

THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF VIRTUAL PUBLIC MEETING

Phoenix, Arizona

May 16, 2024

11:00 a.m.

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1 VIRTUAL PUBLIC MEETING, BEFORE THE CITIZENS CLEAN
 2 ELECTIONS COMMISSION, convened at 11:00 a.m. on
 3 May 16, 2024, at the State of Arizona, Citizens Clean
 4 Elections Commission, 1110 West Washington, Suite 250,
 5 Phoenix, Arizona, in the presence of the following Board
 6 Members:
 7 Mr. Mark S. Kimble, Chairman
 Mr. Galen Paton
 8 Ms. Amy Chan
 Mr. Steve Titla
 9 Ms. Christina Estes-Werther

10 OTHERS PRESENT:

11 Thomas M. Collins, Executive Director
 Mike Becker, Policy Director
 12 Gina Roberts, Voter Education Director
 Avery Xola, Voter Education Manager
 13 Kara Karlson, Assistant Attorney General
 Cathy Herring, CAE
 14 Emma Cone-Roddy, Member of the Public

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1 minutes as written.
 2 CHAIRMAN KIMBLE: Okay. Thank you, Commissioner
 3 Chan.
 4 Is there a second?
 5 COMMISSIONER WERTHER: Second.
 6 CHAIRMAN KIMBLE: Okay. It's been moved by
 7 Commissioner Chan, seconded by Commissioner Werther to
 8 approve the minutes.
 9 I will call the roll.
 10 Commissioner Chan.
 11 COMMISSIONER CHAN: Aye.
 12 CHAIRMAN KIMBLE: Commissioner Titla.
 13 COMMISSIONER TITLA: Aye.
 14 CHAIRMAN KIMBLE: Commissioner Paton.
 15 COMMISSIONER PATON: Aye.
 16 CHAIRMAN KIMBLE: Commissioner Werther.
 17 COMMISSIONER ESTES-WERTHER: Aye.
 18 CHAIRMAN KIMBLE: Thank you. The minutes are
 19 approved 5-to-nothing.
 20 Item III, discussion and possible action on the
 21 Executive Director's report.
 22 Tom.
 23 MR. COLLINS: Yes. Thank you, Mr. Chairman. Thank
 24 you, Commissioners, for being here today on our -- for this,
 25 for being flexible to move this meeting up a couple of

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P R O C E E D I N G

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 3 CHAIRMAN KIMBLE: Thank you. My name is Mark
 4 Kimble. Agenda Item I is the call to order.
 5 It's 11:00 a.m. on May 16th, 2024, and I call this
 6 meeting of the Citizens Clean Elections Commission to order.
 7 With that we will take attendance. Commissioners,
 8 please identify yourselves for the record.
 9 COMMISSIONER CHAN: I'm Amy Chan.
 10 COMMISSIONER ESTES-WERTHER: Christina Werther.
 11 CHAIRMAN KIMBLE: Okay. I heard Commissioner Chan
 12 and Commissioner Werther.
 13 COMMISSIONER PATON: Galen Paton.
 14 COMMISSIONER TITLA: Yeah, Steve -- Steve Titla.
 15 CHAIRMAN KIMBLE: Okay. Thank you, Commissioners
 16 Paton and Titla; we have all five of us here today. Thank
 17 you.
 18 Item III [verbatim], discussion and possible action
 19 on minutes for the April 18th, 2024, meeting.
 20 Commissioners, you have the minutes from our last
 21 meeting in your packet. Is there any discussion from the
 22 Commissioners?
 23 COMMISSIONER CHAN: Mr. Chairman.
 24 CHAIRMAN KIMBLE: Commissioner Chan.
 25 COMMISSIONER CHAN: I move that we approve the

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1 weeks.
 2 I want -- and we have actually a pretty
 3 action-packed Executive Director's report; three huge items.
 4 We have commenced our debate season. Our
 5 legislative debates kicked off about 10 days ago and our
 6 televised debates for statewide and federal offices started
 7 last night with a debate between the candidate -- Democratic
 8 candidates for the Congressional District 1 nomination.
 9 This was a really great event, and the beauty of it
 10 is it not only is available to -- for live broadcast but
 11 also will be available -- to the entire Arizona media
 12 association consortium to broadcast across the state. So we
 13 will see rebroadcast of this particular debate throughout
 14 the week and weekend, and then we anticipate as we move
 15 forward, additional broadcasts.
 16 We have two other important voter education
 17 announcements and then I -- Mr. Chairman, if I may, I just
 18 want to make sure after a note that if Gina had anything
 19 that she wanted to make sure we highlighted.
 20 But we've also relaunched our website with a
 21 redesign. I encourage everyone to take a look at that.
 22 We're very excited about it. I've highlighted some of
 23 the -- some of the things that I think Alec is most proud
 24 of. I want to thank Alec for his hard work in -- in
 25 accomplishing this relaunch. It's a lot of work between him

