



## 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  
1616 West Adams, Suite 110  
Phoenix, Arizona 85007

**Date:** Thursday, January 18, 2018

**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 January 18, 2018. This meeting will be held at 9:30 a.m., at the Citizens Clean Elections Commission, 1616 West Adams, Suite 110, Phoenix, Arizona 85007. The meeting may be available for live streaming online at [www.livestream.com/cleanelections](http://www.livestream.com/cleanelections). Members of the Citizens Clean Elections Commission will attend either in person or by telephone, video, or internet conferencing.

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.

The agenda for the meeting is as follows:

- I. Call to Order.
- II. Discussion and Possible Action on Commission Minutes for December 14, 2017 meeting.
- III. Discussion and Possible Action on Executive Director's Report.
- IV. Discussion and Possible Action on 2017 Voter Education Activities and the 2018 Voter Education Plan.
- V. Discussion and Possible Action on MUR 14-027, Veterans for a Strong America.
- VI. Discussion and Possible Action on *Arizona Advocacy Network, et. al v. State of Arizona, et al.*

**The Commission may choose to go into executive session on Item VI for discussion or consultation with its attorneys to consider its position and instruct its attorneys regarding the public body's position regarding contracts, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation. A.R.S. § 38-431.03(A)(4).**

- VII. Discussion and Possible Action on Legislation Affecting the Commission, Campaign Finance, Election, and Administrative Law.
- VIII. Recognition and Appreciation to Commissioner and Past Chairman, Steve M. Titla, for his service to the Commission and the State of Arizona.
- IX. 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
- X. 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, 1616 West Adams, Suite 110, Phoenix, Arizona 85007.

Dated this 16<sup>th</sup> day of January, 2018.

Citizens Clean Elections Commission  
Thomas M. Collins, Executive Director

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.

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THE STATE OF ARIZONA

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CITIZENS CLEAN ELECTIONS COMMISSION

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REPORTER'S TRANSCRIPT OF PUBLIC MEETING

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Phoenix, Arizona

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December 14, 2017

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9:30 a.m.

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Prepared by:

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Certificate No. 50699

<p style="text-align: right;">Page 2</p> <p>1 PUBLIC MEETING BEFORE THE CITIZENS CLEAN 2 ELECTIONS COMMISSION convened at 9:30 a.m. on 3 December 14, 2017, at the State of Arizona, Clean 4 Elections Commission, 1616 West Adams, Conference Room, 5 Phoenix, Arizona, in the presence of the following Board 6 members: 7 Mr. Steve M. Titla, Chairperson 8 Mr. Mark S. Kimble 9 Mr. Damien Meyer 10 Ms. Amy B. Chan 11 Mr. Galen D. Paton 12 OTHERS PRESENT: 13 Thomas M. Collins, Executive Director 14 Paula Thomas, Executive Officer 15 Sara Larsen, Financial Affairs Officer 16 Gina Roberts, Voter Education Director 17 Mike Becker, Policy Director 18 Alec Shaffer, Web Content Manager 19 Stephanie Cooper, Executive Support Specialist 20 Kara Karlson, Assistant Attorney General 21 Rivko Knox, LWV/AZ 22 Morgan Dick, AZ Advocacy Network 23 Christina Borrego, Riester 24 Barry McCain, AFSME 25 Nate Arrowsmith, Osborn Maledon</p>	<p style="text-align: right;">Page 4</p> <p>09:31:12-09:32:24</p> <p>1 (No response.) 2 CHAIRMAN TITLA: Abstain? 3 (No response.) 4 CHAIRMAN TITLA: The minutes are approved. 5 The third item is discussion and possible 6 action on executive director's report. 7 MR. COLLINS: Yes. Mr. Chairman, 8 Commissioners, I just want to briefly mention first 9 that Stephanie graduated cum laude from ASU with a 10 bachelor's degree in organizational leadership, and so 11 we're very pleased about that. And she is going to go 12 ahead with her -- pursuing a master's degree starting 13 next year. So I just wanted to congratulate Stephanie 14 on that. 15 The couple other real quick things -- I 16 don't want to -- I don't want to belabor this, but we 17 do have now a special election coming up in District 8 18 of -- Congressional District 8 which is entirely 19 encompassed in Maricopa County. The primary election 20 is going to be February 27th. The voter registration 21 date is January 29th. The special general election is 22 the 24th of April. The voter registration deadline is 23 March 26th. We'll be -- and I think we have this on 24 our website now so voters can start getting that 25 information.</p>
<p>09:30:11-09:31:11</p> <p style="text-align: right;">Page 3</p> <p>1 PROCEEDING 2 3 CHAIRMAN TITLA: The Citizens Clean 4 Elections Committee meeting -- Commission meeting is 5 called to order at 9:33 a.m. 6 MR. COLLINS: Depends whose clock you're 7 on. 8 CHAIRMAN TITLA: We're going to go to the 9 first item on the agenda: Discussion and possible 10 action on Commission minutes for the November 16, 2017 11 meeting. 12 Commissioners? 13 COMMISSIONER KIMBLE: Mr. Chairman? 14 CHAIRMAN TITLA: Commissioner Kimble. 15 COMMISSIONER KIMBLE: I move we approve the 16 meeting for the Commission -- the minutes for the 17 Commission meeting of November 16, 2017. 18 CHAIRMAN TITLA: Okay. There's a -- 19 COMMISSIONER CHAN: I second the motion. 20 CHAIRMAN TITLA: Okay. There's a motion by 21 Commissioner Kimble to approve the minutes of 22 November 16, 2017, and a second by Commissioner Chan. 23 All in favor say aye. 24 (Chorus of ayes.) 25 CHAIRMAN TITLA: Opposed?</p>	<p>09:32:26-09:33:59</p> <p style="text-align: right;">Page 5</p> <p>1 In January we'll do the voter education 2 plan. Gina and Alec have been meeting with the Arizona 3 Developmental Disabilities Planning Council staff to 4 try to enhance our outreach efforts there to make sure 5 that our materials continue to be accessible to as many 6 voters as possible. And Gina and Stephanie have been 7 working with the County Recorders from the state on 8 participation, and the Electronic Registered 9 Information Center which is a -- which is ERIC is what 10 it's short for -- but not that Eric -- and it -- 11 there's some requirements there to participate. 12 Basically, what that is is an attempt to -- 13 what? Yeah, it's a mailer and then it's to non-voters 14 that the County Recorders are working on how to do to 15 participate in that program which is sponsored by the 16 Pew Charitable Trust, I think. Correct? Am I wrong 17 about that? There's a grant from Pew. 18 The other thing I wanted to note -- and 19 this is really more of an FYI miscellaneous. There's a 20 committee that calls itself Outlaw Dirty Money that has 21 introduced a constitutional amendment that they would 22 put on the ballot via initiative. You see their story 23 from the Republic and a link to it, also a summary 24 provided by the group, as well as the text to the 25 group. The full amendment identifies the Commission as</p>

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<p>1 the enforcing body and the initiative must receive more 2 than 225,000 signatures by July 5th, 2018. 3 The reason to flag this for you is really 4 threefold. First, it's to make clear to folks that 5 might otherwise -- might say otherwise that this is not 6 a Clean Elections initiative, the Clean Elections 7 Commission does not endorse this initiative. I can't 8 imagine the Commission as a body will endorse the 9 initiative. Your individual rights are different, and 10 if you have questions about that, please feel free to 11 see me. 12 Secondly -- but I don't want you to get 13 confronted or -- by folks who are upset about this and 14 not know that it exists because that's happened before. 15 Second, I want to flag this because as we 16 go into the legislative session, these kinds of 17 initiatives, whether they get off the ground in a real 18 way or not, tend to give folks who don't like Clean 19 Elections a reason or a framing for which they will 20 sponsor their usually misleading repeal efforts. So 21 that's important to be aware of. 22 And then the third thing -- and this is way 23 down the road, but just to put it in your mind now so 24 that I can point to the minutes later and tell you I 25 said this that, you know, if this were to get litigated</p>		<p>1 the northwest all the way up to the four corners, 2 Window Rock in the northeast, down to Douglas, Arizona 3 in the southeast, the southwest to Yuma, Arizona. And 4 you guys have done a good job, and I wanted to commend 5 you for that, for your leadership. In the Apache way 6 we have a thing called servant leadership. The leaders 7 in Apache are supposed to serve the people and not to 8 accumulate the wealth for themselves but to give and 9 get things but for the good of the people is what they 10 do in the Apache way. 11 So I'd like to ask you to continue that 12 good work in the future years so that we can begin to 13 remember and focus and implement the will of the 14 people. 15 The people passed the Clean Elections 16 system because they wanted to improve the integrity of 17 the Arizona state government by diminishing the 18 influence of special interest money that will encourage 19 citizen participation in the political process and also 20 to promote freedom of speech. I didn't memorize that. 21 I'm reading it from the back there. So -- under the 22 U.S. and Arizona Constitution. So, Commissioners, my 23 fellow commissioners, I'd like to ask you to remember 24 that as you go forward, that we need to remember the 25 people's will and try to implement it.</p>	
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<p>1 there's always a remote possibility that it will 2 involve people saying things about the Commission or 3 the Clean Elections Act that may or may not require 4 some type of amicus or clarification by the Commission 5 in that case. That's never happened before, but we've 6 had to consider that possibility with past initiatives. 7 So it's just those are the three things I want you to 8 be aware of. 9 Unless you have any questions about that, 10 that completes my report. 11 CHAIRMAN TITLA: Any questions by the 12 Commission? 13 (No response.) 14 CHAIRMAN TITLA: If not, Mr. Collins, I 15 just want to commend you for the good work you have 16 been doing for the Citizens Clean Elections Commission. 17 You have been a -- you are an expert in this area of 18 the law and also the attorneys and the staff that have 19 been working for us these past few years. And I really 20 appreciate all the updates that you have given. I 21 think that you and the staff have implemented a focus 22 on reaching out to the four corners of the state so 23 that we can reach all -- all people of all 24 nationalities and all cultures. 25 We have reached out to areas of Kingman in</p>		<p>1 Thank you. 2 Is there anything else, Mr. Collins? 3 MR. COLLINS: No, no, other than we do hope 4 you were here next month because we will do our -- for 5 your nominally last meeting, we will -- we will be 6 celebrating you at that time. So we hope you can make 7 it. 8 CHAIRMAN TITLA: Okay. If not, let's go to 9 the next item, Item IV: Discussion and possible action 10 on selection of Chairman 2018. 11 MR. COLLINS: Mr. Chairman, members, this 12 is really an opportunity for you to discuss and make a 13 nomination and vote for a chairman to handle the 14 chairman duties for Calendar Year 2018. It's really 15 not my role and any of our role as staff to get 16 involved in that. So I would just kick it over to, 17 Mr. Chairman, however you want to handle that 18 discussion, or if there is anyone who has ideas on how 19 that would proceed. I'm happy to answer questions 20 about history, but other than that, it's not -- it's 21 not really my role to participate. 22 CHAIRMAN TITLA: What has been the protocol 23 in this area, Mr. Collins? 24 MR. COLLINS: Mr. Chairman, commissioners, 25 in the past -- for the past, I would say, five years,</p>	

