree somewhat
- 5 -- Disagree entirely
- Not sure



## Key Demographics:

- Independents: **+74**
- Maricopa County: **+72**
- HHI \$50k-\$100k: **+69**
- Hispanic/Latinos: **+66**

# Key Takeaways

- AZ heading in the wrong direction as Democrats control the governorship and presidency. This could open the door for a big win in 2024 for Republicans – the party likely voters say should run the state.
- Arizonans say they want an ideological fighter. BUT there are limits: They don't want these fights to prevent solutions and compromise.

**Insight: Voters value principle AND compromise. Debate questions should give candidates the chance to draw contrasts, talk about what they'd change, AND how they would make it work with the other side.**

**The issues that matter  
most**

# Our Multilayered Approach

We allow people to select from 50 issues, each of which are slotted into larger categories

- For instance, someone could select “Jobs/Economy (taxes)” OR “Jobs/Economy (gas prices)”

We used a multi-stage question

- Allow people to select as many issues as they want at first (“want to know” issues)
- Then require them to pick their top three (“want to know more”)
- And lastly, a single most important issue (“need to know” issues)

This allowed us to get a sense for what people want to know about in general, and what they want to know about the most

- We also broke this data down by likely voter and likely primary voters from each party

**This is truly unique – most surveys do not get this much detail.**

## For the next section, there were 12 total categories a respondent could choose issues from...

Healthcare

Government

Jobs/Economy

Abortion

Elections

Infrastructure

Education

Gun Policy

Housing

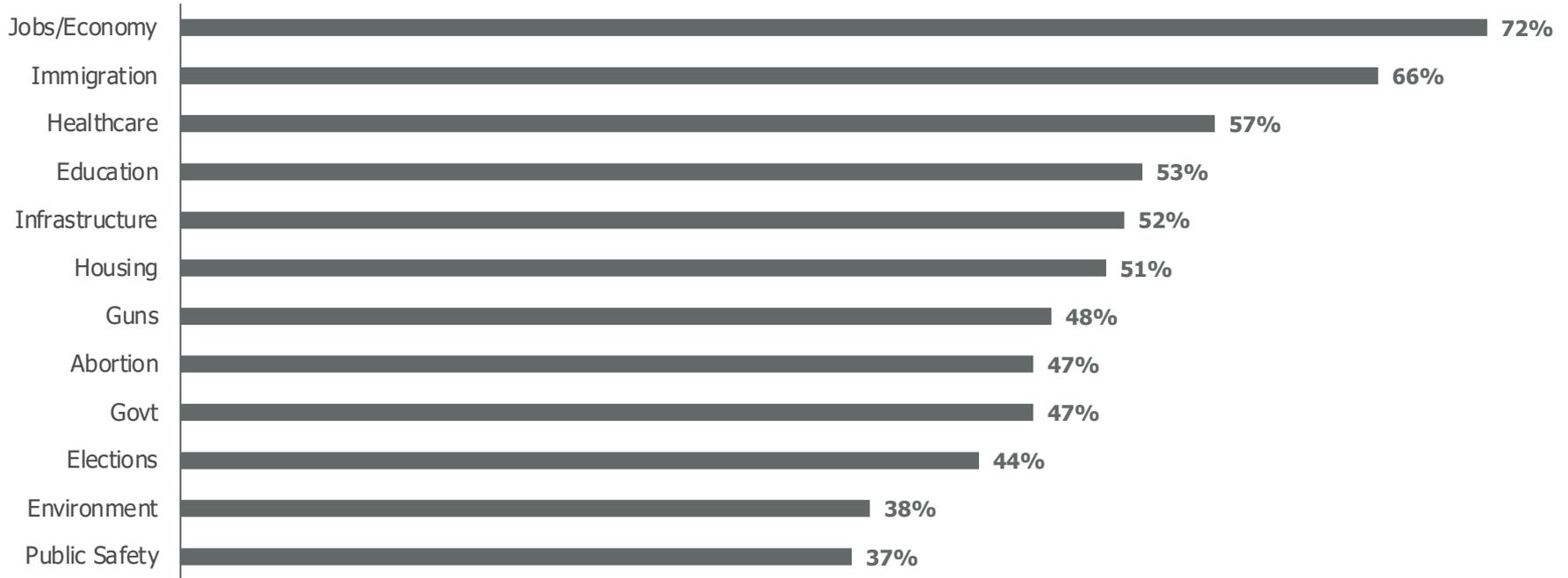
Environment

Public Safety

Immigration

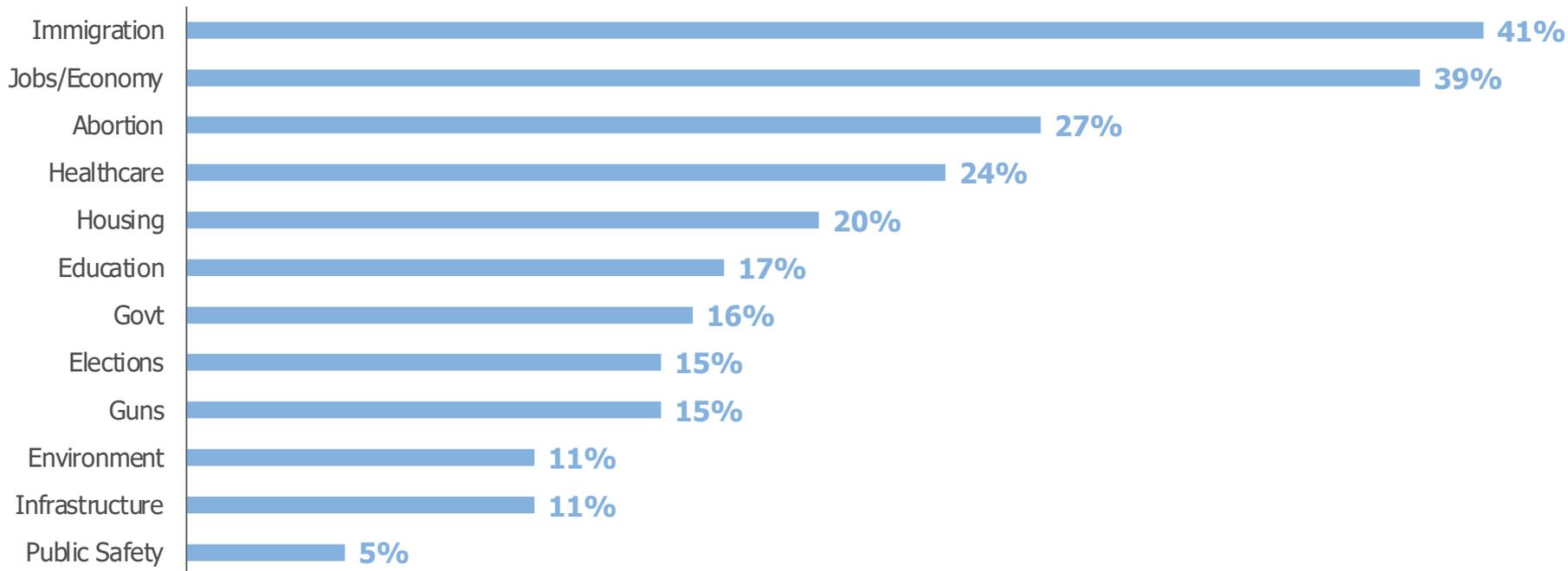
# Most pressing issue topics for Arizonans

## Top Issue (Select All)



# Top 3 pressing issue topics

## Top Issue (Select Three)

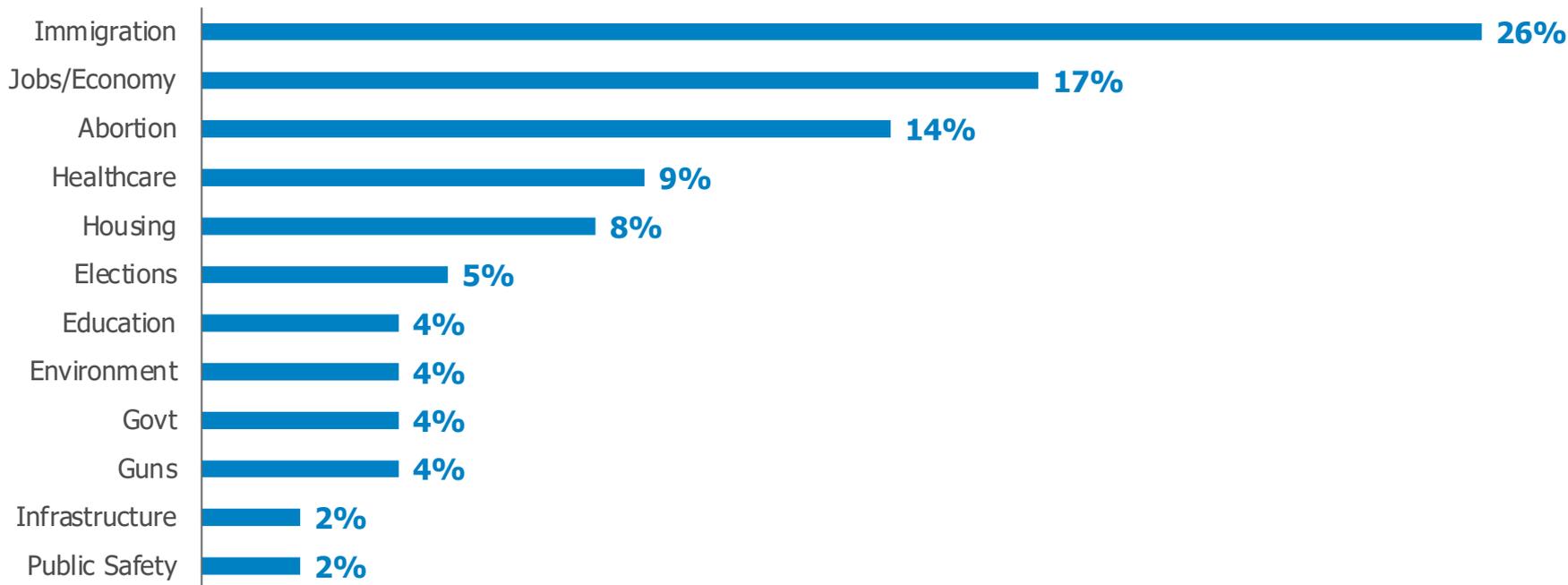


Q) Of the issues you chose in the last question, which are the three most important for you to know a candidate's position when you are deciding how you will vote?  
(n=1438 likely voters)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# When asked to select a single most important issue, registered voters and likely voters once again lined up with Immigration, Jobs/Economy, and Abortion as the top three

## Top Issue (Select One)



**In the “select all” group, the top single issues are Border Security (Immigration), Inflation/Rising Prices (Jobs/Economy), and Affordable Housing (Housing). Those issues stayed near the top.**

Issue	Top Issue (Select All)	Top Issue (Select 3)	Top Issue (Select 1)
Border Security	53%	33%	22%
Inflation/Rising Prices	47%	22%	10%
Affordable Housing	43%	18%	7%

Q) Candidates for political office have positions on many issues facing Arizona. Of the following issues, which are important for you to know a candidate's position on when you are deciding whom to vote for in an election for state office?

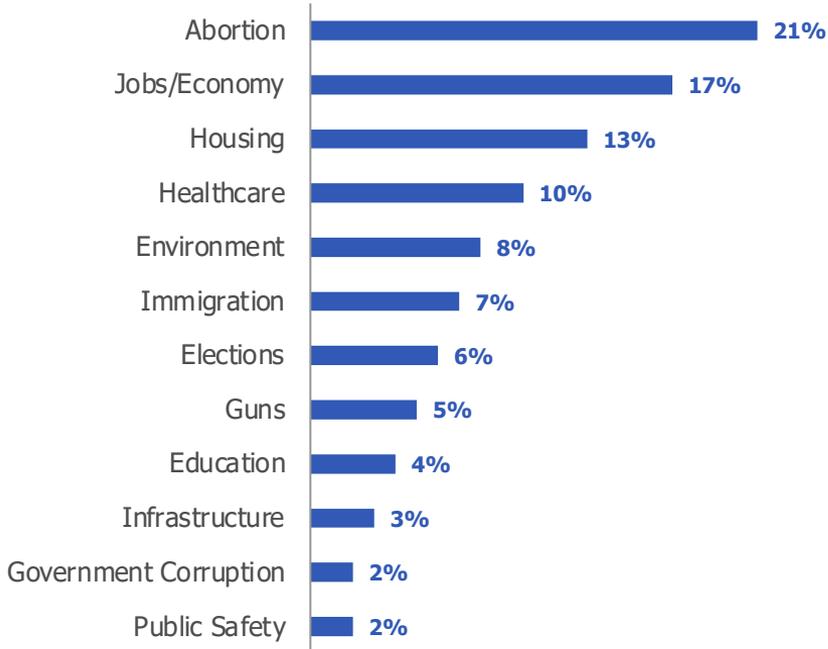
Q) Of the issues you chose in the last question, which are the three most important for you to know a candidate's position when you are deciding how you will vote?

Q) Finally, which is the most important issue for you to know a candidate's position when you are deciding how you will vote? (n=1438 likely voters)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# Democrats: Social issues, quality of life, and, of course, the economy

## Top Issue (Select One) (among Democrats)



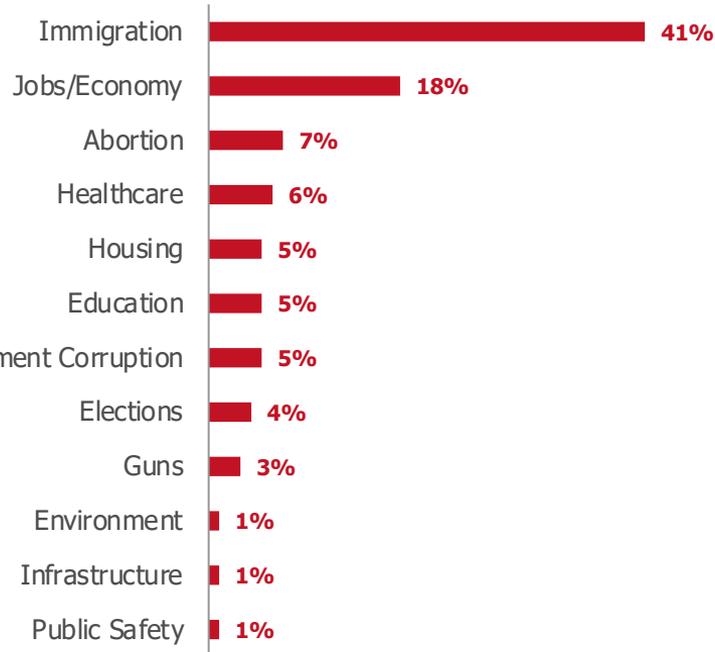
"I believe the issue of **abortion** and reproductive rights is between a woman, her family and her doctor and there should be no laws interfering with that." – **White woman, age 65+, Maricopa County**

"**Inflation** has cost me much higher daily expenses and unable to save more" – **Asian woman, age 45-54, Maricopa County**

"The current **housing** market currently makes reasonable housing for working Americans difficult to achieve. From the increases in mortgage interest in buying new homes to the effect it had on rental prices" – **Hispanic/Latino man, age 35-44, Pima County**

# Republicans: Immigration first, economy second, everything else far behind

## Top Issue (Select One) (among Republicans)



"Because there is a **crisis at the border** right now and I would want people in the government who are willing to stand up to Joe Biden and take steps to close the Arizona border to improve the safety and job security for the people here legally." – **White woman, age 18-34, Maricopa County**

"**Inflation** is still very present. We are being led to believe it is getting better, but it is still very much an issue. Prices are rising every day." – **White woman, age 65+, Mohave County**

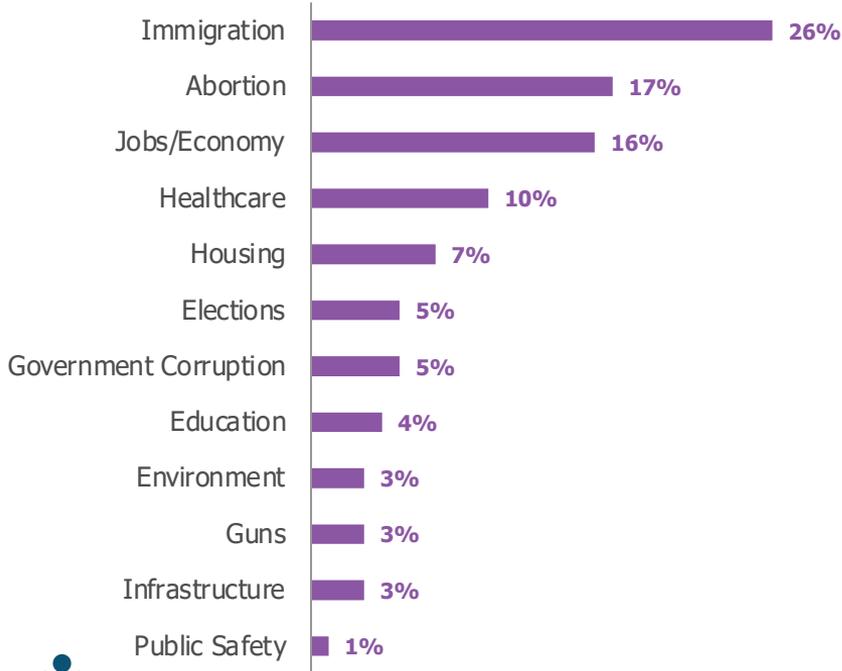
"**Abortion** is not healthcare and any candidate that doesn't value the life [of] unborn babies can't be trusted to make other important decisions." – **Hispanic/Latino man, age 35-44, Maricopa County**

Q) Finally, which is the most important issue for you to know a candidate's position when you are deciding how you will vote? (n=563 Republicans)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding

# Independents: They care about jobs/the economy AND issues from both sides

## Top Issue (Select One) (among Independents)



Illegal **immigration** has a financial burden on all taxpayers. – **Mixed-race male, age 55-64, Pima County**

Although I do not personally believe in **abortion**, it is not my right to restrict a woman's choice for her own body. – **White male, age 45-54 years, Pima County**

Because everything in the **economy** right now is unaffordable, you know wages don't match the prices that are going up, and living is affordable at the moment. – **Black woman, age 18-34, Maricopa County**

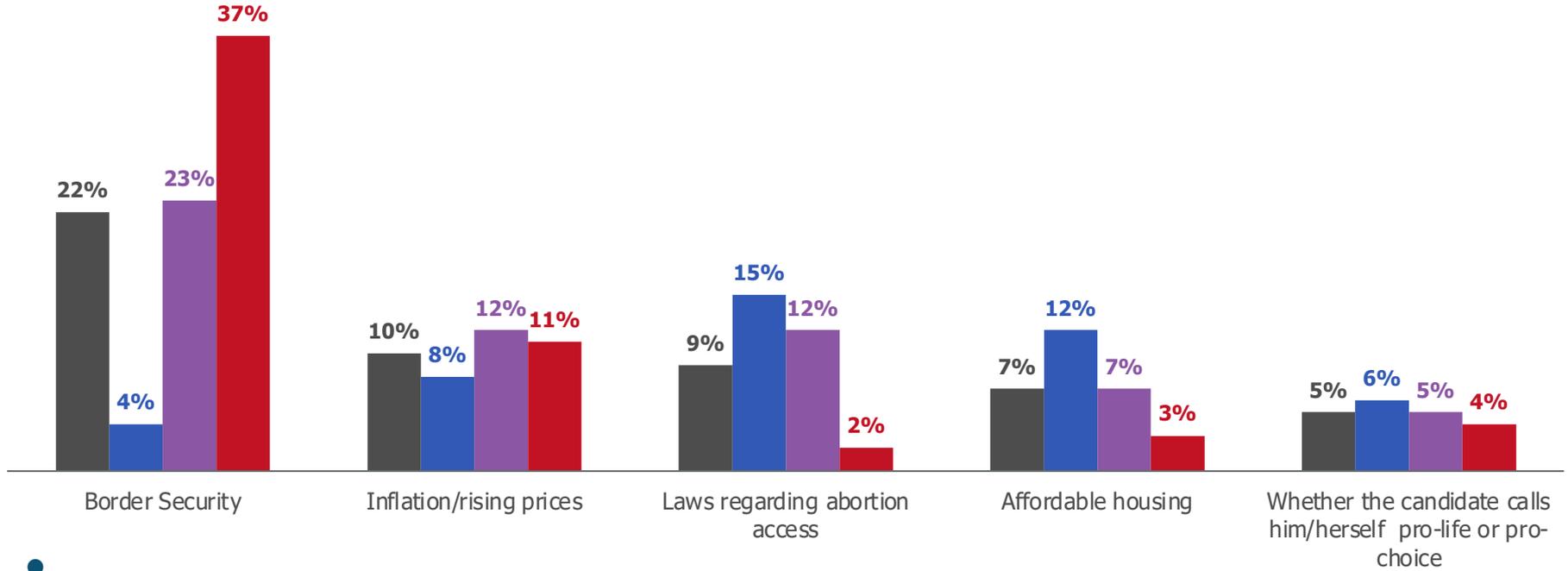
Q) Finally, which is the most important issue for you to know a candidate's position when you are deciding how you will vote? (n=369 Independents)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding

# Inflation – the rare key issue that brings the different partisan worlds together

## Top Issue (Select One)

■ Likely Voter ■ Democrat ■ Independent/Other ■ Republican



Q) Finally, which is the most important issue for you to know a candidate's position when you are deciding how you will vote? (n=1438 likely voters)

Subgroups: Independents (n=369), Democrats (n=506), Republicans (n=563)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding

## The local issue: WATER – In an open-ended question on local issues, perceived water scarcity is impacting voters

“Water supply is down, and Arizona has been suffering under a heat dome every summer. Lives are in danger in a city with very few places to find shade and water without the ability to get help until they dehydrate or worse...prevent heat-related issues that can quickly become fatal.” –

***Woman, age 35-44, Mohave County***

“Too much growth, not enough water.” – ***Man, age 35-44, Yuma County***

“Development without concern for water availability” – ***Man, age 65+, Maricopa County***

“Water is the main local issue for determining my vote” – ***Woman, age 55-64, Pima County***



# Key Takeaways

- Republicans need to know about immigration – that matters to them more than anything else.
- For Democrats, abortion matters most. But economics and other core life concerns – like housing affordability and healthcare – matter too.
- Everyone wants to talk about inflation. And don't forget about WATER.

**INSIGHT: Immigration, abortion and inflation are the key topics. But different voters care about each issue.**

**The key: tailoring topics to the audience.**

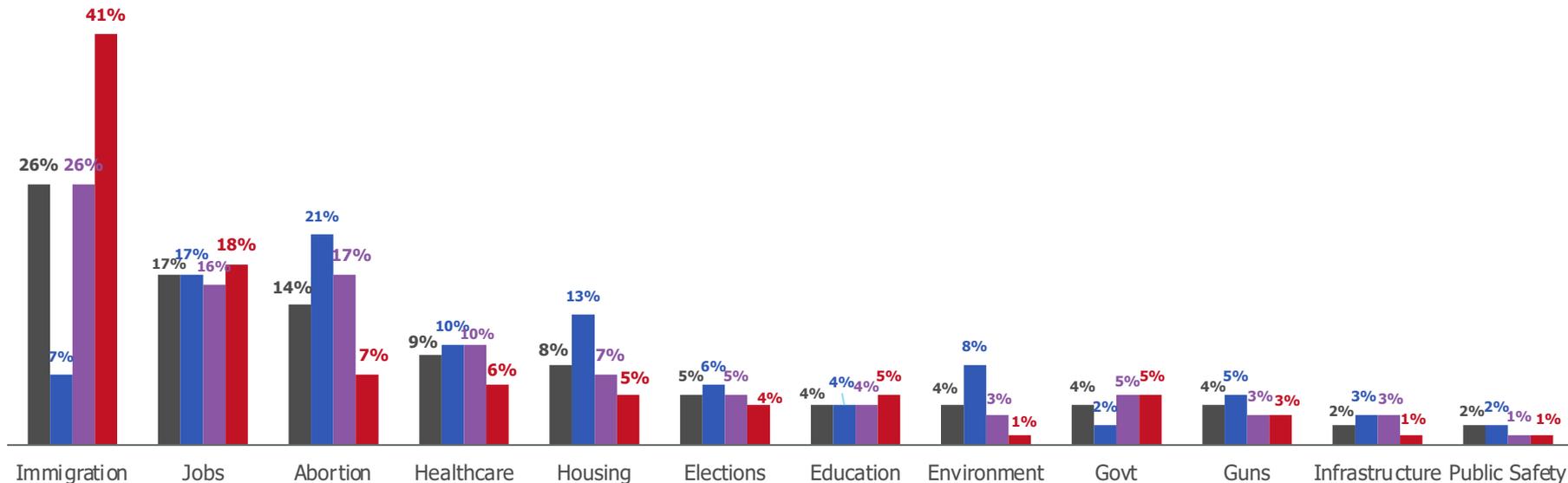
**Getting deeper on the big three:  
abortion, economics and immigration**

**Immigration:  
A pro-restriction mood.  
A core GOP concern.**

# Immigration is a top issue among Republicans and Independents

## Top Issue (Select One)

■ Likely Voters ■ Democrats ■ Independents ■ Republican



Q) Finally, which is the most important issue for you to know a candidate's position when you are deciding how you will vote? (n=1438 likely voters)

Subgroups: Independents (n=369), Democrats (n=506), Republicans (n=563)

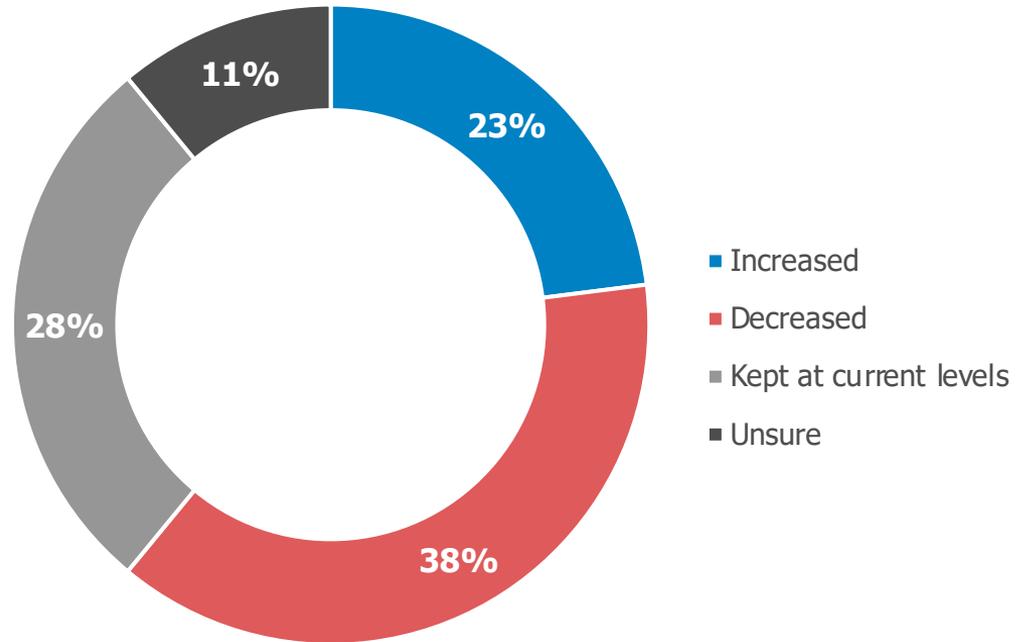
† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding

## But voters have turned against immigration

### Even LEGAL immigration

- Republicans, conservatives, and voters from rural counties want to decrease legal immigration the most. No surprise.
- But, even among Democrats, the results are split (35% increase, 22% decrease, 28% keep same).
- The people who care the most want the most restriction: 59% who said Border Security was their top issue said that LEGAL immigration should be decreased.

## Future Levels of Legal Immigration



Q) Should legal immigration be increased, decreased, or kept at current levels? (n=1438 likely voters)

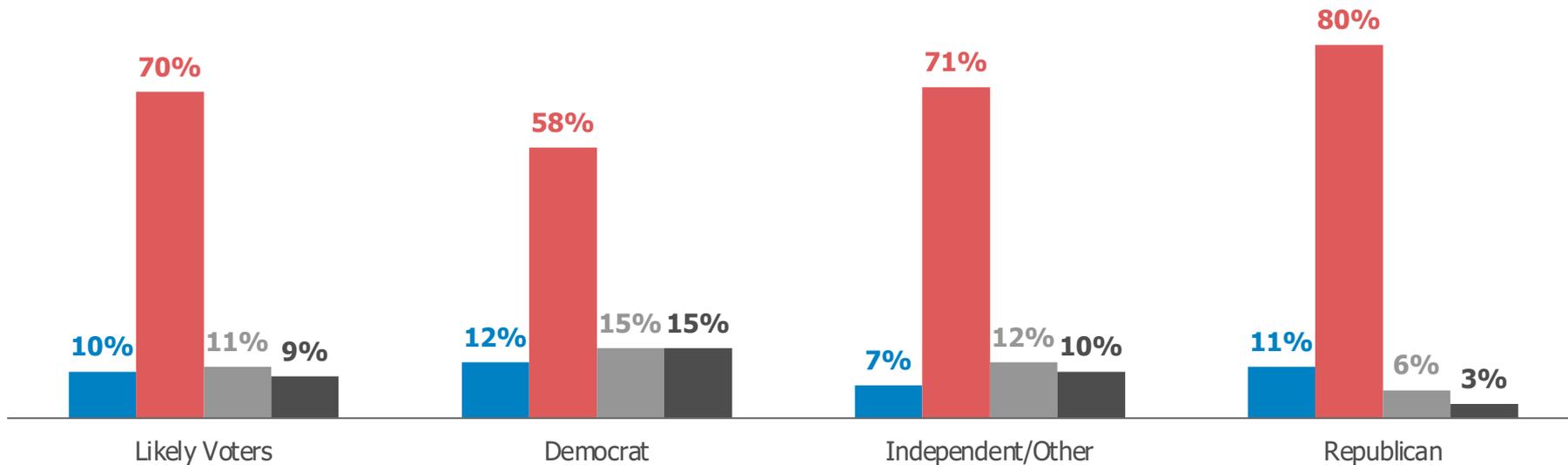
† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding



# On illegal immigration, EVERYONE is united. Majorities of each party want illegal immigration to DECREASE.

## Future Levels of Illegal Immigration

■ Increased ■ Decreased ■ Kept at current levels ■ Unsure

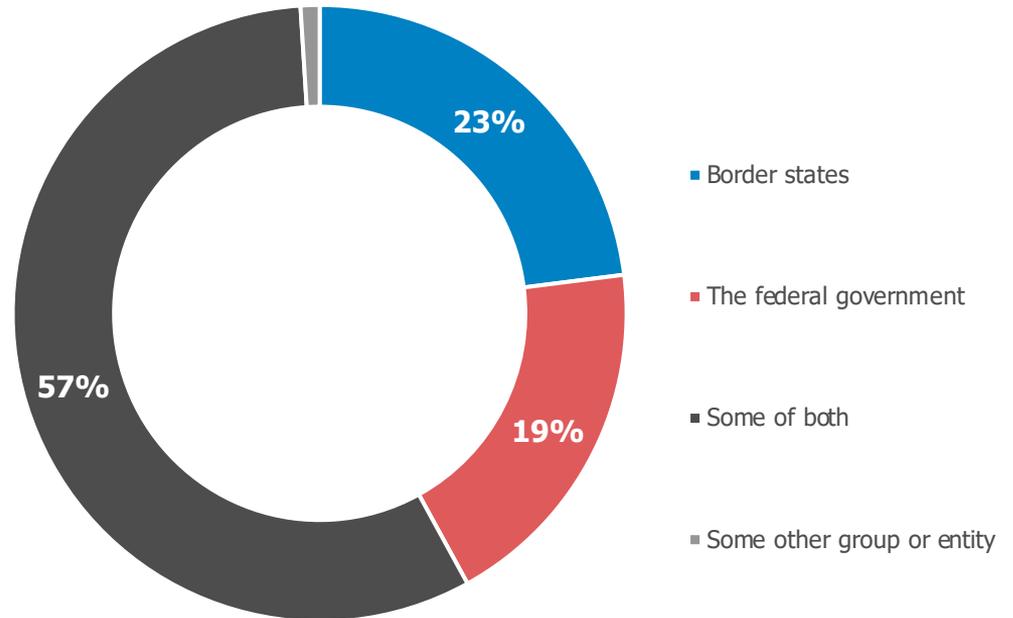


# This issue is LOCAL: Arizonans think the border states should have a say on immigration policy

Democrats favor the federal government, while Republicans favor states' rights.

- Republicans:
  - Border States: 29%
  - Federal Gov't: 13%
- Democrats:
  - Border States: 16%
  - Federal Gov't: 28%
- Independents:
  - Border States: 23%
  - Federal Gov't: 17%

## Border Security Authority



Q) Who should have authority over border security -- border states, the federal government, both, or another group? (n=1438 likely voters)  
Subgroups: Independents (n=369), Democrats (n=506), Republicans (n=563)  
† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding

# Immigration Takeaways

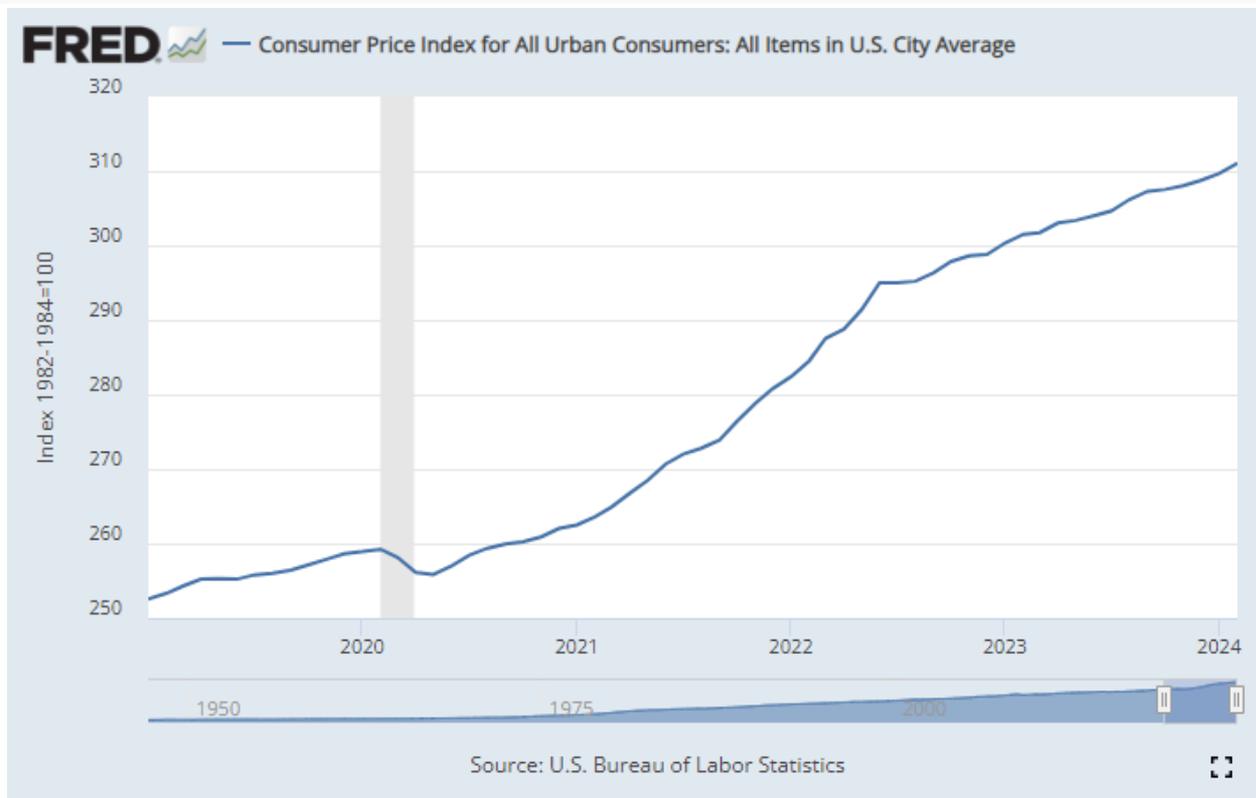
- Arizona is in a pro-restriction mood – many against legal AND illegal immigration.
- This is THE key issue for Republicans – anyone who wants to communicate with Republicans needs to think hard about this issue.
- Arizonans are not farming this out to the federal government: They want a seat at the table.

**INSIGHT: Voters want to know what politicians THINK and will DO to change the border situation. No skating past this.**

**To voters, legal and illegal immigration are both issues.**

# **Economics: Everybody Hurts**

# CPI – an inflation measure – has slowed down. Growing more slowly. Good news, right?



<https://fred.stlouisfed.org/series/MEDCPIM158SFRBCLE> Accessed: 3/28/2024

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding

# Arizonans disagree.

## 6 in 10 say the national economy is getting worse.

- Conservatives (80%), Republicans (79%), and Independents/Another Party (66%) believe that the national economy is getting worse.
- Democrats (25%), people with a high school level education (21%), and moderates who do not lean left or right (23%) are likelier to believe the economy is staying the same.
- People who identified as “very liberal” (45%), Democrats (42%), and liberals (42%) were more likely to say things were “getting better.” But even that group wasn’t majority optimistic.

### National Economy is...

■ Getting better ■ Staying the same ■ Getting worse



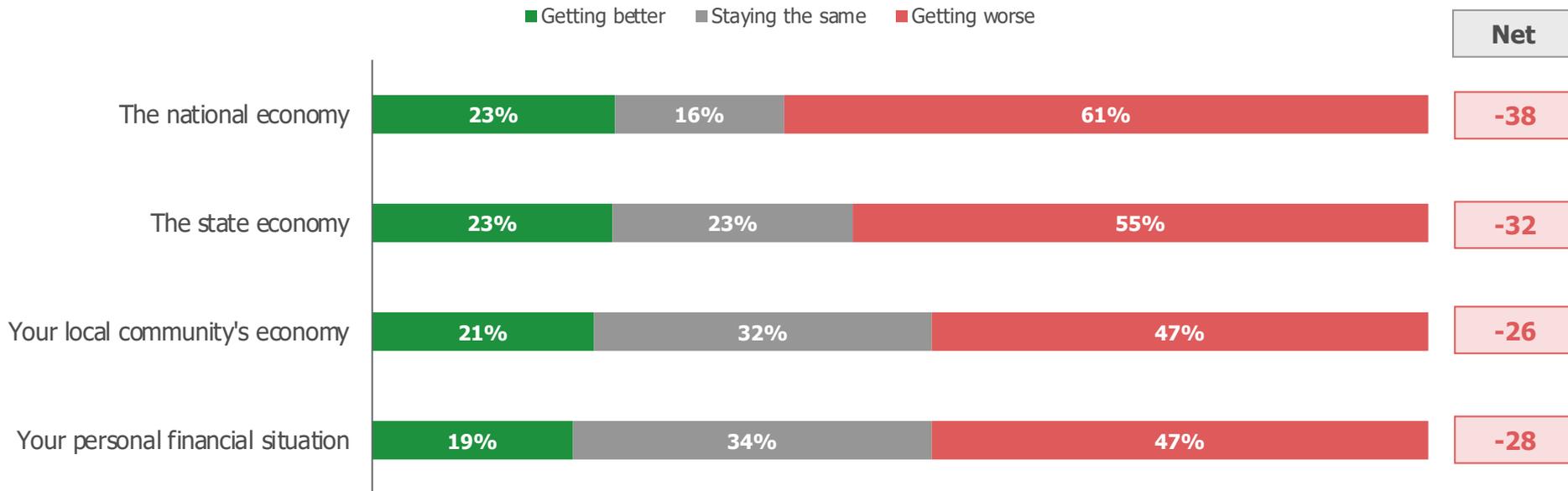
Q) In each of the following areas, would you say that the economic/financial situation is getting better, getting worse, or staying about the same? (The national economy) (The state economy) (Your local community's economy) (Your personal financial situation) (n=1438 likely voters)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding



# These voters aren't just assessing the nation. At every level, the biggest chunk of voters says the economy is "getting worse."

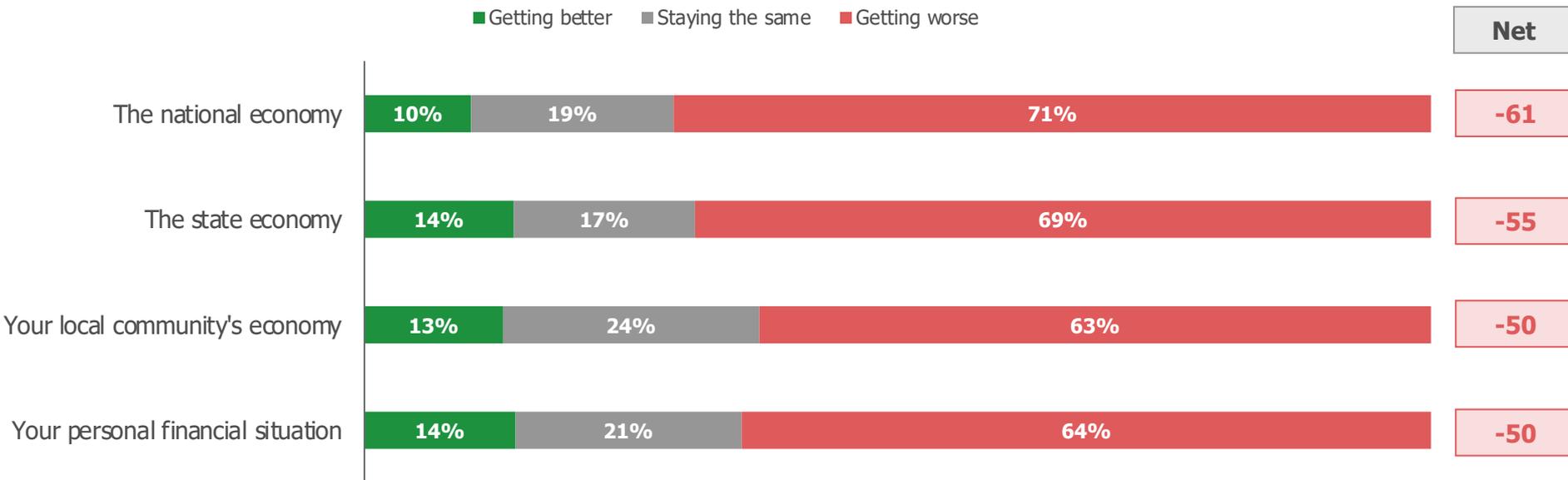
## Assessment of Different Levels of the Economy



# A big cause of this misery: INFLATION. Among those who listed inflation as a top issue, majorities said EVERY level of the economy was getting worse.