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1 and -- and the rest of the voter education staff and our
 2 partners at Riester as well as our IT folks so.
 3 But it's really exciting, it's dynamic, it's fresh
 4 and I think welcoming and organized. And I think that when
 5 we think about this is in terms of what voters are seeing
 6 and how important it is for them to get access to
 7 information that they can -- they can readily find what
 8 they're looking for, I think is really -- it's really
 9 important.
 10 CHAIRMAN KIMBLE: Tom, if I could just say. I
 11 spent some time looking at the new website the past couple
 12 days. It's very, very well done. It's easy to navigate, it
 13 really draws your attention to some of the more important
 14 parts of the website. And Alec and Gina and the other
 15 people who worked on it, fabulous job.
 16 MR. COLLINS: No, absolutely. Absolutely.
 17 And then we will have this Friday the files for the
 18 print version of the Voter Education Guide will be uploaded
 19 for print. And that will be -- they'll have 196 candidates
 20 that are in the booklet, and as well as our -- our -- as
 21 we've seen in prior presentations our new sticker, our "I
 22 voted" sticker.
 23 So I did -- Mr. Chairman, if I could, I just want
 24 to make sure if Gina had anything she wanted to make sure we
 25 highlighted on those three items. I don't know if she does.

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1 to the Arizona Media Association and Riester. So we're,
 2 again, very happy with the look and feel of it.
 3 We had six candidates which was pretty large, and
 4 we felt that it -- it worked very well. We're very happy
 5 with our moderators who were Steve Goldstein and Richard
 6 Ruelas. So it's a great start to our -- our debate season
 7 this year.
 8 And as Tom mentioned, we do go to print with our
 9 Voter Education Guide on Friday. We're going to have almost
 10 2.4 million pieces that will go out to -- to households with
 11 registered voters across the state. The introduction of
 12 that guide has great information of the logistics of voting,
 13 everything a voter needs to know; and then, of course,
 14 the -- the statements.
 15 Now that voter guide does print the candidate
 16 statements for statewide and legislative office, however you
 17 will see on our website we have significantly more candidate
 18 profiles on there ranging from our federal candidates to
 19 local candidates. We are seeing a lot of city council
 20 candidates who are coming to our site to use it, which is
 21 fantastic; candidates for mayor, for school districts.
 22 So we're seeing a lot of candidates really wanting
 23 to utilize the resources that Clean Elections is providing.
 24 So with that, I'm happy to answer any questions.
 25 CHAIRMAN KIMBLE: Any questions for Gina from any

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1 MS. ROBERTS: Mr. Chairman, may I?
 2 CHAIRMAN KIMBLE: Yes. Gina.
 3 MS. ROBERTS: Thank you. Mr. Chairman,
 4 Commissioners, thanks. Actually here's what that sticker
 5 looks like.
 6 So this will be inserted in the center of the Voter
 7 Education Guide. We have an English sticker here; you flip
 8 it over, we got the Spanish sticker right there. So we're
 9 very excited about that.
 10 And then regarding the CD-1 debate, that was the
 11 first debate in our new studio. I believe your packet has
 12 some photos of what that set looks like, and we were very
 13 happy with the carriage plan which I believe you also have
 14 in your packet.
 15 So just to give you a recap of that. We had that
 16 debate that was available for voters for the CD-1 Democratic
 17 candidates. It aired on live TV from an English standpoint;
 18 we also had it airing live on Spanish. And we had a lot of
 19 partners pick it up for streaming as well too. We also note
 20 during the 6:00 p.m. news hour some -- some of our media
 21 partners cut over to the debate and showed it in screen and
 22 were referring people to it. We saw some of our media
 23 partners do a post-debate analysis on it.
 24 So we were very happy with the reach and coverage
 25 that this debate had and, again, that is due in partnership

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1 member of the Commission?
 2 (No audible response.)
 3 CHAIRMAN KIMBLE: Thank you, Gina.
 4 Tom.
 5 MR. COLLINS: Yes, thank you. Mr. Chairman, I just
 6 wanted to finish out the report. You can see we've, you
 7 know, continued and has been -- you know, to do outreach on
 8 the ground, especially with Avery's continued effort to be
 9 available to civic engagement partners around state.
 10 We continue to put -- we are continuing to do
 11 candidate workshops and we are starting to see candidates --
 12 more candidates turn in their \$5 slips with an eye towards
 13 funding. I don't know, I don't think we have a precise
 14 number yet of how many candidates. We do know it,
 15 obviously, continues to be at a lower number of candidates,
 16 you know, than in, you know, 10, 15 years ago. But,
 17 nevertheless, we're -- we're proceeding with that.
 18 I think that I do need to mention, you know, as we
 19 go -- so the State budget is a -- being negotiated according
 20 to media reports between some legislative members and -- and
 21 members of the Governor's staff.
 22 As part of the budget process, the -- the
 23 Department of Administration has sort of been set up it
 24 seems like to manage agency implementations of potential
 25 budget cuts and -- and related actions.