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<p>1 at least -- and that's as far back as I go -- Mike</p> <p>2 would go back farther into maybe some variance in the</p> <p>3 past, but for the past four or five years, we've -- the</p> <p>4 most senior member of the Commission after the exiting</p> <p>5 chairman has been nominated and been approved as</p> <p>6 chairman for the next calendar year.</p> <p>7 CHAIRMAN TITLA: Okay. Who is the most</p> <p>8 senior member on our Commission?</p> <p>9 MR. COLLINS: After you, it's Commissioner</p> <p>10 Meyer.</p> <p>11 CHAIRMAN TITLA: Okay. Commissioner Meyer.</p> <p>12 I would recommend that Commissioner Meyer</p> <p>13 become the chairman for the next Commission. This is</p> <p>14 my last meeting -- official meeting as chairman, as a</p> <p>15 member of the Commission.</p> <p>16 So do we need a motion on that?</p> <p>17 MR. COLLINS: Yes, sir.</p> <p>18 CHAIRMAN TITLA: I motion that Commissioner</p> <p>19 Meyer become the next chairman of the Clean Elections</p> <p>20 Commission.</p> <p>21 COMMISSIONER KIMBLE: I second that.</p> <p>22 CHAIRMAN TITLA: A second by Commissioner</p> <p>23 Kimble.</p> <p>24 Any comments?</p> <p>25 (No response.)</p>		<p>1 is discussion and possible action on the 2018</p> <p>2 expenditure CAP.</p> <p>3 MR. COLLINS: So, Mr. Chairman, we have --</p> <p>4 Sara Larsen, who is our financial affairs and</p> <p>5 compliance officer has a presentation for you, and then</p> <p>6 you'll see in the packet of proposed motions that I've</p> <p>7 provided this morning provided -- you know, after</p> <p>8 you've reviewed Sara's materials, there's a motion</p> <p>9 related to that. And then there's an Item V-D which</p> <p>10 I'm happy to talk about which is budget related but</p> <p>11 separate from Sara's presentation.</p> <p>12 So with -- Mr. Chairman, with your</p> <p>13 permission, I'd just hand it over to Sara to present.</p> <p>14 CHAIRMAN TITLA: Proceed, Sara.</p> <p>15 MS. LARSEN: Thank you, Mr. Chairman.</p> <p>16 Good morning, Chairman, commissioners. So</p> <p>17 I am presenting our 2018 proposed budget this morning.</p> <p>18 So I believe that you all received the memo which</p> <p>19 pretty much details everything that was in the</p> <p>20 spreadsheets, and I have a brief PowerPoint to go over</p> <p>21 at this time. And I'm happy to take any questions as</p> <p>22 we go through this.</p> <p>23 So, first, we'll talk a little bit about</p> <p>24 our revenues into the Fund, so actually what gets</p> <p>25 deposited into our Clean Elections Fund. That is the</p>	
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<p>1 CHAIRMAN TITLA: If not, is there -- all in</p> <p>2 favor say aye.</p> <p>3 (Chorus of ayes.)</p> <p>4 CHAIRMAN TITLA: Opposed?</p> <p>5 (No response.)</p> <p>6 CHAIRMAN TITLA: Abstain?</p> <p>7 COMMISSIONER MEYER: Aye.</p> <p>8 CHAIRMAN TITLA: The motion is passed. So</p> <p>9 Chairman Meyer will be the next chairman.</p> <p>10 Does he start right now or --</p> <p>11 MR. COLLINS: No, no, no.</p> <p>12 COMMISSIONER PATON: Tag, you're in?</p> <p>13 MR. COLLINS: The next meeting.</p> <p>14 CHAIRMAN TITLA: Next meeting. Okay.</p> <p>15 Okay. Commissioner Meyer, at our next</p> <p>16 meeting, you'll be the chairman.</p> <p>17 COMMISSIONER MEYER: You're passing the</p> <p>18 gavel?</p> <p>19 CHAIRMAN TITLA: Yeah.</p> <p>20 COMMISSIONER MEYER: Thank you very much to</p> <p>21 all my fellow commissioners. I'd be honored to chair</p> <p>22 the Commission next year. So thank you.</p> <p>23 CHAIRMAN TITLA: Okay. Thank you.</p> <p>24 Item V: Discussion and possible action on</p> <p>25 Calendar Year 2017-18 budget and related matters. "A"</p>		<p>1 10 percent surcharge on all civil and criminal</p> <p>2 penalties and fines in the state. So those are</p> <p>3 transferred from the state treasurer's office and</p> <p>4 processed by them into our Clean Elections Fund. And</p> <p>5 we also have our Commission assessments. So anything</p> <p>6 from enforcement matters is also deposited into the</p> <p>7 Clean Elections Fund.</p> <p>8 All \$5 qualifying contributions that our</p> <p>9 participating candidates collect, so we only receive</p> <p>10 those in election years. So for 2017, we did not</p> <p>11 receive any \$5 qualifying contributions, but next year</p> <p>12 we will. And then we do have some miscellaneous items</p> <p>13 that are deposited into the Fund. These would be rare</p> <p>14 contributions that we receive. We occasionally do</p> <p>15 receive some of those. Candidates who pay for the use</p> <p>16 of prior assets, those are deposited into the Fund.</p> <p>17 Return of Clean Elections funding, all of that stuff is</p> <p>18 considered miscellaneous.</p> <p>19 Things that we used to receive but we no</p> <p>20 longer do receive are the \$5 tax donations from the</p> <p>21 income -- state income tax filings. There was a \$5</p> <p>22 checkoff box. Last year we received \$135 worth of</p> <p>23 those. So I still have it up here because we do</p> <p>24 receive tax filings from 2012 and prior that -- that</p> <p>25 are coming in, but they are dwindling every year. And</p>	

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<p>1 we no longer receive the dollar-for-dollar tax credit</p> <p>2 into the Fund.</p> <p>3 So a little historical history here on what</p> <p>4 our revenues into the Fund look like, and we do pay</p> <p>5 close attention to this. Tom and I talk about this</p> <p>6 internally in the office. You can see back in 2010, we</p> <p>7 were receiving about \$20 million into the Clean</p> <p>8 Elections Fund annually. We are now receiving \$7</p> <p>9 million. So that's a big change. In 2010 photo radar</p> <p>10 went away so that -- we lost about \$6 million a year</p> <p>11 when photo radar went away. And then again in 2012, we</p> <p>12 had a large drop, and that was when the \$5 tax checkoff</p> <p>13 box and our dollar-for-dollar tax donations went away.</p> <p>14 We lost about another 5- to \$6 million a year.</p> <p>15 The decline that we see now between 2013</p> <p>16 and today is roughly about a million dollars. So in</p> <p>17 2014, we received about \$8.4 million. This year, as</p> <p>18 soon as we receive December's revenues, I would</p> <p>19 anticipate that we're probably just barely going to</p> <p>20 receive over \$7 million into the Fund. So we don't</p> <p>21 know why there's about a million dollar decrease in</p> <p>22 civil and criminal penalties annually, but there is.</p> <p>23 So it is something that is of concern with our revenues</p> <p>24 dropping so drastically, and these are the only funds</p> <p>25 that we receive. We are not appropriated. We receive</p>		<p>1 as well. We'd like to kind of look at this in light of</p> <p>2 that and then look at other -- other places where there</p> <p>3 are revenue issues based on some other discussions.</p> <p>4 You know, there's also -- always been the</p> <p>5 open question of whether or not the repeal of the \$5</p> <p>6 and the dollar-for-dollar tax credit was Voter</p> <p>7 Protection Act-compliant given the fact that it, you</p> <p>8 know, reduced our revenues, and how that advances the</p> <p>9 purpose of the Clean Elections Act is really mysterious</p> <p>10 to me. But -- so we are going to -- I think we're</p> <p>11 going to keep track of that over the next year and try</p> <p>12 to see what other places we need to look to to see</p> <p>13 what -- well, I don't mean to interrupt you, but I just</p> <p>14 want to say that it's something that's on -- when Sara</p> <p>15 and I are talking about it, this is something that's on</p> <p>16 our agenda to try to get as good a picture of what's</p> <p>17 going on as we can over the next year.</p> <p>18 MS. LARSEN: Chairman, commissioners, so</p> <p>19 after this very bleak opening, I should reassure you</p> <p>20 that at this time, we are going into 2018 with about</p> <p>21 \$28 million in our fund. So, you know, it's not \$7</p> <p>22 million is all we have, but that's all that's going to</p> <p>23 be deposited into the Fund for this year.</p> <p>24 So by statute the Commission does need to</p> <p>25 project the amount of revenues that the Fund is going</p>	
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<p>1 no money from the general fund. So we do have to pay</p> <p>2 close attention to these as we anticipate our</p> <p>3 expenditures in election years and non-election years.</p> <p>4 This is a chart to kind of show you what</p> <p>5 our monthly revenues look like over the years. There</p> <p>6 is no rhyme or reason to what we receive into the Fund</p> <p>7 in any given month. For some reason, in April and May</p> <p>8 we receive a little bit more, but I don't know why that</p> <p>9 is. We don't have any data on that, but our monthly</p> <p>10 revenues are pretty much -- they're not entirely</p> <p>11 consistent, but on average, we receive about 600 and --</p> <p>12 \$626,000 into the Fund, on average. So --</p> <p>13 COMMISSIONER CHAN: That's when all the</p> <p>14 drunk drivers are paying off their fines from the</p> <p>15 holidays in previous years.</p> <p>16 MS. LARSEN: Chairman, Commissioner Chan, I</p> <p>17 don't know, but possibly. You know, I mean, it's after</p> <p>18 the Open and Barrett Jackson. So we don't know.</p> <p>19 MR. COLLINS: Can I -- if I could, Sara,</p> <p>20 Mr. Chairman, one other thing, I think we -- you know,</p> <p>21 we talked about this in some other context, and I think</p> <p>22 over the next year or so we're going to have to take a</p> <p>23 hard look at, A, for example, you know, the Auditor</p> <p>24 General audits both our revenues -- or our ex-flows, as</p> <p>25 we saw last month. They, we believe, audit the inflows</p>		<p>1 to collect for the next four years. So I have made</p> <p>2 those projections based on historical data, and I</p> <p>3 would -- I'm not changing my projections from 2018,</p> <p>4 except for the 5 -- or from 2017, except for the \$5</p> <p>5 qualifying contributions.</p> <p>6 I think that we'll actually have a little</p> <p>7 bit less than I had anticipated when I did the budget</p> <p>8 presentation last year, but I'm anticipating that we --</p> <p>9 you know, given what we received this year and what we</p> <p>10 received in 2016, I'm fairly confident that we will</p> <p>11 receive at least \$7 million in civil and criminal</p> <p>12 penalties, at least in 2018 and hopefully going</p> <p>13 forward, but that number will not continue to drop</p> <p>14 about a million dollars a year like we've previously</p> <p>15 seen.</p> <p>16 COMMISSIONER PATON: Question,</p> <p>17 Mr. Chairman.</p> <p>18 So you're not taking into consideration the</p> <p>19 fact that the court -- the court people that we were in</p> <p>20 discussions with are going to try to eliminate the</p> <p>21 waiving of the penalties -- whatever they -- whatever</p> <p>22 those penalties were?</p> <p>23 MS. LARSEN: Chairman, Commissioner Paton,</p> <p>24 we are not because we actually don't have any hard data</p> <p>25 on what those would amount to. We actually don't know</p>	