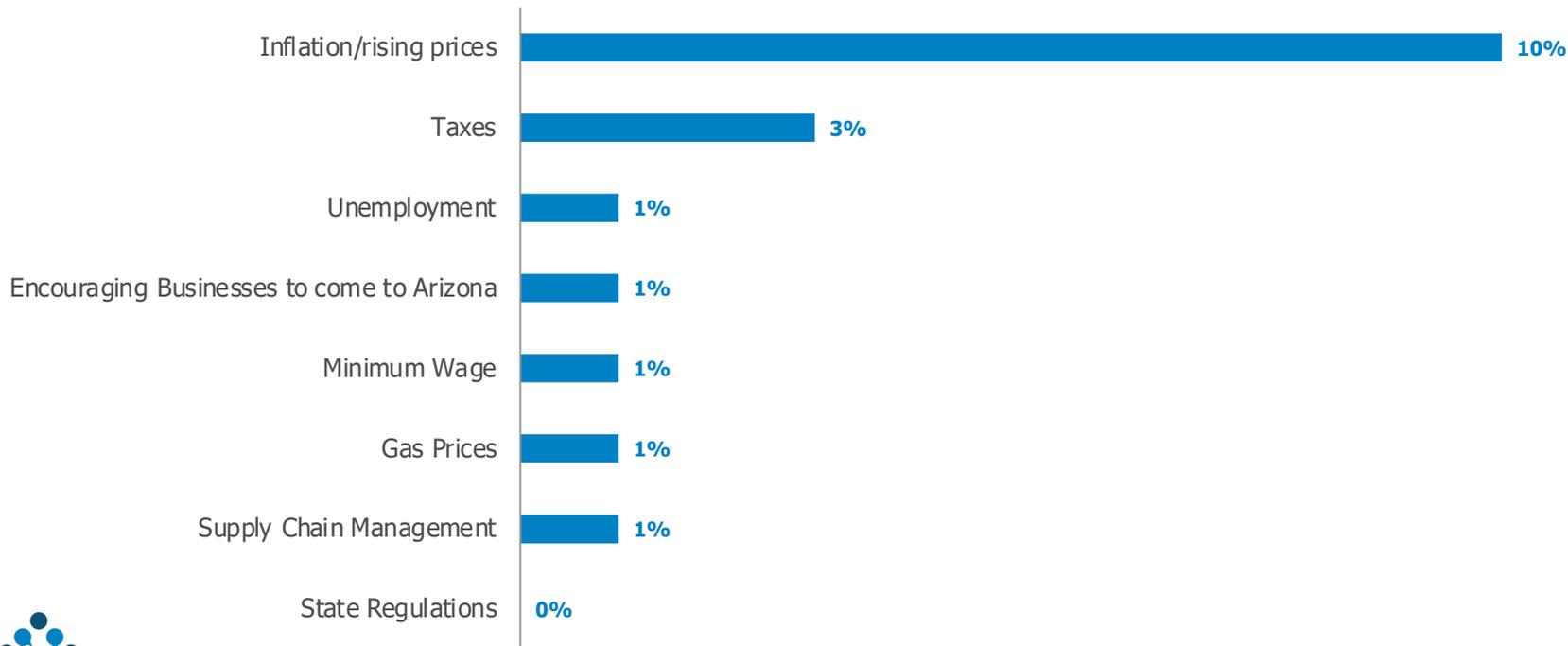
## Assessment of Different Economies *(among voters who rank Inflation/Rising Prices as their Top Issue)*

■ Getting better ■ Staying the same ■ Getting worse



# And inflation dominates other concerns. It's the top issue driving jobs/economy pain.

## Percentage who picked each issue as #1 – Jobs/Economy sub-issues



Q) Finally, which is the most important issue for you to know a candidate's position when you are deciding how you will vote? † Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding

# Economy Takeaways

- Inflation is a miserable economic problem: everyone who regularly buys goods (read: essentially everyone) feels it to some degree.
- It's not just an abstract problem or an issue of concern somewhere else in the country. It's harming every level of the economy.

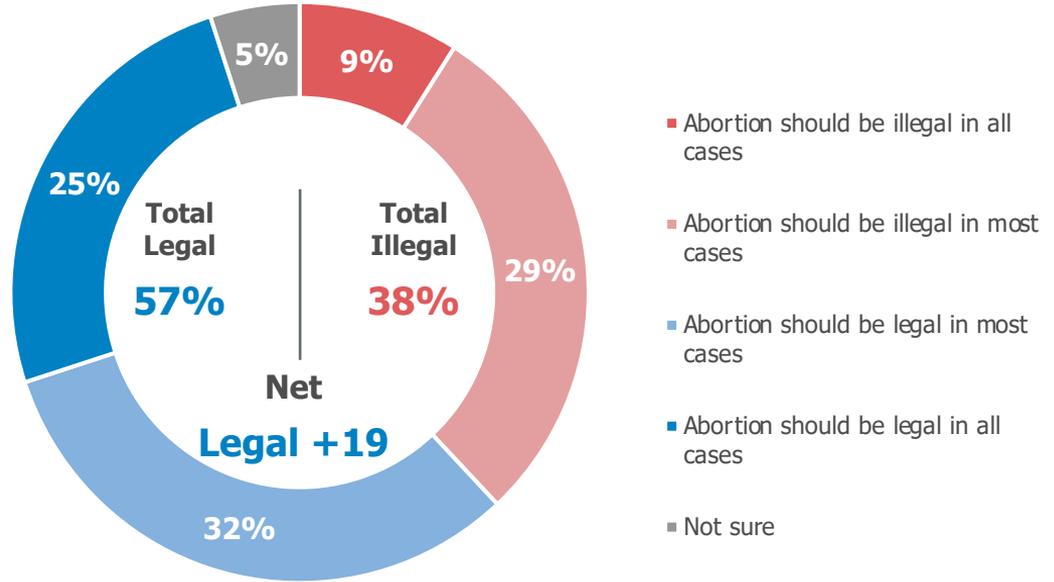
**INSIGHT: Inflation is the biggest economic problem. But politicians can't just talk about it on the national level. Solutions need to address the state, local communities , and individuals.**

# **Abortion: Advocating for Legality**

# The topline: likely voters want legal abortions

- Key Demographics:
  - Independents: Legal +26
  - Maricopa County: Legal +20
  - HHI \$50k-\$100k: Legal +17
  - Hispanic/Latinos: Legal +16

## Personal Abortion Opinion



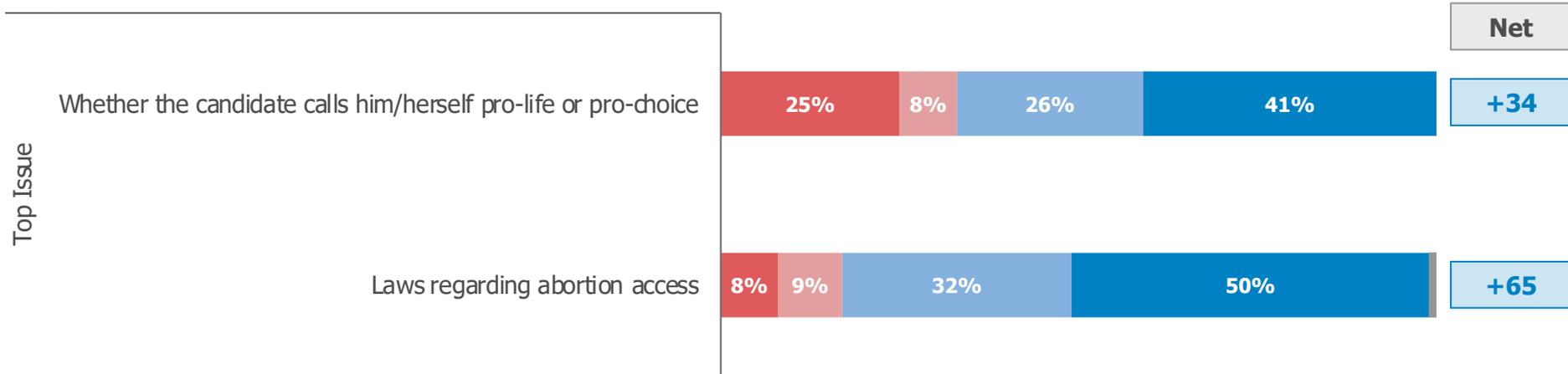
Q) On abortion, which of the following statements best matches your opinion? (n=1438 Likely voters)  
Subgroups: Independents (n=369), Hispanics/Latinos (n=201), Maricopa County (n=831), HHI \$50k=\$100k (n=581)  
† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# If someone said abortion was their top issue, they were probably pro-choice.

## Personal Abortion Opinion

(among voters who ranked abortion-related topics as their top issue)

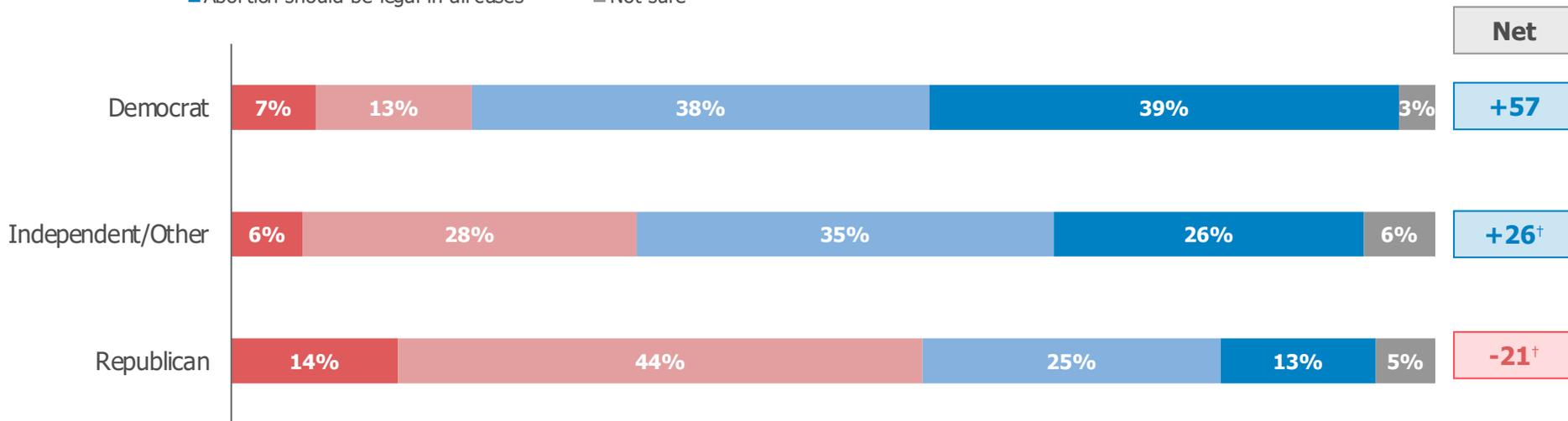
- Abortion should be illegal in all cases
- Abortion should be illegal in most cases
- Abortion should be legal in most cases
- Abortion should be legal in all cases
- Not sure



# This is a wedge issue: Democrats are more united than Republicans – and Independents back the pro-choice side.

## Personal Abortion Opinion

■ Abortion should be illegal in all cases    ■ Abortion should be illegal in most cases    ■ Abortion should be legal in most cases  
■ Abortion should be legal in all cases    ■ Not sure



Q) On abortion, which of the following statements best matches your opinion?

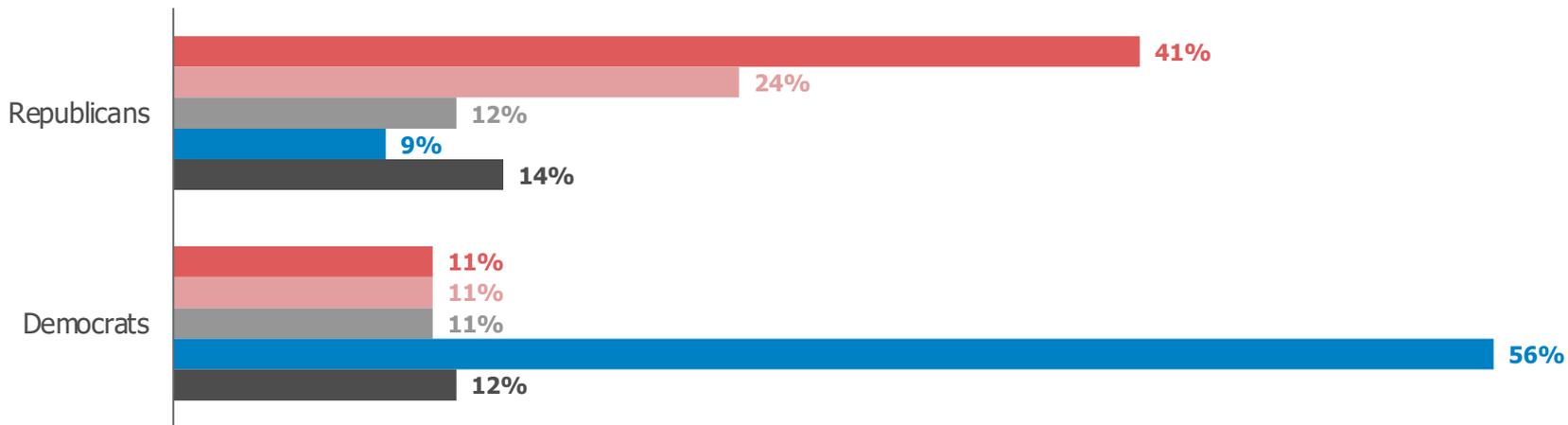
Subgroups: Independents (n=369), Democrats (n=506), Republicans (n=563)

<sup>†</sup> Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# The problem: Voters don't know exactly what the parties want to do. This is especially unclear for the post-Roe Republican Party.

## What would \_\_\_\_\_ do if they win in the 2024?

- Attempt to ban abortion altogether
- Only attempt to restrict abortion to an early point, such as 6 or 15 weeks
- Leave current abortion laws alone
- Attempt to increase abortion access
- Not sure



Q) Suppose Republicans win the 2024 election on the state and national level. What do you think they would do about abortion?

Q) Suppose Democrats win the 2024 election on the state and national level. What do you think they would do about abortion? (n=1438 likely voters)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding

# Abortion Takeaways

- On balance, the pro-choice side is winning the argument in Arizona. But it's a closely divided state.
- The people who care most about the issue skew pro-choice.
- But normal voters aren't sure what the parties want to do. And, now that Roe is gone, the Republican Party doesn't have a clear, single message.

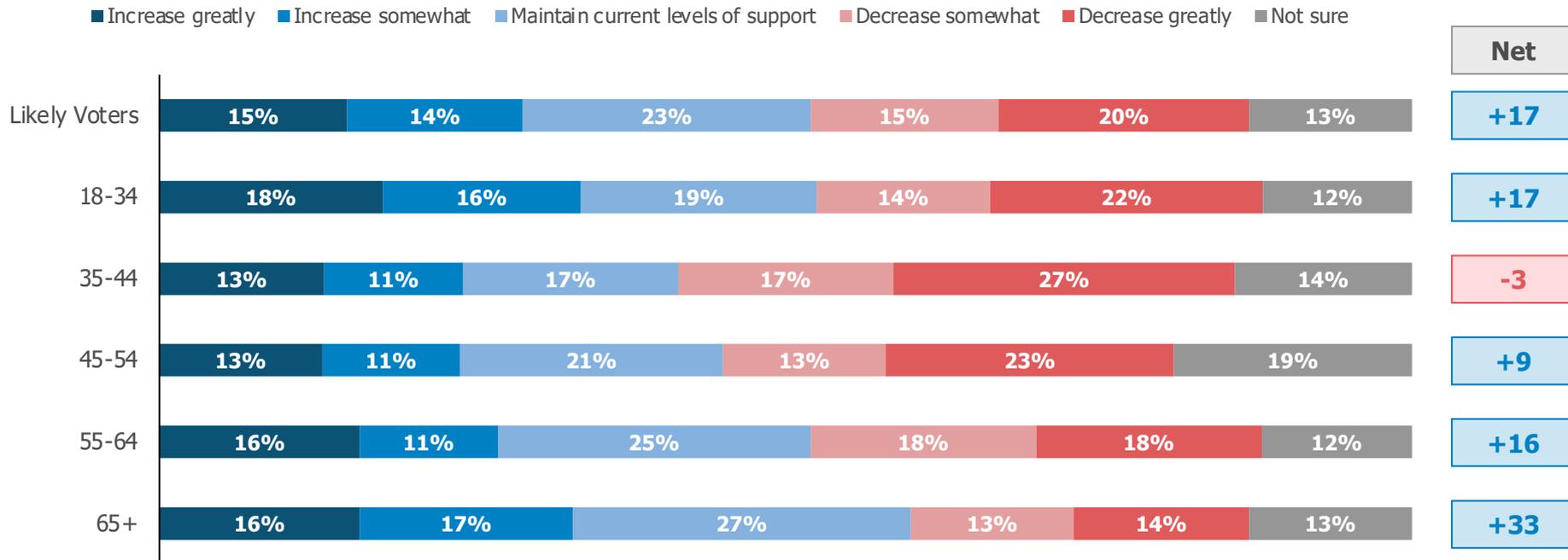
**INSIGHT: In a post-Roe world, the GOP hasn't landed on a clear position. Dems are clearer – but some voters still don't know their stance.**

**A narrowly pro-choice state needs to know, specifically, where each candidate stands.**

# Foreign Policy Matters, Too!

# Majority support increasing or maintaining aid to Israel. Some voters under 55 are skeptical – but the real standout data point is support among 65+.

## Support for Israel

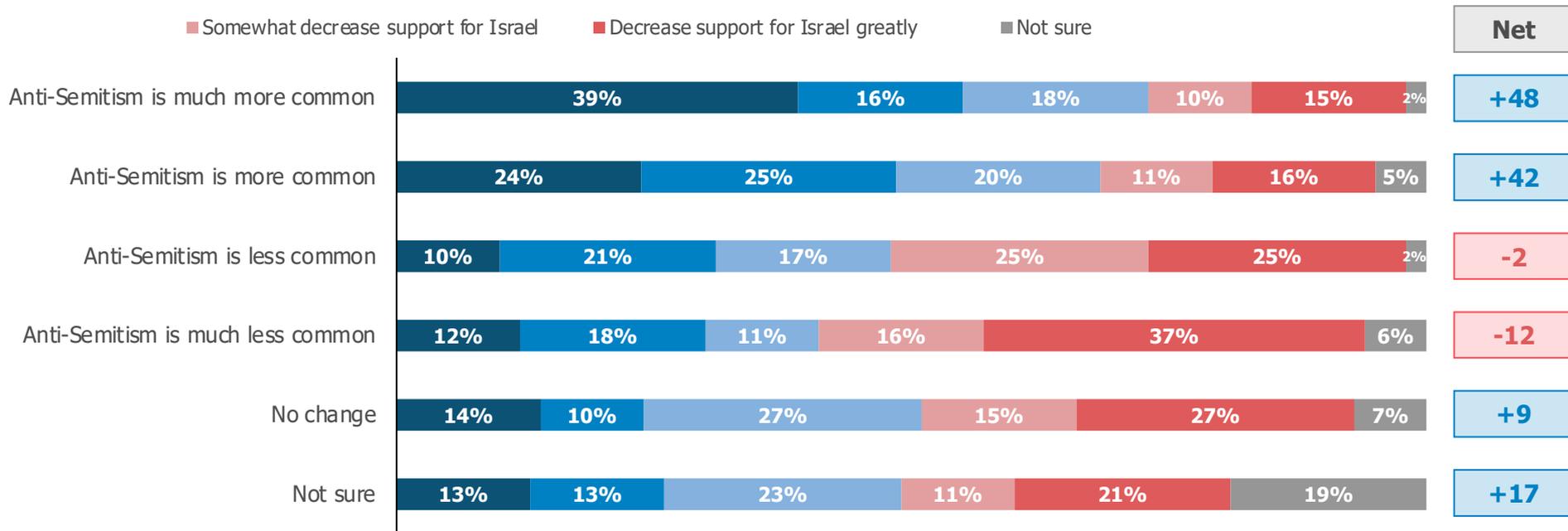


Q) In the conflict between Israel and Palestine, should the United States government increase, decrease, or maintain its current level of support for Israel? (n=1438 Likely voters)  
 Subgroups: 18-34 year olds (n=213), 35-44 year olds (n=215), 45-54 year olds (n=235), 55-64 year olds (n=277), 65+ year olds (n=498)  
 † Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# And these issues hit home – those who see antisemitism are more likely to support Israel

## Perceived Anti-Semitism by Support for Israel

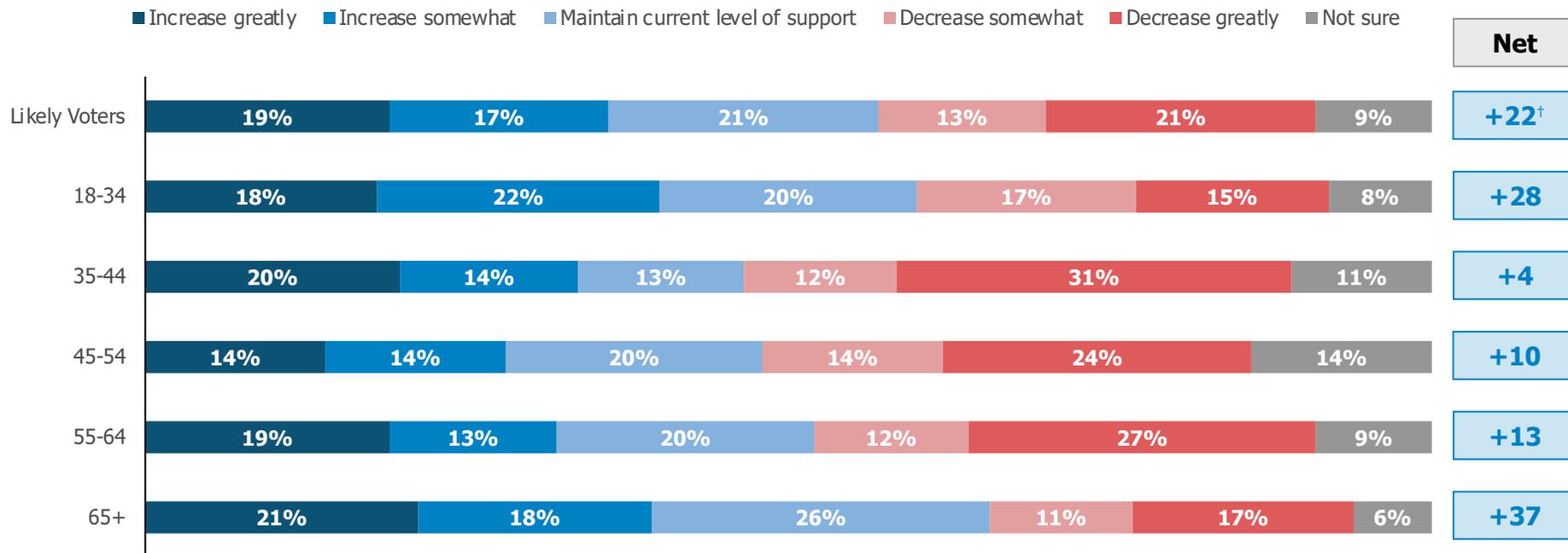
■ Increase support for Israel greatly    
 ■ Somewhat increase support for Israel    
 ■ Maintain current levels of support for Israel  
■ Somewhat decrease support for Israel    
 ■ Decrease support for Israel greatly    
 ■ Not sure



In recent years, has antisemitism - that is, prejudice against Jewish people - become more or less common in Arizona? In the conflict between Israel and Palestine, should the United States government increase, decrease, or maintain its current level of support for Israel? Total Likely Voter Sample (N=1306); Subgroups (Support for Israel): Increase greatly (N=196), Increase somewhat (N=204), Decrease somewhat (N=198), Decrease greatly (N=238). Maintain current support (N=300), Not sure (N=170). † Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# Support is even stronger for Ukraine with a similar trend among the different age groups

## Support for Ukraine



Q) In the conflict between Ukraine and Russia, should the United States government increase, decrease, or maintain its current level of support for Ukraine?

(n=1438 Likely voters)

Subgroups: 18-34 year olds (n=213), 35-44 year olds (n=215), 45-54 year olds (n=235), 55-64 year olds (n=277), 65+ year olds (n=498)

<sup>†</sup> Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# Key Takeaways: Foreign Policy

- The big picture context: Americans back either maintaining or increasing funds to Israel and Ukraine.
- There's some age gradient – older voters favor the U.S.'s traditional allies, and young voters may be a shade more skeptical

There's a worthwhile debate to be had about how much the U.S. should be involved in either war. There is an anti-Israel and anti-Ukraine minority.

But both countries have majority support – helpful framing for this issue.



# Overall Takeaways: The Top Issues

- On the economy – everyone wants to know how inflation will be solved because it is the KEY problem.
- On the border – Arizona is in a pro-restriction mood. Candidates must explain how they're going to solve the border crisis and address immigration generally.
- On abortion – the GOP must clarify their stance in the post-Roe era. Majority pro-choice with dissent.

## **INSIGHT: Possible to craft:**

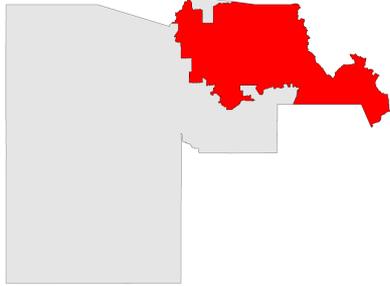
- Border questions that get deep on legal vs illegal immigration plus security
- Abortion questions that clarify GOP stances
- Inflation questions that challenge all
- AND give voters the info they need to know

# Where to find people

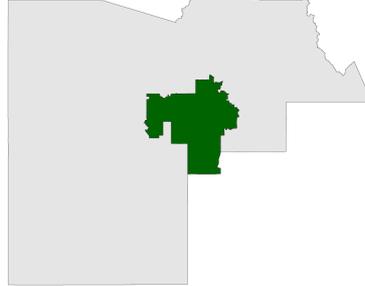
Region and Medium

# First – let's look at which communities care about which issues

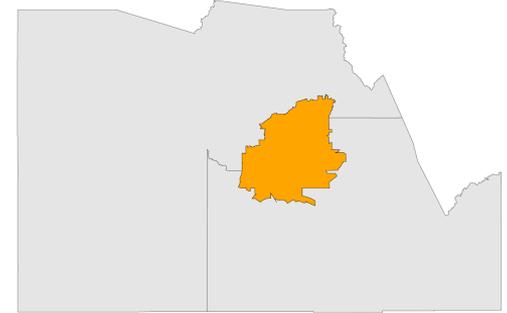
## North Phoenix & Scottsdale



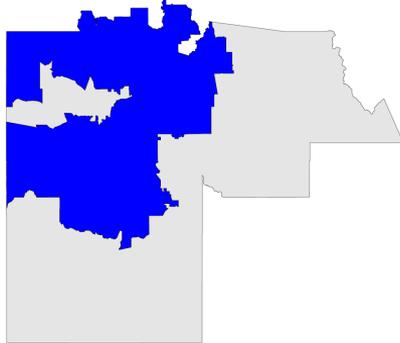
## South Phoenix & Tempe



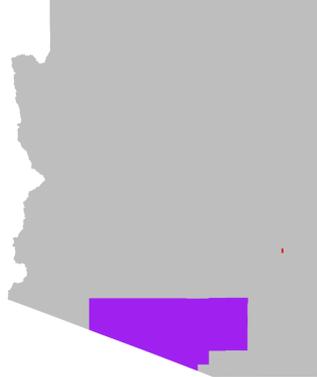
## East Valley



## West Valley



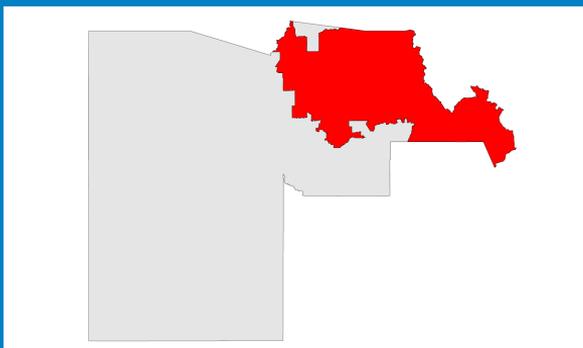
## Pima/Tucson



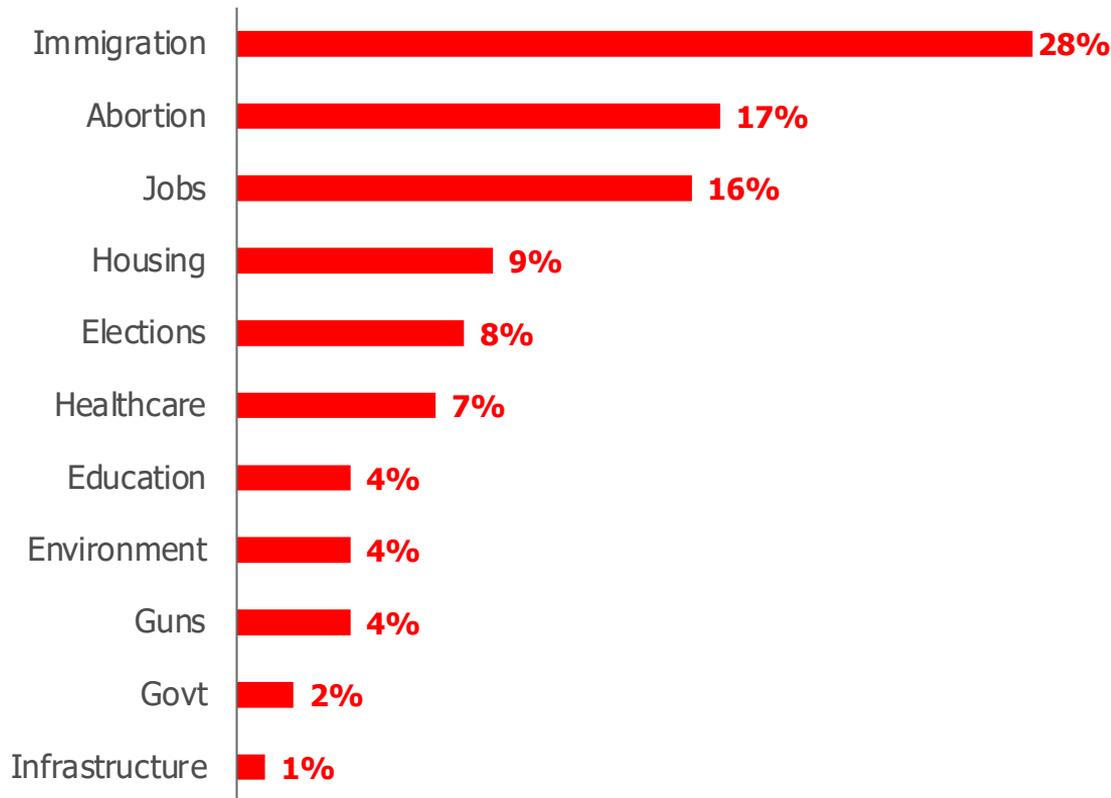
## Rural Arizona



# Regional Analysis: North Phoenix & Scottsdale



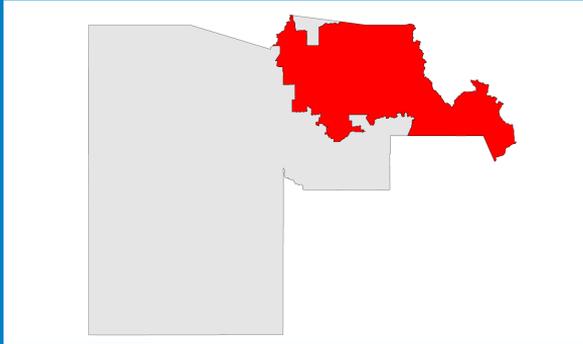
## Top Issue (Select One) (among North Phoenix & Scottsdale Voters)



Q) Finally, which is the most important issue for you to know a candidate's position when you are deciding how you will vote? (n=190 North Phoenix Likely voters)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# Regional Analysis: North Phoenix & Scottsdale

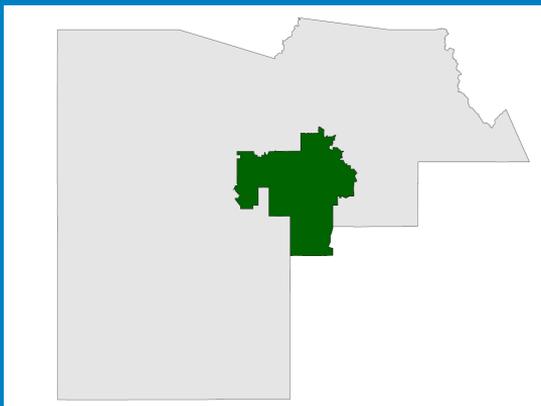


Top 3 Needed Topics (2024)		Top 3 Needed Topics (2023)	Top 3 Needed Topics (2022)*
<b>Immigration</b> (Border security)		<b>Abortion</b> (Whether the candidate calls themselves pro-life or pro-choice & laws regarding abortion access)	<b>Jobs/Economy</b> (Gas prices)
<b>Jobs/Economy</b> (Inflation/rising prices)		<b>Immigration</b> (Border security)	<b>Immigration</b> (Border security)
<b>Housing</b> (Affordable housing)	<b>Abortion</b> (Laws regarding abortion access)	<b>Jobs and Economy</b> (Gas prices)	<b>Healthcare</b> (Affordability of prescription drugs)

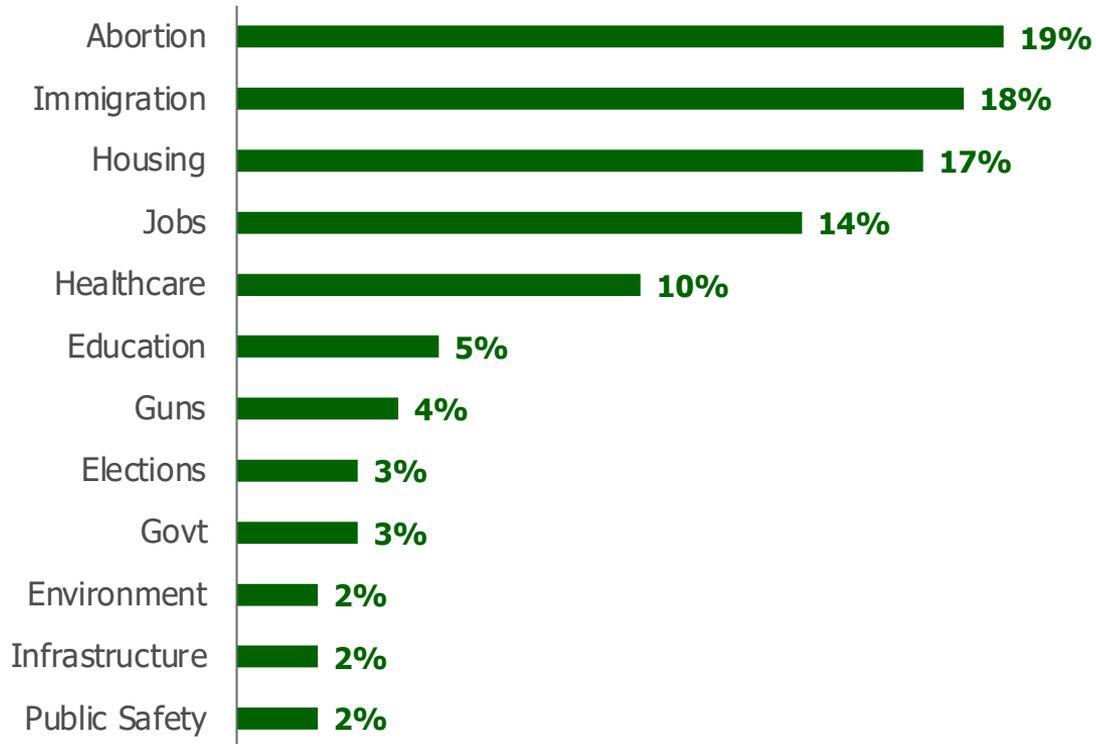
Q) Finally, which is the most important issue for you to know a candidate's position when you are deciding how you will vote? (n=190 North Phoenix Likely voters)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# Regional Analysis: South Phoenix & Tempe



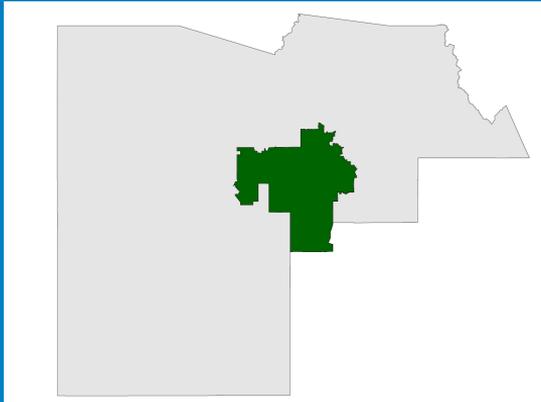
## Top Issue (Select One) (among South Phoenix & Tempe Voters)



Q) Finally, which is the most important issue for you to know a candidate's position when you are deciding how you will vote? (n=255 South Phoenix Likely voters)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# Regional Analysis: South Phoenix & Tempe

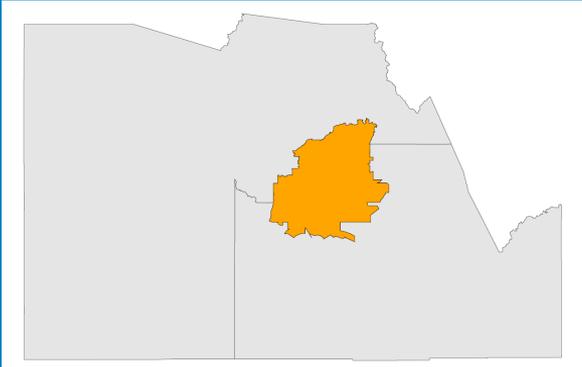


Top 3 Needed Topics (2024)	Top 3 Needed Topics (2023)	Top 3 Needed Topics (2022)*
<b>Housing</b> (Affordable housing)	<b>Jobs and Economy</b> (Minimum wage)	<b>Jobs and Economy</b> (Gas prices)
<b>Abortion</b> (Laws regarding abortion access)	<b>Abortion</b> (Laws regarding abortion access)	<b>Healthcare</b> (Affordability of prescription drugs)
<b>Immigration</b> (Border security)	<b>Education</b> (Teacher pay)	<b>Education</b> (Funding for supplies/technology)

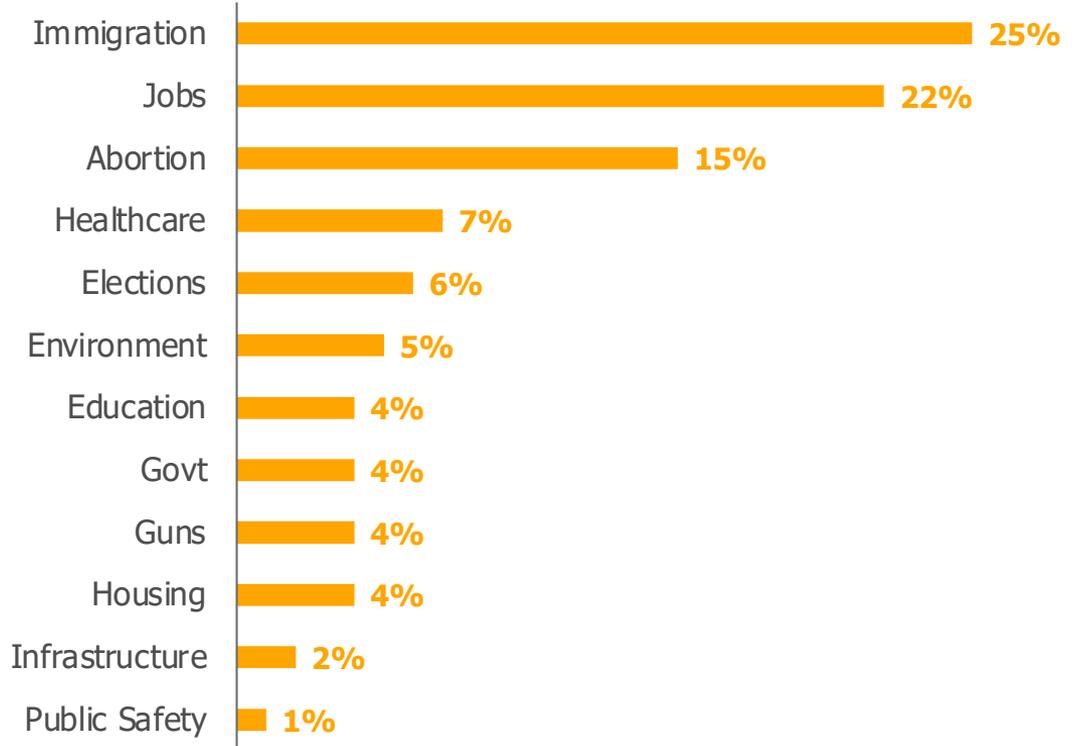
Q) Finally, which is the most important issue for you to know a candidate's position when you are deciding how you will vote? (n=255 South Phoenix Likely voters)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# Regional Analysis: East Valley



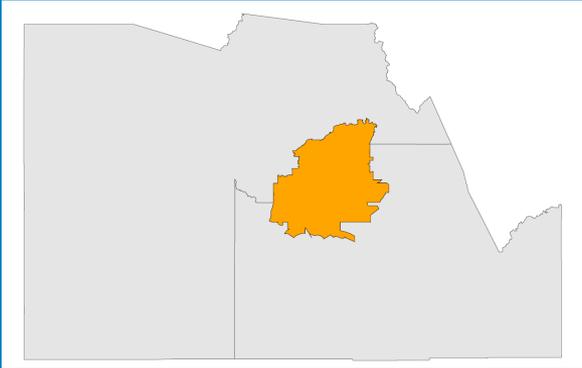
## Top Issue (Select One) (among East Valley Voters)



Q) Finally, which is the most important issue for you to know a candidate's position when you are deciding how you will vote? (n=255 Southeast Phoenix Likely voters)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# Regional Analysis: East Valley

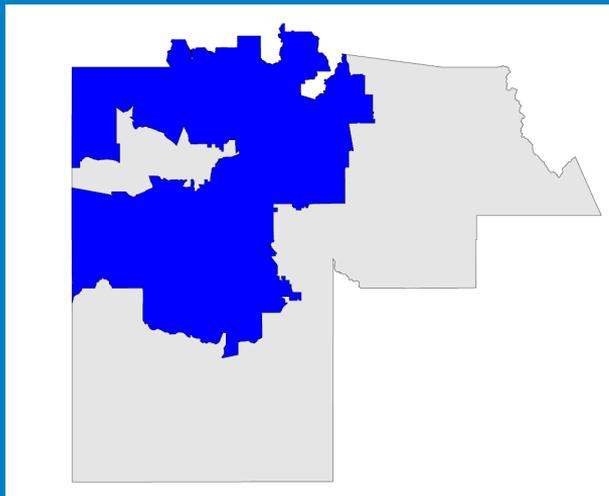


Top 3 Needed Topics (2024)	Top 3 Needed Topics (2023)	Top 3 Needed Topics (2022)*
<b>Immigration</b> (Border security)	<b>Immigration</b> (Border security)	<b>Jobs and Economy</b> (Gas prices)
<b>Jobs/Economy</b> (Inflation/rising prices)	<b>Abortion</b> (Whether the candidate calls themselves pro-life or pro-choice)	<b>Education</b> (Teacher pay)
<b>Abortion</b> (Laws regarding abortion access)	<b>Jobs and Economy</b> (Gas prices)	<b>Healthcare</b> (Affordability of prescription drugs)