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1 So in the last month a letter came out from the
2 Governor's office to all state agencies that indicated that,
3 you know, there was going to be something they're describing
4 as a -- as a head-count cap, some other -- some other things
5 along those lines. And then some counties are -- or
6 counties, I was in the meeting with a county. Some agencies
7 are being required to make -- to show how they would make
8 cuts in the current fiscal year to their General Fund
9 appropriation.
10 So how did that affect -- how does that affect us?
11 We are not -- we were not asked to make -- demonstrate our
12 ability to make cuts for our -- to our current spending
13 because we're not -- at least we assume it's because we're
14 not funded through the General Fund.
15 We have been told that we are subject to the
16 head-count cap which includes not just staff but also
17 contractors, and also the -- what they are describing as a
18 pause on pay increases and also performance-related
19 incentive payments.
20 So one of the things that -- the reasons I wanted
21 to highlight this for the Commission, I think it's important
22 for business is, you know, there -- the DOA has indicated
23 there is going to be some kind of process by which, and
24 we've had a little bit of information about this, how we
25 might if we needed to make an hire or if we needed to

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1 of the Commission.
2 You can see the sort of, the kind of -- you know,
3 as bad as -- as much as people may not make slippery-slope
4 arguments, if the Department of Administration can tell us
5 when we can hire and when we can't hire, then the Department
6 of Administration can tell us basically when we can function
7 and when we can't function by -- by sort of, you know, sort
8 of by logical extension.
9 So it is something we do need to keep an eye on for
10 that reason.
11 But, you know, again, so far we've been able --
12 we've worked through. And, of course, we have been and
13 through the budgets you-all approved over the years and then
14 the management decisions we made, we are, in fact, running
15 a, you know, a -- we're running a tight ship in terms of
16 staffing. We don't have a lot of excess staff. I mean, we
17 really -- in fact, I would say we are probably running
18 understaffed. You know, there's some good reasons for that
19 and some coincidental reasons for that. But, nevertheless,
20 you know, we do think we've been responsible with respect to
21 our -- our -- our administration of the -- of the budget.
22 So, you know, we -- we don't want to end up being
23 the sort of the victims of our efforts to not unnecessarily
24 expand staff and those kinds of things down the road.
25 Especially because without, you know, absent some action by

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1 especially bring on an additional contractor, how we might
2 do that.
3 The bigger -- the big picture. So -- so hopefully
4 that will work and avoid sort of a direct conflict.
5 But the reality is that, you know, given that the
6 Commission is not under the General Fund and given that the
7 Commission under the case law and given our structure does
8 not report to the Governor's office, it's -- we're in a
9 little bit of an odd situation where the -- you know, having
10 the Department of Administration sort of dictate to us those
11 kinds of management decisions. It's not, for example,
12 particularly clear to me what DOA's authority for -- for
13 doing that is, nor has it been particularly clear to me what
14 DOA's authority is for a number of different things we've
15 been dealing with with them.
16 So, you know, our goal will be if things come up,
17 we will try to work through the exception process rather
18 than have, you know, sort of a direct conflict about this
19 issue. But I do think, you know, that we need to be aware
20 that, you know, in prior budget, for lack of better word,
21 crisis, the Commission has been -- has not been included in
22 some of the steps agencies otherwise had to take because of
23 the -- the nature of the Commission's funding and because of
24 the structure of the Act and the -- and the way in which the
25 Arizona Supreme Court has recognized the -- the independence

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1 the legislature that is specific to the Clean Elections Fund
2 and checks a number of legal boxes, the Clean Elections Fund
3 is simply not available as a solution of the current budget
4 issues that the -- that the -- that the State is
5 encountering.
6 So, we will see how that goes.
7 We did, however, get approval for two sponsorships
8 that I mentioned last -- last month. Those meetings turned
9 out to be, I think, fairly productive. Paula, Gina and I
10 met with DOA folks on those and we were able to get approval
11 for the two sponsorships we were concerned about. And we
12 have additional sponsorships that we will be working with
13 them to get -- to approve.
14 We have had a -- we did have an oral argument last
15 week on the Prop 211 case, which we thought -- I mean, we
16 will see how -- how that -- you know, how the Court rules.
17 The main issues in that case, this is a case the Legislative
18 Leadership has brought that pertains to whether or not the
19 Voter Right to know Act is violative of sort of separation
20 of powers, principles, and some related theories.
21 You know, it's a -- you know, it's kind of a
22 complicated -- kind of a complicated case, but I think that
23 our -- you know, our -- our attorney Eric Frazier from
24 Osborn Maledon I think did a -- did a great job. And, you
25 know, the other issue that is in the case is -- is standing,

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1 which is to say, without the legislative leadership itself,
2 has standing to assert an injury to them, to the
3 legislature, and -- and/or to the -- their ability to make
4 laws in this area.
5 And so that -- so, you know, we'll see how that
6 goes. But it was -- you know, it was an interesting and,
7 you know, I think it was a good argument, and I think we did
8 a good job.
9 Couple of other things that just in the general
10 world of election law, you know, I wanted to update the
11 portion of the -- the other legal portion of the report.
12 We -- the Attorney General's office and Secretary of State's
13 office were able to successfully defend the current
14 signature verification process and the current bases for
15 having drop boxes that voters use to return their early
16 ballots in Yavapai County. That's an update from the actual
17 report.
18 And there are, as I mentioned, three -- in the
19 report there are three challenges to the election procedures
20 manual. One of those challenges was dismissed on -- earlier
21 this week as I mentioned in the report. This is a -- this
22 was a challenge as to whether or not the EPM has to go
23 through the -- the Arizona Procedures Act, which is
24 basically the act that says, you know, if you are making
25 rules or what have you, here are the notice and comment