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<p>1 from the courts how much is being waived from the Clean</p> <p>2 Elections Fund, so we can't actually say how much we</p> <p>3 would receive if that went -- if that went away.</p> <p>4 COMMISSIONER PATON: So you are being</p> <p>5 conservative is basically what I'm asking.</p> <p>6 MS. LARSEN: Yes, yes. Correct.</p> <p>7 And then Commission assessments always</p> <p>8 increase during our election years. So in 2018, I</p> <p>9 would anticipate that we'll probably have \$15,000 in</p> <p>10 assessments, and this is what we had in 2016.</p> <p>11 \$5 qualifying contributions -- well, let me</p> <p>12 back up.</p> <p>13 The \$5 tax donations, I would be shocked if</p> <p>14 we received any this year. I always make a zero dollar</p> <p>15 projection on that and, again, we've received \$135 this</p> <p>16 year. So I would really be shocked if anybody is</p> <p>17 filing back tax returns from six years ago.</p> <p>18 The \$5 qualifying contributions, because it</p> <p>19 is a gubernatorial election year, we have more</p> <p>20 candidates running. So we anticipate collecting more</p> <p>21 \$5 qualifying contributions in 2018 than we do in 2020.</p> <p>22 And then miscellaneous, again, rare contributions that</p> <p>23 people actually do give to the Fund, prior assets, just</p> <p>24 miscellaneous donations that we receive, and about</p> <p>25 \$15,000 we anticipate receiving.</p>	<p>1 have -- in 2016 -- or 2017 -- excuse me -- 2,952,610</p> <p>2 individual income tax filers. And there's a multiplier</p> <p>3 in the statute that we multiply that by and it's 7, and</p> <p>4 that gives us our overall spending cap for the year.</p> <p>5 So we have a little bit over \$20.6 million</p> <p>6 that by statute we can spend this year, and so you can</p> <p>7 see this chart is to show that we have had income tax</p> <p>8 filers increasing pretty much every year in the state.</p> <p>9 So our expenditure cap grows while our revenues are</p> <p>10 decreasing. So -- but this is the money we can spend.</p> <p>11 This doesn't mean that we're necessarily going to spend</p> <p>12 that amount of money.</p> <p>13 So our -- we have additional caps that we</p> <p>14 have to calculate by the statutes, and the</p> <p>15 administration and enforcement cap is one of those. We</p> <p>16 are not able to spend any more than 10 percent of the</p> <p>17 overall cap on administration and enforcement</p> <p>18 procedures. So our cap for that is about \$1.9 million.</p> <p>19 And so we multiply the overall cap by 10 percent, and</p> <p>20 that's how we get that. I'm sorry. The cap is \$2</p> <p>21 million. We anticipate our administration and</p> <p>22 enforcement expenditures in 2018 to be \$1.9 million.</p> <p>23 So it's about 93 percent of the cap is what we</p> <p>24 anticipate in spending.</p> <p>25 The public education cap, this is also</p>		
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<p>1 So these are the revenue projections. We</p> <p>2 do have that laid out in the memo as well.</p> <p>3 COMMISSIONER CHAN: Mr. Chairman, Sara, on</p> <p>4 the memo -- in the memo that you provided -- and I know</p> <p>5 you're kind of going over more detailed projections</p> <p>6 here, but I was just concerned, if I'm understanding it</p> <p>7 correctly, that we'd be operating at a \$13 million</p> <p>8 deficit every year for the next four years or over a</p> <p>9 \$13 million deficit?</p> <p>10 MS. LARSEN: No, and I'll -- that will be</p> <p>11 on some later --</p> <p>12 COMMISSIONER CHAN: Okay. Thank you.</p> <p>13 MS. LARSEN: Chairman, Commissioner Chan,</p> <p>14 that will be on some later slides when I talk about</p> <p>15 excess revenue projections or excess amounts into the</p> <p>16 Clean Elections Fund.</p> <p>17 COMMISSIONER CHAN: Okay. Thank you.</p> <p>18 MS. LARSEN: So -- yes.</p> <p>19 So we also -- every year we calculate our</p> <p>20 expenditure cap, and we do this by -- we contact the</p> <p>21 Department of Revenue and we see how many people have</p> <p>22 filed individual income tax returns in the state. So</p> <p>23 we're up about 50,000 filers this year. So we're</p> <p>24 almost -- we're getting close. So hopefully next year</p> <p>25 we'll see about three million filers, but -- so we</p>	<p>1 our -- we talk about it interchangeably as our paid</p> <p>2 media cap that we pay on for our advertisements, things</p> <p>3 of that nature. So that is also capped at 10 percent.</p> <p>4 We -- this does not include reasonable and necessary</p> <p>5 voter education expenditures. So this is merely just</p> <p>6 the paid media cap, and we do project that we will</p> <p>7 spend the entire amount of the cap in 2018.</p> <p>8 Reasonable and necessary voter education</p> <p>9 expenditures, in addition to that, are about 4.5</p> <p>10 million. These -- this would be things such as our</p> <p>11 debates, our candidate statement pamphlet. So pretty</p> <p>12 much anything that Gina does for the voter outreach</p> <p>13 outside of the paid media, this is included in this</p> <p>14 amount. It's pretty large in our election years,</p> <p>15 mostly because we have to pay a substantial amount in</p> <p>16 printing and postage, and I believe page 3 of the</p> <p>17 spreadsheets does break out line items on the voter</p> <p>18 education expenditures.</p> <p>19 So we also need to project funding amounts</p> <p>20 every year. So for candidates of 2017, we did not have</p> <p>21 any participating candidates, so we did not distribute</p> <p>22 any funds. Based on the participating candidates that</p> <p>23 we have right now for 2018, we have come up with</p> <p>24 funding projections. So we anticipate that we will be</p> <p>25 distributing about \$8.9 million in funding to</p>		