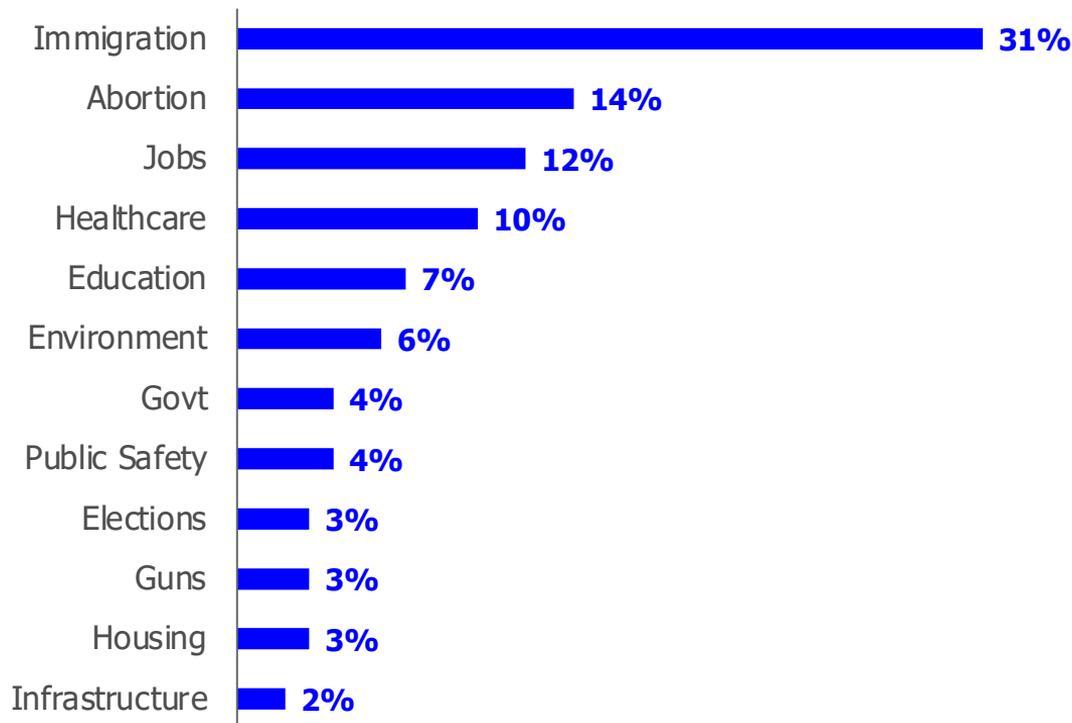
Q) Finally, which is the most important issue for you to know a candidate's position when you are deciding how you will vote? (n=255 Southeast Phoenix Likely voters)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# Regional Analysis: West Valley



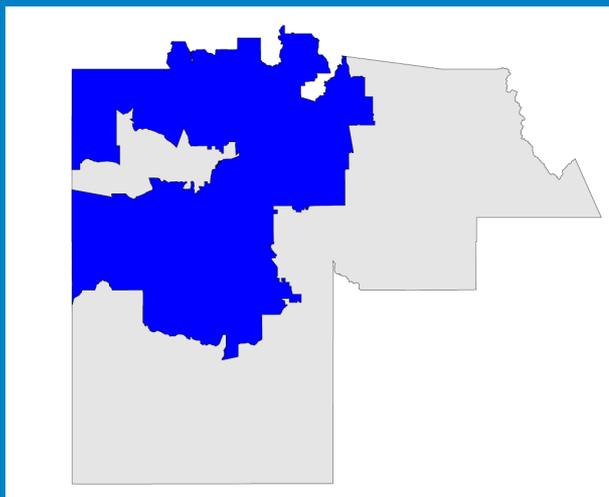
## Top Issue (Select One) *(among West Valley Voters)*



Q) Finally, which is the most important issue for you to know a candidate's position when you are deciding how you will vote? (n=160 West Valley Likely voters)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# Regional Analysis: West Valley

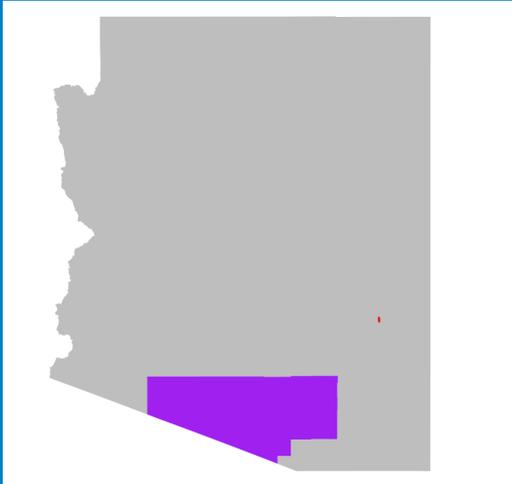


Top 3 Needed Topics (2024)	Top 3 Needed Topics (2023)	Top 3 Needed Topics (2022)*
<b>Immigration</b> (Border security)	<b>Immigration</b> (Border security)	<b>Jobs and Economy</b> (Gas prices)
<b>Abortion</b> (Laws regarding abortion access)	<b>Abortion</b> (Whether the candidate calls themselves pro-life or pro-choice)	<b>Healthcare</b> (Affordability of prescription drugs)
<b>Jobs/Economy</b> (Inflation/rising prices)	<b>Jobs and Economy</b> (Taxes)	<b>Education</b> (Teacher pay)

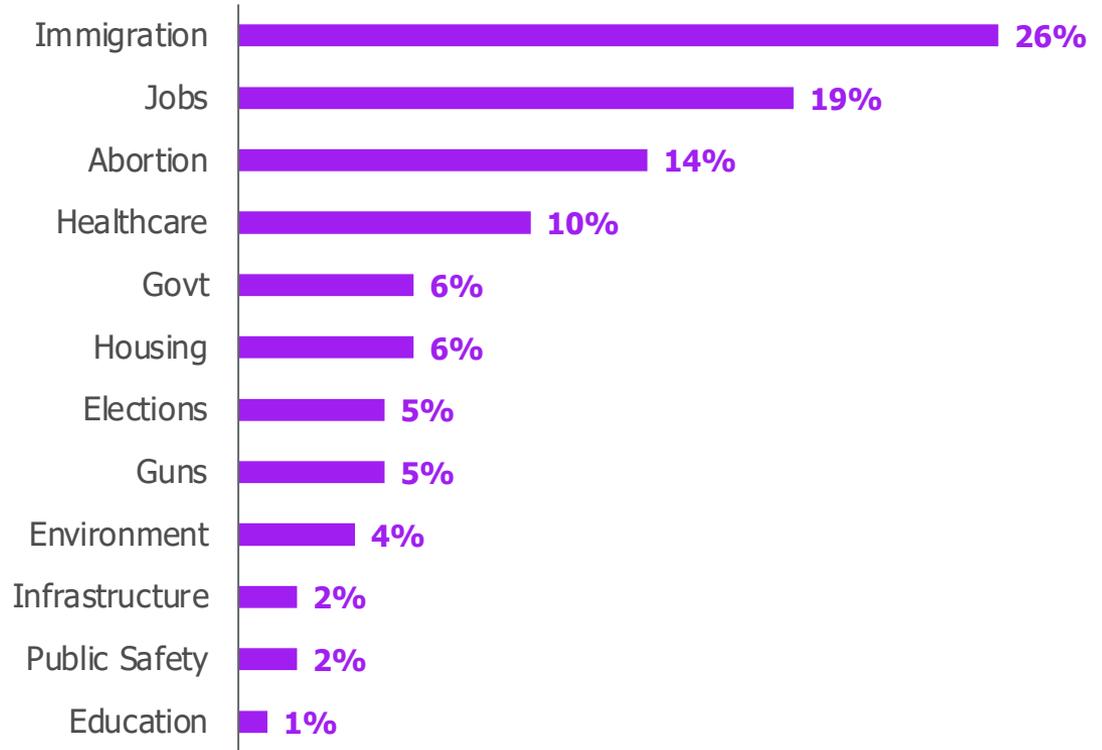
Q) Finally, which is the most important issue for you to know a candidate's position when you are deciding how you will vote? (n=160 West Valley Likely voters)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# Regional Analysis: Pima/Tucson



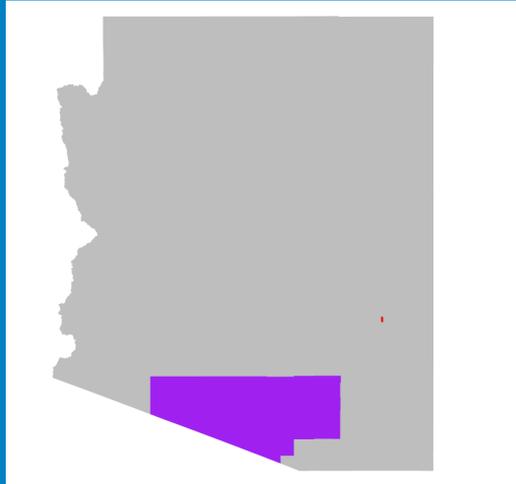
## Top Issue (Select One) *(among Tucson-Pima Voters)*



Q) Finally, which is the most important issue for you to know a candidate's position when you are deciding how you will vote? (n=269 Tucson-Pima Likely voters)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# Regional Analysis: Pima/Tucson



Top 3 Needed Topics (2024)	Top 3 Needed Topics (2023)	Top 3 Needed Topics (2022)*
<b>Immigration</b> (Border security)	<b>Abortion</b> (Laws regarding abortion access)	<b>Jobs and Economy</b> (Gas prices)
<b>Jobs/Economy</b> (Inflation/rising prices)	<b>Immigration</b> (Border security)	<b>Healthcare</b> (Affordability of prescription drugs)
<b>Abortion</b> (Laws regarding abortion access)	<b>Jobs and Economy</b> (Unemployment, taxes, minimum wage, gas prices)	<b>Education</b> (Teacher pay)

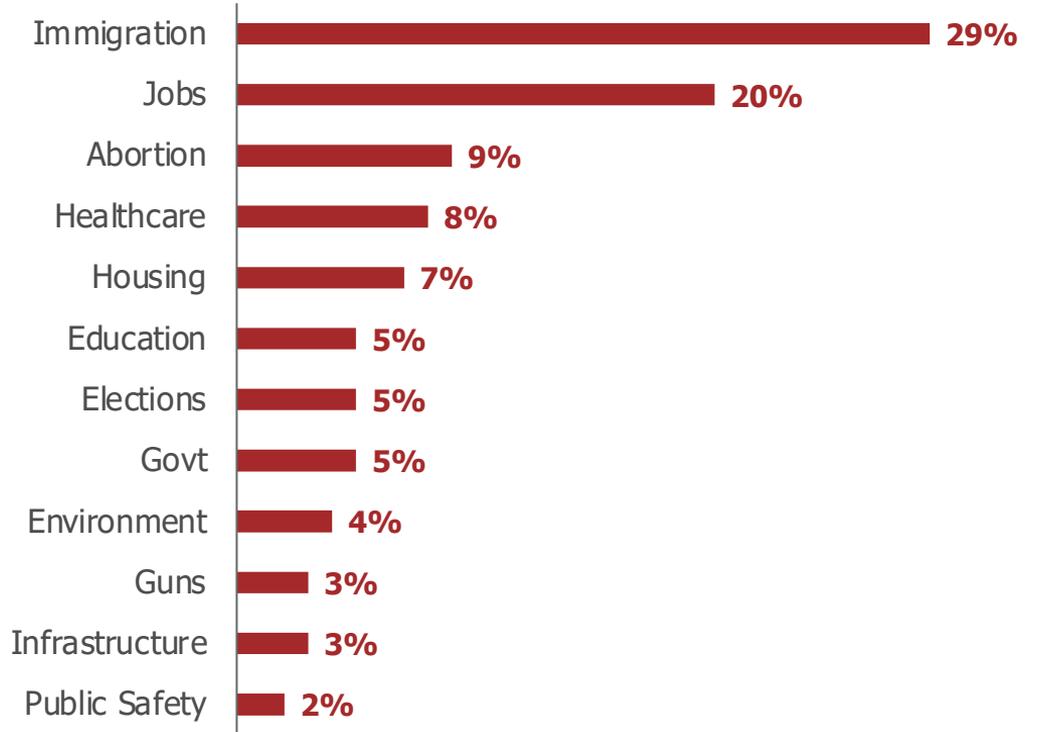
Q) Finally, which is the most important issue for you to know a candidate's position when you are deciding how you will vote? (n=269 Tucson-Pima Likely voters)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# Regional Analysis: Rural



## Top Issue (Select One) *(among Rural Voters)*



Q) Finally, which is the most important issue for you to know a candidate's position when you are deciding how you will vote? (n=309 Rural Likely voters)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# Regional Analysis: Rural



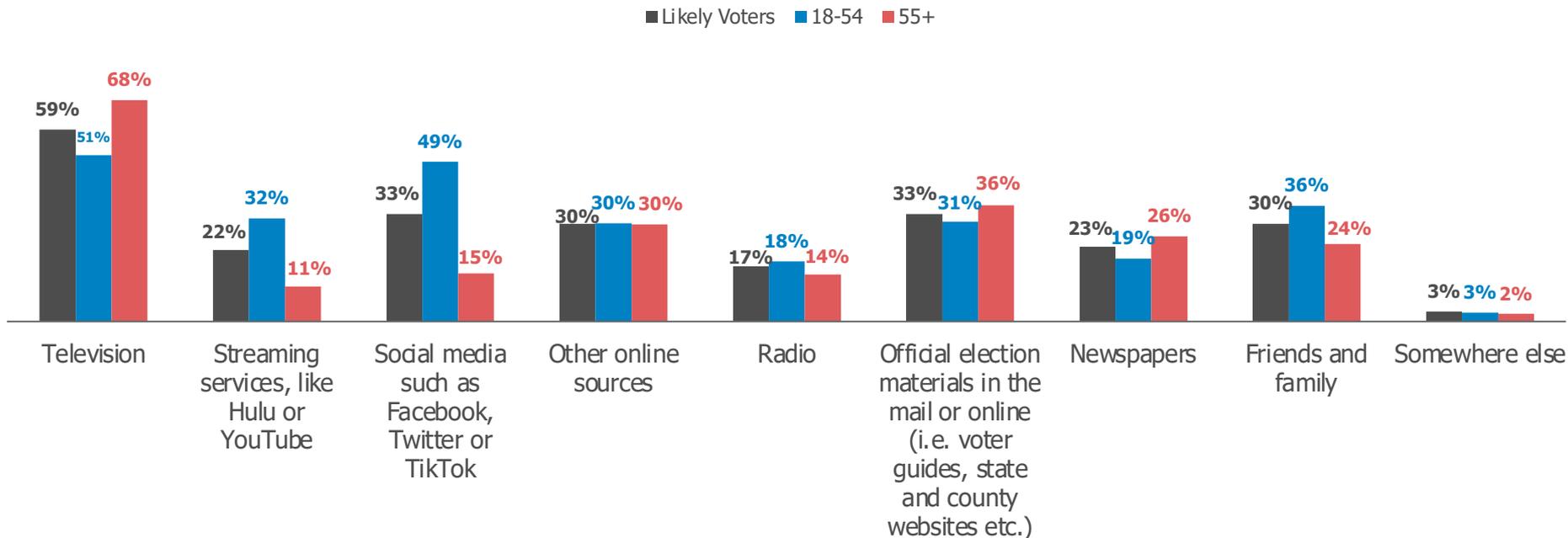
Top 3 Needed Topics (2024)	Top 3 Needed Topics (2023)	Top 3 Needed Topics (2022)*
<b>Immigration</b> (Border security)	<b>Abortion</b> (Whether the candidate calls themselves pro-life or pro-choice)	<b>Jobs and Economy</b> (Gas prices)
<b>Jobs/Economy</b> (Inflation/rising prices)	<b>Immigration</b> (Border security)	<b>Healthcare</b> (Affordability of prescription drugs)
<b>Abortion</b> (Laws regarding abortion access)	<b>Jobs and Economy</b> (Gas prices)	<b>Immigration</b> (Border security)

Q) Finally, which is the most important issue for you to know a candidate's position when you are deciding how you will vote? (n=309 Rural Likely voters)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.

# And where should we find them? TV for all, social media for the young.

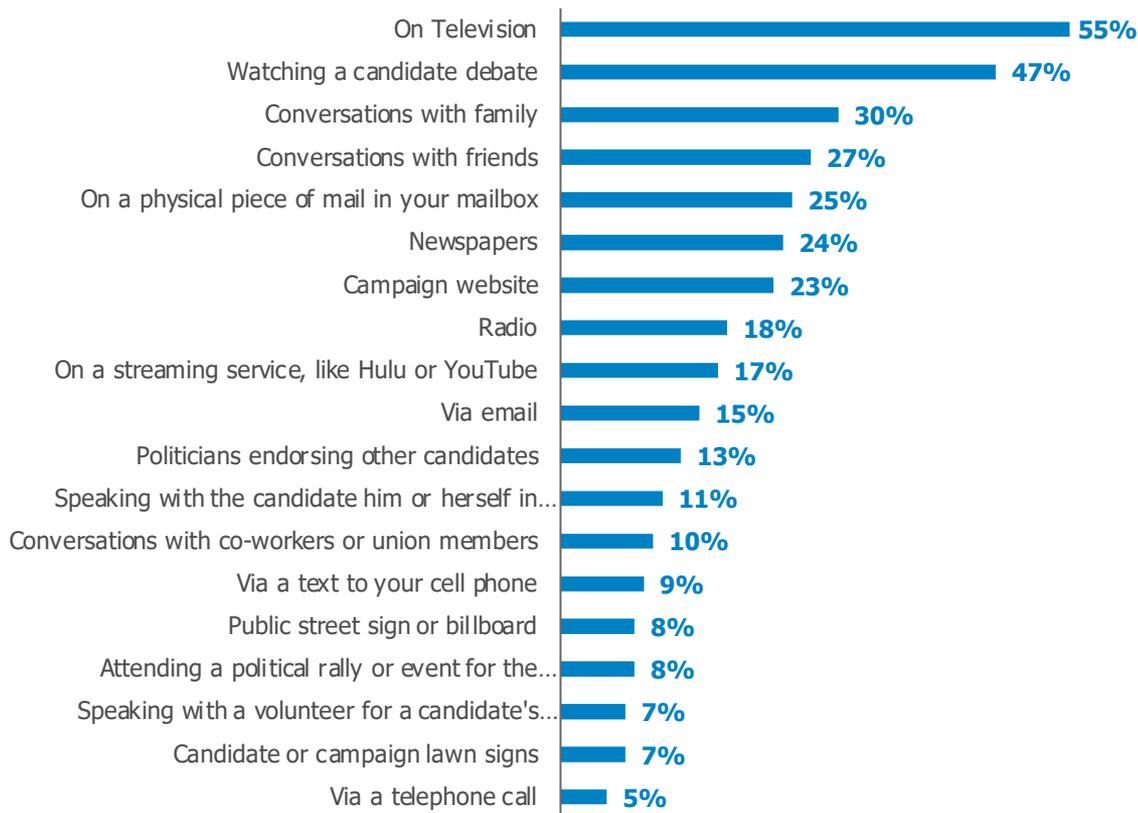
## Primary Sources of Election Information



# People tend to view politics from a distance – TV and speeches reach people more than individual volunteers.

- Campaigns' primary means of reaching likely voters is through television and debate.
- Like previous surveys found, likely voters' third and fourth most common way of finding out about campaigns is through conversation with those around them.

## Campaigns' Contact with Likely Voters



Q) Below is a list of various ways campaigns can communicate with voters. Please indicate which of the methods you most often use to learn about candidates. (n=1438 Likely voters)

† Note: Some numbers (on the chart or elsewhere) may not appear to be totaled correctly. This is due to rounding.



# Key Takeaways

- In more rural areas – and at the border – immigration is a top concern.
- In dense areas, the economy and abortion are higher in the “most important issue” rankings.
- TV is king for the overall population – best way to reach people.
- For young voters, social media matters more.

## INSIGHT:

- **Politics is a TV sport – be there, and be on social media.**
- **Tailor the debates for your region – debate border in rural and border areas, culture in the city, and economics everywhere.**



# Key Takeaways & Actionable Insights

- Arizonans are in the mood for change: ready to hear solutions, interested in politics.
- Governing style matters. Candidates **MUST** say how they'd balance compromise **AND** stand firm.
- The big three – abortion, immigration, economics – are still the big three.

**BUT** voters need clarity on:

- Exact abortion positions for both sides, especially the GOP
- How Arizona politicians will **ACT** on immigration
- How inflation will be **SOLVED** at **ALL** levels
  
- They're expecting to hear from candidates, news media via TV (all types – not just cable!), and social media.

# Methodology

# Research Methodology

This poll was conducted by Noble Predictive Insights from March 12-20, 2024 and surveyed Arizona registered voters via opt-in online panel and text-to-online SMS message in English and Spanish. The sample included 1,634 registered voters, 1,438 likely general election voters, and 1,306 likely primary voters (determined via screening questions). The sample demographics were weighted to accurately reflect the registered voter population by gender, region, age, party affiliation, race/ethnicity, and education according to recent voter file data, the Arizona Secretary of State's Office, and recent Census data. The margin of error was +/- 2.7% for likely primary election voters, +/- 2.6% for likely general election voters and +/- 2.4% for registered voters.

\*Numbers may not total 100%, due to rounding.

Registered voter data is shown here. Likely voter data – primary and general – is in the poll report sample summary.

Education	
High School or Less	30%
Some College	38%
College Graduate	20%
Post-Graduate	12%

Region	
Maricopa	60%
Pima	15%
Rural	25%

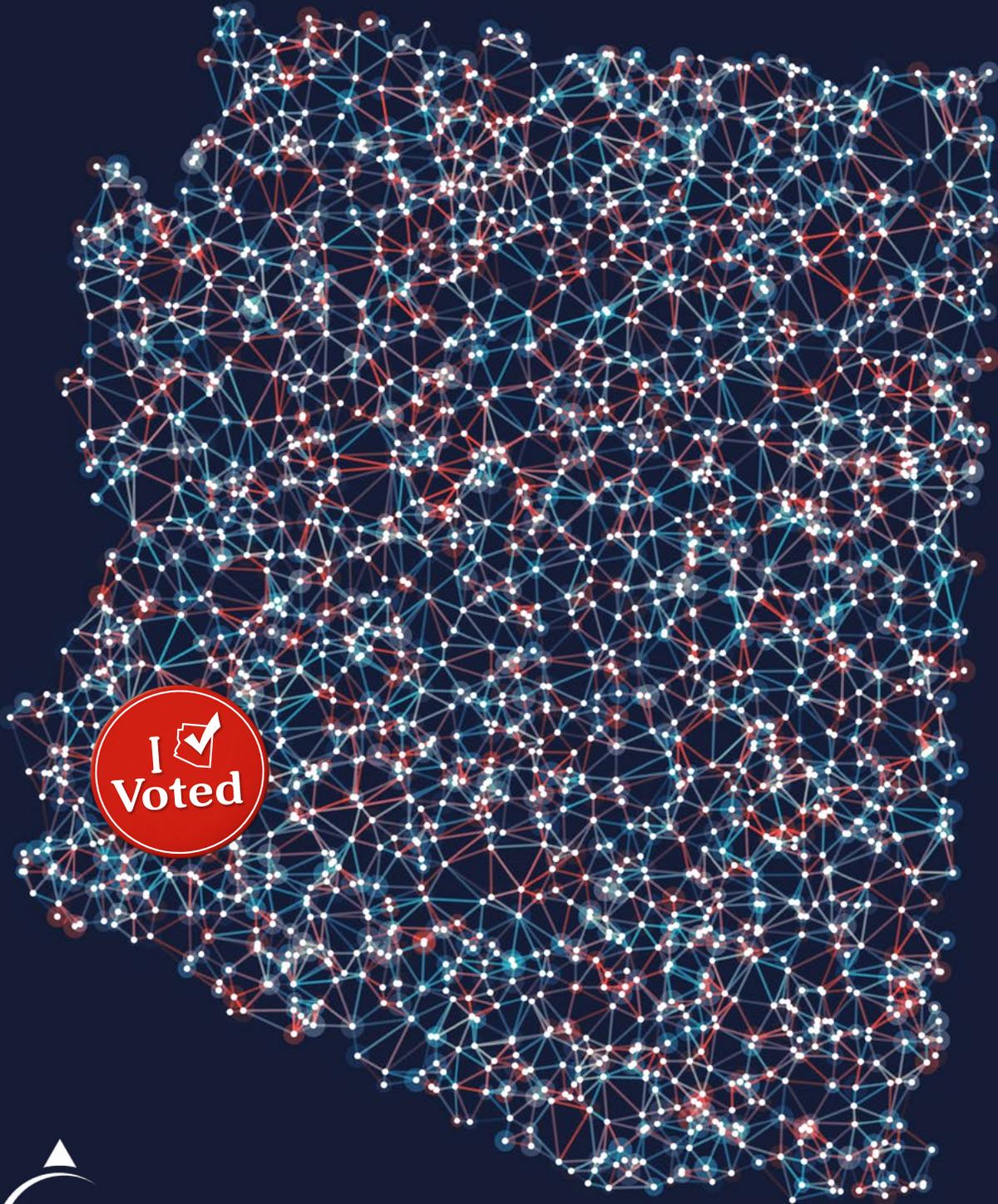
Party Affiliation	
Democrat	30%
Independent	36%
Republican	34%

Ethnicity Combined	
White, non-Hispanic	62%
Hispanic/Latino	23%
Other	15%

Gender	
Male	47%
Female	53%

Age	
18-34	27%
35-44	14%
45-54	16%
55-64	16%
65+	27%

# VOTING AND ELECTIONS IN ARIZONA





In 2024, Arizonans across the state will participate in Arizona Town Hall programs on the topic of “Voting and Elections in Arizona.”

An essential element to the success of these consensus-driven discussions is this background report that is provided to all participants before each program. The Morrison Institute for Public Policy at Arizona State University coordinated this informative background material in partnership with diverse professionals and practitioners from around the state who have lent their time and talent to this effort. Together they have created a unique resource for a full understanding of the topic.

For sharing their wealth of knowledge and professional talents, our thanks go to the report’s authors. Our deepest gratitude also goes to Leigh Jensen Marino, Senior Analyst with the Morrison Institute for Public Policy at Arizona State University, who marshaled authors, created content, and served as editor of the report.

After the culmination of various programs, including community and future leaders town halls, the background report will be combined with consensus recommendations of participants into the Final Report. This Final Report will be available to the public on the Arizona Town Hall website and will be widely distributed and promoted throughout Arizona. The background report and recommendations will be used as a resource, a discussion guide, and an action plan on how best to address voting and elections in Arizona.

Sincerely,

Gregory W. Falls  
Board Chair, Arizona Town Hall

[www.aztownhall.org](http://www.aztownhall.org)

# BACKGROUND REPORT

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For additional links and resources, visit: [http://aztownhall.org/116\\_Town\\_Hall](http://aztownhall.org/116_Town_Hall)

# VOTING AND ELECTIONS IN ARIZONA

## 116TH ARIZONA TOWN HALL TOPIC

### BACKGROUND REPORT - 2024

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**Leigh Jensen Marino**

Senior Analyst, Morrison Institute for Public Policy

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Special thanks to Lynne Sands (graphic designer), Karen Heard (Chalk Design), and Alexandra Sedillo, Director of Publications & Communications, Arizona Town Hall for their assistance and work in designing this report.

# INTRODUCTION

**James Holway, Ph.D., Arizona Town Hall Research Committee Member**

What is our shared vision for our democracy?

Arizona is a beautiful and diverse state. We have a strong economy and we have long been one of the fastest growing states in North America. Arizona's social and government institutions, including those relating to an effective democracy, have played a critical role in its current success and will continue to impact its future.

To maximize its future potential, Arizona and Arizonans will need to address education, health care, water, housing, the economy, and our southern border. Effective democratic institutions play an important role in solving these large and complex issues that span across diverse regions and populations of our state. The "social contract" is one theory that explores how governing institutions are formed to advance the collective needs we cannot meet individually.<sup>1</sup>

**Social contract theory** posits that "persons' moral and/or political obligations are dependent upon a contract or agreement among them to form the society in which they live."

The purpose of Arizona's 116th Town Hall sessions is to explore the effectiveness of Arizona's current democratic institutions on our ability to thrive, specifically our current systems for voting and elections. This report is intended to inform a robust, respectful, and fruitful discussion at the Town Hall sessions. Town Hall discussions, as is always the case, can go beyond the content of this background report in forming recommendations to help Arizona meet its potential.

**Chapter 1** assesses the strength of Arizona's civic engagement by discussing current participation rates in statewide elections, civic education programs, and incentives and disincentives for serving in public office in our state. **Chapter 2** offers a perspective from a community health leader on the impacts that a thriving democracy can have on a community's public health and vice versa. **Chapter 3** outlines barriers that students face with civic engagement and offers potential solutions to bolster their participation in our democracy. **Chapter 4** provides an overview of how elections are run in Arizona—from voter registration to campaign finance to ballot security and the tabulation process; readers will become familiar with the administration of elections in Arizona. In aggregate, the first four chapters of this report contextualize the landscape of civic engagement in our state and how the various democratic systems in Arizona are currently structured and functioning.

Reading these chapters may prompt participants to consider potential reforms. To that end, **Chapter 5** provides brief overviews of some alternatives that might be worth considering. In **Chapter 6**, we learn how political science groups identify and rank the characteristics of a thriving democracy on a global scale. Finally, the report ends with five appendices that provide a more detailed look into several specific structures within our state's democracy, including the *Independent Redistricting Commission*, *Campaign Finance Regulations*, *Initiative and Referendum in Arizona*, *the Importance of Free Press*, and the *Basics of the Arizona Legislative Process*.

We encourage readers to contemplate whether Arizona's political structures are performing as we hoped they would when they were enacted, and how they might be modified to better serve our state going forward. In addition, readers are encouraged to think about the many ways in which an individual can meaningfully participate in our democracy through social and individual actions.

<sup>1</sup> "Social Contract Theory," The Internet Encyclopedia of Philosophy, accessed March 7, 2024, <https://iep.utm.edu/soc-cont/>.

# CHAPTER 1: CIVIC ENGAGEMENT AND DEMOCRACY IN ARIZONA

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**Daniel Schugurensky, Professor/Director, Participatory Governance Initiative, ASU School of Public Affairs**

*This chapter provides an overview of the landscape of civic life in Arizona, using data to inform an understanding of how Arizonans are engaged, the challenges and gaps in engagement, and opportunities for civic renewal.*

Civic life in a democracy is linked to our broader individual and community well-being. Research findings indicate that connected communities are more economically resilient, that individuals who participate in civic life have greater access to opportunities and well-being, and that policies and programs are more responsive when community members are authentically engaged.

## Shared Public Values of Arizonans

- Extensive research shows that Arizonans want greater civic engagement and a democracy that works for all of us.
- Three-quarters of Arizonans (76%) want to work together across differences to solve problems.
- Vast majorities agree on convenient, accessible elections through measures like early voting (79%), mail-in voting (73%), and automatic voter registration (77%).

Large majorities of Arizonans also agree that our elections are currently fair and secure.

- Almost two-thirds of Arizonans want leaders who work together: 64% prefer leaders who are willing to compromise and work across the aisle to find bipartisan solutions to complex problems.<sup>2</sup>

Hence, there is a strong foundation and an opportunity to leverage Arizonans' shared values and priorities for greater engagement. However, Arizonans are concerned about our leaders and institutions and about their ability to make an impact. Only 43% believe leaders are talking about the issues that matter most to them, and most Arizonans do not believe their leaders work across party lines, represent diverse voices, or focus on the future.

## Significant Gaps in Engagement

This limited agency and belief in the process is particularly noticeable in our elections. For instance, just about 2 in 3 eligible Arizonans participated in the last general election.<sup>3</sup> In this regard, data from Center for the Future of Arizona's (CFA) Civic Health Progress Meters confirm the connection between people's concerns about our democracy and voter

### Do you agree or disagree that Arizona's elected leaders currently \_\_\_\_\_?

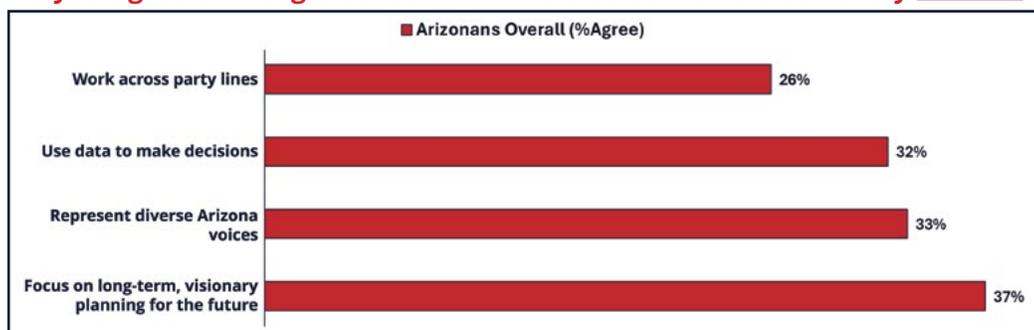


Figure Source: Center for the Future of Arizona, *The Arizona We Want: The Decade Ahead* (Gallup, 2020), [https://www.arizonafuture.org/media/unfojhmh/cfa\\_arizona\\_we\\_want\\_the\\_decade\\_ahead\\_digital.pdf](https://www.arizonafuture.org/media/unfojhmh/cfa_arizona_we_want_the_decade_ahead_digital.pdf).

<sup>2</sup> "The Arizona We Want: The Decade Ahead," Center for the Future of Arizona, accessed February 23, 2024, [https://www.arizonafuture.org/media/unfojhmh/cfa\\_arizona\\_we\\_want\\_the\\_decade\\_ahead\\_digital.pdf](https://www.arizonafuture.org/media/unfojhmh/cfa_arizona_we_want_the_decade_ahead_digital.pdf).

<sup>3</sup> "Civic Participation," Center for the Future of Arizona, accessed March 4, 2024, <https://www.arizonafuture.org/progress-meters/civic-participation/>.

## Non-Voters Who Did Not Vote Because They Felt Their Vote Would Not Matter

Percentage of non-voters who selected “Not interested, felt my vote wouldn’t make a difference” on the survey.

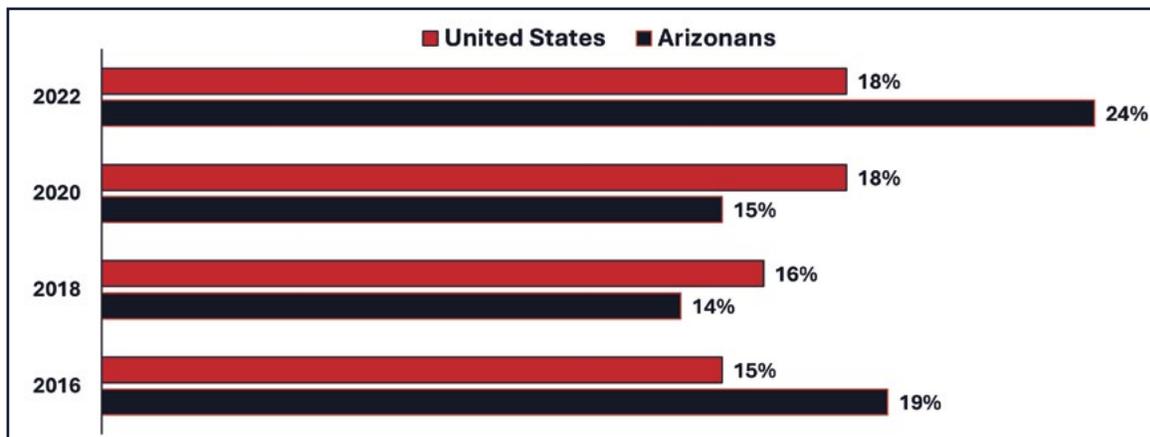


Figure Source: “How Arizona is Doing on Voter Registration and Turnout,” *Center for the Future of Arizona*, accessed March 19, 2024, <https://www.arizonafuture.org/progress-meters/civic-participation/voter-registration-and-turnout/>.

participation. A significant number of eligible voters do not participate because they feel their vote won’t matter. In the 2016 Presidential Election, 19% of non-voting Arizonans felt their vote wouldn’t matter, higher than the national average of 15%. However, by 2020, this trend shifted, with 15% of Arizonans citing this reason for not voting, while the national rate was higher at 18%. In the 2022 elections, the percentage of eligible Arizonans abstaining from voting due to disinterest or a perceived lack of impact jumped to 24%, a notable increase compared to the 16% in the midterm election in 2018.<sup>4</sup>

These gaps in participation show up when looking across measures of civic engagement in Arizona. In the 2022 midterm election, only 47% of those with a high school degree reported voting, a low percentage when compared with those with a bachelor’s degree or higher (73%). In the same election, 79% of Boomers participated but only 65% of Millennials. Education levels are also correlated with indicators of political efficacy. For instance, only 6% of those with some college had reached out to an elected official, a lower rate than those with a bachelor’s degree or higher (16%). These gaps have implications for the voices that are heard and represented in our democracy.

When looking at measures of connected communities and social cohesion in Arizona, the picture is even more challenging. The state has seen downward trends in indicators like spending time with neighbors, volunteerism, and group involvement. Arizona ranks

last among all states, with just 21% of its residents spending time frequently with neighbors and 40th with just 16% saying they work with neighbors to solve local problems.<sup>5</sup>

Despite these challenges, there are bright spots of engagement to continue building upon. Interestingly, Arizona leads the national average for residents who make their voices heard through boycotting and buying products based on their values: 19.3% express their values in this way, above 17% nationally. Arizona is also on par with national trends in charitable giving, with an increase since 2019 in those donating to causes.<sup>6</sup>

These simple acts of helping our neighbors and getting involved in the community have a great impact on several outcomes, including economic resilience, health and well-being, and ultimately, a more responsive and thriving democracy. However, we must also assess the systems and practices in place that can either foster or hinder community civic, electoral, and political engagement and well-being.

### Elections, Systems, and Incentives and Barriers to Running for Office

Disengagement and disillusion with democracy have also impacted participation in primary elections. As previously noted, nearly one-quarter of Arizonans feel that their vote does not matter,<sup>7</sup> and this mindset is especially prevalent among youth voters who are less likely to register to vote than other age groups.<sup>8</sup>

4 “Civic Participation,” *Center for the Future of Arizona*, accessed March 4, 2024, <https://www.arizonafuture.org/progress-meters/civic-participation/>.

5 “Connected Communities,” *Center for the Future of Arizona*, accessed March 4, 2024, <https://www.arizonafuture.org/progress-meters/civic-participation/>.

6 “Civic Participation,” *Center for the Future of Arizona*, accessed March 4, 2024, <https://www.arizonafuture.org/progress-meters/civic-participation/>.

7 “Civic Participation,” *Center for the Future of Arizona*, accessed March 4, 2024, <https://www.arizonafuture.org/progress-meters/civic-participation/>.

8 Laura W. Brill, “In Arizona’s Two Largest Counties, Fewer Than 15% Of 18-Year-Olds Are Registered To Vote,” *The Civics Center*, December 1, 2021, <https://www.thecivicscenter.org/blog/2021/11/29/research-report-in-arizonas-two-largest-counties-fewer-than-15-of-18-year-olds-are-registered-to-vote?sourceid=&emci=ba518d78-6751-ec11-9820-a085fc31ac93&emdi=6b369c76-9653-ec11-94f6-0050f2e65e9b&ceid=14774094>.

Over the last two decades, only about one in three Arizona voters have cast a vote in primary elections, with turnout rates much lower among younger voters, but also among Black voters and registered Independents.<sup>9</sup> Moreover, while Arizona has seen a surge in registered Independent voters (currently 33.32% of the state's electorate, up from 11.6% in 1992), many Independents do not cast a vote in primary elections (only 10% in 2016), often citing they are unaware they can participate.<sup>10</sup>

These trends pose unique challenges and implications for Arizona's electoral and civic health, but also provide opportunities for interventions. Arizona researchers and election experts have pointed to primary elections as a key driver behind impactful system change at both the state and local levels. According to Chuck Coughlin, CEO and President of HighGround, Inc., 80% of Arizona's candidates for office are elected in primary elections.<sup>11</sup> However, most voters who engage in primary elections have extreme political ideologies.<sup>12</sup> As noted by Ted Maxwell, President of the Southern Arizona Leadership Council (SALC), "Systems matter, and the current system encourages partisan politics."<sup>13</sup>

In effect, Arizonans interested in running as primary election candidates are not incentivized to run on policy-based platforms for what most Arizonans want or even for what is best for positive systems change. To win a primary election, candidates focus their campaign on extreme partisan issues that appeal to the small number of polarized voters who vote in the primary elections and also to special interests that contribute to their campaign.<sup>14</sup> Furthermore, the voters that must be appealed to in the primaries do not represent the demographics of Arizona as they tend to be older and non-Hispanic whites.<sup>15</sup>

While voter disengagement in primary elections is detrimental to systems change and to the voices and

interests of most Arizonans, increasing access to voter education and mobilizing voter engagement could minimize these negative effects. Primary elections are one of the most direct forms of democracy in which registered voters can participate. They allow them to choose from a variety of candidates and platforms to best address their own community's needs and interests.<sup>16</sup> Catalyzing the knowledge of candidates and their platforms alongside the propensity to vote in primary elections would ensure increased equity in legislative input (representation) and output (policy and programs).

Those elected to office make important decisions about policies that impact every aspect of a healthy democracy. If those running for office were better incentivized through an election process that encouraged them to go beyond a small, polarized electorate and consider broader societal needs, there would be a positive impact on all Arizonans in the nature of the laws and programs being considered and adopted.

## Civic Learning in Arizona

Increased engagement in civic and political life will not occur overnight, as it requires a variety of concerted efforts, including effective civic learning interventions that foster meaningful, participatory opportunities for K-12 students to ensure the long-term health of our democracy. It is important to design these interventions in ways that reach educators across grade levels, content areas, and communities; engage traditionally underserved communities; be easily adopted and scaled; and deepen learning outcomes in areas of history, government, and civics.

Arizona has been a pioneer in K-12 civic education policies and programs. Notably, in 2013, Arizona was one of the first states to create a state-level Department of Education civic education program

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- 9 "August 4th, Primary Election," *Citizens Clean Elections Commission*, accessed February 23, 2024, <https://www.azcleelections.gov/arizona-elections/August-4-election>.  
David Daugherty and Joseph Garcia, "Arizona's Voter Crisis," *Morrison Institute*, July 2018, <https://storage.googleapis.com.usgovcloudapi.net/public/docs/312-Voter-Crisis-Report-FINAL3.pdf>.
- 10 "Historical Election Results & Information," *Arizona Secretary of State*, accessed February 23, 2024, <https://azsos.gov/elections/results-data/voter-registration-statistics/historical-election-results-information>.  
David Berman, "Building and Rebuilding An Election System in Arizona: Where We've Been, Where We're Going," *Morrison Institute*, March 2016, [https://morrisoninstitute.asu.edu/sites/default/files/berman\\_elections.pdf](https://morrisoninstitute.asu.edu/sites/default/files/berman_elections.pdf).  
David Daugherty and Joseph Garcia, "Arizona Primary Elections: Primarily Forgotten," *Morrison Institute*, August 2018, [https://morrisoninstitute.asu.edu/sites/default/files/primary\\_elections.pdf](https://morrisoninstitute.asu.edu/sites/default/files/primary_elections.pdf).
- 11 "Morning Scoop: Civic Engagement and Elections," *YouTube*, October 28, 2021, <https://www.youtube.com/watch?v=iBEXq4Fohml>.
- 12 David W. Brady, Hahrie Han, and Jeremy C. Pope, "Primary Elections and Candidate Ideology: Out of Step with the Primary Electorate?" *Legislative Studies Quarterly* 32, no. 1 (2007): 79-105, <http://www.jstor.org/stable/40263411>.
- 13 "CivEx: A Conversation on Election System Reform," *YouTube*, April 28, 2021, [https://www.youtube.com/watch?v=NvX5\\_jj4T8Q](https://www.youtube.com/watch?v=NvX5_jj4T8Q).
- 14 "Nonpartisan Primaries," *Unite America*, accessed February 23, 2024, <https://www.uniteamerica.org/nonpartisan-primaries>.
- 15 David Daugherty and Joseph Garcia, "Arizona's Voter Crisis," *Morrison Institute*, July 2018, <https://storage.googleapis.com.usgovcloudapi.net/public/docs/312-Voter-Crisis-Report-FINAL3.pdf>.
- 16 Renee Davidson, "Understanding Elections: Primaries 101," *League of Women Voters*, March 11, 2014, <https://www.lwv.org/blog/understanding-elections-primaries-101>.

aimed at 1) providing resources and professional civic learning opportunities for K-12 educators, 2) recognizing schools and programs that utilized the ten proven practices of civic learning, and 3) advocating for best practices in civic and community engagement. In 2015, the Arizona legislature passed the American Civics Act (HB2064) with bipartisan support. This landmark bill required students, beginning with the graduating class of 2017, to pass the Arizona Civics Exam, a standardized assessment based on the United States Citizenship and Immigration Services civics exam. Since then, at least 34 other states have followed suit, requiring the passing of a similar exam, with varying implementation and reporting specifics. In 2018, SB144 was passed to require all high school students to take a semester-long civic course for graduation. This requirement was intended to support students in passing the Arizona Civics Exam.