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1 Mr. Chairman -- oh. I'm sorry. I apologize.
2 One other thing I need to mention that is very late
3 breaking. You know, we mention always on the agenda that
4 there's legislative issues. Today at 10:00 a.m. -- so I
5 haven't got a chance to tune in, but there was a hearing on
6 a HCR.
7 This HCR would rewrite portions of the election
8 code to essentially require on-site tabulation of ballots.
9 Instead of taking those ballots back to central count, it
10 would set up essentially a process that which voters who
11 vote on the day of election and voters who return their
12 early ballots would basically both have to go through the
13 same voter ID process and it also puts restrictions on when
14 early ballots can be taken in.
15 And -- and it also does a number of other -- has a
16 number of other provisions related to certifications of
17 whether or not any foreign-owned interest is involved in
18 election administration and a number of other -- a number of
19 other things.
20 Why does it matter to Clean Elections? Last night
21 after 5:00, we learned that there was an amendment that
22 would take \$11 million from the Clean Elections Fund to pay
23 for the on-site polling changes that the HCR purports to do.
24 So as an HCR, this is a measure that would have to
25 go to the ballot. I just -- the only thing I would

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1 rules associated with that and rejected -- the Court
2 rejected that.
3 And then -- and then there are a number of -- a
4 couple of other cases out there on that that I will -- I can
5 provide you more details about that as they...
6 So, you know, and Kara obviously is part of that,
7 part of the arguing the RMC case about the EPA challenge.
8 And also that was in -- as well as the outlying cases.
9 So those were big successes, and I think
10 importantly from both an administrative perspective and from
11 a voter-education perspective, you know, getting the rules
12 set and challenges to the rules of election resolved as
13 quickly as possible is important, because at the end of the
14 day, you know, I think that we are attuned to the fact
15 that -- that, you know, a part of our job is to try to make
16 sure people can go and easily find the rules of the road.
17 And, you know, the longer litigation sort of waits and then
18 hangs around, the more likelihood there is that voters will
19 be confused and that voter confusion in turn exacerbates
20 issues with misinformation and disinformation.
21 And -- and so we're pleased to see those cases get
22 resolved in a way that supports the decisions that election
23 officials are making.
24 I believe that is -- those -- that sort of
25 concludes -- that concludes the report from my perspective.

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1 mention -- I mean, we're monitoring the legislation as it
2 proceeds. You know, the thing about -- the thing about
3 appropriating monies from the Clean Elections Fund even by
4 referendum, you know, is via a case that Commissioner Chan
5 and former Commissioner Luis Hoffman brought in individual
6 capacities about six years ago, ref- -- legislative
7 referendums are subject to the single-subject provisions of
8 the Arizona Constitution. There is a specific provision of
9 the Constitution that talks about appropriations themselves
10 and it has one provision that deals with the general
11 appropriations bill and then another section that says --
12 another clause that these -- that all the bills have to have
13 separate appropriations and so -- as a separate -- as a
14 subject of their own. So there may be a legal issue there.
15 What the legislature is trying to deal with is the
16 fact that, you know, another constitutional provision
17 requires that those measures that are going to have a --
18 implicate a mandatory spending of state revenues need to
19 have that source identified and can be -- you know, it's a
20 fact-specific inquiry, can be unconstitutional if they
21 failed to provide that.
22 Presumably what the legislature's proposal is as
23 this moves forward is to try to find that revenue source
24 and -- and use maybe the Clean Elections Fund to do that.
25 The -- those two constitutional provisions are, you

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1 know, are operated in such a way that it may be so that the
 2 legislature can identify a revenue source for paying for
 3 this if, in fact, their proposal -- this is Senator Rogers'
 4 proposal requires -- requires one. However, it's not at all
 5 clear that they can use -- use an -- can actually do an
 6 appropriation to do that.

7 In other words, they could -- might could create
 8 their own revenue stream, you know, and meet the
 9 requirements of the revenue source rule. But once you get
 10 into actually appropriating money out of an existing fund,
 11 there is a legal issue there and -- and whether or not --
 12 and the case law there, you know, you know, we -- we had
 13 a -- this Supreme Court, the current Supreme Court struck
 14 down numerous provisions of -- of an omnibus budget bill --
 15 excuse me -- two years ago because of this -- this
 16 appropriation single-subject clause.

17 So that is a live issue. Hard to predict how it
 18 will play out. But we do think it -- we obviously, you
 19 know, a hit on the fund that is not really associated with
 20 anything that Clean Elections does, you know, we do think
 21 has some -- some legal problems, and we do think that is
 22 something we will keep an eye on.

23 The last point I will make about the appropriation
 24 is, it is very odd. The other thing it does that makes
 25 little sense to me is it appropriates the money to the

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1 Discussion and possible action on Advisory Opinion
 2 Request 24-02 and Draft Advisory Opinion 24-04 relating to
 3 whether activities performed by an employee of a political
 4 party qualify as campaign media spending as defined in the
 5 Voters' Right to Know Act requested by the Arizona
 6 Democratic Party's Arizona Democratic Legislative Campaign
 7 Committee.

8 Commissioners, we have an advisory opinion request
 9 filed by the Arizona Democratic Party's Arizona Democratic
 10 Legislative Campaign Committee. This question has to do
 11 with how the parties should address activities that are
 12 included in the definition of campaign media spending.