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<p>1 candidates, and that's broken out for the primary</p> <p>2 election and the general election as -- based on our</p> <p>3 historical data of how many candidates actually qualify</p> <p>4 for funding.</p> <p>5 So a little bit of an overview of our</p> <p>6 projected expenditures for 2018, they will come to a</p> <p>7 total of \$17,557,340. This is about 85 percent of our</p> <p>8 spending cap. I don't believe that, you know, we will</p> <p>9 spend all of that, but this is for everything that we</p> <p>10 have projected and have quoted for 2018 for an election</p> <p>11 year.</p> <p>12 Okay. So now I have a few slides, and</p> <p>13 sometimes these can be a little confusing. So please</p> <p>14 stop me if you need clarification on anything.</p> <p>15 This is a review of what our actual</p> <p>16 expenditures have been as compared to what our</p> <p>17 expenditure cap was, so our overall cap that we are</p> <p>18 allowed to spend and the amount that we actually spent</p> <p>19 in those years. As you can see, in 2014 and 2016, we</p> <p>20 spent more money than we did in 2015 and 2017. That's</p> <p>21 also because those are election years, and we have</p> <p>22 larger expenses such as candidate funding and our Voter</p> <p>23 Education Guide. We still have not spent at the cap in</p> <p>24 those years, but -- but that was our capacity to spend</p> <p>25 and then that's how much we actually spent.</p>		<p>1 expenditures versus what our cap expenditures are, and</p> <p>2 this is for the next four years because these also need</p> <p>3 to be projected.</p> <p>4 So in 2018, we do project that we will</p> <p>5 spend about \$17.5 million. Our cap is a little over 20</p> <p>6 million. In 2019, it's a non-election year, so we will</p> <p>7 spend a fraction of what we do in an election year.</p> <p>8 2020 is an election year, but we do not have all</p> <p>9 statewide offices up. So we will not spend nearly the</p> <p>10 amount that we do in a gubernatorial election year.</p> <p>11 And then 2021, again, is a non-election year. So we</p> <p>12 will not spend at the capacity of the cap.</p> <p>13 COMMISSIONER MEYER: Mr. Chairman?</p> <p>14 CHAIRMAN TITLA: Commissioner Meyer.</p> <p>15 COMMISSIONER MEYER: Sara, how does the</p> <p>16 2018 projection and expenses compare to the 2014 -- the</p> <p>17 last gubernatorial, if you know?</p> <p>18 MS. LARSEN: I do, Chairman, Commissioner</p> <p>19 Meyer. So on the first page of your spreadsheet on the</p> <p>20 right-hand side -- or I'm sorry -- on the left-hand</p> <p>21 side, you will see the 2014 figures. And so we --</p> <p>22 COMMISSIONER MEYER: Just under 12 million?</p> <p>23 MS. LARSEN: Yeah, yeah, just under 12</p> <p>24 million, so -- but I can tell you in that year we</p> <p>25 probably projected that we would spend about \$19</p>	
09:58:35-10:00:05	Page 23	10:01:33-10:02:37	Page 25
<p>1 So our revenue projections versus our</p> <p>2 expenditure cap. So this is just to show you that \$13</p> <p>3 million difference in our spending capacity which is at</p> <p>4 \$20 million and then our revenues that we actually</p> <p>5 bring in that are at about \$7 million. So this is why</p> <p>6 we can't spend at our -- at our capacity, even though</p> <p>7 we can per the statute spend that much, but because of</p> <p>8 our revenues we do need to be more conservative.</p> <p>9 MR. COLLINS: Mr. Chairman, commissioners,</p> <p>10 again, this goes to the whole point of my -- the sort</p> <p>11 of open question about the Voter Protection Act in the</p> <p>12 sense that, you know, we have capacity that's been set</p> <p>13 forth in the statute by the voters and then the</p> <p>14 legislature, by virtue of eliminating funding sources,</p> <p>15 has -- has essentially decimated our ability to spend</p> <p>16 money up to the amount of money that voters intended us</p> <p>17 to have available to do their -- the work that voters</p> <p>18 intended us to do.</p> <p>19 So, you know, if you look at these two</p> <p>20 things together, the decimation of our funding sources</p> <p>21 and the authorization -- the expenditure limitations,</p> <p>22 you begin -- you begin to sort of wonder, well, how is</p> <p>23 that possible?</p> <p>24 MS. LARSEN: Okay. So, Chairman,</p> <p>25 commissioners, again, we have our projected</p>		<p>1 million.</p> <p>2 COMMISSIONER MEYER: So historically, we've</p> <p>3 come under those projections, right?</p> <p>4 MS. LARSEN: Correct. Correct. And a lot</p> <p>5 of that has to do with the number of candidates that</p> <p>6 qualify for funding. They receive a substantially</p> <p>7 larger amount of funding than the legislative races do</p> <p>8 for the statewide races. So if not all of our</p> <p>9 anticipated candidates actually qualify for funding,</p> <p>10 then that significantly reduces the amount of our</p> <p>11 expenditures.</p> <p>12 COMMISSIONER MEYER: And then one</p> <p>13 follow-up. On the projections, we have 2.2 million for</p> <p>14 other professional outside services.</p> <p>15 What does that entail? Because legal</p> <p>16 counsel is separate, correct?</p> <p>17 MS. LARSEN: Chairman, Commissioner Meyer,</p> <p>18 yes. Correct. So legal counsel is separate. So the</p> <p>19 other professional outside services includes about</p> <p>20 \$700,000 for our debates alone.</p> <p>21 COMMISSIONER MEYER: Okay.</p> <p>22 MS. LARSEN: That also includes assistance</p> <p>23 for Gina on our voter education pamphlet and debates</p> <p>24 with an outside vendor. That's our audits that we're</p> <p>25 projecting to be -- since we're going to be auditing</p>	

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<p>1 all candidates, it will probably be about \$400,000.</p> <p>2 Translation services, our court reporter, things of</p> <p>3 that nature, those are all professional outside</p> <p>4 services.</p> <p>5 COMMISSIONER MEYER: Thank you.</p> <p>6 COMMISSIONER KIMBLE: Mr. Chairman?</p> <p>7 CHAIRMAN TITLA: Commissioner Kimble.</p> <p>8 COMMISSIONER KIMBLE: Following up on</p> <p>9 Commissioner Meyer's question on the other professional</p> <p>10 services, so this is substantially higher than any of</p> <p>11 the previous years here, 2014 or forward. And so is</p> <p>12 most of this because we're going to be auditing</p> <p>13 everyone?</p> <p>14 MS. LARSEN: Chairman, Commissioner Kimble,</p> <p>15 no, it's actually not. Gina in the voter education</p> <p>16 capacity actually will have more assistance in crafting</p> <p>17 the Voter Education Guide with an outside vendor, and</p> <p>18 about \$1.5 million is coming from that. And they're</p> <p>19 going to assist with voter education debates and the</p> <p>20 Voter Education Guide, and I know that she'll have her</p> <p>21 presentation in January as to what is going to her</p> <p>22 voter education plan.</p> <p>23 COMMISSIONER CHAN: To that point -- I'm</p> <p>24 sorry, Commissioner Kimble, but is part of that --</p> <p>25 didn't we lose kind of the package deal that we used to</p>	<p>1 details of that, I can have Gina speak to that because</p> <p>2 that is a quote that she received, but yeah. This is</p> <p>3 for -- it's not necessarily something that was done</p> <p>4 internally before, but I can let Gina speak to that.</p> <p>5 CHAIRMAN TITLA: Gina.</p> <p>6 MS. ROBERTS: Mr. Chairman, commissioners,</p> <p>7 so what we have done beginning in 2016 -- so, you know,</p> <p>8 prior to 2014 we didn't do this, but in 2016 for the</p> <p>9 first time we did a request for additional funding</p> <p>10 outside of the paid media cap which has usually been</p> <p>11 what the amount was reserved for our public and voter</p> <p>12 education plan.</p> <p>13 In 2016, we made the additional request of</p> <p>14 a similar dollar amount, between 1 and 1.5 million, and</p> <p>15 this was pertaining to educating the public regarding</p> <p>16 the Voter Education Guide and the debates, not the</p> <p>17 actual production of it. So Sara referenced numbers,</p> <p>18 the professional and outside services for the actual</p> <p>19 production of those, but now we're adding additional</p> <p>20 funding to educate the public about the existence of</p> <p>21 those, how to use these, when the debates will occur,</p> <p>22 how to attend, that type of thing.</p> <p>23 And so because it's pertaining to the Voter</p> <p>24 Education Guide and the debates, it falls outside of</p> <p>25 that paid media cap. So that is additional funding.</p>		
10:04:07-10:05:15	Page 27	10:06:32-10:07:40	Page 29
<p>1 have with the Secretary of State that saved us a little</p> <p>2 money?</p> <p>3 MS. LARSEN: Chairman Titla, Commissioner</p> <p>4 Chan, I think you're actually referring to the printing</p> <p>5 of the candidate statement pamphlet.</p> <p>6 COMMISSIONER CHAN: Yes.</p> <p>7 MS. LARSEN: I don't know the technical</p> <p>8 contractual aspects of that.</p> <p>9 COMMISSIONER CHAN: Okay. Okay.</p> <p>10 MS. LARSEN: So our quote for our candidate</p> <p>11 statement pamphlet is essentially the same. We're</p> <p>12 anticipating it will probably be the same, maybe a</p> <p>13 little bit higher, but over the years we've actually</p> <p>14 reduced the cost by internally going to district</p> <p>15 pamphlets. We've actually saved about a million</p> <p>16 dollars by going to district-specific pamphlets.</p> <p>17 COMMISSIONER KIMBLE: Mr. Chairman, going</p> <p>18 back to what I was -- what I was asking about, so I</p> <p>19 don't want to get too much into this, but are you</p> <p>20 saying that we're getting outside assistance for</p> <p>21 something that was done in house or -- because I'm</p> <p>22 looking at this 2.62 million versus, in 2014, 655,000.</p> <p>23 So it's four times that.</p> <p>24 MS. LARSEN: Correct. So -- yeah. So this</p> <p>25 is an outside vendor, and if you would like to know the</p>	<p>1 We -- we first made the request in 2016, and the reason</p> <p>2 why we did that was based off of our research. When we</p> <p>3 held our focus groups, when we did pre and post</p> <p>4 election research with our voters, we saw a very</p> <p>5 important need to educate the state about the existence</p> <p>6 of these tools for them because our debate attendance</p> <p>7 is low.</p> <p>8 The amount of viewer -- you know, viewers</p> <p>9 that we get from the recorded sessions, we wanted to</p> <p>10 see those increase so people can actually make use of</p> <p>11 these tools, more of that information that these exist.</p> <p>12 And with the Voter Education Guide, the production cost</p> <p>13 of it, we were able to implement some cost savings on</p> <p>14 that side when we went district specific, but again, it</p> <p>15 was more of we don't want these guides to make it into</p> <p>16 the mailbox and then folks get them and then, in turn,</p> <p>17 put them into the recycle bin. We want them to</p> <p>18 actually use it.</p> <p>19 So it was more of an education plan to show</p> <p>20 our voters this guide is coming to you. Expect it</p> <p>21 before you get your ballot, and this is how you use it.</p> <p>22 This is the information that's important in there. So</p> <p>23 we did that in 2016. We continue to do our voter</p> <p>24 research to understand do folks realize what these</p> <p>25 tools are? How to use them? And we're still seeing a</p>		