However, many K-12 civic education policies and programs (including those adopted in Arizona and diffused across other states) overwhelmingly rely on rote memorization of static facts with the purpose of passing a civics class or an exam. Moreover, under-resourced schools and ill-equipped educators continue to struggle to provide all students equitable access to high-quality civic learning opportunities.<sup>17</sup> This confluence of factors has resulted in a well-documented civic opportunity gap,<sup>18</sup> or what has more recently been called a civic education debt.<sup>19</sup> Now, amidst political polarization, disillusionment of democracy, and the continued divestment of public education, there is a resurgence of interest in civic learning in schools alongside questions of what has worked and what is next for improving this field.

### School Participatory Budgeting Spotlight

One promising model in civic education is Arizona's pioneering work in School Participatory Budgeting (SPB). SPB empowers students to "learn democracy by doing" by deciding and voting on how a portion of school district funds are used to improve their school communities. This democratic process prepares young people to be active, informed, responsible and engaged participants in civic life for the long term by building student agency, confidence, communication, critical thinking and problem-solving skills. SPB has also been shown to improve school climate, increase

opportunities for broader campus engagement, nurture a more deliberative civic culture, and strengthen school-community relationships.

Through SPB, students lead a process of collecting ideas, developing proposals, voting, and implementing winning projects. Phoenix Union High School District (PXU) in Arizona was the first in the country to pilot the model, scaling from one school in 2013 to district-wide expansion by 2019. In partnership with the Center for the Future of Arizona (CFA) and Arizona State University's Participatory Governance Initiative (PGI), SPB has now been implemented in nine school districts across Arizona, reaching tens of thousands of K-12 students each year, with plans for further growth and adoption in the coming years. The Arizona SPB process has also sparked implementation in the U.S. and internationally. It has also inspired the implementation of municipal participatory budgeting processes in some districts of Tucson and Phoenix. SPB is one example of an innovative approach to civic learning that can equip young people to be problem solvers today and prepare them to lead into the future.

### Conclusion

Ultimately, this landscape analysis of civic engagement in Arizona can help us understand the challenges we face and also spark discussion and collaboration in creating new pathways for Arizonans to engage and make their voices heard. This requires a holistic view that considers our electoral system, the incentives and barriers to civic participation, voting and running for office, rich civic learning that prepares young people to be lifelong participants in democracy, and a thriving civic culture that motivates and inspires everyone to play their part for the common good.

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- 17 Brooke Blevins, "Research on Equity in Civics Education," *The Journal of Social Studies Research* 46, no. 1, January 7, 2022: 1-6, <https://doi.org/10.1016/j.jssr.2021.12.001>.
- 18 Hansen, Michael, Elizabeth Levesque, Jon Valant, and Diana Quintero. "The 2018 Brown Center report on American education: How well are American students learning." *Washington, DC: The Brookings Institution* (2018), accessed March 4, 2024, [https://civxnow.org/sites/default/files/resources/2018-Brown-Center-Report-on-American-Education\\_FINAL1.pdf](https://civxnow.org/sites/default/files/resources/2018-Brown-Center-Report-on-American-Education_FINAL1.pdf).
- Peter Levine and Kei Kawashima-Ginsberg, "The Republic Is (Still) at Risk- and Civics Is Part of the Solution," *CivXNow*, September 21, 2017, <https://civxnow.org/sites/default/files/resources/SummitWhitePaper.pdf>.
- Michael Rebell, "The School's Neglected Mission: Preparing All Students for Civic Participation," *The Center for Education Equity*, 2017, <https://files.eric.ed.gov/fulltext/ED597175.pdf>.
- 19 Jane C. Lo, "The Role of Civic Debt in Democratic Education," *Taylor and Francis Online*, 2019, <https://www.tandfonline.com/doi/full/10.1080/15210960.2019.1606633>.

# CHAPTER 2: A BROADER APPROACH TO A “HEALTHY DEMOCRACY”

**David Martinez III, Director, Strategic Community Partnerships, Vitalyst Health Foundation**

*A healthy democracy contributes to healthier people.*

There is a growing movement and body of research that shows the more civically engaged we are, the healthier we and our communities are. Yet, just under 66% of eligible voters in Arizona voted in the 2020 presidential election and not even half – just 49.4% – voted in the midterms.<sup>20</sup> Additionally, nearly one in four Arizonans say they did not vote because they believed their vote didn't matter.<sup>21</sup>

Since Arizona's eleven Electoral College seats were called in November 2020, our votes have been at the epicenter of controversy. That led to objections from some members of Congress on January 6, 2021, to counting those electors for president. It also led to the establishment of both Democratic and Republican-led election task forces at the state level, and fights in some Arizona counties about who administers our elections and how our votes are counted.

Those voting outcomes also have direct policy implications that affect our health. Forty-four percent of Arizona's General Fund is comprised of federal funds that support health-oriented programs like health insurance for low-income adults and children, nutritional and cash assistance, housing vouchers and loans, school grants and financial aid, and transportation construction.<sup>22</sup>

The importance of civic participation to health has been made even more apparent by the U.S. Department of Health and Human Services. In 2023, the country's

data-driven goals to improve health and well-being – Healthy People 2030 – elevated civic participation to a core objective.<sup>23</sup>

If we are to continue to improve health, we must increase the proportion of voters who participate in our democratic process.

“We've learned that belonging and civic muscle can significantly impact an individual's and a community's resilience and capacity to thrive,” says Rear Admiral Paul Reed, Deputy Assistant Secretary for Health and the Director at the Office of Disease Prevention and Health Promotion. “Voting is one way for individuals to flex this civic muscle and help their communities determine a shared direction and shape a common vision.”

It is a message gaining ground in the health sector. The National Academies of Sciences, Engineering, and Medicine, as well as the American Medical Association, have added their platforms to growing the understanding of the relationship between civic participation and positive health outcomes.<sup>24</sup>

Public health organizations have also leveraged their voice in this movement. The American Public Health Association has lifted civic and voter participation to address determinants of health and make progress on health disparities.<sup>25</sup> These broader health indicators, referred to by Vitalyst Health Foundation as the

20 “Voting Statistics,” *US Elections Project*, accessed February 21, 2024, <https://www.electproject.org/election-data/voter-turnout-data>.

21 “How Arizona Is Doing on Voter Registration and Turnout,” *Center for the Future of Arizona*, accessed February 21, 2024, <https://www.arizonafuture.org/progress-meters/civic-participation/voter-registration-and-turnout/>.

22 Joint Legislative Budget Committee staff, *Fiscal Year 2024 Appropriations Report*, accessed February 21, 2024, <https://www.azjlb.gov/24AR/428.pdf>.

23 “SDOH-R02 Recategorized to Healthy People 2030 Core Objective,” *US Department of Health and Human Services*, June 27, 2023, <https://health.gov/news/202306/sdoh-r02-recategorized-healthy-people-2030-core-objective>.

24 “Voting and Health: Expanding Opportunities for Inclusion,” *National Academies*, September 15, 2021, <https://www.nationalacademies.org/event/09-15-2021/webinar-voting-and-health-expanding-opportunities-for-inclusion>.  
Kevin B. O'Reilly, “Another Question for Patients: Are You Registered to Vote?” *American Medical Association*, September 1, 2022, <https://www.ama-assn.org/delivering-care/health-equity/another-question-patients-are-you-registered-vote>.

25 “Advancing Health Equity through Protecting and Promoting Access to Voting,” *American Public Health Association*, November 8, 2022, <https://www.apha.org/Policies-and-Advocacy/Public-Health-Policy-Statements/Policy-Database/2023/01/18/Access-to-Voting>.

## What Does Civic Engagement Look Like?



Figure Source: <https://www.pacefunders.org/wp-content/uploads/2017/04/Civic-Engagement-Chart.pdf>

“Elements of a Healthy Community,” often showcase that a person’s zip code, not their genetic code, determines life expectancy.<sup>26</sup>

This intersection of civic engagement and health links voting with other “civic health” measures that also improve the health of people and communities. Things like belonging and social cohesion have evidence of self-reported health and well-being.<sup>27</sup>



This concept of civic health – how people and communities can engage and unify to resolve problems – is measured through County Health Rankings & Roadmaps. This data again makes a “connection between civic health and thriving people and places.”<sup>28</sup> Why does this matter? Local data records that the percentage of Arizonans who volunteer, belong to groups, or spend time or work with neighbors often falls below national statistics.<sup>29</sup> The highest data point shows less than half of Arizonans – 48.5% – contribute to charitable organizations.

These efforts represent opportunities for the community to engage in civic life toward the common good. They are examples of activities that build social and cultural cohesion, and, ultimately, civic health.

Vitalyst published a report to showcase the intersection of civic engagement and health to show the importance of strengthening civic health in

Figure Source: <https://vitalysthealth.org/the-wheel/>

26 Donald F. Schwarz, “New Data Provides a Deeper Understanding of Life Expectancy Gaps,” *Robert Wood Johnson Foundation*, September 10, 2018, <https://www.rwjf.org/en/insights/blog/2018/09/new-data-provides-deeper-understanding-of-life-expectancy-gaps.html>.  
 27 Rios, R.; Zautra, A. (2009). *Neighborhood Contexts and Health*. Phoenix, AZ: Department of Psychology, Arizona State University/St. Luke’s Health Initiatives.  
 28 “2023 County Health Rankings National Findings Report,” *County Health Rankings*, March 2023, <https://www.countyhealthrankings.org/findings-and-insights/2023-county-health-rankings-national-findings-report>.  
 29 “Connected Communities,” *Center for the Future of Arizona*, accessed February 21, 2024, <https://www.arizonafuture.org/progress-meters/connected-communities/>.

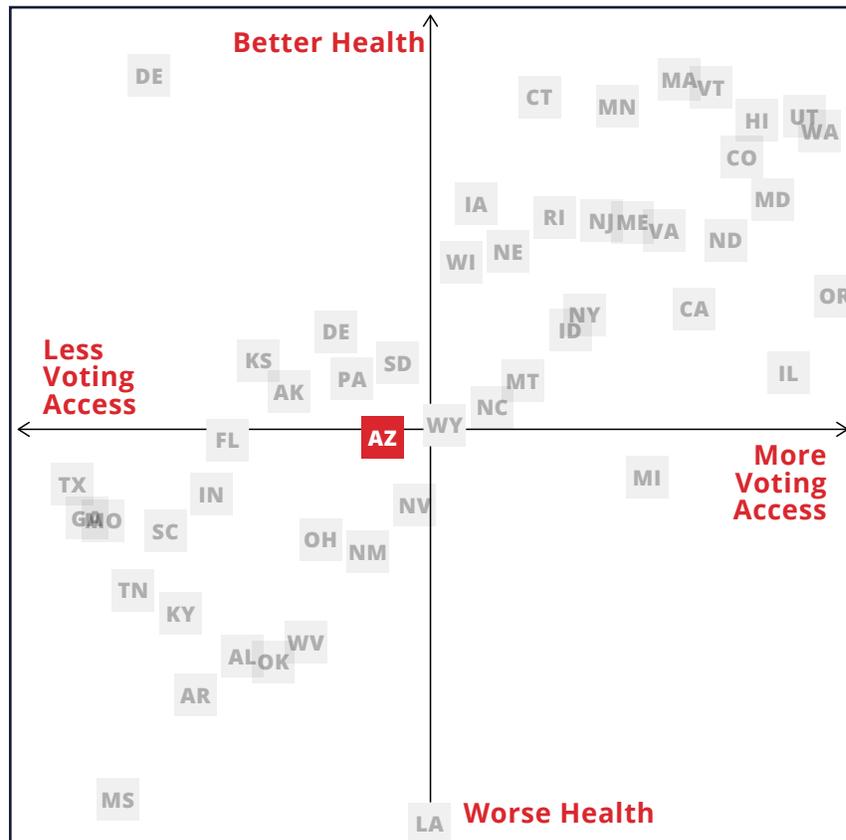


Figure Source: <https://democracyindex.hdhp.us/>

Arizona.<sup>30</sup> In partnership with the Healthy Democracy Healthy People Initiative, the report recognizes that civic participation and voting are important for health.

As the report reflects, “in 2021, a coalition of public health organizations analyzed voting structures and public health outcomes across the U.S. The coalition developed the Health & Democracy Index to compare 12 public health indicators, such as voter turnout and voting policies in each state. The Health & Democracy Index provides a shared health equity analysis of voting policy and serves as a tool to strengthen civic and voting participation. The Health & Democracy Index includes health measures only if there is an evidence-based link between the measure and civic engagement.”

That index compares those indicators and voter turnout to the Cost of Voting Index, or COVI, which refers to the time and effort associated with casting a vote, which may reflect a state’s overall climate.<sup>31</sup>

The elections-related systems the COVI includes are registration deadlines; registration restrictions (such as no online voter registration); registration drive

restrictions (such as training required by state); pre-registration for 16- and 17-year-olds; automatic voter registration; voting inconvenience (such as excuse required for vote absentee); voter ID laws; poll hours; and early voting.

The Index shows how voting can shape individual and community health, and how voting barriers correlate with worse health outcomes. It is just one more tool in the growing movement and body of research that shows the health and well-being of people and communities depend on residents’ active participation and engagement.

It’s also why Vitalyst has prioritized its approach to strengthening civic health, including its support of: Arizona Town Hall for effective deliberation and consensus building; Arizona Gives Day to inspire charitable giving and more donations to local nonprofits; place-based community development through the Live Well AZ Incubator, and informing public policy and nonpartisan awareness building.

Democratic processes that are inclusive and robust are vital to creating the opportunity for everyone to be healthy. Civic health matters for Arizona.

30 “Strengthening Civic Health in Arizona” <https://vitalysthealth.org/strengthening-civic-health-in-arizona/>.

31 Scot Schraufnagel, Michael J. Pomante II, and Quan Li, “Cost of Voting in the American States: 2020,” *Election Law Journal: Rules, Politics, and Policy* (December 2020): 503-509, <http://doi.org/10.1089/elj.2020.0666>.

# CHAPTER 3: STUDENT VOTER ENGAGEMENT

**Alberto Olivas, Med, Executive Director, Congressman Ed Pastor Center for Politics and Public Service, Arizona State University**

**Tiffany Thornhill, MSW, MPA Program Manager, Congressman Ed Pastor Center for Politics and Public Service, Arizona State University**

Every election cycle brings renewed interest in and efforts to encourage young people to vote, namely through voter registration drives and get-out-the-vote (GOTV) campaigns on high school and college campuses. Traditional efforts have failed to significantly alter the trend for young voters to turn out in lower numbers than older voters, but recent elections have shown a dramatic increase in turnout among young voters despite significant challenges, including a global pandemic, and procedural obstacles related to identification, proof-of-citizenship requirements, access to the polls, etc.

Recently, ASU's Morrison Institute for Public Policy partnered with the ASU Congressman Ed Pastor Center for Politics & Public Service on a 3-year study (2019-2021) assessing for factors that inhibit and promote voter participation among 18-25-year-old voters. This "Youth Voting Project" included focus group discussions, surveys, and interviews with community college and university students to identify these challenging and enabling factors.

This chapter will present insights and recommendations for those working to increase youth voter engagement and civic participation. These were developed through this study, along with some examples of how we have implemented these recommendations in our on-campus student voter engagement efforts through the ASU chapter of the Andrew Goodman Foundation Ambassadors, the ASU student Civic Engagement Coalition, and Pastor Center student leaders.

## What We Learned About Student Voting Behavior

While we did identify attitudinal issues (perceptions of fairness/effectiveness of voting) and process barriers that inhibit voting by students, our study identified many opportunities to incentivize and promote greater student voter participation:

### Obstacles and Barriers to Voting

- Lack of awareness/familiarity with candidates and races
- Confusion about meaning/impact of ballot questions
- Loss of faith in the fairness and integrity of voting and election systems
- Confusion or lack of information about voter registration and voting processes, options, and requirements
- Students that live in on-campus may face barriers with voter registration (due to address discrepancies) and with voter I.D. requirements

### Factors That Promote Voting

- **Early Voting / Vote by Mail:** In 2020, 84% of ASU's student population that voted either returned early ballots by mail or voted at an early voting site (based on results of the 2020 National Study of Voting, Learning, and Engagement). This is an 18-percentage point increase from the 2016 election, during which 66% of ASU students who voted did so by mail ballot or at an early voting site.
- **Engaged & Vocal Friends & Family:** In deciding whether and how to vote, young people rely on information and cues from their family, friends, teachers, and social networks to a much greater extent than traditional news media outlets or official election sources. Having people in their networks talk about upcoming elections and the importance of voting makes it much more likely that they will vote.

## Suggestions & Recommendations

### General Recommendations & Strategies

- **Focus on Issues:** Generalized messages about the importance of voting are not effective. Participants recommended messaging explaining how voting impacts specific issues that young people care about - particularly *healthcare, education, law enforcement, racial & social equity, climate change, etc.*
- **Prioritize Social Media Strategies:** Project participants rely very little, almost not at all, on television news sources or official election information provided by government websites or mailers. They indicate their main sources of election and voting information come from websites and articles referenced in social media posts.
- **Explain what to expect:** Participants recommended developing fun, engaging social media campaigns that include information on how to register, how to vote, and explaining what will be on the ballot.
- **Make the case:** Many young voters feel their vote will not make a difference. Give examples of how a small number of voters could make a difference in upcoming election outcomes and how they have made a difference in past elections. Explain what is possible with even a small increase in voter turnout!
- **Create an Election “Holiday”:** Ask employers to consider adjusting hours and offering flexible scheduling on Election Day, and to remind and encourage employees to vote.
  - According to A.R.S. 16-402, employers must grant paid leave for voting if there are less than three hours between the time that polls open or close and when an employee starts or ends their shift. Employees must request leave before Election Day. The employer may specify the hours the employee can be absent from work.<sup>32</sup>

### Recommendations for K-12 Schools, Colleges & Universities

Participants identified the need for training and education in several competency and skill areas that schools, colleges and universities are well positioned to respond to:

- K-12 schools should provide instruction on voting and democratic participation at all grade levels.
- Provide training/instruction on how to distinguish credible information from “fake news” and propaganda.
- Provide students with hands-on training and

resources on voting procedures and upcoming ballot content.

- Provide links to voting and election information resources on school and college websites on high traffic pages (i.e., registration/enrollment)
- Display signage & messaging about voting and elections in prominent, high-traffic locations on campus.
- Election “Holiday”: The overwhelming majority of participants indicated that not having classes scheduled on Election Day would promote greater voter turnout among students. College and university administrators should, at a minimum, encourage instructors to avoid scheduling exams or presentations on Election Day, and to remind students to vote.

### Recommendations for Elections Administrators

Project participants demonstrated almost no familiarity with any of the traditional information resources provided by state and local election offices by mail and online to inform voters about election processes and ballot content (publicity pamphlets, mailers, resources on election websites, etc.). They suggested strategies to address this, including:

- Develop school and community partnerships to promote greater awareness and utilization of official information and voter support resources, including:
  - Suggestions on how to engage your parents in discussions about voting (including vocabulary resources for students with parents whose primary language is not English)
  - Video tutorials about how to vote by mail, vote early, etc.
  - Easily shareable, accurate social media content about election processes and issues.
- Work with colleges and universities to identify and mitigate barriers that students in residence halls face with voter registration and with receiving and returning ballots by mail.

### Recommendations for Civic Organizations & Government Initiatives

Participants identified the need for training and education in several competency and skill areas that schools, colleges and universities are well positioned to respond to:

- Participants said that having friends and family members who vote and talk about elections makes them more likely to vote themselves. Promote campaigns that encourage voters to talk about voting online and in person with the young people in their lives.

32 A.R.S. §16-402.

- Show how small number of votes has made a difference in past elections, and how an increase in turnout by young voters can make a real difference on specific election issues and races.
- Maintain a positive, hopeful tone; avoid negative/angry/fear-based messaging.
- Engage young people in campaigns and creative strategies (especially leveraging their social networking capacities) to explain how upcoming elections affect youth/community in a tangible way.
- Develop content that connects election outcomes with issues that young people care most about (e.g. climate change, law enforcement, social and racial equity concerns, education, etc.).

### Student Voter Engagement in Action

At ASU, we view voting as the end-result of a civically engaged student. Efforts that narrowly focus on just getting students registered to vote tend to have minimal impact. Our approach has been to train, mentor, and support students to design and implement their own strategies to promote overall civic engagement among their peers, leading up to and including efforts to ensure students are well informed about election and voting processes and requirements, as well as the issues that will be decided in any given election. These efforts have many champions on our campuses, including the ASU chapter of the Andrew Goodman Foundation “Vote Everywhere” Ambassadors, and the student Civic Engagement Coalition, whose members include many student clubs and organizations focused on advocacy and civic engagement, and public policy. In addition, the Pastor Center has recently launched a social work field education internship to engage social work students in legislative and community practices. Some examples of efforts led by these student leaders and organizations include the following:

- **Polling places on campus:** ASU’s chapter of the Andrew Goodman Foundation (AGF) Ambassadors have advocated with county election officials over the past several election cycles in order to secure on-campus voting sites at our Tempe, Polytechnic, and West Valley campuses. These have all immediately experienced high voter turnout including not just student voters, but local community members and employees who find our campus voting locations to be easily accessible and convenient.
- **High-profile Civic Holiday events:** AGF Ambassadors are intentional about participating in the National Civic Holidays each year. In 2023, the AGF Ambassadors celebrated National Voter Registration Day on September 19th at the ASU Downtown Phoenix Campus, in collaboration with the ASU Undergraduate Student Government, the Citizens’ Clean Elections Commission (CCEC)

and the Arizona Secretary of State’s Office. The event not only provided students with voter registration and election information, it also highlighted the importance of active participation in civic engagement. Through our online voter registration tool, data showed 224 users utilized the site that day, a tremendous accomplishment and representation of student awareness and interest in voter engagement initiatives.

- **Independent Voter Engagement:** According to state voter registration data in August of 2023, the largest voting constituency in Arizona were independent voters, outnumbering Republicans and Democrats. In July 2023, legislative districts including and surrounding ASU’s largest campus in Tempe (LD 8, 9, and 12) included 39,326 independent voters, significantly outnumbering partisan voters. These numbers reflect a growing trend among young voters/students registering to vote without any party affiliation. In response to this trend, AGF Ambassadors have begun curating intentional experiences focused on nonpartisan student voters to engage and inform them about registration deadlines and other deadlines to participate in specific elections (i.e., the Presidential preference or any other primaries). This is done through on-campus tabling efforts, engaging with community partners both on and off campus, hosting voter education workshops and/or social gatherings, and offering virtual seminars or workshops.
- **Homeless Outreach Project:** Through social work field education, the Pastor Center’s social work intern has partnered with ASU’s Action Nexus on Homelessness’ social work interns and Human Services Campus (HSC) staff to provide voter education, registration, civil rights restoration information and limited services to those who engage with resources provided at the HSC facility. Preceding these efforts, the Pastor Centers’ social work intern trained HSC staff and interns onsite to equip them with skills to engage in effective voter outreach and education practices with those experiencing homelessness. Outreach efforts produced results that included over 60 interactions regarding rights restorations and 20 successful voter registrations. Of all the registrations during this process, 11 individuals with felony convictions were able to receive information that led to their successful voter registrations.

# CHAPTER 4: ADMINISTRATION OF ELECTIONS IN ARIZONA

**Gina Roberts**, Voter Education Director, Citizens Clean Elections Commission

## How Arizona Elections Work

Since the 2016 election, there has been an increased focus on the security and integrity of our nation's electoral system. Threats of foreign interference arose in the 2016 presidential election, leading to increased security measures and training for election officials, including the designation of election infrastructure as critical infrastructure by the United States Department of Homeland Security.<sup>33</sup>

Recently, elections have been threatened domestically with an uptick in mis, dis, and mal information. All of this leads to an increase in voters needing to know that their vote is safe and counted accurately. The climate surrounding elections has shone a spotlight on election administration and the laws and procedures in place to ensure every vote is legitimate and accurate.

It's important to note that a majority of Arizona voters believe in the election system. In a recent survey, 65% of respondents indicated they were confident in the outcome of elections.<sup>34</sup> This confidence assumedly stems from the knowledge that there are layers upon layers of security measures in place throughout the entire election administration process.

Elections across the country are primarily conducted in a decentralized manner. This is critically important to the security of our elections as it means there is not one single entry point into the system that could disrupt elections without safeguards in place. However, it is important to note that not all states conduct elections exactly the same way.

To understand how Arizona conducts elections, we will start by discussing the United States Constitution and then the Arizona Constitution for the founding principles of how our elections shall occur. The U.S. Constitution states, "The Times, Places and Manner of holding Elections for Senators and Representatives,

## How confident would you say you are in the outcomes of Arizona's elections, very confident, somewhat confident, or not confident?

\*No Response/Did Not Know

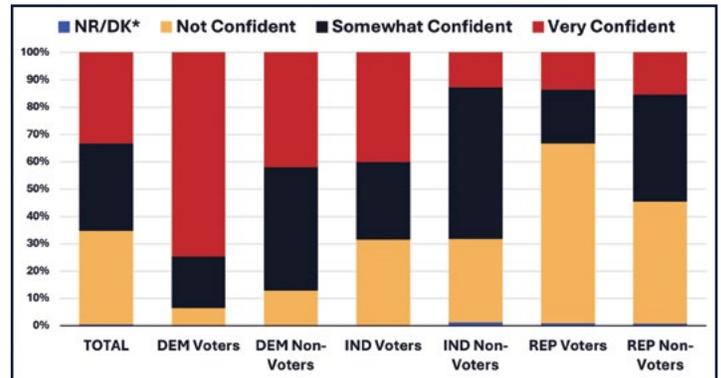


Figure Source: Dan Hunting, Thom Reilly, Jacqueline Salit, Cathy Stewart, and Christian Lorentzen, "Consensus and Concern in Arizona's Hot Political Climate: Voter Attitudes About Elections," *ASU School of Public Affairs*, July 2023, [https://spa.asu.edu/sites/default/files/2023-07/Consensus\\_Concern\\_July\\_24\\_2023.pdf](https://spa.asu.edu/sites/default/files/2023-07/Consensus_Concern_July_24_2023.pdf).

shall be prescribed in each State by the Legislature thereof..." (Article 1, Section 4, Clause 1).<sup>35</sup>

This delegation allows states to adopt their own rules in the conduct of elections. Bear in mind there are still federal laws that states must adhere to, such as the Help America Vote Act. The Arizona Constitution provides the framework for our state's elections, such as mandating the right to a secret ballot, and the Arizona legislature adopts the laws that provide the policies that election officials must follow in the conduct of elections.

Each of Arizona's 15 counties is responsible for conducting elections in their jurisdiction. For statewide elections, the counties conduct the election in their county and the Secretary of State aggregates the results across counties to determine the statewide results.

33 "Election Security," *Department of Homeland Security*, November 6, 2023, <https://www.dhs.gov/topics/election-security>.

34 Dan Hunting, Thom Reilly, Jacqueline Salit, Cathy Stewart, and Christian Lorentzen, "Consensus and Concern in Arizona's Hot Political Climate: Voter Attitudes About Elections," *ASU School of Public Affairs*, July 2023, [https://spa.asu.edu/sites/default/files/202307/Consensus\\_Concern\\_July\\_24\\_2023.pdf](https://spa.asu.edu/sites/default/files/202307/Consensus_Concern_July_24_2023.pdf).

35 "Artl.S4.C1.2 States and Elections Clause," *Constitution Annotated*, Accessed March 7, 2024, [https://constitution.congress.gov/browse/essay/artl-S4-C1-2/ALDE\\_00013577/](https://constitution.congress.gov/browse/essay/artl-S4-C1-2/ALDE_00013577/).

## What are the Key Roles in Elections?

Arizona has 15 counties, and each county has a Board of Supervisors (BOS, elected positions), a County Recorder (elected position), and an Elections Director (appointed by the BOS or Recorder). While these entities are responsible for election administration, that administration must be done in accordance with election law.

## Obstacles and Barriers to Voting

- The Legislature adopts the laws that govern elections.
- The County Recorder administers voter registration and early voting.
- The County Election Director administers election day activities, including polling place set up, poll worker hiring and training and tabulating votes.
- The County Board of Supervisors approves election day voting locations, emergency early voting locations, and election budgets.
- The Secretary of State certifies state election results, develops the Election Procedures Manual, and maintains the statewide voter registration system.
- The Arizona Citizens Clean Elections Commission educates voters on how to participate in elections, including how to get a ballot and information on candidates and the issues.

All of these entities work together to administer elections in Arizona.

## A Deeper Dive into Election Administration

Now that we've covered the basics of how elections are structured in Arizona, let's take a closer look at the administration of elections and how each key entity works together to ensure the accuracy and integrity of our elections.

### Voter Registration

The first step in activating a person's political power is registering to vote. The process can be done with a paper form or, more commonly, online through [servicearizona.com](https://servicearizona.com). A voter must meet the state's eligibility requirements for voter registration\* and, depending on which elections they wish to vote in, either swear/affirm their citizenship status or provide documentary proof of citizenship (DPOC).

Arizona voters passed Proposition 200 in 2004, requiring documentary proof of citizenship when registering to vote.<sup>36</sup> After litigation, the end result is Arizona's bifurcated voter registration system. Any voter who submits a voter registration form without DPOC is registered as a federal-only voter, meaning they may only vote in federal elections. This satisfies the federal requirement that states must use and accept the federal voter registration form which only requires swearing or affirming that a person is a United States citizen. Compliance with Arizona's law of providing DPOC, which is verified by the County Recorder, means a voter is registered as a full ballot voter and may vote in all state and local elections (such as Governor or City Council).

### Voter Registration Statistics

There are approximately 4.1 million registered voters in Arizona. This equates to about 57% of the state's entire population or about 80% of the state's citizen voting-age population.<sup>38</sup>

There are currently five recognized political parties: Democratic, Green, Republican, Libertarian, and No Labels Party.<sup>39</sup> When a person registers to vote, they select one of these official parties to register with, or they can choose to register as a "party not designated" or with a party that does not have official recognition. These latter two options result in an independent/unaffiliated voter.

### \*Eligibility requirements

- A citizen of the United States.
- A resident of Arizona and the county listed on your registration 29 days prior to the election.
- 18 years of age or older on or before the next general election.
- You are able to write your name or make your mark (unless prevented by disability).
- You have not been adjudicated an incapacitated person.
- You have not been convicted of treason or a felony unless you have had your civil rights restored. For a first-time felony conviction, civil rights are automatically restored upon completion of a person's sentence and payment of any fines and restitution.

36 Arizona Taxpayer and Citizen Protection Act, Proposition 200. (2004). <https://apps.azsos.gov/election/2004/info/PubPamphlet/english/prop200.pdf>.

37 "Voter Registration Statistics," *Arizona Secretary of State*, January 2, 2024, <https://azsos.gov/elections/results-data/voter-registration-statistics>.

38 "Citizen Voting Age Population by Race and Ethnicity," *United States Census Bureau*, January 23, 2024, <https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.html>.

39 "About Political Parties," *Arizona Secretary of State*, accessed March 4, 2024, <https://azsos.gov/elections/about-elections/information-about-political-parties>.

## Voter Registration Statistics - January 2024\*

\*Voter registration statistics are calculated as prescribed by A.R.S. §16-168(G)

Party Name	Registered Voters	Percent
Republican	1,418,407	34.58%
Democratic	1,211,940	29.55%
Libertarian	32,438	0.79%
No Labels	25,924	0.63%
Green	2,514	0.06%
Other	1,410,085	34.38%
<b>TOTAL</b>	<b>4,101,308</b>	

Table Source: "Voter Registration Statistics," *Arizona Secretary of State*, January 2, 2024, <https://azsos.gov/elections/results-data/voter-registration-statistics>.

### Independent Voters

Any voter that is not registered with a recognized party is grouped into the "Other" category. These would be voters who are often referred to as "independents" and make up a significant portion of the electorate. There is not an official "independent party" in Arizona. However, with Arizona being so closely divided among the top two parties, independent voters can play a pivotal role in elections.

Arizona has an open primary law, meaning unaffiliated/independent voters can vote in the primaries by selecting a partisan ballot from the parties having open primaries. In certain jurisdictions, local nonpartisan ballots may also be available for independent voters.<sup>40</sup>

Turnout remains significantly low among independent voters in primary elections. Numerous studies by Clean Elections indicate several reasons for low independent voter turnout, ranging from a lack of understanding and awareness of how to participate in a primary election to dissatisfaction with having to select a single-party ballot.<sup>41</sup> As some races can actually be decided in a primary election, it is important to provide voter education on the rules of primary elections and how all voters may participate.

### Voting Options

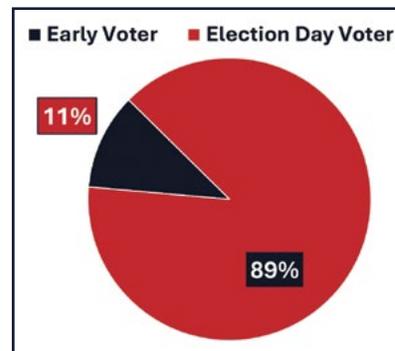
Arizona has long been a leader nationally when it comes

to elections, as we were the first state to implement online voter registration. We have a diverse state and geography, and as such, election administration cannot be a one-size-fits-all method. Voters have several options when it comes to voting. They can choose to vote early by mail, vote early in person, drop off their voted ballot at any voting location or secure ballot drop box, or vote in person on election day.<sup>42</sup> Election administrators must allow for each of these options and ensure that whatever option the voter chooses, their vote is just as secure and accurately counted as any other method of voting.

### Arizona's Ballot by Mail Systems

Ballot by mail has been available in Arizona for over two decades. As the majority of Arizona voters choose this method to vote, there are robust infrastructure and security measures in place to ensure ballots are safe and secure. In the 2020 General Election, approximately 89% of ballots cast were early ballots.<sup>43</sup> In the 2022 midterms, 80.1% of voters voted by mail ballot.<sup>44</sup>

### How Arizona Voted - 2020 General Election



#### Ballots Cast:

Early Voter  
3,022,847

Election Day Voter  
371,696

Early voting began on October 7th for the general election

Source: "How Arizona Voted - 2020 General Election," *Arizona Secretary of State*.

#### Receiving a ballot by mail:

Arizona has an Active Early Voting List (AEVL), which allows a voter to sign up for a mail ballot to automatically be mailed to them for every election they are eligible to vote in. Voters may also make a one-time request for a ballot to be mailed to them. Early voting begins 27 days before the election, so voters can expect to receive their ballot in the mail shortly after. Ballots are only mailed to registered voters who have specifically requested a mail ballot through the AEVL or a one-time request process in statewide elections.<sup>45</sup>

40 "Independent Voters," *Citizens Clean Election Commission*, accessed March 1, 2024, <https://www.azcleelections.gov/how-to-vote/no-party>.

41 David Daugherty and Joseph Garcia, "Arizona's Voter Crisis," *Morrison Institute*, November 2018, [https://morrisoninstitute.asu.edu/sites/default/files/voter\\_crisis\\_report\\_revised.pdf](https://morrisoninstitute.asu.edu/sites/default/files/voter_crisis_report_revised.pdf).

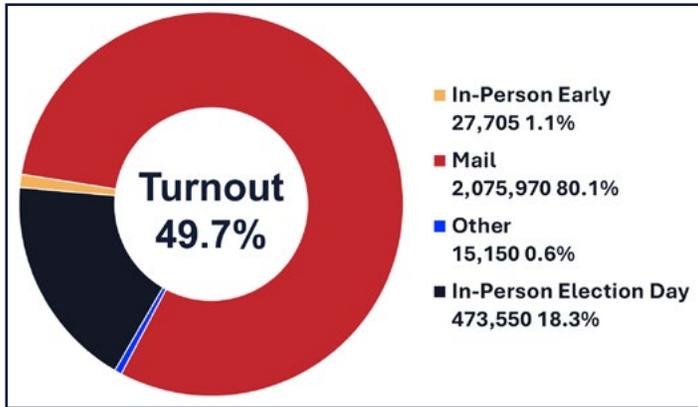
42 "2022 Voter Education Guide," *Citizens Clean Election Commission*, accessed March 1, 2024, <https://storageccec.blob.core.usgovcloudapi.net/public/docs/821-Website-ENGLISH--VEG-General-2022.pdf>.

43 "Ballot by Mail," *Citizens Clean Election Commission*, accessed March 8, 2024, <https://www.azcleelections.gov/how-to-vote/early-voting/vote-by-mail>.

44 "2022 EAVS Data Brief: Arizona," *Election Assistance Committee*, accessed March 7, 2024, [https://www.eac.gov/sites/default/files/2023-10/2022\\_EAVS\\_Data\\_Brief\\_AZ\\_508c.pdf](https://www.eac.gov/sites/default/files/2023-10/2022_EAVS_Data_Brief_AZ_508c.pdf).

45 "Ballot by Mail," *Citizens Clean Election Commission*, accessed March 8, 2024, <https://www.azcleelections.gov/how-to-vote/early-voting/vote-by-mail>.

## Voting and Turnout Voters Participating by Mode



Total Voting Locations  
767

Total Poll Workers  
7,156

Image Source: "2022 EAVS Data Brief: Arizona," *Election Assistance Committee*, accessed March 7, 2024, [https://www.eac.gov/sites/default/files/2023-10/2022\\_EAVS\\_Data\\_Brief\\_AZ\\_508c.pdf](https://www.eac.gov/sites/default/files/2023-10/2022_EAVS_Data_Brief_AZ_508c.pdf).

### Returning an early ballot:

Early ballots come with a return envelope that is postage prepaid. Voters can mail back their ballot at least seven days prior to election day to ensure it is received by the county in time. If a voter prefers to hand deliver their ballot, they can do so at multiple locations in the county, including secured ballot drop boxes and voting locations.<sup>46</sup> Whichever method a voter uses to return their early ballot, the early ballot affidavit envelope must be signed, and the ballot must be received by the county by 7:00 p.m. on Election Day.<sup>47</sup>

### Is Voting by Mail Secure?

There are significant security measures that election officials follow when processing returned ballots. First, early ballots can only be mailed to registered voters who have already verified their identity when registering to vote and only to registered voters who have specifically requested a mail ballot. Prior to early ballots going out, the counties send a notice to every voter who is on the AEVL to confirm they still want an early ballot and that they are still at the address on record.<sup>48</sup>

Voters must sign the early ballot affidavit envelope when voting early in order for their ballot to be counted. The voter's signature on the early ballot affidavit is compared to the signature on file with their voter registration record. County election staff receive

professional training to verify that the signature on the affidavit envelope matches the signature on the voter's registration record. This is done to ensure the integrity of the early voting process.<sup>49</sup>

According to the Citizen Clean Elections Commission:

"If the signature is a match, the ballot proceeds to the Citizens Boards who then prepare the unopened ballots for tabulation. The Citizens Boards are made up of two board members of different political party affiliations. They confirm that the County Recorder verified the voter's signature, and then they remove the ballot from the envelope, taking special care to ensure the privacy of the voters' ballot selections. The ballots are then transmitted to the tabulation room. If the county is unable to verify the signature, the county will attempt to contact the voter. Voters have until the 5th calendar day after the statewide primary or general election to correct their signature."<sup>50</sup>

### How Ballots are Tabulated

When explaining how ballots are counted, it's important to distinguish between a ballot that is cast early and a ballot that is cast on election day. This can impact the process each ballot goes through before final tabulation. **Every single voter's identification is verified regardless of what type of ballot they cast.**

#### Early Ballots

As discussed above, all early ballots are reviewed for verification of the voter's identity before the ballot is transmitted to the tabulation room. An early ballot cannot be tabulated unless the voter signs the early ballot affidavit and the county subsequently confirms that the signature matches the voter's registration record.

#### Election Day Ballots

When a voter enters a voting location on Election Day, they must provide a satisfactory form of identification in order to receive their official ballot (e.g., a valid driver's license). Once the voter receives and votes their ballot, one of two things can occur. Some counties utilize a method called "central count," and others utilize a method called "precinct tabulation."

If a voter is in a central count county, the voter would deposit their voted ballot into a secured ballot bin. After the polls close, the secured ballots are transported back to election central (the location used by the

46 "Ballot by Mail," *Citizens Clean Election Commission*, accessed March 8, 2024, <https://www.azcleelections.gov/how-to-vote/early-voting/vote-by-mail>.

47 "Ballot by Mail," *Citizens Clean Election Commission*, accessed March 8, 2024, <https://www.azcleelections.gov/how-to-vote/early-voting/vote-by-mail>.

48 "Ballot by Mail," *Citizens Clean Election Commission*, accessed March 8, 2024, <https://www.azcleelections.gov/how-to-vote/early-voting/vote-by-mail>.

49 "Ballot by Mail," *Citizens Clean Election Commission*, accessed March 8, 2024, <https://www.azcleelections.gov/how-to-vote/early-voting/vote-by-mail>.

50 "Ballot by Mail," *Citizens Clean Election Commission*, accessed March 8, 2024, <https://www.azcleelections.gov/how-to-vote/early-voting/vote-by-mail>.

county to tabulate the ballots) by election workers, who are of different political parties.

If a voter is in a precinct tabulation county, the voter or the poll worker would run the voted ballot through the tabulation machine at the voting location. The machine immediately tabulates the ballot and saves the vote counts to a removable media device located inside the tabulator. If for any reason the machines are not operational at the voting location, the ballots are secured in a ballot bin and taken back to election central for tabulation.

### Tabulation

After early ballots have been processed to confirm the voter's identity, the ballots are transmitted to the early ballot board which consists of volunteers of opposite party affiliations, they then remove the ballot from the affidavit envelope and prepare to transmit the ballot to the tabulation room. Once the ballots have been transmitted to the tabulation room, election staff begins running the ballots through the tabulators. The ballot tabulation room is required by law to have a live video feed so voters can watch all of the activity during tabulation.

For ballots that have been tabulated at the voting location, after the polls close, the poll workers or sheriff deputies transmit the removable media that contains the results recorded at the voting location and transmit those results to the central count location. The election official then loads those results into the secure election management system and aggregates the vote totals for all voting locations.

### Physical Ballot Security

The counties must adhere to chain of custody protocols. This means that there is a log/paper trail for every single ballot. This includes all early ballots and all ballots at voting locations. Ballots are stored in secure locations and there is a live video feed to the ballot tabulation room for every county. Counties must follow the elections procedures manual for ensuring the physical security of all ballots. This includes the use of tamper-evident seals, identification badges, the presence of two or more staff members of opposite political affiliations, audits, etc.

### How Can I Confirm My Ballot Was Counted Accurately?

Each piece of tabulation equipment is tested and certified before and after the election through a process called Logic and Accuracy Testing (L&A). The County must test all of the election equipment before tabulation can begin. On top of that, the Secretary of State's Office conducts a random test of the election equipment before the machines begin tabulation. L&A tests are open to the public and political party

observers are usually in attendance. A new round of L&A testing is done by the counties after the election, to confirm once again the machines are tabulating correctly.