13 Last month we discussed the opinion, voted to
 14 accept additional comments. We received one additional
 15 comment.

16 I would like Tom to recap the opinion draft and
 17 highlight key changes since the last draft.

18 Tom.

19 MR. COLLINS: Yes, thank you, Commissioners.
 20 I am going to share my screen, I hope.

21 So I kind of want to give a -- I want to sort of --
 22 I guess I'll start -- if it makes any sense, I guess I kind
 23 of had this in reverse.

24 But we'll come back to this, but the first thing I
 25 wanted to talk about are the changes.

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1 Secretary of State's office then to be distributed to the
 2 counties. So it adds a layer of bureaucracy for no reason
 3 at all.

4 I mean, and that's -- that's -- as a policy choice
 5 that just -- I don't -- I don't understand that. The
 6 legislature could have simply said, "The Citizens Clean
 7 Elections Commission shall" blah, blah, blah. Whether or
 8 not that's legal or not is a different question, but there's
 9 this sort of odd extra layer of bureaucracy that -- that
 10 doesn't make a lot of sense and seems to just create an
 11 additional transaction cost.

12 So, you know, we'll see how that progresses. I'm
 13 sure we'll get a little bit of an update here on that later
 14 today on that.

15 But it didn't make it into my written notes because
 16 of the timing of this amendment, so I almost -- that's why I
 17 almost forgot. But, you know, we'll be monitoring that as
 18 we go forward. And as I have more information to provide, I
 19 will -- I will provide it to you.

20 CHAIRMAN KIMBLE: Thank you, Tom.
 21 Are there any questions or discussion from members
 22 of the Commission?
 23 (No audible response.)
 24 CHAIRMAN KIMBLE: Hearing none, we will move on to
 25 Item V.

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1 So there's a redline version in your packet and
 2 then there is a -- so the original, the redline, and then
 3 the draft that we're requesting that you approve today.

4 The main changes -- the bottom line from staff's
 5 perspective or from my perspective on -- on where this comes
 6 out didn't change. However, we did in view of the comment
 7 we received from the Elias Law Group, make a couple of
 8 things, we think, clearer.

9 First, you'll see when you review -- when you've
 10 reviewed the draft, that there's a longer background section
 11 that describes the definition of "expenditure" for purposes
 12 of PACs and political committees and -- or parties, and --
 13 and also the Voter Right to Know Act definitions.

14 You know, part of the reason to do that was to try
 15 to better explicate how those laws are similar and how
 16 they're different.

17 And so in so doing, we tried to add some additional
 18 examples that are specific of where an activity that might
 19 not be reported as an expenditure by a political party like
 20 the Arizona Democratic Party might nevertheless qualify as
 21 campaign media spending under the definition of "campaign
 22 media spending." I think the -- the examples that were that
 23 can arise -- and, obviously, this is fact specific and you
 24 have to look at the text of the Voter Right to Know Act
 25 itself and the text of the -- the definition and exceptions

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<p style="text-align: right;">22</p> <p>1 for "expenditure" -- but some party-building activities are 2 expressly set aside as exempt from the definition of 3 expenditures by a party. 4 So what that means is on their schedule of 5 expenditures that they publish through the Secretary of 6 State's office, whether -- where those expenses may be 7 captured, they're not going to be captured as expenditures. 8 Some of the specific terminology in that exception 9 in the activity definition of -- of the Voters' Right to 10 Know Act for campaign media spending is included. So the 11 clearest example of that is sort of partisan 12 get-out-the-vote efforts are included as an activity of 13 campaign media spending, and they are excluded as a 14 party-building issue from the definition of expenditure. 15 So that results in a -- a situation where a party 16 may not be reporting a particular expenditure as an 17 expenditure or particular spending as an expenditure, but 18 the party nevertheless will have to assess whether or not 19 that activity is campaign media spending and, therefore, how 20 it fits both within the reaching the threshold for campaign 21 media spending, as well as determining what monies are 22 considered traceable and, therefore, what monies will -- 23 what kinds of disclosure will have to be made of the 24 expense. 25 So -- so we tried to do that to make it clearer and Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">23</p> <p>1 more black and white. 2 We also, in view of the Elias Law Group comment, 3 took a look specifically at a Federal Election Commission 4 rule that talks about how parties attribute -- or how 5 parties and PACs attribute expenses for purposes of when 6 they are essentially reportable by a candidate. 7 We -- we conclude that basically the exception 8 that's there doesn't really fit within the -- the campaign 9 media spending and Voter Right to Know Act reporting 10 framework because the -- the -- the question isn't 11 necessarily whether or not it's attributable to a particular 12 candidate or anything like that. The question is whether or 13 not it -- it fits within the definition or not. If it fits 14 within the definition, then it's campaign media spending. 15 If it doesn't, it's not. So there's just not the same level 16 of flexibility there. 17 Now that said -- and the opinion draft states 18 this -- that this is a fact pattern where the facts that are 19 presented is that the staff is contemplating, what the ADLCC 20 is contemplating is specifically for the election and that 21 the party says that it knows with some specificity what 22 those activities are going to be. 23 That's important because our rule, you know, in 24 trying to make this process easier for compliance says, 25 "okay it has to be specific." So the fact pattern here is Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>
<p style="text-align: right;">24</p> <p>1 specifically hired for the election, knowing that they're 2 going to do activities that are contemplated in the 3 definition. If an activity is contemplated in the 4 definition, the dollar spent on the activity naturally are 5 dollars you have to have some awareness of. You have to 6 track in some kind of way. 7 But -- and I think this is the next bullet point on 8 the screen here that's important -- we specifically say, 9 that does not require parties to keep, you know, detailed 10 time sheets of every minute of -- that a person spends on an 11 activity that might be contemplated. 12 We do not think that the Commission needs to at 13 this point try to dictate how precisely those records are 14 kept except that they -- that they be kept reasonably. 15 And -- and so there are variety of different ways 16 that I think a party can account for those -- those -- those 17 dollars. And -- and we want to, in order to be clear on the 18 one hand, which I think the opinion is, but also not dictate 19 through an advisory opinion how a party must do a particular 20 kind of accounting, we -- we say, look, this is -- you 21 just -- you need to make sure that it's a record that your 22 reports under the Act are essentially as our rules say, able 23 to be reconciled with your approach in a way that, you know, 24 make -- makes clear that your reports are accurate. 25 So those are the major changes. Again, it didn't Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">25</p> <p>1 change our bottom line legal analysis, but we did think 2 that -- we did think that these changes are helpful for 3 trying to strike a balance where we have a clear rule, but 4 your compliance with that rule, you know, has some 5 flexibility to it provided that you meet the standard of 6 reasonableness and the ability to recreate or justify the 7 expense that -- that you're reporting. 8 So that is basically where -- where we are on that. 9 If there's -- if anybody -- if the Commission would like me 10 to go back through the main analysis, I'm happy to do that, 11 but I think those are the major changes. And unless -- 12 unless you'd like additional discussion from me about 13 overall -- the overall opinion, I'm happy, Mr. Chairman, to 14 take questions now or however you want to proceed. 15 CHAIRMAN KIMBLE: Well, Tom, I just want to clarify 16 something on the timeline here. 17 MR. COLLINS: Sure. 18 CHAIRMAN KIMBLE: So -- so we get the request for 19 the advisory opinion. 20 MR. COLLINS: Yeah. 21 CHAIRMAN KIMBLE: We have a draft advisory opinion. 22 MR. COLLINS: Yes. 23 CHAIRMAN KIMBLE: We take comments; we extend the 24 comment period. 25 MR. COLLINS: Yeah. Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>