10:07:43-10:09:05	Page 30	10:10:27-10:11:42	Page 32
<p>1 need for that.</p> <p>2 So we made the additional request in</p> <p>3 this -- in this budget plan. So it's additional</p> <p>4 funding to help us educate the state specifically about</p> <p>5 the debates and the Voter Education Guide that these</p> <p>6 tools are available to voters and how to use them, not</p> <p>7 so much the production of those items.</p> <p>8 MR. COLLINS: Mr. Chairman, Commissioner</p> <p>9 Kimble, if I may just to amplify what Gina said, I</p> <p>10 think the comparison number is 2016, first of all, and</p> <p>11 I think -- and I think -- I think I'm not wrong.</p> <p>12 And then, second of all, I think that the</p> <p>13 important thing to bear in mind is that when 16-949 was</p> <p>14 amended, it expressly stated that if the Commission</p> <p>15 determined that there was reasonable and necessary</p> <p>16 expenditures necessary under 16-956, which is where the</p> <p>17 debates and the -- and the candidate statement pamphlet</p> <p>18 are authorized, that those would be not subject to any</p> <p>19 cap. It's expressly in the language of the statute.</p> <p>20 And so given that we have done the research</p> <p>21 over the course of two election cycles now -- Gina has</p> <p>22 managed that -- we don't think that this request is</p> <p>23 unnecessary. In fact, we think it's reasonable and</p> <p>24 necessary because the fact of the matter is, for</p> <p>25 example -- and you'll see this next month in our over</p>	<p>1 Clean Elections just myself as a user of different</p> <p>2 things. So I would say that it's probably money well</p> <p>3 spent in spite of the fact that it does look like, you</p> <p>4 know, a bigger expense.</p> <p>5 MS. LARSEN: And, Chairman, Commissioner</p> <p>6 Chan, it definitely looks like a large expenditure, but</p> <p>7 again, this is just like our projected amount. It</p> <p>8 doesn't necessarily mean that we are going to spend</p> <p>9 that amount. So this is -- this is our quote on that</p> <p>10 for what we think we might utilize in 2018, but it</p> <p>11 doesn't necessarily mean that it will come in that</p> <p>12 large.</p> <p>13 COMMISSIONER KIMBLE: Mr. Chairman, Sara,</p> <p>14 you asked if there's any other questions on the -- on</p> <p>15 the line items. I have two others, but I don't know if</p> <p>16 this is the appropriate time to get into it or should I</p> <p>17 wait until you get to it on the slide?</p> <p>18 MS. LARSEN: Chairman, Commissioner Kimble,</p> <p>19 I'm happy to answer your question.</p> <p>20 COMMISSIONER KIMBLE: Okay. Could you</p> <p>21 talk -- or Tom -- a little bit about the increase in</p> <p>22 personnel services which went from projected 520,000 to</p> <p>23 700,000 between '17 and '18?</p> <p>24 MS. LARSEN: Chairman, Commissioner Kimble,</p> <p>25 actually, those are actually -- that's a decrease</p>		
10:09:07-10:10:24	Page 31	10:11:44-10:13:24	Page 33
<p>1 preview, but we're working to revamp the Voter</p> <p>2 Education Guide so that it is a better tool than it's</p> <p>3 been in the past as a printed -- as a printed matter.</p> <p>4 I mean, all of those things cost dollars.</p> <p>5 The legislature in amending 16-949 expressly authorized</p> <p>6 the Commission to make that determination if it's</p> <p>7 reasonable and necessary, and staff believes it is</p> <p>8 reasonable and necessary.</p> <p>9 COMMISSIONER KIMBLE: Okay. Thank you,</p> <p>10 Mr. Chairman.</p> <p>11 MS. LARSEN: Chairman, commissioners, any</p> <p>12 additional questions on any line items?</p> <p>13 COMMISSIONER CHAN: Mr. Commissioner -- or</p> <p>14 Mr. Chairman -- I'm sorry -- just a comment on what you</p> <p>15 and Gina just presented. I think in spite of the</p> <p>16 increase in the, you know, projected expense for that,</p> <p>17 I personally have -- I really appreciate, I think, the</p> <p>18 more robust approach that the Commission has been</p> <p>19 taking. And I -- it sounds like this has all been part</p> <p>20 of that.</p> <p>21 And I think -- I don't know if I personally</p> <p>22 experienced it, but on my Facebook feed I always get</p> <p>23 Clean Elections, you know -- even though I follow Clean</p> <p>24 Elections, it will say, you know, promoted or something</p> <p>25 like that. So I know I'm getting more information from</p>	<p>1 projection. For 2017, we actually had projected --</p> <p>2 when I presented this in 2016, we actually had</p> <p>3 projected \$750,000 in personnel services. So it's</p> <p>4 about a \$50,000 decrease in projection. That is just</p> <p>5 so if there are any internal staff changes, any -- you</p> <p>6 know, it allows Tom some leeway in case we hire new</p> <p>7 employees, anything of that nature.</p> <p>8 COMMISSIONER KIMBLE: Okay. And one other</p> <p>9 question about external legal services which is</p> <p>10 projected to be far higher than it's been in any of the</p> <p>11 past four years, and I know we're being sued and we're</p> <p>12 in court a lot for various things and it looks like</p> <p>13 we're anticipating being in court a lot more.</p> <p>14 MS. LARSEN: Chairman, Commissioner Kimble,</p> <p>15 again, our projection for 2016, when I presented this</p> <p>16 in -- or our projection for 2017, when I presented this</p> <p>17 in 2016, was \$500,000. We projected an increase</p> <p>18 because we are in active litigation. It does not</p> <p>19 necessarily mean that we will spend at that amount, but</p> <p>20 it does offer us some leeway in not having to come back</p> <p>21 to the Commission once we have exceeded a projected</p> <p>22 amount and to come back and ask for more funds in the</p> <p>23 middle of an election year.</p> <p>24 So we have previously -- I believe in 2014</p> <p>25 we projected \$750,000 in external legal services, and</p>		

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<p>1 that year we spent \$362,000. So it's not necessarily</p> <p>2 that we are going to spend \$750,000. Those are just</p> <p>3 projections to we don't know what's going to happen</p> <p>4 when we're in active litigation.</p> <p>5 COMMISSIONER KIMBLE: You know, I</p> <p>6 understand that, but why the projection?</p> <p>7 MR. COLLINS: Mr. Chairman, Commissioner</p> <p>8 Kimble, I think -- I think two reasons. First, we</p> <p>9 are -- we do have -- we have -- we have one piece of</p> <p>10 active litigation where we have a lawsuit that's been</p> <p>11 filed. We have -- additionally, we have several other</p> <p>12 matters that require ongoing maintenance from our</p> <p>13 attorneys, whether they be outside counsel or whether</p> <p>14 they be Osborn Maledon or Ballard Spahr. I think that</p> <p>15 the -- is the AG ISA in there also?</p> <p>16 MS. THOMAS: Yes.</p> <p>17 MS. LARSEN: No.</p> <p>18 MR. COLLINS: No? No. It's not. Okay.</p> <p>19 MS. LARSEN: No. It's not in external</p> <p>20 legal services. It's a separate line item.</p> <p>21 MR. COLLINS: Okay. So the other thing I</p> <p>22 would note and the reason why 2014 is an important</p> <p>23 reference point is because we are, in fact, still</p> <p>24 litigating 2014 enforcement matters. In fact, the case</p> <p>25 we argued at the Supreme Court in 20 -- in September 11</p>	<p>1 right now because of the way that the state is able to</p> <p>2 drive down the cost of legal expenses for the state</p> <p>3 through the Attorney General's procurement process, we</p> <p>4 get a very good deal on our -- on our legal services,</p> <p>5 honestly, compared to buying those on the open market.</p> <p>6 And the attorneys that we work with are all very</p> <p>7 scrupulous in terms of their billing.</p> <p>8 So I don't think it's -- I don't think it's</p> <p>9 outrageous. I just think that 20 -- or I don't think</p> <p>10 it's even -- I think it's notable, but I think if you</p> <p>11 factor how much we spent in 2014, the risks that 2018</p> <p>12 raises that are the same and the fact that we have an</p> <p>13 actual live lawsuit that we don't know exactly where it</p> <p>14 will go -- and we'll talk about that in the next agenda</p> <p>15 item -- it's safer to be on the upside than the</p> <p>16 downside and then the actual will, in all likelihood,</p> <p>17 come down quite considerably from that.</p> <p>18 You know, I will note that every single</p> <p>19 expenditure that we make for legal expenses is pursuant</p> <p>20 to an express authorization from Attorney General Mark</p> <p>21 Brnovich and his office. So there is not a single</p> <p>22 expenditure that we have ever made that Mark Brnovich</p> <p>23 does not -- has not given us the authority to go ahead</p> <p>24 and spend.</p> <p>25 COMMISSIONER KIMBLE: Thank you,</p>		
10:15:02-10:16:34	Page 35	10:17:56-10:19:27	Page 37
<p>1 of this year is from an enforcement that was done in</p> <p>2 2014. And so I think there's an old adage that Joe</p> <p>3 Kanefield puts out that presidential years are crazy</p> <p>4 from an election administration perspective and state</p> <p>5 election, general elections are crazy from a political</p> <p>6 litigation perspective.</p> <p>7 And so given that we had to provide -- as</p> <p>8 Sara noted, we ended up spending under that projection</p> <p>9 in 2014. I certainly don't want to be in a position</p> <p>10 where -- you know, and part of this is optics. Part of</p> <p>11 this is reality. No person who decides they want to</p> <p>12 buck the Commission ought to think that the Commission</p> <p>13 does not have the resources to enforce its orders</p> <p>14 through legal means.</p> <p>15 And, on the other hand, you know,</p> <p>16 continuing to come back to you for re-upping the amount</p> <p>17 of money we are authorized to spend on lawyers does not</p> <p>18 do us any -- it becomes then a talking point for folks</p> <p>19 who don't like the act itself to say, oh, you're voting</p> <p>20 for more legal expenses.</p> <p>21 So I think Sara has a tendency to put -- to</p> <p>22 project conservatively in two respects. We project</p> <p>23 conservatively in terms of lower expectations of</p> <p>24 revenue and we project conservatively in terms of</p> <p>25 higher expectations of expenditures. I think that</p>	<p>1 Mr. Chairman.</p> <p>2 CHAIRMAN TITLA: Sara?</p> <p>3 MS. LARSEN: Thank you, Mr. Chairman.</p> <p>4 Okay. Let me take a moment to gather</p> <p>5 myself on the slide.</p> <p>6 Okay. So this -- this slide is an overview</p> <p>7 of what we anticipate our revenues are going to be over</p> <p>8 the next four years as to what our actual expenditures</p> <p>9 are going to be over the next three years. So this is</p> <p>10 not spending at the cap. This is what we anticipate</p> <p>11 our actual expenditures will be. So you can see in our</p> <p>12 election years we do anticipate that we will spend more</p> <p>13 than we actually bring into the Fund, and in our</p> <p>14 non-election years, we will not spend nearly the amount</p> <p>15 that we bring into the Fund. And this is important</p> <p>16 because our non-election years help us build up the</p> <p>17 Fund in order to support our election years, our</p> <p>18 spending in our election years.</p> <p>19 So just a summary of the memo and the</p> <p>20 spreadsheets that you received and what we're asking</p> <p>21 you to approve. We're asking you to approve the 2018</p> <p>22 expenditure cap at \$20,668,270. The additional caps</p> <p>23 off of that are the public education and -- or the</p> <p>24 public education cap and the administration and</p> <p>25 enforcement cap. Each of those are \$2,066,827. The</p>		