In addition to machine testing, a random hand count is performed to confirm the accuracy of the machine vote. Ultimately, an automatic recount is triggered if a race is within a certain margin of votes. There are several checks and balances in the election administration process to ensure the accuracy and integrity of the election.

Voters can confirm online if their early ballot was received and counted. Some counties have text and email alerts to notify voters when their ballot is received and tabulated.

### Turnout

Turnout is steadily increasing in statewide elections. Year after year, we continue to see rising numbers of Arizona voters contributing to democracy through the ballot box. The chart below shows the increase in presidential elections and midterm elections, respectively. As noted above, primary elections historically have lower turnout rates, in part due to low participation rates by independent voters.

Year	General Election	Primary Election
2022	62.56%	34.92%
2020	79.90%	36.42%
2018	64.85%	33.26%
2016	74.17%	29.10%
2014	47.52%	27.02%
2012	74.36%	28.09%
2010	55.65%	30.09%
2008	77.69%	22.80%
2006	60.47%	23.07%
2004	77.10%	24.71%
2002	56.33%	25.25%
2000	71.76%	23.84%
1998	45.82%	19.66%

Table Source: "Voter Registration Statistics," Arizona Secretary of State, accessed March 7, 2024, <https://azsos.gov/elections/results-data/voter-registration-statistics>.

### Campaign Finance

Election administration also includes overseeing Arizona's campaign finance laws, which require disclosure of financial activity by political committees

## Spending Across the Map

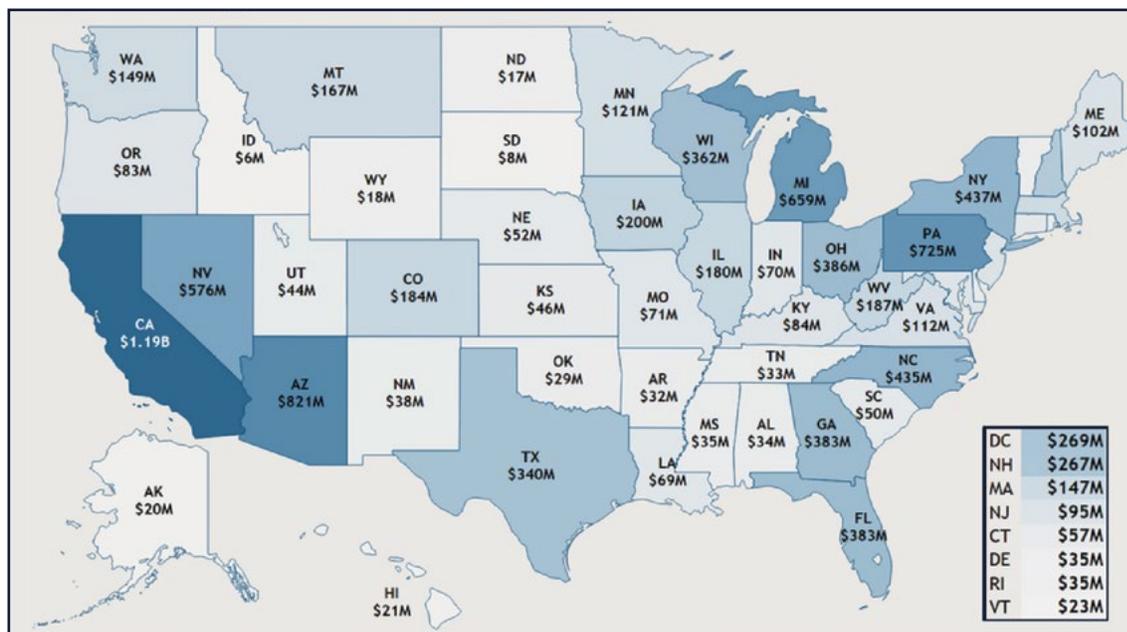


Image Source: “2024 Political Spending Projections Report,” *AdImpact*, accessed March 7, 2024, <https://adimpact.com/2024-political-spending-projections-report/#:~:text=AdImpact%20projects%20the%202023%2D2024,the%202019%2D2020%20election%20cycle.>

attempting to influence the outcome of elections. Campaign finance activity in Arizona is governed by state statutes and rules, and regulation occurs by the filing officer for the jurisdiction (such as the City Clerk for a City Council election) and the legal counsel for that entity (in this example, the City Attorney).<sup>51</sup>

Arizona is unique across the country as voters created the Arizona Citizens Clean Elections Commission (Clean Elections) in 1998 and charged it with additional campaign finance enforcement. Clean Elections is an independent, non-partisan state agency with investigative authority, enforcement and subpoena powers, as well as the authority to create rules and assess civil penalties to enforce the Clean Elections Act.<sup>52</sup>

More recently, voters passed Proposition 211, the Voter’s Right to Know Act. The Act calls for additional disclosures and reporting by entities and persons whose campaign media spending and/or in-kind contributions for campaign media spending exceeds \$50,000 in statewide campaigns or \$25,000 in other campaigns, including identifying original donors of contributions of more than \$5,000 in aggregate; creating penalties for violations of the law; and allowing the Citizens Clean Elections Commission to adopt rules and enforce the provisions of the law.<sup>53</sup>

Political media spending in Arizona is projected to break records. According to AdImpacts 2023-2024 Political Cycle Spending Projections Report, \$821 million in political spending is expected in Arizona alone. With this projection, the Voter’s Right to Know Act may prove to result in additional disclosure and transparency in Arizona’s elections.<sup>54</sup>

### The Future of Election Administration

Discussions continue to occur on how elections can be reformed, including topics such as election security measures, equipment regulations, voter registration access and requirements, and identification requirements. The state legislature and voters are actively proposing measures that will change/impact the election administration and voting processes. In the 2023 legislative session, there were over 100 election-related bills introduced. Citizens’ initiatives continue to be circulated and filed for voter consideration on the ballot, and the Governor assembled an Elections Task Force, which recently released their recommendations for election improvements.

Democracy is strengthened by electoral participation, and as election laws, policies, and procedures are contemplated, it is important to stay grounded in the foundation of our electoral system in the U.S. and Arizona Constitutions.

51 “Campaign Finance & Reporting,” *Arizona Secretary of State*, accessed March 4, 2024, <https://azsos.gov/elections/campaign-finance-reporting#resources>.

52 “What we do,” *Citizens Clean Elections Commission*, accessed March 6, 2024, <https://www.azcleelections.gov/what-we-do>.

53 “Arizona’s Proposition 211 and the Fight for the Voters’ Right to Know,” *Campaign Legal Center*, last revised August 22, 2023, accessed March 8, 2024, <https://campaignlegal.org/story/arizonas-proposition-211-and-fight-voters-right-know>.

54 “2024 Political Spending Projections Report,” *AdImpact*, accessed March 7, 2024, <https://adimpact.com/2024-political-spending-projections-report>.

# CHAPTER 5: AN OVERVIEW OF OTHER APPROACHES TO SELECTING CANDIDATES

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*Editors' note: the chapter below explores several alternative options for determining the winning candidate in an election. It is not exhaustive nor is it an endorsement of any one strategy. Readers can use the descriptions of methods below to contemplate which sets of guidelines best serve the goals for our democracy.*

## Top Candidate Primaries

Top-candidate primaries is an example of nonpartisan election reform. Top-candidate primaries are an election process in which all candidates running for an office, regardless of party affiliation, are listed on the same primary ballot. While top-two primaries are the most common version of a top-candidate primary, top-four and final-five primaries also let voters choose candidates from any party. With the top-four and final-five primary models, however, the top vote-getters move on to a general election. In all these primaries, the top candidates that receive the highest number of votes, regardless of party affiliation, advance to the general election, making it possible for two members of the same party to run against one another in a general election.<sup>55</sup>

As of 2020, the top-two primary elects slightly less than one-fifth of the members of the House each year.<sup>56</sup> Washington became the first state to adopt a top-two primary system for congressional and state-level elections in 2004, with California doing the same in 2010. In 2020, a ballot initiative was approved in Alaska, creating a top-four primary system for state and congressional elections. This initiative also included provisions establishing rank-choice voting for state executive, state legislative, congressional, and presidential elections. Nebraska employs a top-two primary system in state legislative elections; however,

because its legislature is nonpartisan, no party affiliation is listed in association with any candidate.

Louisiana does not use a two-party system but allows all candidates to run in the general election and, in the event that no candidate receives a majority of the votes (50 percent + 1 vote), the top two vote-recipients face one another in a runoff. While not a true top-two primary, the two-round electoral system is based on the same principles.

Supporters of the top-two primary system believe that it allows for a more accurate reflection of the will of the electorate and encourages candidates to take more moderate stances. According to Jesse Crosson of the Center for the Study of Democratic Politics at Princeton University, "According to proponents of the top-two primary, the partisan neutral, two-stage nature of the system leverages the participation of minority party voters in safe districts in order to elect more moderate winners."<sup>57</sup> This belief comes from the idea that in a top-two system, in order to get on the ballot, candidates must appeal to voters of all political affiliations, moving their stances closer to the center.<sup>58</sup> Researchers have found top-two and open primaries



55 "Top-Two Primary," *Ballotpedia*, accessed February 22, 2024, [https://ballotpedia.org/Top-two\\_primary](https://ballotpedia.org/Top-two_primary).

56 Jenesse Miller, "Top-Two and Open Primary Elections Produce Less Extreme Lawmakers," *USC Today*, May 14, 2020, accessed February 22, 2024, <https://news.usc.edu/170366/top-two-open-primary-elections-less-extreme-lawmakers-usc>.

57 Jesse Crosson, "Extreme Districts, Moderate Winners: Same Party Challenges, and Deterrence in Top-Two Primaries," *Political Science Research and Methods* 9, no. 3 (2021): 532-548.

58 Jesse Crosson, "Extreme Districts, Moderate Winners: Same Party Challenges, and Deterrence in Top-Two Primaries," *Political Science Research and Methods* 9, no. 3 (2021): 532-548.

are associated with more moderate legislators.<sup>59</sup> However, other studies have found more of a modest or inconsistent approach.<sup>60</sup>

Top-candidate elections are used fairly widely and successfully across the United States as opposed to other untested or potentially confusing reforms which may be met with suspicion by the voting public. Top-candidate primaries have a good deal of promise in advancing goals, such as electing moderates and/or moderating the behavior of elected officials, reducing negative campaigning, assuring minority (political and racial) representation, and increasing voter participation. However, assessing their potential is challenging because their implementation takes place in the context of complete partisan control of most state and local electoral systems and the parties typically seek to retain as much control of the election system as possible.

### Open Primaries

In the US, in most elections, candidates compete in two contests to win their seat: a primary election and a general election. While the general is open to all voters in a jurisdiction, in many states the primary is divided by party and limited to registered party members. “Open primaries” are those in which unaffiliated/independent voters can choose a party ballot and participate in primary elections.

Primary elections were created during the Progressive era to give voters a more direct say in the nominations process. Today, primaries are used in three distinct ways:

1. In most states, primaries are used to determine which candidates for state and federal office will receive the nomination of the Democratic or Republican parties (and to a lesser extent, minor parties like the Green and Libertarian).
2. In four states (California, Washington, Nebraska, and Alaska) to determine, in a nonpartisan way, which candidates will advance from the first round (primary) to the second round (general).
3. To elect delegates to attend the national conventions of the Democrats and Republicans to decide a presidential nominee.

Independent voters and those who are not affiliated with one of the two major parties are oftentimes excluded from voting in primary elections. Since general

elections are **overwhelmingly noncompetitive**, being barred from participation in a primary can mean getting excluded from the election altogether.

The rules for primary participation vary from state to state and oftentimes within the same state, resulting in a confusing assortment of election policy. The Supreme Court has ruled that political parties have the legal right under the First Amendment to supersede state election laws regarding who can and cannot participate in their nominating primaries. Thus, in seven states, the state parties have the jurisdiction to decide whether to create an open primary. States also vary in how voters register: 30 states register voters by party and 20 states do not. However, nine states that require partisan registration also feature open primaries for all or some of elections. Fourteen states have partisan registration and closed primaries. So, the meaning and experience of an “open” primary in a partisan-registration state and nonpartisan-registration state are different.

In 2020, 26 million independent voters were barred from voting in presidential primaries.<sup>61</sup> These voters were in states with closed elections, or states which restrict independents from voting in presidential primary elections. In Arizona, independent voters are unable to vote in presidential primaries. These elections are called Presidential Preference Elections (PPE) and are run by the Democratic and Republican parties, not the state. Only registered members of the two major parties are able to cast a ballot in these elections. Primary elections for statewide, legislative, and local offices, however, are open to independent voters. An independent must request either a Democratic or a Republican ballot to vote; they cannot pick and choose candidates from both parties in the primary election.

Some reformers suggest eliminating primaries outright. The argument is that primaries are low-turnout elections, dominated by the most ideologically extreme members from the Democratic and Republican parties. Furthermore, primaries significantly underrepresent poor and working-class citizens and minorities of color. Focusing voters’ attention on one



59 Christian Grose, “Reducing Legislative Polarization: Top-Two and Open Primaries Are Associated with More Moderate Legislators,” *Journal of Political Institutions and Political Economy* 1, no. 2 (2020): 267–287.

Jesse Crosson, “Extreme Districts, Moderate Winners: Same Party Challenges, and Deterrence in Top-Two Primaries,” *Political Science Research and Methods* 9, no. 3 (2021): 532–548

60 Eric McGhee and Boris Shor, “Has the Top Two Primary Elected More Moderates?” *Perspectives on Politics* 15, no. 4 (2017): 1053–1066, doi: 10.1017/S1537592717002158.

61 *Ballot Access News*, Volume 25, Number 10 (March 1, 2020).

high-stakes general election, it is argued, would help maximize turnout.<sup>62</sup>

Christian Grose of the University of Southern California's Schwarzenegger Institute found that open primaries and top-two primaries are associated with reduced legislator extremity and result in more moderate legislators.<sup>63</sup> This study was the first to find this by analyzing the voting behavior of members of Congress.<sup>64</sup> They also result in elected officials reaching out beyond their party to all the voters in order to get elected and stay in office.<sup>65</sup> Additionally, open primaries and top-two primaries are associated with higher voter turnout from women of color who are independents.<sup>66</sup> In contrast, closed primaries have been found to have a repressing effect on people of color, specifically independents of color. A recent study by Grose, Raquel Centeno, Nancy Hernandez, and Kayla Wolf of the University of Southern California found that, "Independent and third-party voters across four of the racial groups [studied] are more likely to vote in an open or top-two primary rather than a closed primary."<sup>67</sup> The study found that Latinx and Asian Americans were more likely to be registered as independent and had the lowest predicted primary turnouts when compared to Black and white independents. Similarly, Asian-American independents had the lowest predicted turnout in a closed primary state. The researchers found that closed primaries had large demobilizing impacts on voters of color.

While polls show US citizens consistently support having open primaries,<sup>68</sup> there is a good deal of opposition toward it from the Democratic and Republican parties. The concept of "open primaries" appears to have a good deal of promise in advancing

goals, such as assuring minority (political and racial) representation and increasing voter participation. However, assessing their potential is challenging because their implementation takes place in the context of complete partisan control of most state and local electoral systems and parties typically oppose open primary elections.

## Ranked Choice Voting

Ranked-choice voting (RCV) is a system within which constituents vote for multiple candidates, in order of preference.<sup>69</sup> In a ranked-choice voting system, the candidate who receives more than half of the first-choice votes in races that only elect one winner will win. However, if there is no simple majority winner within the first-choice votes, then votes are subject to a new counting system, often described as an "instant runoff." When this happens, the candidate receiving the fewest total votes is eliminated from the race, and votes are re-tallied for the remaining candidates. Voters whose first-choice votes went toward the eliminated candidate will have their second-choice votes counted, and tabulation will continue until there is a candidate who has won the majority of votes.<sup>70</sup>

In jurisdictions with multi-winner positions (such as city council or school board) or who elect multiple winners for a legislative body, a variant of ranked-choice voting is more likely to be used: proportional ranked-choice voting. In proportional ranked-choice voting, winning candidates must reach only the voting threshold -- the minimum percentage of votes to guarantee winning the seat -- in order to win one of the seats up for grabs. For example, a single-seat election needs 50 percent + 1 vote, a two-seat election needs 33.3 percent + 1 vote, a three-seat election needs 25 percent + 1 vote, and so on.<sup>71</sup>

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- 62 Pierce, Richard. "Eliminate primary elections to restore our strong democracy." *The Hill*, July 12, 2019. <https://thehill.com/opinion/campaign/452844-eliminate-primary-elections-to-restore-our-strong-democracy>.
- Katherine Gehl, "It's time to get rid of party primaries," *CNN*, last modified March 12, 2021, accessed February 22, 2024, <https://edition.cnn.com/2021/03/12/opinions/reform-american-political-primaries-gehl/index.html>.
- Nick Troiano, "Party Primaries Must Go," *The Atlantic*, March 30, 2021, <https://www.theatlantic.com/ideas/archive/2021/03/party-primaries-must-go/618428/>.
- 63 Christian Grose, "Reducing Legislative Polarization: Top-Two and Open Primaries Are Associated with More Moderate Legislators," *Journal of Political Institutions and Political Economy* 1, no. 2 (2020): 267–287.
- 64 Jenesse Miller, "Top-Two and Open Primary Elections Produce Less Extreme Lawmakers," *USC Today*, May 14, 2020, accessed February 22, 2024, <https://news.usc.edu/170366/top-two-open-primary-elections-less-extreme-lawmakers-usc>.
- 65 Christian Grose, "Reducing Legislative Polarization: Top-Two and Open Primaries Are Associated with More Moderate Legislators," *Journal of Political Institutions and Political Economy* 1, no. 2 (2020): 267–287.
- 66 Centeno, R., Grose, C. R., Hernandez, N., & Wolf, K. (2021). "The Demobilizing Effect of Primary Electoral Institutions on Voters of Color." Paper presented at 2021 *Midwest Political Science Association, Virtual, April 14-18, 2021*. <http://dx.doi.org/10.2139/ssrn.3831739>.
- 67 Centeno, R., Grose, C. R., Hernandez, N., & Wolf, K. (2021). "The Demobilizing Effect of Primary Electoral Institutions on Voters of Color." Paper presented at 2021 *Midwest Political Science Association, Virtual, April 14-18, 2021*. <http://dx.doi.org/10.2139/ssrn.3831739>.
- 68 Lucey, Catherine and Swanson, Emily. "AP-NORC Poll: Americans Want Nomination System Changed." *The Associated Press*, May 31, 2016. <https://apnews.com/article/f5821f2774c14c39ad00c1777f9ec6ea>.
- 69 Anna Kambhampaty, "New York City Voters Just Adopted Ranked-Choice Voting in Elections. Here's How It Works," *Time*, November 6, 2019, <https://time.com/5718941/ranked-choice-voting/>.
- 70 DeLeon, R. E. *San Francisco and instant runoff voting: An analysis of the SFSU/PRI exit poll data assessing voter opinions about ranked choice voting in the November 2004 Board of Supervisors elections*. Working Paper. San Francisco, CA, 2005, retrieved from [http://archive.fairvote.org/media/inv/deleon2004\\_sanfran.pdf](http://archive.fairvote.org/media/inv/deleon2004_sanfran.pdf).
- 71 "Proportional Ranked Choice Voting," *FairVote*, n.d., accessed February 29, 2024, <https://fairvote.org/our-reforms/proportional-ranked-choice-voting/>.

Proponents assert that the expected benefits of RCV include greater openness of the electoral arena to new parties and independents, greater ideological moderation, and greater voter satisfaction.<sup>72</sup> Ranked-choice voting was designed to encourage centrism and, in many cases, independent candidates. According to Evan Falchuk, a former independent gubernatorial candidate for governor in Massachusetts, “Ranked-choice voting helps you not have to feel as if you’re voting for the lesser of two evils.”<sup>73</sup>

Opponents have argued that ranked-choice voting is unnecessarily complex and confuses voters. It introduces many more steps, and more complexity than would be expected otherwise in a traditional tabulation of results.<sup>74</sup> Others have argued that absent substantial voter education, the RCV system will effectively disenfranchise voters, especially older individuals and voters of color.<sup>75</sup>

Ranked-choice voting is currently seeing relatively limited use here in the United States. However, its popularity is increasing. Lawmakers in 29 states are considering measures that would adopt ranked-choice voting in some form, in local, statewide, or presidential primary elections.<sup>76</sup> Currently, a total of only 43 jurisdictions utilize ranked-choice voting, including two states, one county, 29 cities outside of Utah, and 23 cities in Utah. Particularly noteworthy out of the jurisdictions that use ranked-choice voting are the states of Alaska and Maine, who use it in all statewide and presidential elections. Outside of the US, ranked-choice voting is used nationally by six countries: Australia, Ireland, New Zealand, Malta, Northern Ireland, and Scotland. Additionally, India, Nepal, and Pakistan use proportional ranked-choice voting for their national offices, including Senate and, in Pakistan, the presidency.<sup>77</sup>

Ranked-choice voting appears to have a good deal of promise in advancing goals, such as electing moderates and/or moderating the behavior of elected officials, reducing negative campaigning, assuring minority (political and racial) representation, and increasing voter participation. However, assessing their potential is challenging because their implementation takes place in the context of complete partisan control of

most state and local electoral systems. Further, the added steps and complexity of RCV makes it difficult for many voters to understand, which may lead to their distrust of such a system.

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72 Joseph Cerrone and Cynthia McClintock, “Ranked-Choice Voting, Runoff, and Democracy Insights from Maine and Other U.S. States,” *SSRN*, January 19, 2021, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3769409](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3769409).

73 Anthony Brooks, “‘A Greater Choice’ or ‘Confusing’: Arguments For And Against Ranked Choice Voting In WBUR Debate,” *WBUR*, October 14, 2020, <https://www.wbur.org/news/2020/10/14/wbur-debate-question-2-ranked-choice-voting>.

74 Gagnon, Matthew, “Ranked-choice voting makes elections unnecessarily complex and confusing,” *Bangor Daily News*, August 5, 2020, <https://bangordailynews.com/2020/08/05/opinion/ranked-choice-voting-makes-elections-unnecessarily-complex-and-confusing-2/>.

75 Rubinstein, Dana, Mays, Jeffery, and Emma Fitzsimmons. “Why Some N.Y.C. Lawmakers Want to Rethink Ranked-Choice Voting.” *New York Times*. Updated June 30, 2021. <https://www.nytimes.com/2020/12/09/nyregion/ranked-choice-lawsuit-voting.html>.

76 Matt Vasilogambros, “Ranked-Choice Voting Gains Momentum Nationwide,” *Stateline*, March 12, 2021, <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2021/03/12/ranked-choice-voting-gains-momentum-nationwide>.

77 “Ranked Choice Voting,” *FairVote*, accessed February 22, 2024, [https://www.fairvote.org/rcv#where\\_is\\_ranked\\_choice\\_voting\\_used](https://www.fairvote.org/rcv#where_is_ranked_choice_voting_used).

# CHAPTER 6: MEASURES OF A HEALTHY DEMOCRACY

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*Editors' note: This chapter provides information intended to orient readers to some of the well-known indices that measure the health of democracies at the national level.*

## What is an Ideal/Healthy Democracy?

To identify an ideal or healthy democracy is a complex exploration into the essence of governance. Democracy, a term ubiquitous in political discourse and scholarship alike, lacks a single, universally accepted definition. In this chapter, we navigate the intricate landscape of academic work regarding democracy by reviewing key elements of various definitions of this concept and by introducing four widely used indices for its measurement. Datasets from Freedom House, Economic Intelligence Unit, the Polity Project, and the Varieties of Democracy Project offer valuable tools for quantifying both the various components and the overarching concept of democracy as it is (or is not) practiced around the world.

Importantly, although the datasets we address here tend to focus at the national level, the critical features of a healthy democracy should exist at many levels of government in a country like the United States, from national/federal elections and institutions to state- and local-level processes.

Ultimately, we argue that a “healthy” democracy is one in which:

- More than one political party contests\* regularized “free and fair” elections;
- Those contesting elections refrain from interfering in the electoral process and respect the final outcome;
- Elected representatives and others appointed to government office can be held accountable by other institutions within government and by the broader voting public;
- Citizens have equal and uninhibited access to cast their vote; and

- The government refrains from physically abusing and violating citizens’ civil liberties.

\*A contested election is defined as “an election of which the legality or validity of the result is challenged by the losing candidate.”<sup>78</sup>

## Defining Democracy

How can we recognize a democracy when we see one? To answer this question is surprisingly difficult. Like terrorism and many other political (and politicized) terms commonly used in our everyday conversation, democracy lacks a unanimous definition. Although many academics agree on the relevance for democracy of Robert Dahl’s two-dimensional conception of “polyarchy”:<sup>79</sup> **participation** and **contestation**, we do not have a consensus on how these dimensions are best measured. Scholars have identified myriad components that are crucial to a robust democracy, yet their findings tend to complicate, rather than clarify, the definition of democracy.

We therefore start defining democracy from its minimalist criteria. Classic scholarship regards **elections** as the fundamental and foundational characteristic of democracy. For example, Schumpeter argued that democracy is an “institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people’s vote.”<sup>80</sup> Schumpeter’s definition encompasses both participation and contestation from Dahl’s framework. We can confidently agree that a regime without elections cannot be democratic.

On the other hand, however, all regimes that hold elections are not democratic. Since the late 1980s, an increasing number of authoritarian regimes (e.g.,

78 Merriam-Webster.com Dictionary, s.v. “contested election,” accessed March 11, 2024, <https://www.merriam-webster.com/dictionary/contested%20election>.

79 Robert A. Dahl, *Polyarchy: Participation and Opposition*, (London: Yale University Press, 1971), 6.

80 Joseph A. Schumpeter, *Capitalism, Socialism and Democracy*, (New York: Taylor & Francis, 2010), 241.

Ghana, Myanmar, Russia) hold elections, but only a few of them have democratized.<sup>81</sup> These “electoral autocracies” employ a wide range of extralegal methods to ensure favorable electoral outcomes, such as stifling or banning opposition parties, manipulating media coverage, and intimidating voters or otherwise violating their civil liberties.<sup>82</sup> Stemming from this, it is generally agreed upon that democracies must experience the peaceful transfer of power between political parties.<sup>83</sup>

Because electoral processes and outcomes can be easily distorted, it is important to ensure that democracies are those with “free and fair” elections, where coercion of voters and opposition is rare, and results are not manipulated by those in power.<sup>84</sup> Still, there are many ways to operationalize free and fair elections. We might also want to extend the conceptualization of “free and fair” elections to account for how socioeconomic and institutional configurations impact who gets to vote, since some contend that democracies must exercise universal suffrage.<sup>85</sup> For instance, wealth inequality<sup>86</sup> and a lack of access to social programs such as healthcare and education<sup>87</sup> can undermine political access and equality for citizens.

We have so far focused on the electoral process. But some scholars argue that democracy is not only about elections, but also about how decisions and policies are made. For example, while free and fair elections help to guarantee that politicians are “vertically” accountable to voters, **institutional checks and balances** provide “horizontal accountability,”<sup>88</sup> which is equally important to a healthy democracy by constraining the power of the executive and limiting their ability to adopt policies and behaviors that are not acceptable or even harmful to a majority of the population. Moreover, Lijphart distinguishes between **consensus** and **majoritarian** democracy and argues that the former, which involves rule by as many people as possible, is superior to rule by a simple majority of the population. *A note that these two forms of democracy differ in deciding to whose interests the government should be responsive. Majoritarian democracy is responsive to*

*the majority of the voters, whereas consensus democracy seeks to include as many people as possible.*<sup>89</sup>

Ultimately, all these attributes are interrelated. Although it might be tempting to dump everything into the basket of democracy, doing so risks redundancy and the inclusion of less critical factors that do more to complicate our definition than to clarify it.<sup>90</sup> As we will see in the next section, differences across indices measuring democracy around the world partly come from this lack of theoretical and definitional consensus.

## Measuring Democracy

There are numerous indices of democracy available to the public. We focus on some of the most widely used measures: Freedom House, Economist Intelligence Unit Democracy Index, Polity, and the Varieties of Democracy project. These resources have some shared characteristics. Most importantly, all these indices are at the country-year level, meaning that they measure the characteristics of each country once a year. Each index, therefore, accumulates a series of scores over time for each country, allowing for cross-country comparisons in a specific year, as well as longitudinal analysis to assess how the regime of a particular country evolved over time.

There are also important distinctions across these indices, too. These indices have different scopes in terms of country and year. In addition, the scales of the indices vary greatly, making a direct cross-index comparison difficult. Even if we transform these indices into similar scales, we might quickly notice that a country may score differently across indices in the same year. These differences are rooted in nuanced conceptual and methodological decisions, and a full explanation is beyond the goal of this chapter (for a detailed explanation of the inter-index differences, see Munck and Verkuilen’s article “Conceptualizing and Measuring Democracy.” Fortunately, precise differences in scales and scores might not concern users interested in understanding democracy in a general sense. But if they do, we encourage the users to take advantage of the richness of this publicly available data and select measures according to their

81 Steven Levitsky and Lucan A. Way, *Competitive Authoritarianism: Hybrid Regimes After the Cold War* (New York: Cambridge University Press, 2010).

82 Susan D. Hyde and Nikolay Marinov, “Which Elections Can Be Lost?” *Political Analysis* 20, no. 2 (2012): 191–210.

83 Adam Przeworski, *Democracy and the Market: Political and Economic Reforms in Eastern Europe and Latin America* (Cambridge University Press, 1991).

84 Robert A. Dahl, *Polyarchy: Participation and Opposition*, (London: Yale University Press, 1971), 6.

85 Jørgen Elklit and Palle Svensson, “The Rise of Election Monitoring: What Makes Elections Free and Fair?” *Journal of Democracy* 8, no. 3 (1997): 32–46.

86 Robert A. Dahl, *Democracy and Its Critics* (New Haven: Yale University Press, 1989), 326.

87 David Beetham, *Democracy and Human Rights* (Cambridge: Polity Press, 1999).

88 Guillermo A. O’Donnell, “Delegative Democracy,” *Journal of Democracy* 5, no. 1 (1994): 55–69.

89 Arend Lijphart, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*, 2nd ed. (New Haven: Yale University Press, 2012).

90 Gerardo L. Munck and Jay Verkuilen, “Conceptualizing and Measuring Democracy: Evaluating Alternative Indices,” *Comparative Political Studies* 35, no. 1 (2002): 5–34.

questions. It is often useful to begin by clarifying which aspects of democracy (e.g., respect for civil liberties, free and fair elections) are most interesting and relevant to the user, and then consider consulting a dataset that more directly measures those particular aspects, rather than one of these more abstract and aggregated indices of democracy. Still, these indices are a great place to start for those interested in the overall (anti-) democratic environment in a particular country.

### **Freedom House**

Freedom House covers approximately 210 countries and territories, from 1973 to the present.<sup>91</sup> Freedom House Indices include two major dimensions, namely **political rights** and **civil liberties**. The Freedom House measures have evolved over time, as they have included and/or removed certain attributes in different years. Taking the indices of 2023 as an example, political rights and civil liberties are subdivided into 7 categories, as illustrated in Table 1.<sup>92</sup> Scores for each category are added up to create the overall score for a country. The advantage of this additive method is its straightforwardness, but it also tends to generate greater error when aggregating scores of different indicators.<sup>93</sup> Furthermore, because of the change in methodology, we advise users who wish to conduct longitudinal comparisons based on Freedom House Indices to be cautious about this potential inconsistency in its measurement over time.

### **Economist Intelligence Unit Democracy Index**

The Economist Intelligence Unit (EIU) Democracy Index assesses the level of democracy in approximately 167 countries from 2006 to the present.<sup>94</sup> The EIU Democracy Index draws from the average score of five attributes, including **electoral process and pluralism, functioning of government, political participation, civil liberties, and political culture**. The EIU Democracy Index is on a 0 to 10 scale. It is unclear the degree to which the methodology of the EIU Index has changed over time. Therefore, we advise users who intend to analyze the EIU Index across time to carefully compare the methodologies adopted in the years of interest.

Taking the index of 2023 as an example, 60 indicators add up to form the aforementioned attributes of the EIU index.<sup>95</sup> In other words, the EIU Democracy Index

**Table 1: Structure of Freedom House Index\***

Political Rights (0-40)	Electoral Process (0-12)
	Political Pluralism and Participation (0-16)
	Functioning of Government (0-12)
	Additional Political Rights (-4-0)
Civil Liberties (0-60)	Freedom of Expression and Belief (0-16)
	Association and Organizational Rights (0-12)
	Rule of Law (0-16)
	Personal Autonomy and Individual Rights (0-16)

\*Note. These 7 categories are further broken down into 25 attributes, each of which are constructed from detailed assessment questions. Interested readers are encouraged to consult the methodology manuals at <https://freedomhouse.org/reports/freedom-world/freedom-world-research-methodology>.

is constructed in a method similar to Freedom House Index. It therefore enjoys the same advantage as Freedom House Index, which is easy to comprehend and can be tailored for special purposes. On the other hand, the downside of the EIU Democracy Index is that the aggregation process is likely to generate less accurate measures of the level of democracy when comparing across countries, as two countries could receive the same index score in spite of exhibiting very different attributes.

### **Polity Index**

The Polity Index stands out as a classic and extensively used measure of democracy in academic research.<sup>96</sup> Encompassing over 190 countries that have existed or currently exist, this index spans the period from 1800 to 2018. A country's Polity score is constructed based on two primary indices, **institutionalized democracy** and **institutionalized autocracy**, by simply subtracting the latter from the former. These measures of institutionalized democracy and autocracy are based upon four indicators, including **competitiveness of executive recruitment** (i.e., free and fair elections), **openness of executive recruitment** (i.e., political participation), **constraints on chief executives**, and **competitiveness of political participation** (i.e.,

91 "Freedom in the World," Freedom House, Accessed February 20, 2024, <https://freedomhouse.org/report/freedom-world>.

92 "Freedom in the World Research Methodology," Freedom House, Accessed February 20, 2024, <https://freedomhouse.org/reports/freedom-world/freedom-world-research-methodology>.

93 Gerardo L. Munck and Jay Verkuilen, "Conceptualizing and Measuring Democracy," *Comparative Political Studies* 35, no. 1 (2002): 28.

94 "Democracy Index 2022," Economist Intelligence Unit, Accessed February 20, 2024, <https://www.eiu.com/n/campaigns/democracy-index-2022/>.

95 "Frontline Democracy and the Battle for Ukraine," Economist Intelligence Unit, 2023, [https://www.eiu.com/n/wp-content/uploads/2023/02/Democracy-Index-2022\\_FV2.pdf?li\\_fat\\_id=f1fbad7e-a282-4b9e-9f8f-6a6d5a9fe6b8](https://www.eiu.com/n/wp-content/uploads/2023/02/Democracy-Index-2022_FV2.pdf?li_fat_id=f1fbad7e-a282-4b9e-9f8f-6a6d5a9fe6b8).

96 "INSCR Data Page" Systemic Peace, 2022, <https://www.systemicpeace.org/inscrdata.html>.

forms and types of opposition). The coding for these four indicators are translated into scores following predefined rules, and then aggregated to create the indices for institutionalized democracy and autocracy.<sup>97</sup> The scale of the Polity Index ranges from -10 to 10.

Again, the additive aggregation procedure of the Polity Index raises concerns about its accuracy, but its advantages are clear. Like the EIU Index, Polity is unidimensional, providing users with a quick assessment of a country's democratic status. This simplicity contrasts with the two-dimensional Freedom House Index. Moreover, Polity excels in transparency and reliability of measurement compared to the other two indices.<sup>98</sup> Importantly, in each of its iterations, Polity undergoes careful review of its coding to ensure the accuracy and consistency of the data. Therefore, with its expansive coverage, Polity offers an excellent tool for longitudinal comparison within and across countries.

### ***Varieties of Democracy***

The Varieties of Democracy (V-Dem) project offers the state-of-the-art measures of democracy.<sup>99</sup> They cover approximately 200 countries that have existed or currently exist, spanning from 1789 to present. V-Dem provides five aggregated indices of democracy.<sup>100</sup>

The **electoral democracy index** measures the “minimalist” concept of democracy, that is, whether government offices are filled by free and fair elections. It accounts for several nuanced measures of electoral processes. The **liberal democracy index** measures “consensus” aspects of democracy, including the electoral process, rule of law, and executive constraints. The **participatory democracy index** measures active participation by citizens in political processes, by incorporating measures of electoral procedures, civil society participation, and subnational democracy. The **deliberative democracy index** captures the extent to which decisions are reached through public deliberation. Lastly, the **egalitarian democracy index** measures whether citizens are equally empowered in terms of civil liberties, access to political power, and distribution of resources.

V-Dem indices are aggregated based on multiple layers of indicators, using complex statistical methods. This methodology effectively reduces errors in aggregation, but users may find it difficult to comprehend the aggregation process or to construct

their own indices from the raw data. Another strength of the V-Dem methodology is its consistency across time. Longitudinal comparison based on V-Dem indices should thus provide more reliable results than with Freedom House or EIU Democracy indices.

While none of these indices contemplate state-level government like we have in the United States, readers are encouraged to think about the guidelines discussed within that context. Every state, municipality, and community in the United States should strive to have a well-performing democracy that aligns with existing academic principles.

97 Monty G. Marshall and Ted Robert Gurr, “POLITY5: Political Regime Characteristics and Transitions, 1800-2018, Dataset Users’ Manual,” Systemic Peace, April 23, 2020, <https://www.systemicpeace.org/inscr/p5manualv2018.pdf>.

98 Gerardo L. Munck and Jay Verkuilen, “Conceptualizing and Measuring Democracy,” *Comparative Political Studies* 35, no. 1 (2002): 28.

99 “The V-Dem Dataset,” *Varieties of Democracy*, March 2023, <https://v-dem.net/data/the-v-dem-dataset/>.

100 Michael Coppedge et al. “Conceptualizing and Measuring Democracy: A New Approach,” *Perspectives on Politics* 9, no. 2 (2011): 247-267.

# CONCLUSION

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## *What is our shared vision for our democracy?*

This background report was stewarded and edited by Morrison Institute for Public Policy in support of Arizona Town Hall in their 116th topic chosen to educate, engage, connect, and empower Arizonans. This report provides foundational information on our state government and how its systems function, along with frameworks for assessing the quality of our democratic systems.

Our hope is that readers, armed with information on how our government works through a statewide lens, contemplate what this means in their own communities and lives.

During the Arizona Town Hall discussion, participants can reflect on whether or not the way these systems of power function is reflective of our shared vision for democracy in Arizona. If not, what changes can be made from a systemic perspective, a community-building perspective, and an individual perspective?

As an additional resource and learning tool, interested readers are encouraged to reference the 2023 SPARK report on [Strengthening Civic Health in Arizona: The Intersection of Civic Engagement and Health](#) compiled by Vitalyst Health Foundation.

# APPENDIX I: INDEPENDENT REDISTRICTING COMMISSION

Districts are the blocks of land that define an area of voters represented by a specific type of elected official. Arizona has 30 legislative districts and nine (9) congressional districts. Every ten years, after the federal government conducts the Census, every state is required to change the boundary lines of their legislative and congressional districts to ensure each district has a roughly equal number of voters.<sup>101</sup> The Voting Rights Act of 1965 and its amendments provide additional guidelines for the redistricting process. Districts must protect the voting strength of minorities. Due to Arizona's history of discrimination, Arizona and eight (8) other states were required to get approval from the U.S. Department of Justice for any proposed changes to elections or voting requirements that would impact the rights and representation of minorities.<sup>102</sup> However, in 2013, the Supreme Court struck down these preclearance requirements, though federal law still protects minority voters.<sup>103</sup>

Federal law does not dictate the method states use when redistricting. In most states, the state legislature has control over the redistricting process. In these instances, the district lines pass like any other legislation – they are proposed by legislative committees and passed with a majority vote in each legislative chamber.<sup>104</sup> In a few states (i.e.,

Connecticut and Maine), a redistricting plan can only be approved with a supermajority (i.e., 2/3 votes). Similarly, the legislature can override other bodies with a supermajority in New York and Washington, and in Ohio, “a bipartisan supermajority takes a first shot before another commission takes over.”<sup>105</sup> In five states where redistricting is controlled by the state legislature (i.e., Connecticut, Florida, Maryland, Mississippi, and North Carolina), district lines are set by joint resolution without an opportunity for a gubernatorial veto.<sup>106</sup>

Iowa, Maine, Utah, and Vermont appoint advisory commissions that help advise the legislature about where district lines should be drawn.<sup>107</sup> The commissions make recommendations, but the final decision and adoption of maps still rests with the legislature.<sup>108</sup> In Maryland, an advisory committee works with the governor to create draft maps that are submitted to the state legislature at the beginning of the legislative session.<sup>109</sup>

In some states, a “backup commission” is in place to draw district lines if the state legislature cannot come to an agreement, usually by a date specified in that state's Constitution.<sup>110</sup> The members of the backup commission vary by state but include the Secretary

101 “Redistricting,” *Citizens Clean Elections Commission*. 2022, Accessed November 2, 2023, <https://www.azcleelections.gov/how-government-works/redistricting>.

102 David R. Berman, “Arizona Redistricting: A Perspective on the Process,” *Morrison Institute for Public Policy*, April 2022, accessed February 27, 2024, <https://morrisoninstitute.asu.edu/publication/arizona-redistricting-perspective-process>.

103 David R. Berman, “Arizona Redistricting: A Perspective on the Process,” *Morrison Institute for Public Policy*, April 2022, accessed February 27, 2024, <https://morrisoninstitute.asu.edu/publication/arizona-redistricting-perspective-process>.

104 Justin Levitt, “Redistricting 101: Who Draws the Lines?” *Loyola Law School*, 2020, accessed November 2, 2023. <https://redistricting.ils.edu/redistricting-101/who-draws-the-lines/>.

105 Justin Levitt, “Redistricting 101: Who Draws the Lines?” *Loyola Law School*, 2020, accessed November 2, 2023. <https://redistricting.ils.edu/redistricting-101/who-draws-the-lines/>.

106 Justin Levitt, “Redistricting 101: Who Draws the Lines?” *Loyola Law School*, 2020, accessed November 2, 2023. <https://redistricting.ils.edu/redistricting-101/who-draws-the-lines/>.

107 Justin Levitt, “Redistricting 101: Who Draws the Lines?” *Loyola Law School*, 2020, accessed November 2, 2023. <https://redistricting.ils.edu/redistricting-101/who-draws-the-lines/>.

108 Justin Levitt, “Redistricting 101: Who Draws the Lines?” *Loyola Law School*, 2020, accessed November 2, 2023. <https://redistricting.ils.edu/redistricting-101/who-draws-the-lines/>.

109 Justin Levitt, “Redistricting 101: Who Draws the Lines?” *Loyola Law School*, 2020, accessed November 2, 2023. <https://redistricting.ils.edu/redistricting-101/who-draws-the-lines/>.