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1 CHAIRMAN KIMBLE: And then you -- you issue a
 2 second or a modified advisory opinion.
 3 MR. COLLINS: Right.
 4 CHAIRMAN KIMBLE: And somewhere in this timeline,
 5 Elias weighs in.
 6 MR. COLLINS: Right.
 7 CHAIRMAN KIMBLE: Are their comments addressing the
 8 most recent draft of the advisory opinion or the previous
 9 one?
 10 MR. COLLINS: Well, they addressed the previous
 11 one. And then as -- and then as the -- when the draft was
 12 completed, we circulated it to them and every other
 13 stakeholder.
 14 There is a point at which if we continue to get
 15 comments on every draft, that we take comments and then ask
 16 them to comment on the comments of the comments. You know,
 17 my feeling would be that obviously the Commission has that
 18 discretion, but I would -- you know, I would -- I would
 19 hesitate given that we got very few comments about this
 20 draft to say we go back out again.
 21 Although I think we have the time under the --
 22 under the -- under the -- under the counter, I have to
 23 double-check the dates, but we have some time.
 24 Our only time limit, Mr. Chairman, is we have to
 25 either decide we are in favor of -- or you have to decide we

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1 suggesting that we ask for more comments, but have you heard
 2 from Elias regarding your second advisory opinion draft?
 3 MR. COLLINS: No.
 4 CHAIRMAN KIMBLE: Okay.
 5 MR. COLLINS: I would say though relevant to your
 6 comments, when I say -- you know, one of the things the last
 7 comment talked about is, well, in terms of the
 8 cumbersomeness is we don't want to have to drill down on
 9 this, you know. So, you know, we don't take the position in
 10 the opinion that you can't classify someone. We do take the
 11 position that you have to make sure that you are doing it in
 12 a way that accurately reflects what you're doing.
 13 So an example, you know, that the opinion does not
 14 rule out would be -- you know, and -- and someone can ask a
 15 more specific question about this if they want to or down
 16 the road, we might do additional regulation -- someone might
 17 say: 25 percent of Person X's costs are whatever they are.
 18 You know, the opinion does not rule that out.
 19 The classification point is, you know, we -- nor
 20 did we specific- -- so we didn't really take a position per
 21 se on whether or not on how you deal with tracking the
 22 information.
 23 And -- and so I don't think, therefore, that we --
 24 I think that the modifications that we made that reflect our
 25 review of the comment are designed to say, look, if you can

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1 approve an advisory opinion or vote to state that we are not
 2 going to come to this conclusion on this in 60 days after
 3 the request. The request here was made on April 3rd, and we
 4 did try to expedite that recognizing that the ADP had told
 5 us that they had an interest in us expediting the answering
 6 question.
 7 CHAIRMAN KIMBLE: So at the risk of oversimplifying
 8 this, our draft opinions -- the initial draft opinion said
 9 that, that it would be determined by of the amount of time
 10 specific employees spend on specific tasks whether they are
 11 covered or not --
 12 MR. COLLINS: Right.
 13 CHAIRMAN KIMBLE: -- and Elias said that is too
 14 cumbersome --
 15 MR. COLLINS: Right.
 16 CHAIRMAN KIMBLE: -- people when they are hired
 17 ought to be classified as covered or not, and then
 18 everything associated with them should either be covered or
 19 not --
 20 MR. COLLINS: Right.
 21 CHAIRMAN KIMBLE: -- depending on the
 22 classification when they were hired. Do I have that
 23 basically right?
 24 MR. COLLINS: Yes.
 25 CHAIRMAN KIMBLE: And do we know if -- and I'm not