10:19:33-10:21:14	Page 38	10:22:48-10:24:12	Page 40
<p>1 projected voter education expenditures that are</p> <p>2 reasonable and necessary are \$4,588,100. Our projected</p> <p>3 candidate funding is \$8,973,613.</p> <p>4 And then our four-year revenue projections,</p> <p>5 we do project that we will receive 7 million to \$7.4</p> <p>6 million a year into the Fund. And as to Commissioner</p> <p>7 Chan's question earlier, if the projected expenses --</p> <p>8 if our projected expenses reach the annual expenditure</p> <p>9 limit, the Fund balance will run negative in Calendar</p> <p>10 Year 2020. So this is why we cannot spend at our cap</p> <p>11 because if we spend at our cap, we would not have any</p> <p>12 money in the Fund by the end of two years. And our</p> <p>13 assumed expenses would exceed revenues by</p> <p>14 \$54,270,000 -- \$270,580 -- sorry -- by 2021, resulting</p> <p>15 in a Fund balance of negative \$25 million.</p> <p>16 COMMISSIONER CHAN: Mr. Chairman, Sara.</p> <p>17 CHAIRMAN TITLA: Commissioner Chan.</p> <p>18 COMMISSIONER CHAN: You know, it's not that</p> <p>19 I expect us, obviously, to spend up to this expenditure</p> <p>20 cap, but even if we just spend what we've spent in the</p> <p>21 previous few years, it seems like we are still</p> <p>22 operating at a deficit of a few million dollars. And I</p> <p>23 think what Tom said, I guess, that kind of brings it</p> <p>24 into -- you know, brings up what Tom said about our</p> <p>25 revenues and, you know, the voter intent -- the voter</p>	<p>1 So Tom and I talk a lot about this, and we</p> <p>2 are of the mind that we do not have excess revenue or</p> <p>3 excess funds in our Clean Elections Fund because if we</p> <p>4 did and we made that determination, we would not -- at</p> <p>5 some point, we would not have enough money to operate.</p> <p>6 MR. COLLINS: Mr. Chairman, Commissioner</p> <p>7 Chan, I think just to amplify that point, I think -- I</p> <p>8 think two things. One, you know, down the road we have</p> <p>9 to look at a lot of different options. We've been</p> <p>10 talking about this in a sporadic way over the course of</p> <p>11 the Commission's year in terms of different issues.</p> <p>12 Sara presents to you guys -- and it's usually attached</p> <p>13 to the executive director's report -- our actuals on a</p> <p>14 quarterly basis. And so you can keep track of how our</p> <p>15 spending is going vs. the caps and the -- and the</p> <p>16 budget that you set forward. And you'll find that we</p> <p>17 ordinarily come in under.</p> <p>18 So, again, this is just a -- this is --</p> <p>19 this is just a projection that's based on the most</p> <p>20 conservative to the upside in terms of spending and the</p> <p>21 most conservative to the downside in terms of revenue.</p> <p>22 I think that because we provide actuals throughout the</p> <p>23 year, you can monitor that as we go. And if you see</p> <p>24 anything that stands out, I think -- I think we can</p> <p>25 talk about that then.</p>		
10:21:18-10:22:45	Page 39	10:24:17-10:25:52	Page 41
<p>1 protection of our Fund.</p> <p>2 And so I'm pretty concerned about what I'm</p> <p>3 seeing with regard to the budget because even though it</p> <p>4 looks much worse when you're comparing the expenditure</p> <p>5 cap with actual revenues or projected revenues even,</p> <p>6 even the actual expenditures are exceeding our</p> <p>7 revenues.</p> <p>8 So what do we do as a commission about</p> <p>9 that?</p> <p>10 MS. LARSEN: Right. And, Chairman,</p> <p>11 Commissioner Chan, so we are going into 2018 with a</p> <p>12 healthy balance. We have \$28 million, but our</p> <p>13 projected expenditures for 2018 are \$17 million. So we</p> <p>14 have had years previously -- I believe in 2010 our Fund</p> <p>15 balance was down to \$11 million -- or 2011. After the</p> <p>16 2010 elections it was down to roughly a million -- \$11</p> <p>17 million. Did the microphone go off?</p> <p>18 Okay. Sorry.</p> <p>19 So, you know, our Fund balance waxes and</p> <p>20 wanes. Depending on the election year, that happens,</p> <p>21 and that we spend conservatively in our off election</p> <p>22 years. And that's when, you know, we bank up a lot of</p> <p>23 the revenues that come in, but if we determine that</p> <p>24 there are excess funds in the Fund, we will not have</p> <p>25 those revenues for our election year.</p>	<p>1 In fact, Sara will be wrapping up in</p> <p>2 January or February precisely what we spent in 2017</p> <p>3 because we haven't gotten -- we're only at November in</p> <p>4 terms of the processing of the bills for this year. So</p> <p>5 we've got December bills to come. Those will get paid.</p> <p>6 We'll have -- so that won't get reconciled until her</p> <p>7 report you'll receive in January.</p> <p>8 So it's important to make a distinction</p> <p>9 between what we project and what we spend. The fact is</p> <p>10 that we've always budgeted high, but it remains the</p> <p>11 fact that as a matter of statutory clear statute, our</p> <p>12 capacity is far in excess of our actual dollars in the</p> <p>13 Fund. And that incongruity is something that over time</p> <p>14 we will reach a delta where that becomes a real</p> <p>15 problem. So we are cognizant of that. We raise it.</p> <p>16 We are -- over the course of the last year, we've</p> <p>17 started to focus more and more on it, especially as</p> <p>18 things like the court issue arose.</p> <p>19 So I think we're going to continue to look</p> <p>20 at that, but all that having been said, as far as</p> <p>21 actual spending, you'll get the actual spending for</p> <p>22 2017 in January or February and then Sara -- I don't</p> <p>23 know if you know. You may not -- you may not always</p> <p>24 see it. You may not always notice it, but there are</p> <p>25 quarterly updates that Sara provides on an ongoing</p>		

10:25:56-10:27:03	Page 42	10:27:56-10:29:28	Page 44
<p>1 basis just so we know where our -- where we are and</p> <p>2 keeping track of it because, from our perspective,</p> <p>3 putting aside the budgetary issues and making sure we</p> <p>4 don't exceed any caps that are legally imposed and then</p> <p>5 making sure that we're compliant with the budget that</p> <p>6 we presented to you is something that the -- that we as</p> <p>7 staff, you know, really is top priority.</p> <p>8 Before -- before we make any decisions, the</p> <p>9 first question is, is it legally compliant with the</p> <p>10 caps and is it compliant with what we've told the</p> <p>11 Commission? And then -- and then we do provide that</p> <p>12 information to you on an ongoing basis, and you're</p> <p>13 free to ask any of those questions at any time.</p> <p>14 MS. LARSEN: Chairman, that's -- that's the</p> <p>15 end of my presentation.</p> <p>16 CHAIRMAN TITLA: Thank you for your report.</p> <p>17 That's an excellent report and information that you've</p> <p>18 given us.</p> <p>19 Commissioners, we have the request that --</p> <p>20 for approval of the 208 -- or 2018 expenditures cap</p> <p>21 report.</p> <p>22 MR. COLLINS: Yeah, Mr. Chairman, we've</p> <p>23 written a proposed motion item. We think that Sara's</p> <p>24 summary memo captures the caps and projections that are</p> <p>25 required of us under statute, and so we would ask that</p>		<p>1 we've -- the purpose of that memo was to do Items V-A</p> <p>2 through C. So we're now on V-D, if I may.</p> <p>3 CHAIRMAN TITLA: Okay. So that's all</p> <p>4 passed then?</p> <p>5 MR. COLLINS: Yes, except for V-D, which I</p> <p>6 need to discuss separately with you.</p> <p>7 CHAIRMAN TITLA: Okay. Now we are in V-D:</p> <p>8 Discussion and possible action on 2017 Attorney General</p> <p>9 Office Interagency Service Agreement.</p> <p>10 MR. COLLINS: Mr. Chairman, commissioners,</p> <p>11 this -- what I'm seeking here is -- and you have an</p> <p>12 exemplar of an earlier drafted ISA before Ms. Karlson</p> <p>13 and Mr. Larue were transferred to the agency counsel</p> <p>14 section. I'm working with the head of the agency</p> <p>15 counsel. There's a gentleman named Mark Nolan, who</p> <p>16 we've -- who's -- you may not know him, but he's an</p> <p>17 attorney we've worked with often and he's one of my</p> <p>18 personal administrative law heroes.</p> <p>19 So, anyway, what we have done for</p> <p>20 purposes of -- because of the -- because of the</p> <p>21 transfer and other issues, we -- or the AG's office is</p> <p>22 halfway through its fiscal year, and we're at the close</p> <p>23 of our calendar year.</p> <p>24 So I'm seeking authorization to -- we've</p> <p>25 already allocated the money in our budget from last</p>	
10:27:06-10:27:54	Page 43	10:29:31-10:31:06	Page 45
<p>1 that memo be approved as the -- as the -- as meeting</p> <p>2 the requirements of the act to make those projections</p> <p>3 and establish those caps.</p> <p>4 COMMISSIONER MEYER: Mr. Chairman?</p> <p>5 CHAIRMAN TITLA: Commissioner Meyer?</p> <p>6 COMMISSIONER MEYER: Mr. Chairman, I move</p> <p>7 that we approve the caps and projections as set forth</p> <p>8 in the memorandum from Executive Director Collins and</p> <p>9 Financial Affairs Officer Sara Larsen meeting with the</p> <p>10 requirements of the act.</p> <p>11 CHAIRMAN TITLA: There's a motion.</p> <p>12 Is there a second?</p> <p>13 COMMISSIONER KIMBLE: I second that.</p> <p>14 CHAIRMAN TITLA: Second by Commissioner</p> <p>15 Kimble.</p> <p>16 All in favor say aye.</p> <p>17 (Chorus of ayes.)</p> <p>18 CHAIRMAN TITLA: Opposed?</p> <p>19 (No response.)</p> <p>20 CHAIRMAN TITLA: Abstain?</p> <p>21 (No response.)</p> <p>22 CHAIRMAN TITLA: Motion is passed.</p> <p>23 The next item is possible action on</p> <p>24 four-year revenue projections and excess monies.</p> <p>25 MR. COLLINS: Yeah. So, Mr. Chairman,</p>		<p>1 year to do this, but I'm seeking specific authorization</p> <p>2 to do an ISA to backfill the Attorney General's Office</p> <p>3 for calendar year, CY -- or Calendar Year 2017 not to</p> <p>4 exceed \$86,600; and then talk to Mr. Nolan and Aaron</p> <p>5 McCarthy who is also in their agency counsel section</p> <p>6 about doing a separate Interagency Service Agreement</p> <p>7 for the remainder of the fiscal year which will come</p> <p>8 back to you.</p> <p>9 So -- so this is not anything new to the</p> <p>10 Commission. It's simply I just wanted to give you a</p> <p>11 heads up on where we are and wanted to seek your</p> <p>12 approval to do an agreement that's essentially</p> <p>13 retroactive, but I need to be able to sign a contract</p> <p>14 with Mr. Nolan -- well, with the AG's office through</p> <p>15 Mr. Nolan before the end of the calendar year just so</p> <p>16 we can put a button on that. And that's my request.</p> <p>17 CHAIRMAN TITLA: Commissioners, for Item</p> <p>18 V-D, the director has asked to reach an agreement with</p> <p>19 the Attorney General's Office for Calendar Year 2017</p> <p>20 not to exceed a \$86,600.</p> <p>21 COMMISSIONER MEYER: I have a question,</p> <p>22 Mr. Chairman.</p> <p>23 CHAIRMAN TITLA: Commissioner Meyer?</p> <p>24 COMMISSIONER MEYER: So, Tom, do you</p> <p>25 negotiate this? Do you have outside counsel help you</p>	