110 Justin Levitt, “Redistricting 101: Who Draws the Lines?” *Loyola Law School*, 2020, accessed November 2, 2023. <https://redistricting.ils.edu/redistricting-101/who-draws-the-lines/>.

of State or other statewide elected officials, members selected by legislative leadership, or a blend of both.<sup>111</sup>

Seven states, including Arkansas, Hawaii, Missouri, New Jersey, Ohio, Pennsylvania, and Virginia, accomplish redistricting with “politician commissions,” where a select group of elected officials draws the maps rather than the entire legislature.<sup>112</sup> In some states, the constitution specifies that certain elected officials have specific roles on the commission. In others, legislative leadership nominates commissioners, sometimes with a role for the Governor or another executive-level leader to appoint members.<sup>113</sup>

Finally, the method that Arizona uses is independent commissions. Along with eight other states, Arizona draws state and legislative districts through an independent commission that must follow regulations to limit participation by elected officials.<sup>114</sup> Some states regulate/limit who can serve as commission members. This is the case in Arizona, where legislative staff are banned from being on independent commissions.<sup>115</sup>

Before 2001, Arizona’s legislature had control over the redistricting process. However, legislators were “reluctant to tamper with the district boundaries from which they were elected and united around the goal of protecting incumbents.”<sup>116</sup> This produced oddly shaped, gerrymandered districts that heavily favored one political party or the other. As a result, only a few districts had “meaningful” voting options because legislative candidates ran unopposed in many districts.<sup>117</sup>

In 1999, advocates began to organize a proposal to change the redistricting process in Arizona. Arizona Common Cause, the League of Women Voters, and the Valley Citizens League joined together to form the Fair Districts Fair Elections committee to put a proposal on the November 2000 ballot.<sup>118</sup> The proposal was called Proposition 106, which passed with 56% of the vote.<sup>119</sup>

Under the provision of Proposition 106, the Arizona Independent Redistricting Commission (AIRC) was created. AIRC is comprised of five members: Two Republican commissioners, two Democratic commissioners, and one independent commissioner.<sup>120</sup> Every ten years, the Commission of Appellate Court Appointments compiles a list of 25 vetted candidates (ten from each political party and five who don’t belong to a party).<sup>121</sup> From the list of candidates, the majority and minority leaders in the legislature select four commissioners. The four members then select a fifth member, through a majority vote, who serves as the commission chair.<sup>122</sup> The chair cannot belong to the same political party as any other commission member, and they must be registered as unaffiliated with a party for at least three years before being appointed.<sup>123</sup> Further, commission members cannot have been appointed or elected or run for candidacy in any public office within the prior three years.<sup>124</sup>

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111 Justin Levitt, “Redistricting 101: Who Draws the Lines?” *Loyola Law School*, 2020, accessed November 2, 2023. <https://redistricting.lls.edu/redistricting-101/who-draws-the-lines/>.

112 Justin Levitt, “Redistricting 101: Who Draws the Lines?” *Loyola Law School*, 2020, accessed November 2, 2023. <https://redistricting.lls.edu/redistricting-101/who-draws-the-lines/>.

113 Justin Levitt, “Redistricting 101: Who Draws the Lines?” *Loyola Law School*, 2020, accessed November 2, 2023. <https://redistricting.lls.edu/redistricting-101/who-draws-the-lines/>.

114 Justin Levitt, “Redistricting 101: Who Draws the Lines?” *Loyola Law School*, 2020, accessed November 2, 2023. <https://redistricting.lls.edu/redistricting-101/who-draws-the-lines/>.

115 Justin Levitt, “Redistricting 101: Who Draws the Lines?” *Loyola Law School*, 2020, accessed November 2, 2023. <https://redistricting.lls.edu/redistricting-101/who-draws-the-lines/>.

116 David R. Berman, “Arizona Redistricting: A Perspective on the Process,” *Morrison Institute for Public Policy*, April 2022, accessed February 27, 2024, <https://morrisoninstitute.asu.edu/publication/arizona-redistricting-perspective-process>.

117 David R. Berman, “Arizona Redistricting: A Perspective on the Process,” *Morrison Institute for Public Policy*, April 2022, accessed February 27, 2024, <https://morrisoninstitute.asu.edu/publication/arizona-redistricting-perspective-process>.

118 David R. Berman, “Arizona Redistricting: A Perspective on the Process,” *Morrison Institute for Public Policy*, April 2022, accessed February 27, 2024, <https://morrisoninstitute.asu.edu/publication/arizona-redistricting-perspective-process>.

119 David R. Berman, “Arizona Redistricting: A Perspective on the Process,” *Morrison Institute for Public Policy*, April 2022, accessed February 27, 2024, <https://morrisoninstitute.asu.edu/publication/arizona-redistricting-perspective-process>.

120 “Redistricting,” *Citizens Clean Elections Commission*. 2022, Accessed November 2, 2023, <https://www.azcleelections.gov/how-government-works/redistricting>.

121 “Redistricting,” *Citizens Clean Elections Commission*. 2022, Accessed November 2, 2023, <https://www.azcleelections.gov/how-government-works/redistricting>.

122 “Redistricting,” *Citizens Clean Elections Commission*. 2022, Accessed November 2, 2023, <https://www.azcleelections.gov/how-government-works/redistricting>.

123 David R. Berman, “Arizona Redistricting: A Perspective on the Process,” *Morrison Institute for Public Policy*, April 2022, accessed February 27, 2024, <https://morrisoninstitute.asu.edu/publication/arizona-redistricting-perspective-process>.

124 David R. Berman, “Arizona Redistricting: A Perspective on the Process,” *Morrison Institute for Public Policy*, April 2022, accessed February 27, 2024, <https://morrisoninstitute.asu.edu/publication/arizona-redistricting-perspective-process>.

The AIRC completed the redistricting process in 2001, 2011, and 2021.<sup>125</sup> In addition to following federal law to create districts roughly equal in size that protect the voting strength of minorities, Arizona state law outlines further requirements for the AIRC:<sup>126</sup>

- Congressional districts shall have equal population to the extent practicable, and state legislative districts shall have equal population to the extent practicable;
- Districts shall comply with the United States Constitution and the United States Voting Rights Act;
- Districts shall be geographically compact and contiguous to the extent practicable;
- District boundaries shall respect communities of interest to the extent practicable;
- To the extent practicable, district lines shall use visible geographic features, city, town and county boundaries, and undivided census tracts;
- To the extent practicable, competitive districts should be favored where to do so would create no significant detriment to the other goals.

Once Census Bureau population data is released, the AIRC develops districts with equal populations in a grid format across the state – one grid map is created for congressional districts, and one is created for legislative districts.<sup>127</sup> The grid maps are adjusted to meet the abovementioned requirements and prepared for public consideration.<sup>128</sup> The public has 30 days to comment on the maps or submit draft maps of their own for consideration.<sup>129</sup> Although there is no official deadline to finalize the district maps, the candidate deadline to file for congressional and state legislative primary elections is often used as an unofficial deadline.<sup>130</sup>

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125 David R. Berman, "Arizona Redistricting: A Perspective on the Process," *Morrison Institute for Public Policy*, April 2022, accessed February 27, 2024, <https://morrisoninstitute.asu.edu/publication/arizona-redistricting-perspective-process>.

126 "Redistricting," *Citizens Clean Elections Commission*. 2022, Accessed November 2, 2023, <https://www.azcleelections.gov/how-government-works/redistricting>.

127 "Redistricting," *Citizens Clean Elections Commission*. 2022, Accessed November 2, 2023, <https://www.azcleelections.gov/how-government-works/redistricting>.

128 "Redistricting," *Citizens Clean Elections Commission*. 2022, Accessed November 2, 2023, <https://www.azcleelections.gov/how-government-works/redistricting>.

129 "Redistricting," *Citizens Clean Elections Commission*. 2022, Accessed November 2, 2023, <https://www.azcleelections.gov/how-government-works/redistricting>.

130 "Redistricting," *Citizens Clean Elections Commission*. 2022, Accessed November 2, 2023, <https://www.azcleelections.gov/how-government-works/redistricting>.

# APPENDIX II: CAMPAIGN FINANCE REGULATIONS

In November 2022, Arizona voters approved Proposition 211, known as The Voters' Right to Know Act or "Stop Dark Money," with 72% of voters' support and a majority in all 15 counties.<sup>131</sup> The Voters' Right to Know Act requires disclosure of the names of people who donate to large umbrella organizations called Political Action Committees (or PACs) that support or oppose candidates. Disclosure is required if an individual gave \$5,000 or more to a committee that spent at least \$50,000 on a statewide race, legislative race, or ballot proposition. For local elections, the threshold is an individual contribution of \$2,500 or more to a committee spending at least \$25,000.<sup>132</sup> Previously, any individual who donated more than \$50 directly to a candidate or ballot campaign had to disclose their name, address, and employer.<sup>133</sup> However, donations to large anonymous committees had no similar requirements. As of March 2024, there are 967 PACs registered in Arizona with a wide range of cash balances reported.<sup>134</sup>

According to the National Conference of State Legislatures, all 50 states require PACs to disclose campaign contributions and expenditures if the state's reporting threshold is met. In the 12 states that have no disclosure threshold, all contributions and expenditures must be reported. Thresholds among the remaining states range from \$100 to \$5,000, with

the exception of Georgia at \$25,000.<sup>135</sup>

Shortly after Proposition 211 passed, challenges were filed in both state and federal courts. The federal lawsuit was filed by Americans for Prosperity and argues that Proposition 211 violates the First Amendment protection of the rights of individuals to donate to advocacy organizations without fear of their identities being disclosed.<sup>136</sup> The federal lawsuit is still pending and has yet to move past initial motions.<sup>137</sup>

In June 2023, the Arizona Free Enterprise Club and the Center for Arizona Policy filed a lawsuit claiming that the disclosure requirements in Prop. 211 violate citizens' constitutional right to privacy.<sup>138</sup> Superior Court Judge Scott McCoy rejected this argument, pointing to the original language in the Arizona Constitution that required the first Legislature to pass an election disclosure law to publicize all sources of campaign funds for public office.<sup>139</sup> Related litigation can be traced back to 2010 with the US Supreme Court ruling in *Citizens United v. Federal Election Commission* which "upheld the reporting and disclaimer requirements for independent expenditures and electioneering communications."<sup>140</sup>

131 Pitzl, Mary Jo. "Proposition 211: Ballot Measure to Require Disclosure for Political Spending Wins in Arizona." *Arizona Republic*. Updated November 11, 2022. <https://www.azcentral.com/story/news/politics/elections/2022/11/08/arizona-proposition-211-election-results-limit-dark-money-politics/10650036002/>.

132 Pitzl, Mary Jo. "Proposition 211: Ballot Measure to Require Disclosure for Political Spending Wins in Arizona." *Arizona Republic*. Updated November 11, 2022. <https://www.azcentral.com/story/news/politics/elections/2022/11/08/arizona-proposition-211-election-results-limit-dark-money-politics/10650036002/>.

133 Pitzl, Mary Jo. "Proposition 211: Ballot Measure to Require Disclosure for Political Spending Wins in Arizona." *Arizona Republic*. Updated November 11, 2022. <https://www.azcentral.com/story/news/politics/elections/2022/11/08/arizona-proposition-211-election-results-limit-dark-money-politics/10650036002/>.

134 "See the Money: Political Action Committee," *Arizona Secretary of State*, accessed February 26, 2024, <https://seethemoney.az.gov/#|JurisdictionId=0|Page=2|startYear=2023|endYear=2024|IsLessActive=false|ShowOfficeHolder=false|View=Detail|TablePage=1|TableLength=10>.

135 "Campaign Finance Regulation: State Comparisons," *National Conference of State Legislatures*, updated October 24, 2022, accessed February 26, 2024, <https://www.ncsl.org/elections-and-campaigns/campaign-finance-regulation-state-comparisons>.

136 Riley, Kiera. "Judge Dismisses Groups' Challenge to Prop. 211." *Arizona Capitol Times*. June 22, 2023. <https://azcapitoltimes.com/news/2023/06/22/judge-dismisses-groups-challenge-to-prop-211/>.

137 Campaign Legal Center, "Defending Transparency for Campaign Spending in Arizona – Americans for Prosperity, et al. v. Meyer, et al. (Federal-Level Challenge)," *Campaign Legal Center*, last modified May 2, 2023, accessed March 4, 2024, <https://campaignlegal.org/cases-actions/defending-transparency-campaign-spending-arizona-americans-prosperity-et-al-v-meyer>.

138 Riley, Kiera. "Judge Dismisses Groups' Challenge to Prop. 211." *Arizona Capitol Times*. June 22, 2023. <https://azcapitoltimes.com/news/2023/06/22/judge-dismisses-groups-challenge-to-prop-211/>.

139 Riley, Kiera. "Judge Dismisses Groups' Challenge to Prop. 211." *Arizona Capitol Times*. June 22, 2023. <https://azcapitoltimes.com/news/2023/06/22/judge-dismisses-groups-challenge-to-prop-211/>.

140 "Citizens United v. FEC," *Federal Election Commission*, accessed February 27, 2024, <https://www.fec.gov/legal-resources/court-cases/citizens-united-v-fec/>.

In December 2023, Ben Toma and Warren Petersen (then Senate President and Speaker of the House) filed a motion to block Prop. 211, claiming that it gives the Citizens Clean Elections Commission powers not approved by the Legislature.<sup>141</sup> Superior Court Judge Timothy Ryan ruled that the people have the same authority as legislators to enact laws.<sup>142</sup> He said that, just like measures approved by the Legislature, they are presumed valid unless there is something unconstitutional about them.<sup>143</sup> As of January 2024, the Citizens Clean Elections Commission is moving forward with rule-making to establish implementation guidance for Prop. 211 in hopes of having clear guidelines in place for the 2024 election.<sup>144</sup>

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141 Hahne, Greg. "Arizona Voters Approved 2022 'Dark Money' Law. Top GOP Lawmakers Are Trying to Block It." *KJZZ*. Last modified December 15, 2023. <https://kjzz.org/content/1865658/arizona-voters-approved-2022-dark-money-law-top-gop-lawmakers-are-trying-block-it>.

142 Fischer, Howard. "Challenge to Prop 211 Fails." *Arizona Capitol Times*. January 2, 2024. <https://azcapitoltimes.com/news/2024/01/02/challenge-to-prop-211-fails/>.

143 Fischer, Howard. "Challenge to Prop 211 Fails." *Arizona Capitol Times*. January 2, 2024. <https://azcapitoltimes.com/news/2024/01/02/challenge-to-prop-211-fails/>.

144 "Clean Elections Adopts First Rules on Campaign Spending Law," *Citizens Clean Elections Commission*, August 24, 2023, accessed February 27, 2024, <https://www.azcleelections.gov/media/rules-adopted-on-campaign-spending-law>.

# APPENDIX III: INITIATIVE AND REFERENDUM IN ARIZONA

In Arizona, laws can be enacted through the initiative and/or referendum process in addition to the traditional legislative process. These powers are outlined in the Arizona Constitution. Under the power of initiative, 10% of the qualified electors in the state can propose any new law, and fifteen percent can propose any amendment to the Constitution.<sup>145</sup> In practice, this means that a group of citizens can form a committee around an issue and canvass the state to gather enough signatures to be placed on the ballot.<sup>146</sup> For the 2024 election cycle, constitutional amendments require 383,923 valid signatures and initiative measures require 255,949 valid signatures to be placed on the ballot.<sup>147</sup> Groups have until July 3, 2024 to gather signatures for their cause.<sup>148</sup> To view the list of initiatives currently in the signature-gathering process for 2024, please refer to the [Secretary of State's website](#).<sup>149</sup>

In the 2020 election, two initiatives passed— Proposition 207 to legalize recreational marijuana, and Proposition 208 which created an income tax to support public education.<sup>150</sup> Prop. 208 was subsequently declared unconstitutional by the Arizona Supreme Court and thus was never enacted.<sup>151</sup> Citizen initiatives have also created notable programs in Arizona. In

2006, Proposition 203 increased state tobacco taxes and used the funds to create First Things First, an early childhood development program that is still operating today.<sup>152</sup> In 2000, voters passed Proposition 301—a 0.6-cent sales tax to support public K-12 schools. Although Prop. 301 was set to expire in mid-2021, in 2018, the Legislature voted to extend the tax for 20 more years.<sup>153</sup>

When an initiative is passed, it is protected by Proposition 105. Approved in 1998, Prop. 105 states that the legislature cannot amend or repeal voter-approved initiatives or referendums.<sup>154</sup> Any changes to the language approved by voters must honor the original intent of the ballot language.<sup>155</sup> As seen with Prop. 208, approved language can be challenged in court, however, it cannot be changed through the legislative process.

If initiatives are granting legislative powers to the people, the referendum process grants veto power to the people. If the legislature passes a law that a group disagrees with, they are able to form a committee and gather signatures of 5% of the electorate to pause the enactment of the law.<sup>156</sup> A question will be placed on the ballot to ask voters whether or not they approve

145 AZ Const. art. 4 part 1, § 1N.

146 "Initiatives," *Arizona Secretary of State*, accessed February 29, 2024, <https://azsos.gov/elections/ballot-measures/initiative-referendum-recall/initiatives>.

147 "Initiatives," *Arizona Secretary of State*, accessed February 29, 2024, <https://azsos.gov/elections/ballot-measures/initiative-referendum-recall/initiatives>.

148 "Initiatives," *Arizona Secretary of State*, accessed February 29, 2024, <https://azsos.gov/elections/ballot-measures/initiative-referendum-recall/initiatives>.

149 "2024 Serial Numbers Filed," *Arizona Secretary of State*, accessed February 29, 2024, <https://azsos.gov/elections/ballot-measures/initiative-referendum-recall/2024-serial-numbers-filed>.

150 "Arizona 2020 General Election Publicity Pamphlet," *Arizona Secretary of State*, accessed February 29, 2024, <https://azsos.gov/node/152>.

151 Pitzl, Mary Jo. "Judge Deals Fatal Blow to Arizona's Proposition 208, Ending 2-Year Battle Over K-12 Funding." *Arizona Republic*. Last modified March 11, 2022. <https://www.azcentral.com/story/news/politics/arizona-education/2022/03/11/proposition-208-tax-increase-arizonas-k-12-schools-struck-down/9433246002/>.

152 "2006 Ballot Propositions and Judicial Performance Review: Proposition 203," *Arizona Secretary of State*, September 2006, accessed on February 29, 2024, <https://apps.azsos.gov/election/2006/info/PubPamphlet/english/Prop203.htm>.  
"First Things First: Our Mission," *First Things First*, accessed on February 29, 2024, <https://www.firstthingsfirst.org/what-we-do/our-mission/>.

153 Cano, Ricardo. "Arizona Legislature Passes Education Sales Tax Plan." *Arizona Republic*. Last modified March 22, 2018. <https://www.azcentral.com/story/news/politics/arizona-education/2018/03/22/arizona-lawmakers-fast-track-proposition-301-education-sales-tax-extension/447963002/>.

154 "1998 Ballot Propositions: Proposition 105," *Arizona Secretary of State*, last modified July 21, 1998, accessed February 29, 2024, <https://apps.azsos.gov/election/1998/Info/PubPamphlet/Prop105.html>.  
"State of Arizona Official Canvas: 1998 General Election – November 3, 1998," *Arizona Secretary of State*, accessed February 29, 2024, <https://apps.azsos.gov/election/1998/general/ElectionInformation.htm>.

155 "1998 Ballot Propositions: Proposition 105," *Arizona Secretary of State*, last modified July 21, 1998, accessed February 29, 2024, <https://apps.azsos.gov/election/1998/Info/PubPamphlet/Prop105.html>.

156 "Referendum," *Arizona Secretary of State*, accessed February 29, 2024, <https://azsos.gov/elections/ballot-measures/initiative-referendum-recall/referendum>.

of the enactment of the law in question.<sup>157</sup> For the 2024 election, 127,975 signatures would be required to successfully file a referendum petition.<sup>158</sup> While this signature threshold is lower than for initiatives, the timing to get signatures for referendums is more challenging.

Most laws passed during the legislative session are enacted 90 days after the last day of the legislative session.<sup>159</sup> However, because the last day of session changes yearly, so does this “effective date.”<sup>160</sup> Additionally, some legislation is passed with an “emergency clause” because it is immediately necessary to preserve health and safety or for the support and maintenance of the state government.<sup>161</sup> These laws must be approved by two-thirds of the legislature (compared to a simple majority) and go into effect immediately upon the governor’s signature.<sup>162</sup>

If a bill is passed during the legislative session that a group wishes to refer to the ballot, they can form a committee with the Secretary of State and begin collecting signatures immediately. The signatures are due 90 days after the end of the legislative session, creating a tighter timeline to gather signatures for bills passed at the end of the session.<sup>163</sup> In recent years, Proposition 305 was a notable use of the referendum process. In 2017, the legislature passed an expansion of the Empowerment Scholarship Account (ESA) program.<sup>164</sup> At the ballot in 2018, nearly 65% of voters rejected the law, and it was not enacted.<sup>165</sup>

In addition, statutes may be referred to voters for approval or rejection directly by the Legislature. Commonly this happens when “a measure is particularly controversial and the Legislature wants to allow the people to vote directly on the matter, when the matter at issue has been the subject of previous voter-initiated measures, or to bypass a Governor who might veto the measure. These measures go before the voters for approval or disapproval at the next general election.”<sup>166</sup> Moreover, if the Legislature proposes any

changes to the State Constitution, they must be voted on during the next general election or at a special election called by the Legislature for this purpose. As with initiated measures, referred measures only become law only if they are approved by a majority vote and on proclamation of the election results by the Governor.<sup>167</sup>

The powers of initiative and referendum allow Arizona’s citizens to actively participate in the legislative process. Mounting these campaigns is expensive and time-consuming, and the results are far from guaranteed, but every election cycle, the ballot has a handful of proposals from dedicated citizens.

157 “Referendum,” *Arizona Secretary of State*, accessed February 29, 2024, <https://azsos.gov/elections/ballot-measures/initiative-referendum-recall/referendum>.

158 “Referendum,” *Arizona Secretary of State*, accessed February 29, 2024, <https://azsos.gov/elections/ballot-measures/initiative-referendum-recall/referendum>.

159 “Referendum,” *Arizona Secretary of State*, accessed February 29, 2024, <https://azsos.gov/elections/ballot-measures/initiative-referendum-recall/referendum>.

160 “Frequently Asked Questions: Session Laws: How Can I tell when a session law becomes effective?,” *Arizona State Legislature*, accessed February 29, 2024, <https://www.azleg.gov/faq/>.

161 “Frequently Asked Questions: Session Laws: How Can I tell when a session law becomes effective?,” *Arizona State Legislature*, accessed February 29, 2024, <https://www.azleg.gov/faq/>.

162 Randall Gnant, *From Idea to Bill to Law: The Legislative Process in Arizona*, 4th ed. (Phoenix: Arizona State Legislative Council, 2000), <https://www.azleg.gov/alispdfs/BillToLaw.pdf>.

163 “Referendum,” *Arizona Secretary of State*, accessed February 29, 2024, <https://azsos.gov/elections/ballot-measures/initiative-referendum-recall/referendum>.

164 David Berman, “Proposition 305: ESA Program Expansion,” *Morrison Institute*, October 2018, [https://morrisoninstitute.asu.edu/sites/default/files/proposition\\_305.pdf](https://morrisoninstitute.asu.edu/sites/default/files/proposition_305.pdf).

165 “Arizona Proposition 305, Expansion of Empowerment Scholarship Accounts Referendum (2018),” *Ballotpedia*, accessed February 29, 2024, <https://azsos.gov/node/149>.

166 David M. Thomas, ed., *Arizona Legislative Manual* (Phoenix: Arizona Legislative Council, 2003). <https://www.azleg.gov/alispdfs/Council/legman2003.pdf>.

167 David M. Thomas, ed., *Arizona Legislative Manual* (Phoenix: Arizona Legislative Council, 2003). <https://www.azleg.gov/alispdfs/Council/legman2003.pdf>.

# APPENDIX IV: THE IMPORTANCE OF FREE PRESS

The First Amendment of the United States Constitution reads, in part, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”<sup>168</sup>

Freedom of the Press is a bedrock of the foundation of America and is fundamental to maintaining a healthy and functioning democracy. A functioning democratic government does not interfere with the press, particularly when publishing content that is critical of the government.<sup>169</sup> A free press is critical to a healthy democracy for several reasons:

**Truth and context:** The government often deals with issues that are complex and span many years.<sup>170</sup> The average person cannot stay up to date with details of every board and commission meeting, so journalists play a helpful role in impartially highlighting the updates and developments of government.<sup>171</sup>

**Holding leaders accountable:** A functional press serves as a bridge between regular citizens and those in power.<sup>172</sup> Abuses of power, human rights violations, and exposure of political scandals would not be made public without a press that is free from government censorship.<sup>173</sup>

**Informing voters:** Journalists report on candidates’

stances, perform fact-checks after political debates, and help voters understand issues appearing on the ballot.<sup>174</sup> While some publications are more neutral than others, it is critical for voters to hear about issues from sources other than the candidate or committee itself.<sup>175</sup> Many voters rely on social media or the opinion of friends and family when deciding what candidates or issues to support in an election. However, the role of quality and impartial journalism remains a cornerstone of our democracy.

After freedom of the press was established in the Constitution, many Supreme Court cases have clarified the scope of these protections. Freedom of the press in the U.S. covers invasion of privacy, free expression, access to government information, prior restraint (preventing publication of information), commercial speech, libel (written attacks on an individual’s reputation), and slander (spoken attacks on one’s reputation).<sup>176</sup>

168 “Constitution Annotated: Analysis and Interpretation of the U.S. Constitution,” *Congress.gov*, accessed February 27, 2024, <https://constitution.congress.gov/constitution/amendment-1/>.

169 “Free Speech: Freedom of the Press,” *American Civil Liberties Union*, accessed February 27, 2024, <https://www.aclu.org/issues/free-speech/freedom-press>.

170 Emmaline Soken-Huberty, “Why Is Freedom of the Press Important in a Democracy?” *Human Rights Careers*, accessed February 27, 2024, <https://www.humanrightscareers.com/issues/why-is-freedom-of-the-press-important-in-a-democracy/>.

171 Emmaline Soken-Huberty, “Why Is Freedom of the Press Important in a Democracy?” *Human Rights Careers*, accessed February 27, 2024, <https://www.humanrightscareers.com/issues/why-is-freedom-of-the-press-important-in-a-democracy/>.

172 Emmaline Soken-Huberty, “Why Is Freedom of the Press Important in a Democracy?” *Human Rights Careers*, accessed February 27, 2024, <https://www.humanrightscareers.com/issues/why-is-freedom-of-the-press-important-in-a-democracy/>.

173 Emmaline Soken-Huberty, “Why Is Freedom of the Press Important in a Democracy?” *Human Rights Careers*, accessed February 27, 2024, <https://www.humanrightscareers.com/issues/why-is-freedom-of-the-press-important-in-a-democracy/>.

174 Emmaline Soken-Huberty, “Why Is Freedom of the Press Important in a Democracy?” *Human Rights Careers*, accessed February 27, 2024, <https://www.humanrightscareers.com/issues/why-is-freedom-of-the-press-important-in-a-democracy/>.

175 Emmaline Soken-Huberty, “Why Is Freedom of the Press Important in a Democracy?” *Human Rights Careers*, accessed February 27, 2024, <https://www.humanrightscareers.com/issues/why-is-freedom-of-the-press-important-in-a-democracy/>.

176 Marie Willsey, “10 Most Important U.S. Supreme Court Cases for Journalists,” *How Stuff Works*, accessed February 27, 2024, <https://money.howstuffworks.com/10-supreme-court-cases-journalists.htm>.

Landmark Supreme Court cases that shaped freedom of the press include:

- *New York Times v. United States* (1971)
  - Known as the “Pentagon Papers” case, the federal government attempted to stop the New York Times and Washington Post from publishing classified documents related to the Vietnam War. The government claimed that publishing the documents would interfere with foreign policies and prolong the war, but the Court ruled that too speculative and allowed the publication.<sup>177</sup>
- *Hustler Magazine v. Falwell* (1988)
  - In this case, the Supreme Court ruled that political cartoons and satire play a prominent role in public and political debate.<sup>178</sup>
- *Simon and Schuster v. Members of New York State Crime Victims Board* (1991)
  - The Supreme Court struck down New York’s “Son of Sam” law – this law required that any proceeds from a book written by someone convicted of a crime about the crime for which they have been convicted must be turned over to the state. The Court reasoned that the law “impermissibly singled out income only from the prisoner’s expressive activity, and then only expressive activity relating to his crime, without necessarily compensating any victims of those crimes.”<sup>179</sup>

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177 “Notable First Amendment Court Cases,” *American Library Association*, last modified May 2017, accessed February 27, 2024, <https://www.ala.org/advocacy/intfreedom/censorship/courtcases>.

178 “Notable First Amendment Court Cases,” *American Library Association*, last modified May 2017, accessed February 27, 2024, <https://www.ala.org/advocacy/intfreedom/censorship/courtcases>.

179 “Notable First Amendment Court Cases,” *American Library Association*, last modified May 2017, accessed February 27, 2024, <https://www.ala.org/advocacy/intfreedom/censorship/courtcases>.

# APPENDIX V: THE BASICS OF THE ARIZONA LEGISLATIVE PROCESS

Arizona is divided into thirty legislative districts. Each district has one state senator and two state representatives, for a total of 90 state legislators (60 in the House and 30 in the Senate). All legislators are up for re-election every two years.<sup>180</sup> Arizona has a term limit for legislators of eight years, or four two-year terms. However, a legislator is able to serve four terms in the House, then four terms in the Senate, then back to the House, and so on.<sup>181</sup> Legislators are compensated \$24,000 per year for their service.<sup>182</sup>

The legislative session begins each year in the second week of January and is scheduled to last 100 days. However, in practice, a 100-day session is not common. Members must vote to continue the session if their work for the year is not complete.<sup>183</sup> The Governor and a majority of the legislature must agree on a budget before July 1, or state agencies and services will be forced to pause operations due to a lack of funding.<sup>184</sup>

After an election in November, the political parties (or caucuses) in each chamber meet internally to elect their respective leadership.<sup>185</sup> The majority party elects the President of the Senate and Speaker of the House, as well as internal leadership positions.<sup>186</sup> The minority party chooses its own minority leader, whip,

etc. The majority leadership then meets to create committees and choose committee chairs. Committee chairs and vice-chairs are typically members of the majority party.<sup>187</sup> Sometimes positions are chosen based on seniority or members with experience in the subject area (an accountant might be placed on Appropriations, for example).<sup>188</sup> Once the majority party releases its committee assignments, the minority party leadership completes its own assignments. The number of legislators on a given committee varies, but there are usually more members of the majority than the minority party.<sup>189</sup>

Any legislator is able to introduce a bill on any topic. However, bills must be introduced during the first few weeks of session.<sup>190</sup> After introduction, the Senate President or Speaker of the House (depending on which chamber the bill originates in) will assign the bill to be heard in a committee based on subject.<sup>191</sup> If a bill concerns spending or contains an appropriation, it will be assigned to a primary committee based on its subject matter, as well as Appropriations as a second committee.<sup>192</sup> This bill must pass both committees before it can advance in the legislative process.<sup>193</sup> Occasionally, a bill will be assigned to three committees

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180 David M. Thomas, ed., *Arizona Legislative Manual* (Phoenix: Arizona Legislative Council, 2003). <https://www.azleg.gov/alispdfs/Council/legman2003.pdf>.

181 David M. Thomas, ed., *Arizona Legislative Manual* (Phoenix: Arizona Legislative Council, 2003). <https://www.azleg.gov/alispdfs/Council/legman2003.pdf>.

182 Sanchez, Camryn. "How much do lawmakers make for how much work?" *Arizona Capitol Times*. June 15, 2023. <https://azcapitoltimes.com/news/2023/06/15/how-much-do-lawmakers-make-for-how-much-work/>.

183 David M. Thomas, ed., *Arizona Legislative Manual* (Phoenix: Arizona Legislative Council, 2003). <https://www.azleg.gov/alispdfs/Council/legman2003.pdf>.

184 David M. Thomas, ed., *Arizona Legislative Manual* (Phoenix: Arizona Legislative Council, 2003). <https://www.azleg.gov/alispdfs/Council/legman2003.pdf>.

185 David M. Thomas, ed., *Arizona Legislative Manual* (Phoenix: Arizona Legislative Council, 2003). <https://www.azleg.gov/alispdfs/Council/legman2003.pdf>.

186 David M. Thomas, ed., *Arizona Legislative Manual* (Phoenix: Arizona Legislative Council, 2003). <https://www.azleg.gov/alispdfs/Council/legman2003.pdf>.

187 David M. Thomas, ed., *Arizona Legislative Manual* (Phoenix: Arizona Legislative Council, 2003). <https://www.azleg.gov/alispdfs/Council/legman2003.pdf>.

188 David M. Thomas, ed., *Arizona Legislative Manual* (Phoenix: Arizona Legislative Council, 2003). <https://www.azleg.gov/alispdfs/Council/legman2003.pdf>.

189 Hank Stephenson and Rachel Leingang, "How a Bill Becomes a Law: \*Formally and Behind the Scenes," *Arizona Agenda*, February 10, 2022, <https://arizonaagenda.substack.com/p/how-an-arizona-bill-becomes-a-law>.

190 David M. Thomas, ed., *Arizona Legislative Manual* (Phoenix: Arizona Legislative Council, 2003). <https://www.azleg.gov/alispdfs/Council/legman2003.pdf>.

191 David M. Thomas, ed., *Arizona Legislative Manual* (Phoenix: Arizona Legislative Council, 2003). <https://www.azleg.gov/alispdfs/Council/legman2003.pdf>.

192 David M. Thomas, ed., *Arizona Legislative Manual* (Phoenix: Arizona Legislative Council, 2003). <https://www.azleg.gov/alispdfs/Council/legman2003.pdf>.

193 David M. Thomas, ed., *Arizona Legislative Manual* (Phoenix: Arizona Legislative Council, 2003). <https://www.azleg.gov/alispdfs/Council/legman2003.pdf>.

as a strategic move, as it's unlikely to be heard and approved in all three.<sup>194</sup>

Most committees will only debate a few bills each session with minority members as the prime sponsor of the legislation. Amendments can only be offered by members of the committee at this time.<sup>195</sup> If the bill passes committee, it must also pass through the rules committee to ensure the proposal is constitutional before moving to Committee of the Whole, or COW.<sup>196</sup> The Speaker of the House or Senate President receives a list of all bills that have passed out of committee and are ready to be placed on the COW calendar.<sup>197</sup> This is another hurdle, and sometimes bills pass committee but die waiting to be heard in COW.<sup>198</sup> During this process, legislators debate the bill on the floor of the House or Senate, and any member of the body can propose amendments.<sup>199</sup> The final, amended piece of legislation can then be scheduled for a "third read," or final vote by the entire body.<sup>200</sup>

After a bill passes out of its chamber of origin, it is sent to the other chamber and the process begins all over again as a bill waiting to be assigned to a committee.<sup>201</sup> If a bill receives amendments in the other chamber that the prime sponsor doesn't agree with, a collection of legislators from the original committees will meet to discuss a compromise that can move forward.<sup>202</sup> This is called a conference committee, and often an amendment is drafted before the meeting that the sponsor is comfortable with.<sup>203</sup> If the bill gets scheduled and approved in committee, COW, and third read, the legislation is sent to the Governor for a signature or veto.<sup>204</sup>

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194 Hank Stephenson and Rachel Leingang, "How a Bill Becomes a Law: \*Formally and Behind the Scenes," *Arizona Agenda*, February 10, 2022, <https://arizonaagenda.substack.com/p/how-an-arizona-bill-becomes-a-law>.

195 Randall Gnant, *From Idea to Bill to Law: The Legislative Process in Arizona*, 4th ed. (Phoenix: Arizona State Legislative Council, 2000), <https://www.azleg.gov/alisPDFs/BillToLaw.pdf>.

196 "Arizona State Legislative Process," *Maricopa County Government Relations*, accessed March 11, 2024, <https://www.maricopa.gov/DocumentCenter/View/33995/Arizona-State-Legislative-Process>.

197 Randall Gnant, *From Idea to Bill to Law: The Legislative Process in Arizona*, 4th ed. (Phoenix: Arizona State Legislative Council, 2000), <https://www.azleg.gov/alisPDFs/BillToLaw.pdf>.

198 Randall Gnant, *From Idea to Bill to Law: The Legislative Process in Arizona*, 4th ed. (Phoenix: Arizona State Legislative Council, 2000), <https://www.azleg.gov/alisPDFs/BillToLaw.pdf>.

199 Randall Gnant, *From Idea to Bill to Law: The Legislative Process in Arizona*, 4th ed. (Phoenix: Arizona State Legislative Council, 2000), <https://www.azleg.gov/alisPDFs/BillToLaw.pdf>.

200 David M. Thomas, ed., *Arizona Legislative Manual* (Phoenix: Arizona Legislative Council, 2003). <https://www.azleg.gov/alispdfs/Council/legman2003.pdf>.

201 Randall Gnant, *From Idea to Bill to Law: The Legislative Process in Arizona*, 4th ed. (Phoenix: Arizona State Legislative Council, 2000), <https://www.azleg.gov/alisPDFs/BillToLaw.pdf>.

202 David M. Thomas, ed., *Arizona Legislative Manual* (Phoenix: Arizona Legislative Council, 2003). <https://www.azleg.gov/alispdfs/Council/legman2003.pdf>.

203 David M. Thomas, ed., *Arizona Legislative Manual* (Phoenix: Arizona Legislative Council, 2003). <https://www.azleg.gov/alispdfs/Council/legman2003.pdf>.

204 David M. Thomas, ed., *Arizona Legislative Manual* (Phoenix: Arizona Legislative Council, 2003). <https://www.azleg.gov/alispdfs/Council/legman2003.pdf>.



# SPECIAL THANKS TO SPONSORS OF "VOTING AND ELECTIONS IN ARIZONA"





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April 18, 2024  
Advisory Opinion 2024-03

Roy Herrera  
Jillian Andrews  
Austin Marshall  
Herrera Arellano LLP  
530 E McDowell Rd #107-150  
Phoenix, AZ 85004

We are responding to your advisory opinion request on behalf of Opportunity Arizona concerning whether advertisements relating to policies and actions contemplated by elected officials who are also candidates for office or by their respective governmental bodies constitute campaign media spending under the Voter's Right Know Act (the "Act" or the "VRKA"), A.R.S. §§ 16-971 to 16-979.

***Questions Presented***<sup>1</sup>

1) If disseminated within six months "preceding an election involving" a sitting lawmaker who is running for reelection, do public communications like any of the examples provided in the Advisory Opinion Request (AOR), that mention elected officials by name, but only in relation to their official positions or votes without referring to any election, qualify as campaign media spending by constituting "[a] public communication that promotes, supports, attacks or opposes" a candidate? *See* A.R.S. § 16-971(2)(ii).

2) If disseminated within 90 days "before a primary election" in which a sitting lawmaker is running for office, do public communications like the examples

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<sup>1</sup> The questions presented have been slightly reworded from the request to clarify references to particular communications.

provided in the AOR, that mention elected officials by name, but only in relation to their official positions or votes without referring to any election, qualify as campaign media spending by constituting “[a] public communication that refers to a clearly identified candidate?” See A.R.S. § 16-971(2)(a)(iii).

3) Does a public communication like two examples provided (AOR at 3-5) that refer generally to the legislative actions of a political party qualify as campaign media spending by “support[ing] the election or defeat of candidates of an identified political party or the electoral prospects of an identified political party?” See A.R.S. § 16-971(2)(a)(vi).

### ***Commission Response***

#### **Question 1**

None of the examples provided in the AOR is “[a] public communication that promotes, supports, attacks or opposes a candidate [if made] within six months preceding an election involving that candidate.” These public communications are directed at encouraging communication with an elected official, who is also a candidate, and do not promote, support, attack or oppose the candidate.

#### **Question 2**

The VRKA does not require a candidate to be identified expressly as a candidate for a particular office in order to be clearly identified. Consequently, a public communication beginning 90 days before primary may be campaign media spending regardless of an express reference to a particular candidacy.

#### **Question 3**

No. Although each public communication warrants its own analysis, the three communications identified do not involve the electoral prospects of candidates of a particular party or the party itself. Each advertisement only mentions party as a means to another end, whether providing context for a call to action to contact a legislator, seeking to bring more people into association with the organization, or facilitating direct communication with a particular elected official.

## ***Background***

The facts presented in this advisory opinion are based on your AOR received February 23, 2024 and publicly available information.

Opportunity Arizona describes itself as an Arizona nonprofit corporation. AOR at 1. It states that it has obtained tax exempt status pursuant to Internal Revenue Code § 501(c)(4). *Id.* The organization states that it exists to “to build issue majorities and political power for policies that improve the lives of hardworking Arizonans.” *Id.*

The organization spends money on what it calls “political campaign intervention” as well as lobbying and “issue advocacy.” *Id.* For example, Opportunity Arizona states that it spends money urging the public to contact members of the state legislature on certain bills, thanks and criticizes legislators for their positions on bills and issues. The AOR contains specific examples of the kinds of communications Opportunity Arizona has used and it states that it intends to continue to use these kinds of communications. *Id.* at 2.

The AOR identifies five public communications for the Commission’s analysis. The Commission accepts for purposes of this response Opportunity Arizona’s assumption that all of the communications it discusses are public communications. The Commission also accepts the assumption that each legislator identified in the communications is a “candidate” as defined in the Act.

**Example 1.** First, the AOR identifies an advertisement that features a photo illustration of the state capitol building along with the text “Click to send a thanks to Senator [] for investing in house affordability!” followed by a link to “Visit [www.opportunityarizona.org](http://www.opportunityarizona.org) to learn more.” AOR at 2.

**Example 2.** The second public communication calls on people to email a particular lawmaker to urge her to change her position on what Opportunity Arizona claims are “barriers to voting.” It includes a photo of the legislator as well as a headline from the website Salon.com. The headline states “‘Hyper-partisan attack’: Arizona GOP advances voting bills inspired by conspiracy theories.” This public communication was published during the legislative session. AOR at 4.

**Example 3.** The third communication identifies policy values it identifies with a particular party. Specifically, the advertisement claims a party is in favor of “tax breaks for private jet owners,” giveaways for big business,” and “rigging the system for the elite” with the tag line “What is the Republican-led legislature

thinking.” The communication further states that “Arizona families are struggling. It’s time the Republican-led legislature stopped serving special interests and started serving us” Finally, the advertisement states: Join us to learn what your representatives are doing at the state capitol.”<sup>2</sup> This public communication, the AOR states, refers to an apparently prior legislative session, but does not specify when it was published. AOR at 4.

**Example 4.** The fourth public communication is a so-called patch call where a person calls someone with an offer to directly connect that person to an elected official’s office by phone.

[Q1] **MAGA extremists at the Arizona Capitol** are considering laws that make more barriers to early voting by mail - making it harder for everyone to vote, especially enlisted military and their families. But you can stop it RIGHT NOW. **Can I transfer you to Senator/Representative (NAME)’s office** right now so you can demand they pledge to protect early voting by mail?

1= Yes [GO TO PATCH STATEMENT]

2= No [GO TO CLOSING]

3= Unsure [READ] Laws are moving through the process that make more barriers to voting. Now is the time to call your State Senator/Representative to stop them. **I urge you to contact State Senator/Representative (NAME) and ask them to pledge to keep voting accessible for the active-duty military and their families.** [GO TO CLOSING]

4= Supports issue but does not want to patch [GO TO CLOSING]

5= Anti issue [GO TO CLOSING]

6= Refused to say [GO TO CLOSING]

7= Does not answer political surveys [GO TO CLOSING]

[PATCH STATEMENT] Great! Here’s what will happen next. In just a moment, **I’ll transfer you to Senator/Representative (NAME)’s office.** Whether you reach a live person or an answering machine, tell their office your name, where you live, and that they need to protect early voting by mail and drop offs. I’ll transfer you now. The next voice you hear will be someone in the office or instructions to leave a voicemail. [TRANSFER CALL]

[END CALL]

AOR at 4-5 (footnote omitted).

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<sup>2</sup> Opportunity Arizona also includes other potential variations on these communications. AOR at 4 fn. 2. This Response does not address those variations in view of the fact-specific analysis required.

**Example 5.** The fifth public communication features a photo illustration of a person placing a ballot envelope in a mailbox and the statement “For 30 years Arizona has voted by mail.” The next frame or slide of the public communication includes a photo of an Arizona legislator along with text stating “Opportunity Arizona” and “call 602-926- [] to tell Senator [] to protect our freedom to vote.” The AOR provides no information on when the advertisement ran.