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1 show that the report that issues, right, the report that the
 2 public is looking at, you know, is accurate, you know, we --
 3 we don't think that we need to go beyond that in terms of
 4 dictating to you how you go about administrating your
 5 business.
 6 We do, however, believe that that accuracy requires
 7 you to have an awareness. So, for example, a concern that
 8 is a real concern is: I classify person at the time of
 9 hiring and then I switch that person. That obviously it
 10 should go without saying that that's not going to work if
 11 you have an obligation to track activities that are
 12 encompassed in the campaign media spending. You can't --
 13 you can't -- what we didn't want to do and we said in the
 14 opinion and what we still don't want to do is get into
 15 parties unnecessarily engaging in sort of semantic games to
 16 try to obscure campaign media spending as defined in the
 17 Act -- whether that's a good definition or a bad definition
 18 is a different question, right, but it is whatever it is
 19 defined as -- by saying, "We hired Such-and-Such to do this
 20 thing," and then it turns out, "Well, we actually have them
 21 doing another thing," right.
 22 We want -- we want them to simply be in a position
 23 to reconcile their approach to -- of compliance with the Act
 24 with the definitions that the Act includes.
 25 So -- so, you know -- so it may -- it's possible

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1 that -- that someone could structure this in a manner that
2 that classification they make could work. It could. But
3 it's just -- but it's got to be reflective of the actual --
4 the actual facts of what their actual activities are.
5 You can't -- what we don't want people to -- what
6 we don't want to have happen is have a decision made on
7 Monday that says that, you know, Fred's "all of Fred's
8 activities are not campaign -- campaign media spending," but
9 on -- but by Wednesday we've got Fred full-time organizing
10 partisan get-out-the-vote efforts which are defined
11 activities that are campaign media spending under the Act.
12 CHAIRMAN KIMBLE: Okay. Do any other Commissioners
13 have questions or comments for Tom?
14 COMMISSIONER CHAN: Mr. Chairman.
15 CHAIRMAN KIMBLE: Commissioner Chan.
16 COMMISSIONER CHAN: It's interesting that you
17 brought up this issue because I -- one of my first questions
18 was, is there's anyone here from, you know, the Arizona
19 Democratic Party's project that requested this advisory
20 opinion or Elias -- I'm sorry, I don't know how, if I'm
21 pronouncing it correctly, Elias Law Group because I -- I was
22 assuming what Tom said is true, is that we would --
23 actually, I think I'm on his distribution list. So I've
24 seen these come out, and I know he's including the
25 stakeholders.

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1 can, and to the extent we're not seeing it, it may be that
2 it's so new that the stakeholders don't have experience with
3 it and maybe we'll get more feedback as the election year
4 rolls on.
5 But, anyway, I -- I feel -- it's always
6 uncomfortable being -- you know, charting new territory I
7 think, but I feel comfortable from the perspective of I
8 think what Tom has put together is grounded in the law that
9 the voters approved and is -- he -- he seems to take very
10 reasonable approaches trying to implement that with the
11 consideration of the feedback with the stakeholders.
12 So I -- I really appreciate everything that Tom has
13 done and I also appreciate the questions that the other
14 Commissioners are bringing up as well, so.
15 Okay, that's all.
16 CHAIRMAN KIMBLE: Thank you, Commissioner Chan.
17 I was going to go through and see if any
18 Commissioners had comments, then I'll see if there's any
19 stakeholders or anyone else who -- who wants to make
20 comments.
21 Any other members of the Commission have any
22 comments or questions?
23 COMMISSIONER ESTES-WERTHER: Mr. Chairman.
24 CHAIRMAN KIMBLE: Yes.
25 COMMISSIONER ESTES-WERTHER: I just wanted to just

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1 I do feel like it's been very quiet on many of
2 these, quieter than I would have expected, but if nobody is
3 here today, I have to assume that they're willing to let
4 sleeping dogs lie. You know, they feel they've had their
5 say, and they're willing to let the chips fall where they
6 may as far as how the Commission approaches it.
7 I also want to just add, you know, the questions
8 that I think other Commissioners have raised -- yourself
9 today, Mr. Chairman, and others, I think maybe Commissioner
10 Paton at the last meeting -- regarding the recordkeeping
11 involved, I have no personal experiences with, you know,
12 businesses, for example, nonprofits, even political
13 committees really running them.
14 But I have to assume all of those entities adhere
15 to some basic, you know, accounting principles that would
16 enable them to be able to, you know, kind of adhere to the
17 requirements of the Act, given especially as responsive as I
18 feel like staff has been in, you know, getting stakeholder
19 feedback and considering it. And to the extent staff feels
20 it complies with the Act, you know, adding it in,
21 incorporating it into these advisory opinions.
22 So I guess I just wanted to kind of put all that
23 out there for other Commissioners and staff and the public
24 that I think we all want stakeholder feedback. I feel like
25 a wonderful job has been done of trying to get as much as we