10:31:08-10:32:26	Page 46	10:33:05-10:34:37	Page 48
<p>1 with this, or do you think it's necessary?</p> <p>2 MR. COLLINS: Well, we haven't in the past.</p> <p>3 You know, if we get to a place with the go-forward</p> <p>4 stuff where there's an issue, we will -- we will seek</p> <p>5 that. The past is the past, as far as I'm concerned.</p> <p>6 I -- you know, I think that -- I think that, you know,</p> <p>7 Joe and Kara have been available to us. They've worked</p> <p>8 with us on matters including the Ruvalcaba matter, and</p> <p>9 so I don't have a problem. This is -- you know, this</p> <p>10 is really a backfill of an expectation.</p> <p>11 If something were to come up in the future</p> <p>12 in terms of doing the next fiscal year -- you know, the</p> <p>13 closeout of their fiscal year and for our next calendar</p> <p>14 year, obviously, we would raise that issue, or if we</p> <p>15 had to do that again, we would always raise that issue.</p> <p>16 Thus far, that has not been an issue. We have had some</p> <p>17 negotiations in the past over notice and role. I mean,</p> <p>18 we, for example, like to have some notice about AG</p> <p>19 opinions and we'd like to have some notice about when</p> <p>20 they're making changes in our assigned attorneys</p> <p>21 because we tend to develop a pretty close working</p> <p>22 relationship with our assigned attorneys, those kinds</p> <p>23 of things, you know.</p> <p>24 So we may have some other performance</p> <p>25 issues related to that we may want to raise with the</p>		<p>1 We go to the next item, Item VI:</p> <p>2 Discussion and possible action on rule proposals. "A"</p> <p>3 is R2-20-106, distribution of funds to certified</p> <p>4 candidates, proposed rule change.</p> <p>5 Director?</p> <p>6 MR. COLLINS: Yes. Mr. Chairman, we are</p> <p>7 asking for final approval of amendments to R2-20-106.</p> <p>8 The amendments to R2-20-106 would require candidates to</p> <p>9 return funds to the Clean Elections Fund with a</p> <p>10 cashier's checks, to reconcile outstanding expenditures</p> <p>11 with personal monies and allow the Commission staff to</p> <p>12 determine and waive de minimis return of Fund amounts.</p> <p>13 We've received public comment. I think you</p> <p>14 see a late comment we just go from the Arizona Advocacy</p> <p>15 Network and a comment from the League of Women Voters.</p> <p>16 I think -- I don't know if it was just 109 and 111 or</p> <p>17 106. It was all three? I haven't -- it's in your</p> <p>18 packet. I haven't -- it's in there. Oh, it's just 109</p> <p>19 and 111.</p> <p>20 Okay. So -- so we have a comment from the</p> <p>21 Arizona Advocacy Network on 106 supportive. That's the</p> <p>22 only comment we received on 106. This is essentially</p> <p>23 an administrative change to allow Sara and other staff</p> <p>24 members to button up the end of the clean cycle and</p> <p>25 place a time line on folks who fail to reconcile their</p>	
10:32:29-10:33:03	Page 47	10:34:42-10:35:52	Page 49
<p>1 AG's office. If those become an issue and we need</p> <p>2 outside counsel, we would seek it, but I don't think</p> <p>3 that has been an issue yet. We've never had to do it.</p> <p>4 COMMISSIONER MEYER: Mr. Chairman?</p> <p>5 CHAIRMAN TITLA: Commissioner Meyer.</p> <p>6 COMMISSIONER MEYER: I move that we</p> <p>7 authorize the executive director to reach an agreement</p> <p>8 with the Attorney General's Office for Calendar Year</p> <p>9 2017 not to exceed 86,600.</p> <p>10 CHAIRMAN TITLA: A motion has been made by</p> <p>11 Commissioner Meyer.</p> <p>12 Is there a second?</p> <p>13 COMMISSIONER KIMBLE: Second.</p> <p>14 CHAIRMAN TITLA: Commissioner Kimble</p> <p>15 seconds the motion.</p> <p>16 Discussion?</p> <p>17 (No response.)</p> <p>18 CHAIRMAN TITLA: If not, all in favor say</p> <p>19 aye.</p> <p>20 (Chorus of ayes.)</p> <p>21 CHAIRMAN TITLA: Opposed?</p> <p>22 (No response.)</p> <p>23 CHAIRMAN TITLA: Abstain?</p> <p>24 (No response.)</p> <p>25 CHAIRMAN TITLA: Motion is carried.</p>		<p>1 books that they're on the hook for those things.</p> <p>2 For example, we've had folks come back</p> <p>3 months after the fact and say, oh, I just found this</p> <p>4 receipt and, goodness, it was -- it was supposed to be</p> <p>5 paid for by Clean Elections money. It ought to return</p> <p>6 my money. Will you cut us a check? We would like to</p> <p>7 end that practice because we think it's on the</p> <p>8 candidate to reconcile those because the statutes and</p> <p>9 rules say they're supposed to reconcile that up front.</p> <p>10 Likewise, having a de minimis return of</p> <p>11 Fund amount creates an issue where we don't want to get</p> <p>12 a three cent check because it costs the state more</p> <p>13 money and us more money to process that check than it</p> <p>14 does for us to actually collect it which, from a</p> <p>15 fiduciary perspective, means we should just let that</p> <p>16 go.</p> <p>17 So that's -- that's it. It's that cut and</p> <p>18 dry, very little comment on it. And so we would ask</p> <p>19 that you approve the amendments to R2-20-106 as laid</p> <p>20 out in the proposed exempt rulemaking that's attached</p> <p>21 to your Item 6A on page 1 and 2 and 3.</p> <p>22 CHAIRMAN TITLA: Commissioners, a request</p> <p>23 has made by the director.</p> <p>24 COMMISSIONER MEYER: Mr. Chairman?</p> <p>25 CHAIRMAN TITLA: Commissioner Meyer.</p>	

10:35:54-10:36:53	Page 50	10:38:25-10:39:22	Page 52
<p>1 COMMISSIONER MEYER: I move we approve the</p> <p>2 amendments to Arizona Administrative Code R2-20-106.</p> <p>3 CHAIRMAN TITLA: A motion has been made by</p> <p>4 Commissioner Meyer to approve R2-20-106.</p> <p>5 Is there a second?</p> <p>6 COMMISSIONER KIMBLE: Second.</p> <p>7 CHAIRMAN TITLA: Second by Commissioner</p> <p>8 Kimble.</p> <p>9 All in favor say aye.</p> <p>10 (Chorus of ayes.)</p> <p>11 CHAIRMAN TITLA: Opposed?</p> <p>12 (No response.)</p> <p>13 CHAIRMAN TITLA: Abstain?</p> <p>14 (No response.)</p> <p>15 CHAIRMAN TITLA: Motion is carried.</p> <p>16 We go to B now, R2-20-109, independent</p> <p>17 expenditure reporting requirements.</p> <p>18 Director?</p> <p>19 MR. COLLINS: Yes. Mr. Chairman, these</p> <p>20 rules begin on Item VI, page 3, and carry over through</p> <p>21 page -- through page -- through the end -- through the</p> <p>22 beginning of page -- the first paragraph of page 6 of</p> <p>23 your materials. We are asking here -- this is a</p> <p>24 reaffirmation of R2-20-109. As you may recall, back in</p> <p>25 the summer, the -- we ended up with this very strange</p>		<p>1 Code.</p> <p>2 Is there a second?</p> <p>3 COMMISSIONER MEYER: Second.</p> <p>4 CHAIRMAN TITLA: Second by Commissioner</p> <p>5 Meyer.</p> <p>6 All in favor say aye.</p> <p>7 (Chorus of ayes.)</p> <p>8 CHAIRMAN TITLA: Opposed?</p> <p>9 (No response.)</p> <p>10 CHAIRMAN TITLA: Abstain?</p> <p>11 (No response.)</p> <p>12 CHAIRMAN TITLA: Motion is carried.</p> <p>13 The next item is VI-C, which is R2-20-111,</p> <p>14 non-participating candidate reporting requirements and</p> <p>15 contribution limits.</p> <p>16 Director?</p> <p>17 MR. COLLINS: Yes. Mr. Chairman, this,</p> <p>18 again, is the same issue. You'll see the substance of</p> <p>19 the rules start at page 7 of this item. We're asking</p> <p>20 for the same motion. You know, again, it serves the</p> <p>21 same function and we think -- you know, I think one of</p> <p>22 the reasons that we did this, in addition to wanting to</p> <p>23 clean up the Arizona Administrative Code, footnotes and</p> <p>24 such that the Secretary's Office has put in is to</p> <p>25 provide an opportunity for folks to opine on this given</p>	
10:36:58-10:38:21	Page 51	10:39:28-10:40:21	Page 53
<p>1 situation where the Secretary's Office and the</p> <p>2 Governor's Regulatory Review Council and us all through</p> <p>3 the Secretary's Office published notices respecting</p> <p>4 R2-20-109.</p> <p>5 Our goal here is to have a clean Arizona</p> <p>6 Administrative Code. R2-20-109 has been and continues</p> <p>7 to be the law in Arizona and we simply are asking for</p> <p>8 this reaffirmation which we hope and believe, in fact,</p> <p>9 should and would be shocked and dismayed if any</p> <p>10 other -- anything else were to happen -- should clean</p> <p>11 up the Arizona Administrative Code as published by</p> <p>12 Secretary Reagan because this is a clean -- this is a</p> <p>13 clean version. It has nothing to do with the invalid</p> <p>14 notice that GRRC provided to the Secretary's Office.</p> <p>15 So we would ask that you reapprove</p> <p>16 R2-20-109 at this time.</p> <p>17 CHAIRMAN TITLA: Commissioners, a request</p> <p>18 has been made by the director to approve R2-20-109.</p> <p>19 Any discussion? Motion?</p> <p>20 COMMISSIONER KIMBLE: Mr. Chairman.</p> <p>21 CHAIRMAN TITLA: Commissioner Kimble.</p> <p>22 COMMISSIONER KIMBLE: I move we reapprove</p> <p>23 Arizona Administrative Code R2-20-109.</p> <p>24 CHAIRMAN TITLA: A motion has been made by</p> <p>25 Commissioner Kimble to approve R2-20-109 Administrative</p>		<p>1 all of the stuff that the -- GRRC has done. Whether it</p> <p>2 be valid or not, they've talked a lot.</p> <p>3 I think it's interesting to note that only</p> <p>4 the Arizona Advocacy Network and the League of Women</p> <p>5 Voters have weighed in on this. They both support this</p> <p>6 as 109. And so, again, we's ask that you reapprove</p> <p>7 R2-20-111, and I'm happy to answer any questions about</p> <p>8 that.</p> <p>9 CHAIRMAN TITLA: Commissioners, a request</p> <p>10 has been made by the Director to reapprove Arizona</p> <p>11 Administrative Code R2-20-111.</p> <p>12 Is there any discussion or a motion?</p> <p>13 COMMISSIONER KIMBLE: Mr. Chairman?</p> <p>14 CHAIRMAN TITLA: Commissioner Kimble.</p> <p>15 COMMISSIONER KIMBLE: I move we reapprove</p> <p>16 Arizona Administrative Code R2-20-111.</p> <p>17 CHAIRMAN TITLA: A motion has been made by</p> <p>18 Commissioner Kimble to approve R2-20-111.</p> <p>19 Is there a second?</p> <p>20 COMMISSIONER MEYER: Second.</p> <p>21 CHAIRMAN TITLA: Second by Commissioner</p> <p>22 Meyer.</p> <p>23 All in favor say aye.</p> <p>24 (Chorus of ayes.)</p> <p>25 CHAIRMAN TITLA: Opposed?</p>	