### ***Legal analysis***

Voters passed the VRKA as Proposition 211 at the 2022 General Election and it was certified by Governor Doug Ducey in December 2022. The Act provides for reports by covered persons, that is, “any person whose total campaign media spending or acceptance of in-kind contributions to enable campaign media spending, or a combination of both, in an election cycle is more than \$50,000 in statewide campaigns or more than \$25,000 in any other type of campaigns.” A.R.S. § 16-971(7)(a). “For the purposes of [the VRKA], the amount of a person’s campaign media spending includes campaign media spending made by entities established, financed, maintained or controlled by that person.” *Id.*

Campaign media spending is a defined term under the Act. This AOR addresses three definitions of campaign media spending:

A public communication that promotes, supports, attacks or opposes a candidate within six months preceding an election involving that candidate.

A public communication that refers to a clearly identified candidate within ninety days before a primary election until the time of the general election and that is disseminated in the jurisdiction where the candidate’s election is taking place.

An activity or public communication that supports the election or defeat of candidates of an identified political party or the electoral prospects of an identified political party, including partisan voter registration, partisan get-out-the-vote activity or other partisan campaign activity.

A.R.S. § 16-971(2)(a)(ii), (iii), (vi).

**Question 1:** If disseminated within six months “preceding an election involving” a sitting lawmaker who is running for reelection, do public communications like any of the examples provided in the AOR, that mention elected officials by name, but only in relation to their official positions or votes without referring to any election, qualify as campaign media spending by constituting “[a] public communication that promotes, supports, attacks or opposes” a candidate? *See* A.R.S. § 16-971(2)(a)(ii).

Campaign media spending includes “a public communication that promotes, supports, attacks or opposes a candidate within six months preceding an election involving that candidate.” A.R.S. § 16-971(2)(a)(ii).

The terms promote, support, oppose, or attack are not defined in the Act.<sup>3</sup> The examples described in this opinion do not turn on the application of those terms, but on how they bear on the word “candidate.” Unlike the definition in A.R.S. § 16-971(2)(a)(iii), which requires only that public communication “refer” to a “clearly identified candidate” this definition uses verbs that speak to an action that involves not just the person who is a candidate, but the candidacy itself.

For example, promote, as used in this context, means “to contribute to the growth or prosperity of: further,” “to help bring (something, such as an enterprise into being: launch,” or “to present (merchandise) for buyer acceptance through advertising, publicity, or discounting.” Promote, Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/promote> (last checked March 24, 2024). Thus, a public communication that is focused on a particular policy view of an elected official but does not mention their candidacy is not contributing to the growth of or advertising the candidate, even if it might refer to the candidate. The same reasoning would arise from applying the ordinary meaning of support, oppose or attack.<sup>4</sup>

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<sup>3</sup> The phrase “promote, support, oppose, or attack” is used in federal campaign finance law, but we have not found useful guidance that informs how it should be applied to respond to the questions raised in this AOR.

<sup>4</sup> Support, as used in this context, means “to promote the interests or cause of,” “to uphold or defend as valid or right: advocate [as in] supports fair play,” or “to argue or vote for [as in] supported the motion to lower taxes.” Support, Merriam Webster Dictionary, <https://www.merriam-webster.com/dictionary/support> (last checked March 24, 2024).

Oppose, as used here, means “to place opposite or against something [as in] oppose the enemy [or] oppose a congressional bill.” Oppose, Merriam Webster Dictionary, <https://www.merriam-webster.com/dictionary/oppose> (last checked March 24, 2024).

Example 1, which asks a person to click to send a thank you message to an elected official does not meet any of these terms. As a practical matter, it could only meet the definitions of promote or support. But in this case, it does neither. This “thank you” message is directed at a particular policy rather than the candidacy of the elected official.

Example 2 does not promote or support the subject of the communication, nor does it attack or oppose a candidate. Rather it asserts the elected official is working in favor of a policy OA would like to stop. This opposition to a specific kind of policy proposal would not come under A.R.S. § 16-971(2)(a)(ii).

Similarly, Examples 3, 4, and 5 do not qualify as “campaign media spending” under A.R.S. § 16-971(2)(a)(ii) because they do not “promote, support, attack or oppose” a candidate.

Example 3, which discusses “tax breaks for private jet owners,” does not refer to any individual, so it could not “promote, support, attack or oppose” a candidate.

Example 4, the so-called patch call, likewise does not fall under the ambit of § 16-971(2)(a)(ii) because it does not promote, support, attack or oppose a candidate. Rather, it involves a direct solicitation to immediately contact an elected official and demand a particular policy position. Though Example 4 may promote a particular policy, it does not promote or attack a candidate.

In the same way, Example 5 does not promote, support, attack or oppose a candidate. Instead, the communication calls on readers to urge the elected official/candidate to take a particular position.

Other provisions of the Act may apply to these communications under particular circumstances, but A.R.S. § 16-971(2)(a)(ii) does not.

**Question 2:** If disseminated within 90 days “before a primary election” in which a sitting lawmaker is running for office, do public communications like the examples provided in the AOR, that mention elected officials by name, but only in relation to their official positions or votes without referring to any election, qualify

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Attack, as used here, means “to assail with unfriendly or bitter words [as in] a politician verbally attacked by critics.” *Attack*, Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/attack> (last checked March 24, 2024).

as campaign media spending by constituting “[a] public communication that refers to a clearly identified candidate?” *See* A.R.S. § 16-971(2)(a)(iii).

Yes. The statute applies to communications that “refer[] to a clearly identified candidate.” Even though that phrase is undefined in the VRKA, there is no reason to deviate from the application of the same terminology in federal law or Arizona law. Consequently, a public communication beginning 90 days before primary may be campaign media spending regardless of an express reference to a particular candidacy.

Several of the examples provided by Opportunity Arizona refer to a sitting legislator who is presumably running for office, either reelection or another Arizona office covered by the Act. The organization asserts that “merely referring to the individual should not automatically convert the public communication to one that ‘refers to a clearly identified candidate’ for Campaign Media Spending purposes.” AOR at 9 (quoting A.R.S. § 16-971(2)(a)(iii)).

Opportunity Arizona suggests that “[t]o interpret the Act to [in this manner] would create an untenable proposition for organizations that wish to use donor funds not for electoral advocacy, but to hold current election officials accountable for their official acts that affect the lives of everyday Arizonans.”

Further, Opportunity Arizona argues that because the recall provisions of the Act refer to a “public officer” rather than a “candidate,” the Commission should infer that the Act is only triggered by a public communication that refers to a “clearly identified candidate” as “a candidate.” Put another way, Opportunity Arizona asserts that a communication suggesting that voters call Representative X about a bill 90 days before the primary simply does not implicate the Act. The phrase at issue, “refers to a clearly identified candidate,” however, does not support such a restrictive application.

Although the terms “clearly identified candidate” are not defined in the VRKA, they are defined in other federal and state laws. For example, federal law defines the terms “clearly identified” in a similar context to mean: “(A) the name of the candidate involved appears; (B) a photograph or drawing of the candidate appears; or (C) the identity of the candidate is apparent by unambiguous reference.” 52 U.S. Code § 30101(18).

In its recent order granting the Commission’s motion to dismiss, the Arizona District Court explained how the language in the VRKA parallels the federal standards:

Federal law imposes disclosure obligations for all “electioneering communications.” *See* 52 U.S.C. § 30104(f)(1). That term is defined as any communication that “refers to a clearly identified candidate for Federal office.” 52 U.S.C. § 30104(f)(3)(A)(i)(I). In 2010, the Supreme Court addressed and upheld the federal definition. According to the Supreme Court, the federal definition was permissibly applied to even a remarkably cursory reference to a candidate. *Citizens United v. Fed. Election Comm’n*, 558 U.S. 310, 368 (2010). One of the communications at issue was a ten second ad that stated, in full, “If you thought you knew everything about Hillary Clinton . . . wait ‘til you see the movie.” *Citizens United v. Fed. Election Comm’n*, 530 F. Supp. 2d 274, 276 (D.D.C. 2008). In determining this ad met the statutory definition of “refer[ring]” to a candidate, the Supreme Court rejected an argument that the definition needed to be narrowed. *Citizens United*, 558 U.S. at 368-69.

*Americans for Prosperity v. Meyer*, No. CV-23-00470-PHX-ROS, 2024 WL 1195467, at \*10 (D. Ariz. March 20, 2024).

Similarly, Arizona’s campaign finance code defines “clearly identified candidate” as “the name or a description, image, photograph or drawing of the candidate appears or the identity of the candidate is otherwise apparent by unambiguous reference.” A.R.S. § 16-901(9). The Arizona Court of Appeals has held that the candidacy of the clearly identified candidate is not necessary to meet this definition:

[T]he advertisement did not specifically identify [a person] as a candidate for Attorney General, no question exists that [the person] was in fact a “clearly identified candidate” as defined under Arizona’s statutory scheme. “‘Clearly identified candidate’ means that the name, a photograph or a drawing of the candidate appears or the identity of the candidate is otherwise apparent by unambiguous reference.” A.R.S. § 16-901(4). . . . In the advertisement promulgated by [the organization], [the person] was identified through his name, photographs, and his prior and then-current public offices. Moreover, by the time the advertisement was run, [the person] had been clearly identified to the general populace as the Republican candidate for Attorney General. It was unnecessary for the advertisement to further identify the position he sought.

*Comm. for Just. & Fairness v. Ariz. Sec’y of State*, 235 Ariz. 347, 354, ¶ 28 (App. 2014).<sup>5</sup>

The statutory definition of campaign media spending is consistent with the ordinary meaning of the phrase “clearly identified candidate” as used in campaign finance law in Arizona. Moreover, the relevant portion of the campaign media spending definition is expressly limited to the 90-day period before the primary election through the general election and the communication must be “disseminated in the jurisdiction where the candidate’s election is taking place.” A.R.S. § 16-971(2)(a)(iii).

Finally, the statute requires a reference to a clearly identified candidate, rather than active promotion, support, attack or opposition, as is required for campaign media spending further away from an election.<sup>6</sup>

**Question 3:** Does a public communication like Examples 2, 3, and 4 that refer generally to the legislative actions of a political party qualify as campaign media spending by “support[ing] the election or defeat of candidates of an identified political party or the electoral prospects of an identified political party?” See A.R.S. § 16-971(2)(a)(vi).

No. Although each public communication warrants its own analysis, the three communications identified do not involve the electoral prospects of candidates of a particular party or the party itself. Each advertisement only mentions party as a means to another end, whether providing context for a call to action to contact a legislature, seeking to bring more people into association with the organization, or facilitating direct communication with a particular elected official.

The organization cites three public communications that are included in two sets of examples. AOR at 3-5. Two are advertisements and one is a so-called “patch call” script. For ease of reference the descriptions of these public communications employed above in response to Question 1 are repeated here.

Example 2 calls on people to email a particular lawmaker to urge her to change her position on what Opportunity Arizona claims are “barriers to voting.” It

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<sup>5</sup> Substantially the same language appears today in A.R.S. §16-901(9).

<sup>6</sup> Laws 2012, ch. 257 removed a similar provision from A.R.S. § 16-901.01. That provision required a “general public communication” that identified a “clearly identified candidate” to be reported at certain thresholds “[i]n the sixteen-week period immediately preceding a general election.”

includes a photo of the legislator as well as a headline from the website Salon.com. The headline states “‘Hyper-partisan attack’: Arizona GOP advances voting bills inspired by conspiracy theories.”

Example 3 identifies policy values it identifies with a particular party. Specifically, the advertisement claims a part is in favor of “tax breaks for private jet owners,” “giveaways for big business,” and “rigging the system for the elite” with the tag line “What is the Republican-led legislature thinking.” The communication further states that “Arizona families are struggling. It’s time the Republican-led legislature stopped serving special interests and started serving us.” Finally, the advertisement states: “Join us to learn what your representatives are doing at the state capitol.”

Example 4, the patch call script, was reproduced in the AOR at 4-5 and is set forth above.

The Act provides that campaign media spending includes “[a]n activity or public communication that supports the election or defeat of candidates of an identified political party or the electoral prospects of an identified political party, including partisan voter registration, partisan get-out-the-vote activity or other partisan campaign activity.” None of these three examples meet that definition.

Example 2 only mentions a party in the form of an apparently authentic headline from a news story, albeit from a news site associated with a left-of-center point of view. The headline thus provides context for the main call to action in the communication. Because it does not “support . . . the defeat” of candidates of a particular political party, it does not fall under the definition in § 16-971(2)(a)(vi).

Example 3 purports to identify policies associated with a political party. But rather than its “electoral prospects,” the advertisement’s call to action is to join Opportunity Arizona to receive more information about that party’s supposed positions. A call to action that is specifically designed to bring more people into association with Opportunity Arizona is not itself a public communication having to do with a party’s electoral prospects.

Finally, Example 4, while using a term of derision for a party, uses that term in a particular context—facilitating a direct communication with an elected official. This publication is narrow and, in the context of the call, the derisive term enhances the efficiency of the solicitor’s call as by sorting those who might be responsive to such a term from those who would not be.

## ***Conclusion***

A Commission advisory opinion “may be relied upon by any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered, and any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.” Ariz. Admin. Code § R2-20-808(C)(3). A “person who relies upon an advisory opinion and who acts in good faith in accordance with that advisory opinion shall not, as a result of any such act, be subject to any sanction provided in Chapter 6.1 of Title 16.” *Id.* at (C)(4). Advisory opinions may be affected by later events, including changes in law.

Sincerely,



April 5, 2024

*Submitted electronically to [ccec@azcleaselections.gov](mailto:ccec@azcleaselections.gov).*

Arizona Citizens Clean Elections Commission  
c/o Thomas Collins, Executive Director  
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**Re: Supplemental Comments Regarding AOR 24-01 and Draft AO 24-03**

Dear Commissioners,

Campaign Legal Center (“CLC”) respectfully submits these supplemental written comments in response to AOR 24-01,<sup>1</sup> the request for an Advisory Opinion submitted by Opportunity Arizona regarding the Voters’ Right to Know Act (“the Act”), and Draft Advisory Opinion 24-03 (“Draft AO”).<sup>2</sup>

CLC is a nonpartisan, nonprofit organization dedicated to protecting and strengthening democracy through law at all levels of government. Since its founding in 2002, CLC has participated in every major campaign finance case before the U.S. Supreme Court and in numerous other federal and state court proceedings. Our work promotes every American’s right to an accountable and transparent democratic system.<sup>3</sup>

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<sup>1</sup> AOR 24-01, Request for Advisory Opinion from Opportunity Arizona (Feb. 23, 2024), <https://storageccec.blob.core.usgovcloudapi.net/public/docs/976-2024-02-23-Ltr-re-AO-Request--Opportunity-Arizona.pdf>.

<sup>2</sup> Ariz. Citizens Clean Elections Comm., Notice of Public Meeting and Possible Executive Session of the State of Arizona Citizens Clean Elections Commission – Draft Advisory Opinion 2024-03 (Mar. 28, 2024), 75-85, <https://storageccec.blob.core.usgovcloudapi.net/public/docs/1022-Meeting-Packet-3-28-24.pdf> (hereinafter “Draft AO”).

<sup>3</sup> CLC’s affiliated 501(c)(4) organization, CLC Action, represents Voters’ Right to Know, the political committee established to support Proposition 211, in ongoing litigation relating to the Act.

CLC previously submitted comments to the Commission regarding the second question presented in AOR 24-01—the interpretation of A.R.S. § 16-971(2)(a)(iii).<sup>4</sup> CLC is providing these supplemental comments in response to the Commission’s request for additional comments focusing on the first issue presented in AOR 24-01—the interpretation of A.R.S. § 16-971(2)(a)(ii). This provision defines “campaign media spending” to include a public communication that “promotes, supports, attacks, or opposes a candidate within six months preceding an election involving that candidate.”<sup>5</sup>

Our comments will first explain that we agree with the Commission’s interpretation of § 16-971(2)(a)(iii). We will then discuss why the terms of § 16-971(2)(a)(ii), the context of the federal law from which § 16-971(2)(a)(ii) is drawn, and the interpretation of similar state laws support interpreting § 16-971(2)(a)(ii) more narrowly than in the current Draft AO.

### **I. Draft AO 24-03’s interpretation of A.R.S. § 16-971(2)(a)(iii)**

CLC strongly supports the Commission’s proposed interpretation of § 16-971(2)(a)(iii) in the Draft AO. As we explained in our prior comments, disclosure under § 16-971(2)(a)(iii) is not limited to communications that expressly reference an election or identify a candidate “as a candidate.” In fact, this is an essential element of disclosure requirements for ads that fall under § 16-971(2)(a)(iii)—often called “electioneering communications—to prevent evasion of disclosure simply by omitting certain words.<sup>6</sup>

The Commission’s interpretation is also supported by a recent federal court decision upholding the Voters’ Right to Know Act. In *Americans for Prosperity, et al. v. Damien R. Meyer, et al.*, the District of Arizona held that § 16-971(2)(a)(iii) was analogous to federal disclosure laws for electioneering communications, and that the similar federal language requiring disclosure for communications that “refer[] to a clearly identified candidate” “was permissibly applied to even a remarkably cursory reference to a candidate.”<sup>7</sup> The court specifically pointed to *Citizens United*, noting that the brief ads promoting *Hillary: The*

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<sup>4</sup> *CLC Comments regarding AOR 24-01*, Campaign Legal Ctr. (Mar. 8, 2024), <https://campaignlegal.org/sites/default/files/2024-04/CLC%20Comment%20on%20AZ%20CCEC%20AOR%2024-01%20%283.8.24%29.pdf>.

<sup>5</sup> A.R.S. § 16-971(2)(a)(ii).

<sup>6</sup> Campaign Legal Ctr., *supra* note 4, at 4-6.

<sup>7</sup> *Americans for Prosperity, et al., Plaintiffs, v. Damien R Meyer, et al., Defendants. Additional Party Names: Americans for Prosperity Found.*, No. CV-23-00470-PHX-ROS, 2024 WL 1195467, at \*10 (D. Ariz. Mar. 20, 2024) (discussing *Citizens United v. Fed. Election Comm’n*, 558 U.S. 310, 368 (2010)).

*Movie*, a video-on-demand documentary, qualified as electioneering communications.<sup>8</sup> Given the Court’s prior rejection of arguments that “refer[ring]” to a candidate should be interpreted narrowly in *Citizens United*, the District of Arizona rebuffed plaintiffs’ argument that the analogous provision in the Voters’ Right to Know Act was not sufficiently narrowly tailored.<sup>9</sup>

## II. Draft AO 24-03’s interpretation of A.R.S. § 16-971(2)(a)(ii)

The Draft AO appears to interpret § 16-971(2)(a)(ii) to cover a public communication that in any way “promotes, supports, attacks or opposes” a person who is a candidate for office. CLC recommends that the Commission take a narrower approach than the current Draft AO and, instead, interpret § 16-971(2)(a)(ii) to apply to communications that promote, support, attack, or oppose (“PASO”) a person’s candidacy or otherwise reference their candidacy for office in promoting, supporting, attacking, or opposing them.

As explained below, the terms used by § 16-971(2)(a)(ii)—“promotes, supports, attacks or opposes”—are qualitatively different from § 16-971(2)(a)(iii)’s use of “refer.” Additionally, § 16-971(2)(a)(ii) is drawn from similar standards that have been adopted and implemented at both the federal level and in other states, which generally apply to communications that in some way refer to a person’s candidacy or the election they are running in. Taken altogether, these factors support a narrower interpretation of § 16-971(2)(a)(ii).

### A. *The terms of A.R.S. § 16-971(2)(a)(ii)*

As the Draft AO explains, the Voters’ Right to Know Act does not provide definitions of the terms “promotes,” “supports,” “attacks,” or “opposes.” Thus, the Draft AO identifies common definitions of those terms in interpreting § 16-971(2)(a)(ii). Although the definitions identified by the Draft AO are not controversial, we believe the Draft AO’s application of those definitions overlooks important context in how those terms are generally used.

Specifically, at least the terms “supports” and “opposes” suggest that, when used in reference to a person, a particular *aspect* or *trait* of that person is at issue. For example, when saying that you are “supporting” or “opposing” another person, that generally refers to supporting or opposing them in a specific context—such as for an elected office or for a new job—or for a particular task they are undertaking—such as to raise funds for a cause. As a type of activity covered within “campaign media spending,” those terms would seemingly refer to supporting or opposing a person *as a candidate*. And while the terms

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<sup>8</sup> *Id.* One of the communications at issue was a brief ten second ad stating, “If you thought you knew everything about Hillary Clinton...wait ‘til you see the movie.” *Citizens United v. Fed. Election Comm’n*, 530 F. Supp. 2d 274, 276 (D.D.C. 2008).

<sup>9</sup> *Americans for Prosperity*, 2024 WL 1195467, at \*10.

“promotes” or “attacks” generally may not have a more limited connotation, their use with “supports” and “opposes” in this provision—again, regulating “campaign media spending”—indicates they should also be interpreted to focus on the person’s status as a candidate.

These terms stand in contrast to the term “refers” as used in § 16-971(2)(a)(iii), which, in this context, means “to direct attention usually by clear and specific mention.”<sup>10</sup> A communication can easily “refer” to a person—or other object—without referring to a particular aspect of that person—as supported by the consistent interpretation of similar provisions by courts to *not* require reference to a person’s status as a candidate.<sup>11</sup>

To the extent that there remains ambiguity as to how broadly or narrowly the terms of § 16-971(2)(a)(ii) should be interpreted, though, the context and interpretation of similar laws (as discussed below) provides further support for a narrower interpretation.

### *B. Federal law*

The standard utilized in § 16-971(2)(a)(ii) originated in federal law as part of the Bipartisan Campaign Reform Act of 2002 (BCRA). Among the substantial federal reforms adopted in BCRA were several policies to eliminate “soft money” in federal elections—that is, money previously raised by political parties for supposedly “nonfederal” purposes and not subject to federal law restrictions on sources and amounts of contributions.<sup>12</sup> Although the “cornerstone” of BCRA’s elimination of soft money was barring national political parties from accepting *any* money that was not subject to federal law’s source and amount restrictions, BCRA also placed restrictions on federal candidates, state and local political parties, and state and local candidates to prevent them from circumventing the ban on soft money to national political parties.<sup>13</sup>

Specifically, BCRA barred state and local political parties and candidates from accepting soft money to engage in “federal election activity.”<sup>14</sup> BCRA then defined “federal election activity” to focus on spending “used to benefit federal candidates directly.”<sup>15</sup> Amongst the covered activity was:

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<sup>10</sup> *Refer*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/refer> (last visited Apr. 5, 2024).

<sup>11</sup> Campaign Legal Ctr., *supra* note 4, at 4-6.

<sup>12</sup> *McConnell v. FEC*, 540 U.S. 93, 122-26, 133-34 (2003).

<sup>13</sup> *Id.* at 133-34.

<sup>14</sup> 52 U.S.C. § 30125(b).

<sup>15</sup> *McConnell*, 540 U.S. at 167.

[A] public communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate).<sup>16</sup>

In 2003, the Supreme Court upheld BCRA’s soft-money restrictions—both generally the bar on state and local parties spending soft money on federal election activity and specifically the bar on state and local parties spending on PASO public communications. In doing so, the Court noted that “any public communication that promotes or attacks a clearly identified Federal candidate directly affects the election in which he is participating.”<sup>17</sup> Viewed in this context, the thrust of federal law’s coverage of PASO communications was to focus on ads that fell short of express advocacy but nonetheless positively or negatively address a person’s candidacy for office. While the terms of 52 U.S.C. § 30101(2)(A)(iii) and A.R.S. § 16-971(2)(a)(ii) are not identical, A.R.S. § 16-971(2)(a)(ii) is clearly modeled after 52 U.S.C. § 30101(2)(A)(iii) and would reasonably be interpreted similarly.

### C. Other states’ laws.

Although the Voters’ Right to Know Act is groundbreaking in many respects, Arizona does not stand alone in applying disclosure requirements to PASO communications. Other states utilizing similar standards for regulating electoral communications, and these laws have been upheld by courts across the country.<sup>18</sup> As many of those decisions illustrate, these similar laws have generally been interpreted to reflect that PASO communications must refer to a person’s status as a candidate in some way to be covered.<sup>19</sup> Again, while none of these examples is identical to A.R.S. § 16-971(2)(a)(ii), the interpretation of similar laws in

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<sup>16</sup> 52 U.S.C. § 30101(2)(A)(iii). BCRA also barred state and local candidates from spending soft money on these PASO public communications as well. *See id.* § 30125(f).

<sup>17</sup> *McConnell*, 540 U.S. at 170.

<sup>18</sup> *See Yamada v. Snipes*, 786 F.3d 1182, 1192-94 (9th Cir. 2015); *Vermont Right to Life Comm., Inc. v. Sorrell*, 758 F.3d 118, 128-29 (2d Cir. 2014); *Ctr. for Individual Freedom, Inc. v. Tennant*, 706 F.3d 270, 285-87 (4th Cir. 2013); *Nat’l Org. for Marriage v. McKee*, 649 F.3d 34, 62-64 (1st Cir. 2011).

<sup>19</sup> *See, e.g., Yamada*, 786 F.3d at 1193 (9th Cir. 2015) (“Hawaii’s statutes are tied to an election-related object—the terms ‘advocates,’ ‘supports’ and ‘opposition’ refer only to ‘the nomination ... or election of the candidate’”); *Vermont Right to Life*, 758 F.3d at 130, 133 (citing *State of Vermont v. Green Mountain Future*, 86 A.3d 981, 997 (2013)) (In analyzing the phrase under a vagueness challenge, the Court determined “[‘supporting or opposing’] both refer to advocacy to vote in a particular way in an election.” In its First Amendment analysis, the Court further explained that “[the statutory definition] by its terms only reaches communications that take a position on an actual candidacy”); *McKee*, 649 F.3d at 63-4 (“the terms ‘promote’/‘promoting,’ ‘support,’ and ‘oppose’/‘opposition’ have an election-related object” in both the federal statute and in Maine).

the disclosure context provides additional reason to consider a narrower interpretation of § 16-971(2)(a)(ii) than proposed in the Draft AO.

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Section 16-971(2)(a)(ii)'s coverage of PASO communications essentially occupies a middle ground between the Act's coverage of express advocacy in § 16-971(2)(a)(i) and its coverage of ads that merely reference a candidate close to an election in § 16-971(2)(a)(iii).

Interpreting the reach of § 16-971(2)(a)(ii) thus requires the Commission to determine whether that provision is focused on communications referencing a person's candidacy (as with express advocacy) or covers all types of references to that person (as with electioneering communications). In our view, the better interpretation is the narrower one, and we therefore recommend the Commission interpret § 16-971(2)(a)(ii) to apply only to ads that promote, support, attack, or oppose a person's candidacy or otherwise reference their candidacy for office in promoting, supporting, attacking, or opposing them.

### CONCLUSION

We thank the Commission for this additional opportunity to share comments regarding AOR 24-01 and the Draft AO. We would be happy to answer questions or provide additional information to assist the Commission's development of its Advisory Opinion.

Respectfully submitted,

/s Elizabeth D. Shimek

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April 5, 2024

**BY EMAIL**

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**Re: Comment Regarding AOR 2024-03**

Dear Commissioners:

Pursuant to A.A.C R2-20-808(B)(3)-(4), the undersigned attorneys at Elias Law Group LLP (“**ELG**”) submit this comment in response to the Arizona Citizen Clean Elections Commission (“**Commission**”) Advisory Opinion Request Draft 2024-03 (hereinafter, the “**Draft**”). The Draft was issued to Opportunity Arizona regarding the Voters’ Right to Know Act (“**the VRKA**”). ELG is a national, mission-driven law firm that represents organizations that engage in electoral and issue advocacy programming, including in Arizona. We hope to provide our clients clarity as to how the VRKA will impact their electoral and issue advocacy programming in 2024.

We commend the Commission for its thoughtful guidance regarding the VRKA’s implementation and agree with many of the Commission’s conclusions in the Draft. Our comment focuses on two issues: (1) arguing that a “genuine issue ad” (as defined by the U.S. Supreme Court in *Wisconsin Right to Life*) does not promote, support, attack, or oppose (“**PASO**”) a candidate within the meaning of A.R.S. § 16-971(2)(a)(ii); and (2) agreeing with the Draft’s conclusion that an activity or communication qualifies as “campaign media spending” under A.R.S. § 16-971(2)(a)(vi) only if it refers to an identified political party *and* either supports the election or defeat of candidates of that identified political party or the electoral prospects of that identified political party. Based on these principles, the Commission should conclude that Examples 1 and 2 in the Draft are **not** campaign media spending.

**I. Communications that qualify as “genuine issue ads” under *Wisconsin Right to Life* do not promote, support, attack, or oppose a candidate under the VRKA.**

In the Draft, the Commission evaluated whether several communications promote, support, attack, or oppose (“**PASO**”) a candidate. When interpreting statutory terms established by voter-approved ballot initiatives, like the VRKA, the Commission’s primary objective must be “to place a reasonable interpretation on ‘the intent of the electorate that adopted it.’”<sup>1</sup> As set forth in

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<sup>1</sup> *State v. Estrada*, 201 Ariz. 247, 250 (2001) (quoting *Foster v. Irwin*, 196 Ariz. 230, 231 (2000)).

the VRKA’s statement of “Purpose and Intent,” the VRKA “is intended to protect and promote rights and interests guaranteed by the First Amendment of the United States Constitution and also protected by the Arizona Constitution, to promote self-government and ensure responsive officeholders, to prevent corruption and to assist Arizona voters in *making informed election decisions by securing their right to know the source of monies used to influence Arizona elections.*”<sup>2</sup> The VRKA, therefore, is aimed solely at activity that “influence[s] Arizona elections.”<sup>3</sup> It is not meant to regulate genuine issue advertisements.

Consistent with that clear intent to regulate electoral speech, the VRKA defines campaign media spending to include *each* of the following types of candidate-specific communications:

- (i) A public communication that expressly advocates for or against the nomination, or election of a candidate.
- (ii) A public communication that promotes, supports, attacks or opposes a candidate within six months preceding an election involving that candidate.
- (iii) A public communication that refers to a clearly identified candidate within ninety days before a primary election until the time of the general election and that is disseminated in the jurisdiction where the candidate’s election is taking place.<sup>4</sup>

The first type of candidate-specific communication – express advocacy – is the paradigmatic example of election-related speech.<sup>5</sup> The third type of candidate-specific communication presumes an election-related purpose based solely on the proximity to the election, like federal law does.<sup>6</sup> The second type of candidate-specific communication, the so-called PASO standard, regulates election-related speech that is broader than express advocacy within six months of an election. But consistent with the VRKA’s statement of “Purpose and Intent,” the PASO standard should not be interpreted to encompass genuine issue advertisements.

The Commission’s task is a difficult one. The VRKA does not define the term “promote, support, attack, or oppose.” Federal law also utilizes the PASO standard to classify the sources of funds that candidates and political parties may use to pay for certain communications.<sup>7</sup> But federal law, like Arizona law, does not define the term “promote, support, attack, or oppose.” And as the Commission observed in the Draft, identifying clear guidance from the Federal Election Commission (“*FEC*”) regarding the application of the PASO standard is difficult.<sup>8</sup>

Nonetheless, the FEC’s analysis of the PASO standard is instructive. In 2009-10, the FEC considered whether to adopt a regulatory definition of PASO; it ultimately chose not to do so.<sup>9</sup> In analyzing whether it should expand the PASO concept to speakers *other than candidates or*

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<sup>2</sup> Voters’ Right to Know Act (2022 Proposition 211), § 2 (emphasis added).

<sup>3</sup> *See id.*

<sup>4</sup> Ariz. Rev. Stat. § 16-971(2)(a)(i)-(iii).

<sup>5</sup> *See generally Buckley v. Valeo*, 424 U.S. 1 (1976).

<sup>6</sup> *See* 11 C.F.R. §§ 100.29, 109.21(c)(4).

<sup>7</sup> *See* 52 U.S.C. § 30101(20)(A)(iii); 11 C.F.R. §§ 300.33(c), 300.71.

<sup>8</sup> Draft at n. 3.

<sup>9</sup> *See* Coordinated Communications, 74 Fed. Reg. 53893 (Oct. 21, 2009); Coordinated Communications, 75 Fed. Reg. 55947 (Sept. 15, 2010).

party committees, the FEC observed:

The Supreme Court in *McConnell* upheld the statutory PASO standard in the context of BCRA's provisions limiting party committees' Federal election activities to Federal funds, noting that "any public communication that promotes or attacks a clearly identified Federal candidate directly affects the election in which he is participating." *McConnell*, 540 U.S. at 170. The Court further found that Type III Federal election activity was not unconstitutionally vague because the "words 'promote,' 'oppose,' 'attack,' and 'support' clearly set forth the confines *within which potential party speakers* must act in order to avoid triggering the provision." *Id.* at 170 n. 64. The Court stated that the PASO words "'provide explicit standards for those who apply them' and 'give the person of ordinary intelligence a reasonable opportunity to know what is prohibited.'" *Id.* (quoting *Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972)). The Court stated that this is "particularly the case" with regard to Federal election activity, "*since actions taken by political parties are presumed to be in connection with election campaigns.*" *Id.*<sup>10</sup>

The Supreme Court – and, by extension, the FEC – could presume that PASO communications were electoral speech because, by definition, they were spoken by political parties. Here, conversely, the Commission is not so fortunate because the VRKA's PASO standard applies to the speech of nonprofit organizations, which *cannot* be "presumed to be in connection with election campaigns."<sup>11</sup> Unlike the FEC, therefore, the Commission must interpret the PASO standard to distinguish between electoral speech and issue speech.

The proposed test set forth in the Draft fails to do so. By treating public communications as campaign media spending if they attribute a position on an issue to an elected official (who is also a candidate) and express support for or opposition to that position, the Commission construes the PASO standard to improperly regulate genuine issue advertisements. In *Wisconsin Right to Life* ("*WRTL*"), the Supreme Court set forth the clearest definition to date as to what constitutes a genuine issue advertisement:

First, their content is consistent with that of a genuine issue ad: The ads focus on a legislative issue, take a position on the issue, exhort the public to adopt that position, and urge the public to contact public officials with respect to the matter. Second, their content lacks indicia of express advocacy: The ads do not mention an election, candidacy, political party, or challenger; and they do not take a position on a candidate's character, qualifications, or fitness for office.<sup>12</sup>

Examples 1 and 2 in the Draft qualify as genuine issue advertisements under the *WRTL* test. They focus on a legislative issue, take a position on the issue, exhort the public to adopt that position, and urge the public to contact public officials with respect to the matter. They do not mention an election, candidacy, political party, or challenger; and they do not take a position on a candidate's character, qualifications, or fitness for office. Although the Examples reference "GOP" and "Republican" (e.g., "Arizona GOP advances voting bills inspired by conspiracy theories", "Republican-led legislature"), it is obvious that the references are intended to refer to

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<sup>10</sup> 74 Fed. Reg. at 53898 (emphasis added).

<sup>11</sup> *See id.*

<sup>12</sup> *Fed. Election Comm'n v. Wisconsin Right To Life, Inc.*, 551 U.S. 449, 470 (2007)

the Republican legislative caucus or Republican legislators, not the political parties. Advertisements that meet this standard are genuine issue advertisements; they are not intended to influence an election. Because the VRKA only regulates election-influencing ads, genuine issue advertisements fall outside the communications regulated by the VRKA's PASO test.

We read the comment of our friends at the Campaign Legal Center ("**CLC**") with interest. But nothing in that comment is inconsistent with the test we propose. We agree with CLC that the U.S. Constitution permits states to require disclosure of funding sources for advertisements lacking express advocacy; the VRKA clearly does so, and our comment does not pose a constitutional objection to it. Citing *Committee for Justice & Fairness v. Arizona Secretary of State's Office* ("**CJF**"), CLC argues that an advertisement can meet the PASO standard even if it does not specifically identify a candidate in their candidacy capacity. We concur. But what CLC does not – and cannot – argue is that the VRKA itself regulates genuine issue advertisements. Nor did the *CJF* case involve a genuine issue advertisement; the court found that CJF's advertisement had express advocacy.<sup>13</sup> Conversely, Examples 1 and 2 are genuine issue advertisements under the *WRTL* test and are therefore outside the scope of the VRKA.

**II. An activity or communication qualifies as “campaign media spending” under A.R.S. § 16-971(2)(a)(vi) only if it refers to a political party *and* either supports the election or defeat of candidates of that identified political party or the electoral prospects of that identified political party.**

Under the VRKA, campaign media spending includes “an activity or public communication that supports the election or defeat of candidates of an identified political party or the electoral prospects of an identified political party, including partisan voter registration, partisan get-out-the-vote activity or other partisan campaign activity.”<sup>14</sup> The Draft correctly interprets this provision to require that the activity or communication both: “mention” (*e.g.*, refer to) a political party and either support the election or defeat of candidates of that identified political party *or* the electoral prospects of that identified political party. Because Examples 2 through 4 fail the second prong of that test, they do not constitute campaign media spending under A.R.S. § 16-971(2)(a)(vi).

Sincerely,

Jonathan S. Berkon  
Emma Olson Sharkey  
Emma R. Anspach

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<sup>13</sup> *Comm. for Just. & Fairness v. Arizona Sec'y of State's Off.*, 235 Ariz. 347, 354 (Ct. App. 2014) (“In his conclusions of law, the ALJ concluded that ‘CJF's advertisement constituted express advocacy pursuant to A.R.S. § 16–901.01(A)(2).’ Although not bound by the ALJ's legal conclusion, we nevertheless agree with his conclusion and note the factual findings underpinning his reasoning are supported by substantial evidence.”).

<sup>14</sup> A.R.S. § 16-971(2)(a)(vi).

April 5, 2024

**Via Email**

Arizona Citizens Clean Elections Commission  
c/o Thomas Collins, Executive Director  
1110 West Washington Street  
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[ccec@azcleelections.gov](mailto:ccec@azcleelections.gov)

**RE: Comments regarding AOR 24-01 (Submitted Feb. 23, 2024)**

Dear Commissioners:

Progress Arizona respectfully submits these written comments in response to AOR 24-01 and the Draft Advisory Opinion 2024-03 distributed by the Commission, concerning the Voters' Right to Know Act (the "Act").

Progress Arizona is a nonprofit organization that serves as a digital hub for Arizona progressives and offers training, coaching and collaboration to grassroots groups to provide strategic rapid response capacity and execute cutting-edge digital campaigns. Specifically, Progress Arizona has in the past and intends in the future to engage in issue advocacy.

The Draft Opinion's interpretation of "promotes, supports, attacks or opposes" ("PASO") appears overly broad. PASO is a concept that is well-established in election law. Federal courts have extensively analyzed the phrase, including in *Wisconsin Right To Life, Inc. v. Fed. Election Comm'n*, where advertisements named two sitting Senators, addressed an issue of public concern—the filibuster of judicial nominees—and urged the ads' audience to contact the Senators and urge them to vote against the filibuster. [466 F. Supp. 2d 195, 207–08 \(D.D.C. 2006\)](#), *aff'd*, 551 U.S. 449, 127 S. Ct. 2652, 168 L. Ed. 2d 329 (2007). The court specifically found that "[t]he ads do not promote, attack, support, or oppose either Senator." *Id.* Identifying an issue and directing an elected official's constituents to contact the elected official with regard to the issue, is not PASO.

In [Yamada v. Snipes](#), the Ninth Circuit helpfully collected cases analyzing the phrase for vagueness. 786 F.3d 1182, 1193 (9th Cir. 2015). In each instance, the cases support the

conclusion that PASO is not vague *because* the phrase is “tied to an ‘election-related object’—either ‘candidate,’ ‘nomination or election of any candidate’ or ‘campaign.’” *Id.*<sup>1</sup>

Requiring the promotion, the support, the opposition or the attack to be in connection with an election is an important safeguard against allowing the definition of PASO to grow so broad that it capture issue advocacy into the definition of electioneering communications, or to use the Act’s terminology, campaign media spending.

The Draft Advisory Opinion at 7 notes that the first example in AOR 24-01 urges the ads’ proposed audience to thank the elected official for “for investing in housing affordability,” but then asserts that this is targeted to the elected official’s status as a candidate. It is not. The named individual’s support for affordable housing is a product of their work as an elected official—not as a candidate—work that impacts the elected official’s constituents and is not focused on a voting bloc.

By unmooring PASO from its well-established link to election-related objects, the Commission would be creating vagueness that this connection avoids. Furthermore, the Commission would be ignoring the Act’s deliberate use of a well-understood phrase from federal election law jurisprudence.

The Commission should also not adopt an interpretation of the Act that deprives any component of the Act of its meaning. The Act provides three tiers of candidate related communications that qualify as Campaign Media Spending.

- (i) A public communication that expressly advocates for or against the nomination, or election of a candidate.
- (ii) A public communication that promotes, supports, attacks or opposes a candidate within six months preceding an election involving that candidate.
- (iii) A public communication that refers to a clearly identified candidate within ninety days before a primary election until the time of the general election and that is disseminated in the jurisdiction where the candidate's election is taking place.

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<sup>1</sup> The terms were not impermissibly vague because they were tied to an “election-related object”—either “candidate,” “nomination or election of any candidate” or “campaign.” *McKee*, 649 F.3d at 64. Maine's expenditure statute, for example, “instructs that reports submitted pursuant to the provision ‘must state whether the expenditure is in *support* of or in *opposition* to the candidate.’ ” *Id.* at 63 n. 41 (quoting Me.Rev.Stat. tit. 21–A, § 1019–B(3)(B)). The Second, Fourth and Seventh Circuits have reached similar conclusions. *See Vermont Right to Life Comm., Inc. v. Sorrell*, 758 F.3d 118, 128–30 (2d Cir.2014) (holding that “promotes,” “supports,” “attacks” and “opposes” were not vague with reference to a “clearly identified candidate”); *Tennant*, 706 F.3d at 286–87 (holding that “promoting or opposing” was not vague); *Ctr. for Individual Freedom v. Madigan*, 697 F.3d 464, 485–87, 495 (7th Cir.2012) (holding that “promote” and “oppose” were not vague).

[Ariz. Rev. Stat. Ann. § 16-971\(2\)\(a\)](#).

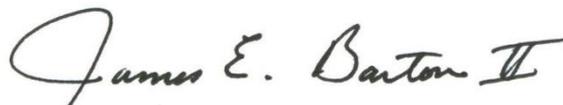
The first category, which is always Campaign Media Spending, includes statements about a clearly identified candidate that “in context can have no reasonable meaning other than to advocate the election or defeat of the candidate” [Ariz. Rev. Stat. Ann. § 16-901.01\(A\)\(2\)](#). Thanking an elected official for work that the official has done has another reasonable meaning—specifically encouraging the elected official to continue their work as an elected official in a similar way.

The second category, which does not take effect until 180 days before the election, is stricter. It would include praise that is related to future actions that would be tied to the election-related objects, but which did not unambiguously, and exclusively address voting a particular way in the upcoming election. It should not be read, however, to include any mention of a person who is also a candidate.

It is the third category, applicable 90 days from the election, that establishes any mention of the candidate’s name as Campaign Media Spending. In the Draft Opinion, the Commission proposes an interpretation of the second category that turns it into the third category. The voters approved a measure that treated these two concepts separately. The Commission should do so as well.

In conclusion, to preserve the ability for communication to constituents concerning the performance of the officials who govern them, and to avoid conflating those messages with advocacy that promotes, attacks, supports, or opposes a candidate in connection with an election, the Commission should amend the Draft Advisory Opinion to recognize that Examples 1 and 2 of AOR 24-01 are not campaign media spending.