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1 make a comment.
2 CHAIRMAN KIMBLE: Okay. Commissioner Werther.
3 COMMISSIONER ESTES-WERTHER: So I also -- I think
4 just when we first initially looked at this at the last
5 meeting had, just, you know, general questions about how
6 that recordkeeping would work and obviously saw the, you
7 know, other additional kind of comment and those concerns as
8 well, but I do think this revised actually is very helpful
9 because it kind of shows why this is so new and may be
10 uncomfortable, right, for -- for, you know, to try to figure
11 out how they're going to do this recordkeeping because,
12 really, they haven't had to do it before, right, under
13 current law, maybe under FEC.
14 But this is the language of the Act and so these
15 types of activities will now be covered.
16 And I also agree in that I don't think we want to
17 get it in to so much detail telling them how, right, because
18 maybe they do decide they want to just classify and keep it
19 really easy for them and that person is always going to do
20 those activities. You know, I wouldn't want to start
21 telling them how to do that, as long as they're, again, as
22 Tom mentioned, accountable under the Act.
23 So I'm comfortable -- much more comfortable I think
24 after reading this revised draft than I probably was at the
25 last meeting that this is sort of where we land with the

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1 Act.
 2 CHAIRMAN KIMBLE: Thank you, Commissioner Werther.
 3 Any other Commissioners have any comments on this
 4 or questions for Tom?
 5 (No audible response.)
 6 CHAIRMAN KIMBLE: Hearing none, is there any member
 7 of the public or any person who is involved in this who has
 8 a comment?
 9 (No audible response.)
 10 CHAIRMAN KIMBLE: And I don't -- I don't see anyone
 11 raising their hand or making any gestures indicating they
 12 want to talk.
 13 Okay. Is there any Commissioner who wishes to make
 14 a motion on this advisory opinion, the latest draft advisory
 15 opinion?
 16 COMMISSIONER CHAN: Mr. Chairman, I move --
 17 CHAIRMAN KIMBLE: Commissioner Chan.
 18 COMMISSIONER CHAN: I move that the revised
 19 Advisory Opinion -- or Draft Advisory Opinion 24-04 be
 20 adopted.
 21 CHAIRMAN KIMBLE: Is there a second?
 22 COMMISSIONER ESTES-WERTHER: Second.
 23 CHAIRMAN KIMBLE: It's been moved by Commissioner
 24 Chan, seconded by Commissioner Werther that we approve Draft
 25 Advisory Opinion 24-04. I will call the roll.

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1 by e-mail at ccec@arizonacleanelections.gov.
 2 At this time, I would entertain a motion to
 3 adjourn.
 4 COMMISSIONER CHAN: Mr. Chairman, I move we
 5 adjourn.
 6 CHAIRMAN KIMBLE: Thank you, Commissioner Chan.
 7 Is there a second?
 8 COMMISSIONER ESTES-WERTHER: Second.
 9 CHAIRMAN KIMBLE: Seconded by Commissioner Werther.
 10 I will call the roll.
 11 Commissioner Chan.
 12 COMMISSIONER CHAN: Aye.
 13 CHAIRMAN KIMBLE: Commissioner Werther.
 14 COMMISSIONER ESTES-WERTHER: Aye.
 15 CHAIRMAN KIMBLE: Commissioner Paton.
 16 COMMISSIONER PATON: Aye.
 17 CHAIRMAN KIMBLE: Commissioner Titla.
 18 COMMISSIONER TITLA: Aye.
 19 CHAIRMAN KIMBLE: Chair votes aye. We are
 20 adjourned.
 21 Thank you very much, members of the Commission.
 22 (Meeting concludes at 11:49 a.m.)
 23
 24
 25

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1 Commissioner Chan.
 2 COMMISSIONER CHAN: Aye.
 3 CHAIRMAN KIMBLE: Commissioner Werther.
 4 COMMISSIONER ESTES-WERTHER: Aye.
 5 CHAIRMAN KIMBLE: Commissioner Paton.
 6 COMMISSIONER PATON: Aye.
 7 CHAIRMAN KIMBLE: Commissioner Titla.
 8 COMMISSIONER TITLA: Aye.
 9 CHAIRMAN KIMBLE: Chair votes aye.
 10 The Draft Advisory Opinion 24-04 is approved
 11 5-to-nothing.
 12 Thank you, Tom.
 13 MR. COLLINS: Thank you.
 14 CHAIRMAN KIMBLE: This is Item VI. This is the
 15 time for consideration of comments and suggestions from the
 16 public. Action taken as a result of public comment will be
 17 limited to directing staff to study the matter or
 18 rescheduling the matter for further consideration and
 19 decision at a later date or responding to criticism.
 20 Please limit your comment to no more than two
 21 minutes.
 22 Does anyone on Zoom wish to make a comment?
 23 (No audible response.)
 24 CHAIRMAN KIMBLE: Not seeing anyone.
 25 The public may also send comments to the Commission

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1 CERTIFICATE
 2
 3 STATE OF ARIZONA)
 4) ss.
 5 COUNTY OF MARICOPA)
 6
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 14 thereof.
 15 I FURTHER CERTIFY that I have complied with the
 16 requirements set forth in ACJA 7-206. Dated at Litchfield
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