Sincerely,

  
James E. Barton II  
*Counsel for Progress Arizona*

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April 5, 2024

*Via Email* ([thomas.collins@azcleaselections.gov](mailto:thomas.collins@azcleaselections.gov))

Arizona Citizens Clean Elections Commission  
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**Re: Comments on Draft AO 2024-03**

Dear Commissioners:

Stand for Children Arizona (“Stand AZ”) submits these comments in response to the Commission’s draft Advisory Opinion (“AO”) 2024-03. In the draft AO, the Commission responds to the Advisory Opinion Request (“AOR”) submitted by Opportunity Arizona. Stand AZ’s comments focus on Questions Presented (1) and (2).

Stand AZ is a nonprofit organization with separate arms organized under Internal Revenue Code §§ 501(c)(3) and (c)(4). Through these entities, Stand AZ focuses on empowering and educating parents, teachers, and community members to become active leaders and serve as a voice for children at the state and local levels. Stand AZ’s mission is to ensure that all children, regardless of their background, graduate from high school prepared for, and with access to, a college education. The Commission’s draft AO will impact Stand AZ because Stand AZ engages in similar traditional issue advocacy work that is the subject of Opportunity Arizona’s AOR.

Under Questions Presented (1) and (2), the Commission is considering how to interpret the “campaign media spending” definition under the Voters’ Right to Know Act (“Act”). These questions ask whether a public communication constitutes “campaign media spending” under A.R.S. § 16-971(2)(ii) or (iii) when it mentions “a sitting lawmaker who is running for reelection,” but only in relation to the lawmaker’s “official positions or votes”—“without referring to any election.” As explained below, Stand AZ urges the Commission to answer both these questions in the negative.

## Analysis

In November 2022, Arizonans approved the Act as a statutory initiative measure. The Commission’s “primary objective in construing statutes adopted by initiative is to give effect to the intent of the electorate.” *Ariz. Early Childhood Dev. & Health Bd. v. Brewer*, 221 Ariz. 467, 470 ¶ 10 (2009) (citation omitted).

The Commission should answer both these questions in the negative. There is no good reason to think that the electorate intended for the “campaign media spending” definition under A.R.S. § 16-971(2)(ii) or (iii) to sweep so broadly as to potentially require original-source disclosures for traditional issue advocacy work.

### **I. The Commission should conclude that these public communications are not “campaign media spending” under A.R.S. § 16-971(2)(iii).**

Section 16-971(2)(iii) provides, as relevant here, that “campaign media spending” includes a “public communication that refers to a clearly identified candidate within ninety days before a primary election until the time of the general election.” The question, then, is whether the electorate intended for a public communication in this period to refer to “a clearly identified candidate” when it mentions a sitting lawmaker who is running for reelection, but only in the lawmaker’s official capacity—relating to the lawmaker’s “official positions or votes.”

The draft AO concludes (at 9) that “a public communication need not expressly identify a candidate as a candidate for a specific office in order for that candidate to be clearly identified.” To support this interpretation of A.R.S. § 16-971(2)(iii), the draft AO asserts that the Commission is “bound” by a statutory interpretation in *Comm. for Just. & Fairness v. Ariz. Sec’y of State*, 235 Ariz. 347 (App. 2014).

Respectfully, Stand AZ disagrees with the Commission’s analysis. In *Comm. for Just. & Fairness*, the court of appeals interpreted the definition of “clearly identified candidate” in A.R.S. § 16-901(9). But that definition applies only “[i]n this chapter”—*i.e.*, in Title 16, Chapter 6. A.R.S. § 16-901. The Act is not in that Chapter. The Act exists in a Chapter of its own—*i.e.*, in Title 16, Chapter 6.1. By its terms, A.R.S. § 16-901(9) thus does not apply to the Act. That’s especially true given that some definitions in the Act expressly incorporate the definitions in A.R.S. § 16-901. *See, e.g.*, A.R.S. § 16-971(3), (4), (15), (16). This “consistent pattern” shows that had the electorate intended to define “clearly identified candidate” consistent with A.R.S. § 16-901(9), it “would have expressly done so.” *Est. of Braden ex rel. Gabaldon v. State*, 228 Ariz. 323, 327 ¶ 15 (2011). As a result, the Commission should conclude that “clearly identified candidate” in A.R.S. § 16-971(2)(iii) is undefined in the Act.

*State ex rel. Brnovich v. Maricopa Cnty. Cmty. Coll. Dist. Bd.*, 243 Ariz. 539 (2018), illustrates these principles. In that case, a statute provided a definition “for purposes of this paragraph.” *Id.* at 542 ¶ 13. The Maricopa County Community College District Board (“MCCCD”) argued that the definition extended beyond “this paragraph” because it was “the only definition” for this term in the whole statutory scheme. *Id.* The Supreme Court rejected MCCCD’s argument. It noted that MCCCD had ignored that the definition was “qualified ‘for purposes of this paragraph’ only.” *Id.* ¶ 14. “That limiting clause is emptied of meaning if, as MCCCD contends, the definition extends” beyond the pertinent paragraph. *Id.* The same is true here.

Having established that A.R.S. § 16-901(9) does not apply and that the Commission is not bound by *Comm. for Just. & Fairness*, the Commission should determine what the electorate intended when it adopted A.R.S. § 16-971(2)(iii). In this analysis, the Commission can “consider such materials as statements of findings passed with the measure as well as other materials in the Secretary of State’s publicity pamphlet.” *Ariz. Early Childhood Dev. & Health Bd.*, 221 Ariz. at 471 ¶ 14.

Here, nothing in the Act or the Act’s supporting materials suggests that the electorate intended for traditional issue advocacy work to constitute “campaign media spending” under A.R.S. § 16-971(2)(iii). For starters, the statute’s plain language covers only public communications referring to “a clearly identified candidate.” But traditional issue advocacy work does not refer to “candidates” as “candidates” at all. Examples 1 and 2 in the AOR refer to sitting lawmakers only in the lawmakers’ official capacities, not in their candidate capacities. This distinction matters because organizations—and voters—may have differing views on a lawmaker’s specific official positions or votes and the lawmaker’s electoral success or failure as a candidate.<sup>1</sup> An organization may wish to “thank” a lawmaker (or on the flip side, hold the lawmaker accountable) for taking specific official positions that it supports (or opposes) while expressing no view on whether the organization would prefer for the lawmaker or the lawmaker’s opponent to prevail as a candidate in an election. The Commission should not interpret A.R.S. § 16-971(2)(iii) so broadly as to capture these communications as “campaign media spending” because they do not refer to lawmakers as “candidates.”

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<sup>1</sup> Consider some examples. A Republican-leaning organization could feasibly applaud Governor Hobbs for a specific official position (*e.g.*, for signing a specific bill) without necessarily supporting her candidacy against a Republican opponent in a 2026 election. So too, a Democratic-leaning organization could feasibly praise a Republican legislator for a specific official vote on a specific bill without necessarily supporting their candidacy against a Democratic opponent in a future election.

Proposition 211’s publicity pamphlet supports this interpretation. Arizonans stated (§ 2(B)) that they adopted the Act to “secur[e] their right to know the source of monies used to influence Arizona elections.” (Emphasis added).<sup>2</sup> Traditional issue advocacy work—like Examples 1 and 2 in the AOR—refer to sitting lawmakers only in the lawmakers’ official capacities. They do not express a view on—much less try to influence—any election. Again: Traditional issue advocacy work may refer to a “clearly identified” lawmaker. But that’s not what A.R.S. § 16-971(2)(iii) covers. Traditional issue advocacy work does not refer to these lawmakers as “candidates.”

This reading is all the more important given the Legislature’s modern practice on when it decides to end its legislative sessions. Section 16-921(2)(iii) applies to public communications “within ninety days before a primary election until the time of the general election.” The problem, though, is that the Legislature has recently stayed in session well into this 90-day period. Organizations have a continuing need to engage in traditional issue advocacy work for as long as lawmakers stay in session and take official positions or place official votes. Making these communications “campaign media spending” would needlessly clamp down on (by potentially requiring original-source disclosures for) traditional issue advocacy work in ways divorced from A.R.S. § 16-971(2)(iii)’s text and Prop. 211’s publicity pamphlet.

In short, and contrary to the draft AO, the Commission should conclude that a public communication in the relevant period that mentions “a sitting lawmaker who is running for reelection,” but only in relation to the lawmaker’s “official positions or votes,” is not “campaign media spending” under A.R.S. § 16-971(2)(iii).

## **II. The Commission should conclude that these public communications are not “campaign media spending” under A.R.S. § 16-971(2)(ii).**

Section 16-971(2)(ii) provides that “campaign media spending” includes a “public communication that promotes, supports, attacks or opposes a candidate within six months preceding an election involving that candidate.” Like the previous section, the question here is whether the electorate intended for a public communication in this period to refer to “a candidate” when it mentions a sitting lawmaker who is running for reelection, but only in the lawmaker’s official capacity—relating to the lawmaker’s “official positions or votes.”

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<sup>2</sup> Arizona 2022 General Election Publicity Pamphlet, Ariz. Sec’y of State, [https://apps.azsos.gov/election/BallotMeasures/2022/azsos\\_2022\\_publicity\\_pamphlet\\_standard\\_english\\_web\\_version.pdf](https://apps.azsos.gov/election/BallotMeasures/2022/azsos_2022_publicity_pamphlet_standard_english_web_version.pdf).

The draft AO relies (at 6) on dictionary definitions for “promotes, supports, attacks, [and] opposes.” And it concludes that a “public communication that mentions a candidate ‘promotes, supports, attacks or opposes’ that candidate—and thus qualifies as campaign media spending—if the public communication discusses the candidate’s prior positions or votes.”

Respectfully, again, Stand AZ disagrees with the Commission’s analysis. By focusing on the statutory language “promotes, supports, attacks or opposes,” the Commission overlooks the key phrase: “a candidate.” A.R.S. § 16-971(2)(ii). As the previous section explains, traditional issue advocacy work does not refer to “candidates” as “candidates.” A public communication that discusses a lawmaker’s “prior positions or votes” is a communication about the lawmaker’s official capacity as a lawmaker, not about the lawmaker’s capacity as a candidate. The Commission should conclude that these public communications are not “campaign media spending” under A.R.S. § 16-971(2)(ii) for all the same reasons that this Commission should conclude that they are not “campaign media spending” under A.R.S. § 16-971(2)(iii). Stand AZ thus incorporates the previous section here by reference.<sup>3</sup>

Beyond that, traditional issue advocacy work that refers only to a lawmaker in the lawmaker’s official capacity and that merely “discusses [a] candidate’s prior positions or votes” is not “campaign media spending.” Especially in this context, where a public communication is not even referring to a lawmaker in the lawmaker’s candidate capacity, references to a lawmaker’s “prior positions or votes” are fact-based and do not “promote, support, attack or oppose” any candidate. The Commission should thus conclude that they are not “campaign media spending.”

The six-month period under A.R.S. § 16-971(2)(ii) only reinforces this interpretation. Given the Act’s definition of “candidate” [*see* AOR at 8 & n.4], a lawmaker could constitute a “candidate” for almost an entire legislative session. If the Commission interprets A.R.S. § 16-971(2)(ii) this broadly, nearly all traditional issue advocacy work that refers to such a lawmaker in the legislative session could amount to “campaign media spending” and potentially require original-source disclosures. Nothing in the Act or the Act’s supporting materials shows any intent from the electorate to create such a sea change in traditional issue advocacy work.

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<sup>3</sup> Even if the Commission were to disagree with the previous section’s analysis about the inapplicability of A.R.S. § 16-901(9) and *Comm. for Just. & Fairness*, the rest of the analysis applies with full force here because A.R.S. § 16-971(2)(ii) refers only to “a candidate,” not a “clearly identified candidate” like A.R.S. § 16-971(2)(iii).

To sum up, and contrary to the draft AO, the Commission should conclude that a public communication in the relevant period that mentions “a sitting lawmaker who is running for reelection,” but only in relation to the lawmaker’s “official positions or votes,” is not “campaign media spending” under A.R.S. § 16-971(2)(ii).

### **Conclusion**

Stand AZ commends the Commission for its work issuing Advisory Opinions to implement the Act and provide guidance about its meaning. For this draft AO, Stand AZ urges the Commission to answer Questions Presented (1) and (2) in the negative.

Sincerely,

A handwritten signature in black ink that reads "Austin C. Yost". The signature is written in a cursive, slightly slanted style.

D. Andrew Gaona  
Austin C. Yost

**Summary of Comments**

<p>Organization</p>	<p>A.R.S. § 16-971(2)(a)(ii)  A public communication that <b>promotes, supports, attacks or opposes</b> a candidate within six months preceding an election involving that candidate.</p> <p>(Referred to as PASO)</p>	<p>A.R.S. § 16-971(2)(a)(iii)  Clearly Identified Candidate</p> <p>A public communication that <b>refers to a clearly identified candidate</b> within ninety days before a primary election until the time of the general election and that is disseminated in the jurisdiction where the candidate's election is taking place.</p>	<p>A.R.S. § 16-971(2)(a)(vi)</p> <p>An activity or public communication that supports the election or defeat of candidates of an identified political party or the electoral prospects of an identified political party, including partisan voter registration, partisan get-out-the-vote activity or other partisan campaign activity.</p>
<p>Campaign Legal Center (CLC)</p>	<p>Draft opinion <b>is too broad.</b></p> <p>CLC recommends narrowing the application in the draft.</p> <p>Statute “refer[s] to supporting or opposing a person <i>as a candidate</i>”</p> <p>Language in the statute “should...be interpreted to focus on the person’s status as a candidate”</p>	<p>Draft opinion is right.</p> <p>Clearly Identified Candidate similar federal law has been interpreted to allow a “remarkably cursory reference to a candidate”</p> <p>In her order rejecting the First Amendment Claims, Judge Silver recently recognized that a cursory reference is sufficient.</p>	
<p>Progress Arizona</p>	<p>Draft opinion <b>is too broad.</b></p> <p>In order to PASO a candidate, the standard should be tied to an election-related object either candidate,</p>		

	<p>nomination or election of a candidate or campaign”</p> <p>Draft risks merging the PASO standard with the “refers to clearly identified candidate” standard</p> <p>Lays out how the disclosure standard get broader as you get closer to the election.</p>		
Elias Law Group	<p>Draft opinion <b>is too broad.</b></p> <p>The FEC has considered but ultimately not acted to draft regulations on this standard as it appears in federal law.</p> <p>However, the federal standard arises in the context of only a political party’s spending. Because party’s are presumed to be engaged in political spending, rather than issue spending that might work.</p> <p>Prop. 211 doesn’t just regulate parties, however, it regulates other spenders. Consequently the Commission’s application has to leave room for issue advocacy by non party spenders.</p> <p>Here, examples 1 &amp; 2 of the draft refer not to candidate, but to Republican legislators not Republican party.</p>		Draft correctly identifies the language of the statute. Draft correctly concludes examples 2-4 do not meet this standard.

<p>Stand for Children AZ</p>	<p>Draft opinion is too broad.</p> <p>The draft opinion is focused on the wrong issue. The issue is whether or not the advertisement refers to the candidate as candidate.</p> <p>The approach the Draft takes sweeps in issue advocacy which it should not.</p>	<p>Application of refers to a clearly identified candidate is wrong.</p> <p>Commission is not bound by the Court of Appeals decision in Committee for Justice and Fairness because that case addresses a specifically defined term in another section. That definition is not applicable to Prop. 211.</p> <p>Therefore commission must analyze the language on its own.</p> <p>The language should be interpreted narrowly to only apply to communications that refer to candidates as candidates, not communications that refer to</p>	
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# GET DEMOCRACY

**D**  **NE**

Revised Draft AO 24-03

# Campaign Media Spending

Means spending monies or accepting in-kind contributions to pay for any of the following:

- A public communication that promotes, supports, attacks or opposes a candidate within six months preceding an election involving that candidate.
- A public communication that refers to a clearly identified candidate within ninety days before a primary election until the time of the general election and that is disseminated in the jurisdiction where the candidate's election is taking place.
- An activity or public communication that supports the election or defeat of candidates of an identified political party or the electoral prospects of an identified political party, including partisan voter registration, partisan get-out-the-vote activity or other partisan campaign activity.

# Question 1

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- Would the examples included be considered “a public communication that promotes, supports, attacks or opposes a candidate within six months preceding an election involving that candidate.”
- Apply plain meaning of terms.





- Does not promote, support, attack, or oppose a candidate because the focus is on legislative policy. New draft narrower application.
  - Draft focused on use of a candidate's name.
  - Applies statute in a manner that recognizes need ease of application



- Does not promote, support, attack or oppose because focus is on legislation. Does not mention candidacy.



**TAX BREAKS FOR PRIVATE JET OWNERS <sup>1</sup>**

**GIVEAWAYS FOR BIG BUSINESS <sup>2</sup>**

**RIGGING THE SYSTEM FOR THE ELITE <sup>3</sup>**

**WHAT IS THE REPUBLICAN-LED LEGISLATURE THINKING?**

Arizona families are struggling. It's time the Republican-led legislature stopped serving special interests and started serving us.

**JOIN US TO LEARN WHAT YOUR REPRESENTATIVES ARE DOING AT THE STATE CAPITOL**

SCAN THE QR CODE TO LEARN MORE

GET THE FACTS

1. House Bill 2046, 2/25/22
2. House Bill 2022, 3/3/22
3. AZ House 10/25/2021

OPPORTUNITY ARIZONA  
PAID FOR BY  
**ARIZONA**  
OPPORTUNITY

- No candidate.

**GET DEMOCRACY**  
**D**  **ONE**  
 CLEAN ELECTIONS  
 OFFICIAL NONPARTISAN

[Q1] **MAGA extremists at the Arizona Capitol** are considering laws that make more barriers to early voting by mail - making it harder for everyone to vote, especially enlisted military and their families. But you can stop it RIGHT NOW. **Can I transfer you to Senator/Representative (NAME)'s office** right now so you can demand they pledge to protect early voting by mail?

1= Yes [GO TO PATCH STATEMENT]

2= No [GO TO CLOSING]

3= Unsure [READ] Laws are moving through the process that make more barriers to voting. Now is the time to call your State Senator/Representative to stop them. **I urge you to contact State Senator/Representative (NAME) and ask them to pledge to keep voting accessible for the active-duty military and their families.**

[GO TO CLOSING]

4= Supports issue but does not want to patch [GO TO CLOSING]

5= Anti issue [GO TO CLOSING]

6= Refused to say [GO TO CLOSING]

7= Does not answer political surveys [GO TO CLOSING]

[PATCH STATEMENT] Great! Here's what will happen next. In just a moment, **I'll transfer you to Senator/Representative (NAME)'s office.** Whether you reach a live person or an answering machine, tell their office your name, where you live, and that they need to protect early voting by mail and drop offs. I'll transfer you now. The next voice you hear will be someone in the office or instructions to leave a voicemail. [TRANSFER CALL]

[END CALL]

- “Patch call”-- Does not “promote, support, attack or oppose” candidate.
- Direct solicitation to immediately contact elected official





- Does not promote, support, attack or oppose
- Does not identify candidate's position on the issue.

## Question 2 – Clearly Identified Candidate

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- A public communication that refers to a clearly identified candidate within ninety days before a primary election until the time of the general election and that is disseminated in the jurisdiction where the candidate's election is taking place.
- Opportunity Arizona argument: Even if an elected official is running for reelection, merely referring to the individual should not automatically convert the public communication to one that “refers to a clearly identified candidate” for Campaign Media Spending purposes. A.R.S. § 16-971(2)(a)(iii). Should allow room for “issue advocacy” without counting as campaign media spending



## Question 2 – Clearly Identified Candidate

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- Not defined in statute, but statutory definition is consistent with ordinary meaning of terms.
- Statutory definition has been applied without mentioning candidacy.

In the advertisement promulgated by [the organization], [the person] was identified through his name, photographs, and his prior and then-current public offices. Moreover, by the time the advertisement was run, [the person] had been clearly identified to the general populace as the Republican candidate for Attorney General. It was unnecessary for the advertisement to further identify the position he sought.

*Comm. for Just. & Fairness v. Ariz. Sec’y of State*, 235 Ariz. 347 (App. 2014).



# Question 3 – Support the election or defeat of candidates of an identified political party or the electoral prospects of an identified political party.

Paid for by Opportunity Arizona

EMAIL

**JUSTINE WADSACK**  
to stop making  
*barriers to voting*  
for Arizonans

NEWS & POLITICS CULTURE FOOD **salon** SCIENCE & HEALTH

**“Hyper-partisan attack”:** Arizona GOP advances voting bills inspired by conspiracy theories  
GOP is targeting voting “based on the fact that they don’t like election results,” Democratic official says

By **AREEBA SHAH**  
Staff Writer



Headline provides context for call to action.

TAX BREAKS FOR PRIVATE JET OWNERS

GIVEAWAYS FOR BIG BUSINESS

RIGGING THE SYSTEM FOR THE ELITE

**WHAT IS THE REPUBLICAN-LED LEGISLATURE THINKING?**

Arizona families are struggling. It's time the Republican-led legislature stopped serving special interests and started serving us.

**JOIN US TO LEARN WHAT YOUR REPRESENTATIVES ARE DOING AT THE STATE CAPITOL**

SCAN THE QR CODE TO LEARN MORE

GET THE FACTS

1. House Bill 2048, 2/23/22  
2. House Bill 2052, 2/23/22  
3. AZ House 7/1/2020

OPPORTUNITY ARIZONA



Context for call to action join Opportunity Arizona

**GET DEMOCRACY**  
**DONE**  
CLEAN ELECTIONS  
OFFICIAL NONPARTISAN



# Question 3

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[Q1] **MAGA extremists at the Arizona Capitol** are considering laws that make more barriers to early voting by mail - making it harder for everyone to vote, especially enlisted military and their families. But you can stop it RIGHT NOW. **Can I transfer you to Senator/Representative (NAME)'s office** right now so you can demand they pledge to protect early voting by mail?

1= Yes [GO TO PATCH STATEMENT]

2= No [GO TO CLOSING]

3= Unsure [READ] Laws are moving through the process that make more barriers to voting. Now is the time to call your State Senator/Representative to stop them. **I urge you to contact State Senator/Representative (NAME) and ask them to pledge to keep voting accessible for the active-duty military and their families.**

[GO TO CLOSING]

4= Supports issue but does not want to patch [GO TO CLOSING]

5= Anti issue [GO TO CLOSING]

6= Refused to say [GO TO CLOSING]

7= Does not answer political surveys [GO TO CLOSING]

[PATCH STATEMENT] Great! Here's what will happen next. In just a moment, **I'll transfer you to Senator/Representative (NAME)'s office.** Whether you reach a live person or an answering machine, tell their office your name, where you live, and that they need to protect early voting by mail and drop offs. I'll transfer you now. The next voice you hear will be someone in the office or instructions to leave a voicemail. [TRANSFER CALL]

[END CALL]

Mentions party in narrow context of direct communication.



**Questions?**

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**GET DEMOCRACY**  
**D**  **NE**

**Katie Hobbs**  
Governor

**Thomas M. Collins**  
Executive Director



**Mark S. Kimble**  
Chair

**Steve M. Titla**  
**Amy B. Chan**  
**Galen D. Paton**  
**Christina Werther**  
Commissioners

**State of Arizona**  
**Citizens Clean Elections Commission**

**1110 W. Washington St. - Suite 250 - Phoenix, Arizona 85007 - Tel (602) 364-3477**  
**Fax (602) 364-3487 - [www.azcleelections.gov](http://www.azcleelections.gov)**

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April 18, 2024  
Advisory Opinion 2024-04

D. Andrew Gaona  
Austin Yost  
Coppersmith Brockelman  
2800 N. Central Ave., Ste. 1900  
Phoenix, Arizona 85004

Dear Mr. Gaona:

We are responding to your advisory opinion request (“AOR”) on behalf of the Arizona Democratic Party project known as the Arizona Democratic Legislative Campaign Committee concerning whether activities by employees may be campaign media spending subject to the reporting requirements of the Voter’s Right Know Act (the “Act” or the “VRKA”), A.R.S. §§ 16-971 to 16-979.

***Question Presented***<sup>1</sup>

Does the payment of employee salary and selected benefits (health, dental, vision, and retirement) and other select costs (such as training, coaching, and travel) constitute campaign media spending and does the determination turn on the duties of a particular employee?

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<sup>1</sup> The questions presented have been condensed from the request to avoid redundancy. The question presented identified each benefit category and the select costs in separate questions. Because those differences are not relevant to the Commission’s analysis, this response does not repeat them.

## ***Summary answer***

Yes, salaries, benefits and other costs associated with an employee who is hired for the election and who works on projects that are specifically conducted in preparation for or in conjunction with campaign media spending under the Act are included in determining the amount of campaign media spending in which the employer has engaged.

## ***Background***

The facts presented in this advisory opinion are based on your AOR received April 3, 2024 and publicly available information.

The Arizona Democratic Party is a political party organized in Arizona. AOR at 1. The Arizona Democratic Legislative Campaign Committee (“ADLCC”) describes itself as a project of the ADP. *Id.* The project “recruits, trains, and supports legislative candidates by vetting, selecting, and managing award winning direct mail [and] digital consultants; providing comprehensive legal services; investing in high-quality polling and opposition research; and connecting local and national donors to the most competitive legislative races.” *Id.* The Arizona Democratic Party is a covered person. *Id.*

The ADLCC intends to begin hiring additional staff for the election to help it in its “general mission of electing Democrats.” *Id.* The staff members are in addition to the ADLCC’s existing staff. *Id.* If hired, an ADLCC employee will receive a salary and “traditional benefits” like health and vision insurance *Id.* Employees may also receive a stipend for transportation expenses and other expenses. *Id.* Employees may receive retirement benefits. *Id.* They will also receive training. *Id.*

Describing the staff role as having a “common goal: helping elect Democrats,” ADLCC states that staff members may

- “craft the messaging and design of a public advertisement (including conducting research),”
- “craft the language of poll[s]”
- “work with candidates on strategy (including communications strategy) and fundraising appeals (which may take the form of individual communications or mass email appeals). *Id.*
- additionally, other staff members “may be responsible for helping organize and arrange the logistics of canvasses in targeted areas to

allow volunteers to go door-to-door in support of Democratic candidates and policies.” *Id.*

The AOR notes that while ADLCC employees may work on advertisements, the advertisements themselves will be run by third party vendors, as will any polls.

### ***Legal analysis***

Voters passed the VRKA as Proposition 211 at the 2022 General Election and it was certified by Governor Doug Ducey in December 2022. The Act provides for reports by covered persons, that is, “any person whose total campaign media spending or acceptance of in-kind contributions to enable campaign media spending, or a combination of both, in an election cycle is more than \$50,000 in statewide campaigns or more than \$25,000 in any other type of campaigns.” A.R.S. § 16-971(7)(a). “For the purposes of [the VRKA], the amount of a person’s campaign media spending includes campaign media spending made by entities established, financed, maintained or controlled by that person.” *Id.*

Campaign media spending is a defined term under the Act. This AOR principally addresses one definition of campaign media spending:

Research, design, production, polling, data analytics, mailing or social media list acquisition or any other activity conducted in preparation for or in conjunction with any of the activities described in items (i) through (vi) of this subdivision.

A.R.S. § 16-971(2)(a)(vii).

The activities in items (i) through (vi) include public communications about a variety of campaigns as well as “[a]n activity or public communication that supports the election or defeat of candidates of an identified political party or the electoral prospects of an identified political party, including partisan voter registration, partisan get-out-the-vote activity or other partisan campaign activity.” *Id.* § 16-971(a)(a)(i)-(vi).

Under the Commission's rules:

[f]or purposes A.R.S. § 16-971(2)(a)(vii), research, design, production, polling, data analytics, mailing or social media list acquisition or any other activity conducted in preparation for or in conjunction with any of the other activities described in A.R.S. § 16-971(2)(a) shall not be considered campaign media spending unless these activities are *specifically conducted* in preparation for or in conjunction with those other activities.

Ariz. Admin. Code § R2-20-802(B), available at <https://storageccec.blob.core.usgovcloudapi.net/public/docs/957-Arizona-Administrative-Register-for-R2-20-801-to-R2-20-808.pdf> (emphasis added).

**Question:** Does the payment of employee salary and selected benefits (health, dental, vision, and retirement) and other select costs (such as training, coaching, and travel) constitute campaign media spending and does the determination turn on the duties of a particular employee?

The question presented by the AOR essentially asks when a political party hires staff for the election, for the purpose of electing its nominees and candidates, and identifies research, polling design, and communications work to be used in the preparation for or in conjunction with public communications and activities, could monies spent on staff for those purposes count as campaign media spending.<sup>2</sup> With respect to staff salaries, benefits, reimbursements, and other employee related expenses, the answer is yes.

Similarly, where, as the AOR proposes, a person is hired to work on the election of party candidates whose duties involve preparing for canvassing and similar activities that will later involve volunteers, and those activities “support[] the election or defeat of candidates of an identified political party or the electoral prospects of an identified political party” payments to the person involve campaign media spending under the Act.

The Commission's rule providing that activities, in order to be campaign media spending, must be “specifically conducted” in preparation or conjunction with other campaign media spending, is met under these facts. The AOR identifies the employees as hired for the election and identifies the activities the employees

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<sup>2</sup> This response does not address the permanent staff of the party referred to at 1.

would undertake that are in conjunction with or in preparation for campaign media spending.

If one of an employee's several duties may be to work on projects in preparation for other campaign media spending, or some of the employee's work may be used for campaign media spending but not all of it, the employee's activities that are included under the definition may still be "specifically conducted" in preparation or conjunction with campaign media. A contrary analysis would be subjective, allowing a party, by avoiding certain words in a job posting or description, or in assigning a particular activity, to claim the activity was not "specifically conducted" in preparation or conjunction with campaign media spending despite objective evidence to the contrary.

On the other hand, where an activity is undertaken for another purpose and later used for campaign media spending, it would not be "specifically conducted" in preparation or in conjunction with campaign media spending.<sup>3</sup> For example, if the ADLCC hires a press aide for the election, that person's salary and benefits are not in and of themselves campaign media spending. But a press release is not ad copy for a mailer or a television script for a 30-second spot. These instruments generally have different purposes, serve different audiences, and result in different products, one of which may be a public communication in the form of a political advertisement or mailer.

To illustrate the point, the statute provides that partisan get-out-the-vote efforts, such as canvassing, are campaign media spending. A.R.S. § 16-971(2)(a)(vi). The Act and rules also provide that work specifically conducted in preparation for or in conjunction with campaign media spending is to be included in calculating the amount of campaign media spending. A.R.S. § 16-971(2)(a)(vii); Ariz. Admin. Code R2-20-801(B). Consequently, under the facts presented, if a staff person organizes a partisan canvassing effort to be performed by volunteers, those preparatory activities fit squarely within the statutory definition and their costs must be included in determining the amount of campaign media spending.<sup>4</sup>

The ADLCC is correct that the Act did not alter the definition of expenditure in Chapter 6, Article 1. However, there is no conflict here where the facts presented demonstrate that staff is being hired for the election in order to support

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<sup>3</sup> General management and training costs attributable to an employee are not in preparation or conjunction with campaign media spending.

<sup>4</sup> The AOR itself acknowledges that some staff may do preparation for paid advertising, but other staff will be paid to organize get out the vote efforts. AOR at 1-2.

party candidates by performing activities that fit squarely under the statute and the rule.

This analysis necessarily means that an employee's particular job duties (i.e. activities) are bound up in determining whether or not the activity itself is specifically conducted in preparation or conjunction with other campaign media spending, or is an activity that itself is campaign media spending, such as "partisan voter registration, partisan get-out-the-vote activity or other partisan campaign activity."

A party need not attribute the entirety of an employee's salary and benefits to campaign media spending just because an employee performs some work in preparation for or in conjunction with campaign media spending. The party need only keep "records required to be retained by Chapter 6.1 of Title 16 in such order that a reasonable person could confirm the accuracy of transactions, transfer records, reports, opt out notices, and other information by review of the documents and other information." Ariz. Admin. Code R2-20-807(A).

Because the statute requires at least disclosure of outlays greater than \$10,000, A.R.S. § 16-973(A)(8), the party must track its campaign media spending in a reasonable manner, including personnel costs of activities that are campaign media spending.<sup>5</sup>

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<sup>5</sup> The AOR argues that the Act and related campaign materials were not focused on the kinds of activities identified in the request. Whatever descriptions were involved, the terms of the statute here are clear. Although the Commission recognizes the potential for too much information cluttering reports, spending must reach the \$10,000 threshold to be required on the reports.

## ***Conclusion***

A Commission advisory opinion “may be relied upon by any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered, and any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.” Ariz. Admin. Code § R2-20-808(C)(3). A “person who relies upon an advisory opinion and who acts in good faith in accordance with that advisory opinion shall not, as a result of any such act, be subject to any sanction provided in Chapter 6.1 of Title 16.” *Id.* at (C)(4). Advisory opinions may be affected by later events, including changes in law.

Sincerely,

April 3, 2024

Arizona Citizens Clean Elections Commission  
c/o Thomas Collins, Executive Director  
[thomas.collins@azcleelections.gov](mailto:thomas.collins@azcleelections.gov)

**Re: Advisory Opinion Request – Arizona Democratic Legislative  
Campaign Committee**

Dear Commissioners:

Pursuant to A.A.C. R2-20-808, the Arizona Democratic Legislative Campaign Committee (“ADLCC”) seeks an advisory opinion from the Arizona Citizens Clean Elections Commission regarding whether its payment of compensation, provision of benefits, and payment of training and travel expenses for the benefit of its employees qualify as “campaign media spending” under the Voters’ Right to Know Act (“Act”).

**Background**

ADLCC is a project of the Arizona Democratic Party (“ADP”). It “recruits, trains, and supports legislative candidates by vetting, selecting, and managing award-winning direct mail & digital consultants; providing comprehensive legal services; investing in high-quality polling and opposition research; and connecting local and national donors to the most competitive legislative races.”<sup>1</sup>

ADP – and by extension, ADLCC – recently became a “covered person” under the Act, and is thus subject to the Act’s strictures. As the primary and general election quickly approach, ADLCC will begin hiring staff to support its general mission of electing Democrats to the Legislature. As employees of ADLCC/ADP, those staff members (like current staff members) will be paid a regular salary. But they also receive traditional benefits that ADLCC/ADP either covers entirely or subsidizes, including (1) health insurance, (2) dental insurance, and (3) vision insurance. Some employees may also be paid a stipend for transportation expenses, cell phone use, and laptop use. If resources were sufficient, ADLCC/ADP would consider contributing to a retirement account for its employees’ benefit. And lastly, ADLCC/ADP pays for other staff-related expenses, including staff coaching, management training and support (with related expenses such as food), and travel expenses associated with attending to ADLCC/ADP business.

ADLCC/ADP employees have various titles and roles, but all are essentially working toward the same common goal: helping elect Democrats. For example, some employees may help craft the messaging and design of a public advertisement (including conducting

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<sup>1</sup> <https://adlcc.com/about> (last visited Apr. 3, 2024).

research), but the advertisement itself will only become “public” through a third-party vendor. Others may help craft the language of polling instruments, but the polls themselves will be conducted by a third-party vendor. Others may work with candidates on strategy (including communications strategy) and fundraising appeals (which may take the form of individual communication or mass email appeals). And still others may be responsible for helping organize and arrange the logistics for canvasses in targeted areas to allow volunteers to go door-to-door in support of Democratic candidates and policies.

Historically, ADLCC/ADP paid its employees (and paid for staff-related expenses) through various sources. Most significantly, however, it paid them using funds exempted by Title 16 from the definition of either a “contribution” or “expenditure.” See A.R.S. §§ 16-911(B)(5), 16-921(B)(3) (the payment by any person “to defray a political party’s operating expenses or party-building activities,” including “party staff and personnel,” is neither a “contribution” nor “expenditure”); see also *Arizona State Democratic Party v. State*, 210 Ariz. 527, 528 ¶ 2 (2005) (describing donations to cover party operating expenses such as these as falling outside the realm of reportable “contributions” because they weren’t made “for the purpose of influencing an election”). Now, however, questions have arisen regarding the source of funds that can be used to pay ADLCC/ADP employees because the Act defines “campaign media spending” to include “[a]n activity or public communication that supports the election or defeat of candidates of an identified political party or the electoral prospects of an identified political party.” A.R.S. § 16-901(2)(a)(vii) (emphasis added). Neither the statute nor the Commission’s rules define the term “activity” or provide ADLCC/ADP with guidance on whether it must now pay the salaries and benefits (and other staff-related expenses) of these employees with funds for which a donor has not “opted out” under the Act, or whether it can continue to use “exempt” funds (A.R.S. §§ 16-911(B)(5), 16-921(B)(3)) for that purpose.

### **Questions Presented**

Based on these facts, ADLCC requests an advisory opinion from the Commission answering these questions:

1. Does the ADLCC’s payment of its employees’ salaries constitute “campaign media spending” under the Act?
2. Does ADLCC’s payment of the health insurance premiums for its employees constitute “campaign media spending” under the Act?
3. Does ADLCC’s payment of the dental insurance premiums for its employees constitute “campaign media spending” under the Act?
4. Does ADLCC’s payment of the vision insurance premiums for its employees constitute “campaign media spending” under the Act?
5. Would ADLCC’s contribution to a retirement account on behalf of its employees constitute “campaign media spending” under the Act?

6. Does ADLCC's payment of staff-related expenses (such as training, coaching, and travel) for the benefit of its employees constitute "campaign media spending" under the Act?

7. Does the answer to any of these questions depend on the duties of a particular employee?

### Discussion

In November 2022, Arizonans approved the Act, which (at § 2(A)) "establishes that the People of Arizona have the right to know the original source of all major contributions used to pay . . . for campaign media spending." In adopting the Act (*see* § 2(C)), "the People of Arizona affirm their desire to stop 'dark money,' the practice of laundering political contributions, often through multiple intermediaries, to hide the original source."

The Act did not directly alter any existing provision of campaign finance law, including the definitions of "contribution" and "expenditure" set forth in Chapter 9 of Title 16. And no part of the Act even implies that the people intended it to require the disclosure of the "original source" of funds that do not have to be reported as either a "contribution" or "expenditure" under Arizona's longstanding campaign finance regime. This is reason enough to answer all the questions presented above in the negative.

Beyond that, ADLCC paying its employees' salaries, benefits, and other staff expenses is not itself an "activity" that triggers "campaign media spending" under A.R.S. § 16-901(2)(a)(vii). The Act doesn't define "activity," meaning that the Commission must "apply a practical and commonsense construction" and may "refer to a widely use dictionary to determine its meaning." *State v. Jernigan*, 221 Ariz. 17, 19 ¶ 9 (App. 2009) (cleaned up). Merriam-Webster<sup>2</sup>, for example, defines "activity" to mean many things, including:

- "the quality or state of being active: behavior or actions of a particular kind";
- "vigorous or energetic action";
- "natural or normal function";
- "an active force";
- "a pursuit in which a person is active";
- "a form of organized, supervised, often extracurricular recreation"; and
- "an organizational unit for performing a specific function."

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<sup>2</sup> [https://www.merriam-webster.com/dictionary/activity?utm\\_campaign=sd&utm\\_medium=serp&utm\\_source=jsonld](https://www.merriam-webster.com/dictionary/activity?utm_campaign=sd&utm_medium=serp&utm_source=jsonld) (last visited Apr. 3, 2024).

And the Oxford English Dictionary<sup>3</sup> defines the term as “[t]he state of being actively occupied; brisk or vigorous action; busyness, liveliness, vigour.” None of these definitions suggest that “activity,” as used in this context, includes the mere payment of employees’ salaries, benefits, and other expenses by a political party whose entire existence is intended to enhancing its own “electoral prospects.”

This conclusion finds more support in the structure of the Act as compared to other campaign finance provisions in Title 16. The Act did not remove (or impliedly repeal) the existing exemptions to the definition of “contribution” and “expenditure” in Title 16 under which any person can “defray a political party’s operating expenses or party-building activities” in the form of “party staff and personnel.” This contrasts with other existing provisions of Title 16’s exemptions which the Act arguably did affect. For example, A.R.S. § 16-911(B)(5)(c) and 16-921(B)(3)(c) say that a person’s payment to defray a political party’s efforts in “[v]oter registration, recruitment, polling and turnout efforts” are neither a “contribution” nor an “expenditure.” The Act, however, says that “partisan voter registration,” “partisan get-out-the-vote-activity,” and “polling” are all “campaign media spending” and thus reportable under the Act. A.R.S. § 16-971(2)(a)(vi), (vii). That the Act specified these items to the exclusion of others is evidence that the people did not intend to upend existing law related to the latter. *See State v. Maestas*, 244 Ariz. 9, 13 ¶ 15 (2018) (“In general, when the legislature (or voters) expressly prescribes a list in a statute (or initiative), we assume the exclusion of items not listed.”) (cleaned up).

This conclusion is also in line with the Commission’s treatment of A.R.S. § 16-971(2)(a)(vii). Under A.A.C. R2-20-801, “[r]esearch, design, production, polling, data analytics, mailing or social media list acquisition or any other activity conducted in preparation for or in conjunction with any of the activities described in items (i) through (vi),” is not campaign media spending “unless these activities are specifically conducted in preparation for or in conjunction with those other activities.” This is a valuable interpretation of the statute to ensure that its application accurately reflects the will of the voters. It also avoids diluting the value of reporting by disclosing funding information that has no relationship to campaign media spending. Similarly, the employee compensation, benefits, and expenses at issue in this Request are not “specifically” directed to the activity described in A.R.S. § 16-971(2)(a)(vi) or elsewhere.

Lastly, we note that nothing in the Act or the Act’s supporting materials sent to voters before the 2022 general election suggests that the people expressed any opinion about whether a political party paying its employees’ salaries, benefits, and other staff-related expenses is something that should require any new disclosure. *See Heath v. Kiger*, 217 Ariz. 492, 496 ¶ 13 (2008) (“To determine the intent of the electorate, courts may also look to the publicity pamphlet distributed at the time of the election.”). Indeed, the Act’s sponsoring political action committee and co-chairs told voters that voters “should know who is actually behind political ads” and that the Act would change Arizona law that “allow[ed] unlimited

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<sup>3</sup> <https://www.oed.com/search/dictionary/?scope=Entries&q=activity> (last visited Apr. 3, 2024).

money to be spent on anonymous political ads.”<sup>4</sup> As the sponsors pointedly explained, “[w]e believe knowing who is running political ads is critical to understanding their message and motivation. Without accountability for what is said, those running misleading or inaccurate ads face no consequences and politics becomes dirtier.” *Id.* This (and nearly every other) supportive statement focuses narrowly on political advertisements, not on personnel expenses like those at issue in this Request.

At bottom, neither the plain language of the Act nor the intent of the electorate that adopted it supports an interpretation under which a political party’s payment of salaries and benefits to its employees and personnel (or covering staff-related expenses on their behalf) constitutes “campaign media spending.” At the very least, the Commission should conclude that paying for employee benefits is exempt, as it is hard to see why the public has any interest in knowing the original source of funds that paid for someone’s dental insurance. ADLCC supports transparency in campaign finance, but not to that level of absurdity.

### Conclusion

Please let me know if I can provide any further information that will help you in responding to these important questions. ADLCC thanks the Commission for its hard work in implementing the Act and looks forward to an advisory opinion that will benefit both it and the public at large.

Sincerely,



D. Andrew Gaona

DAG:djh

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<sup>4</sup> Arizona 2022 General Election Publicity Pamphlet, at 236, *available at* [http://apps.azsos.gov/election/BallotMeasures/2022/azsos\\_2022\\_publicity\\_pamphlet\\_standard\\_english\\_web\\_version.pdf](http://apps.azsos.gov/election/BallotMeasures/2022/azsos_2022_publicity_pamphlet_standard_english_web_version.pdf).