10:40:22-10:41:34	Page 54	10:43:12-10:44:56	Page 56
<p>1 (No response.)</p> <p>2 CHAIRMAN TITLA: Abstain?</p> <p>3 (No response.)</p> <p>4 CHAIRMAN TITLA: Motion is carried.</p> <p>5 The next item -- the next item is VII:</p> <p>6 Discussion and possible action on Arizona Advocacy</p> <p>7 Network, et al., vs. State of Arizona, et al.</p> <p>8 Director?</p> <p>9 MR. COLLINS: Yes. Mr. -- Mr. Chairman --</p> <p>10 and I'll try to keep this as brief as possible.</p> <p>11 Nate Arrowsmith, who is an associate at</p> <p>12 Osborn Maledon, who's been working us on this</p> <p>13 throughout, is here to answer questions. I wanted to</p> <p>14 make a few comments in public session and then I think</p> <p>15 that Nate and I go would recommend we go into executive</p> <p>16 session at some point, but the upshot is as, we</p> <p>17 mentioned in the executive director's report last</p> <p>18 month, the Arizona Advocacy Network, a union and a</p> <p>19 number of Democratic lawmakers who were -- who -- I</p> <p>20 think who believe their vote's validity was denied</p> <p>21 because of the Voter Protection Act under Senate Bill</p> <p>22 1516 filed a lawsuit.</p> <p>23 We were served with that lawsuit and have</p> <p>24 agreed with counsel for AZN, et al., to extend our time</p> <p>25 to respond to January 8th. We would file, in all</p>		<p>1 privileges certain speakers with tax status based on</p> <p>2 their entity formation and discriminates against</p> <p>3 others.</p> <p>4 And that, finally, there's an argument</p> <p>5 under Article 7, Section 16 of the Arizona Constitution</p> <p>6 which requires the legislature to have -- or the people</p> <p>7 to have -- not only to be political committees, but</p> <p>8 that those political committees publish their</p> <p>9 contributions and their expenditures before and after</p> <p>10 the election and that publicity be paid for for those</p> <p>11 expenses.</p> <p>12 So that's sort of the broad claim. My bet</p> <p>13 is that the Commission and the Secretary and the State</p> <p>14 and GRRC are all brought into the suit because each of</p> <p>15 us play a role in the implementation of Senate Bill</p> <p>16 1516 to one degree or another. So if AZN, et al.,</p> <p>17 wants to seek some form of relief and if they have some</p> <p>18 specific relief they're seeking, they would need any or</p> <p>19 all of those folks to be bound by it.</p> <p>20 So with that as public comment, I think it</p> <p>21 might be appropriate to briefly go into executive</p> <p>22 session so that Nate can talk to you a little bit more</p> <p>23 about the tactical and strategic issues related to</p> <p>24 that, if there's a motion to go into executive session.</p> <p>25 CHAIRMAN TITLA: Okay. Is there a motion</p>	
10:41:39-10:43:05	Page 55	10:44:57-11:09:00	Page 57
<p>1 likelihood, an answer at that time. I think it's</p> <p>2 reasonable to foresee that the state -- the Secretary</p> <p>3 of State and the Governor's Regulatory Review Council</p> <p>4 will file some form of motion to dismiss. Whether or</p> <p>5 not -- that's speculation, but I think it's a safe bet.</p> <p>6 The lawsuit in substance deals with some</p> <p>7 specific provisions of Senate Bill 1516 and then an</p> <p>8 overall framework set forth by both the state</p> <p>9 constitution and the federal and state constitution. I</p> <p>10 think the federal constitution, as far as equal</p> <p>11 protection.</p> <p>12 And just to summarize the claims, the Voter</p> <p>13 Protection Act claims pertain to, in effect -- or the</p> <p>14 effect of the Clean Elections Act having been passed in</p> <p>15 1998 and incorporating certain terms, those terms</p> <p>16 having been amended without a super majority or</p> <p>17 advancing the purpose of the Clean Elections Act by</p> <p>18 argument of, you know, AZN's position. You know,</p> <p>19 their -- they seek an injunction on some of those</p> <p>20 provisions.</p> <p>21 They seek an equal protection claim based</p> <p>22 on the fact that the "predominant purpose" definition</p> <p>23 that is incorporated into the political action</p> <p>24 committee definition that is incorporated into the</p> <p>25 political committee definition in Senate Bill 1516</p>		<p>1 to go into executive session on this issue?</p> <p>2 COMMISSIONER KIMBLE: Mr. Chairman, I move</p> <p>3 we go into executive session.</p> <p>4 CHAIRMAN TITLA: Commissioner Kimble moves</p> <p>5 to go into executive session on this matter.</p> <p>6 Second?</p> <p>7 COMMISSIONER CHAN: Second.</p> <p>8 CHAIRMAN TITLA: Commissioner Chan seconds.</p> <p>9 All in favor say aye.</p> <p>10 (Chorus of ayes.)</p> <p>11 CHAIRMAN TITLA: Opposed?</p> <p>12 (No response.)</p> <p>13 CHAIRMAN TITLA: Abstain?</p> <p>14 (No response.)</p> <p>15 CHAIRMAN TITLA: Motion is carried.</p> <p>16 We are in executive session at 10:48 a.m.</p> <p>17 (The following section of the meeting is in</p> <p>18 executive session and bound under separate cover.)</p> <p>19 * * * * *</p> <p>20 (End of executive session. Public meeting</p> <p>21 resumes at 11:08 a.m.)</p> <p>22 CHAIRMAN TITLA: Okay. We are in public</p> <p>23 session.</p> <p>24 Let's go to -- is there a -- we had</p> <p>25 discussion on Item VII, the Arizona Advocacy Network</p>	

11:09:04-11:09:53	Page 58	11:11:17-11:12:03	Page 60
<p>1 case.</p> <p>2 Is there any discussion or possible action</p> <p>3 by the Commission on this issue?</p> <p>4 COMMISSIONER MEYER: Mr. Chairman?</p> <p>5 CHAIRMAN TITLA: Commissioner Meyer.</p> <p>6 COMMISSIONER MEYER: I'll make a motion to</p> <p>7 direct our counsel to file an answer to the complaint</p> <p>8 filed by the Arizona Advocacy Network as we discussed</p> <p>9 with counsel during executive session.</p> <p>10 CHAIRMAN TITLA: Is there a second to the</p> <p>11 motion by Commission Meyer?</p> <p>12 COMMISSIONER PATON: Second.</p> <p>13 CHAIRMAN TITLA: Commissioner Paton seconds</p> <p>14 the motion.</p> <p>15 All in favor say aye.</p> <p>16 (Chorus of ayes.)</p> <p>17 CHAIRMAN TITLA: Opposed?</p> <p>18 (No response.)</p> <p>19 CHAIRMAN TITLA: Abstain?</p> <p>20 (No response.)</p> <p>21 CHAIRMAN TITLA: The motion is carried.</p> <p>22 We go to Item VIII: Discussion and</p> <p>23 possible action on authorization of staff to approve</p> <p>24 second payment of Calendar Year 2017 ISA with the</p> <p>25 Arizona Secretary of State's Office.</p>		<p>1 COMMISSIONER KIMBLE: I move we approve the</p> <p>2 executive director to evaluate compliance with the</p> <p>3 Secretary of State's ISA and approve final payment if</p> <p>4 project is complete to his satisfaction.</p> <p>5 CHAIRMAN TITLA: A motion by Commissioner</p> <p>6 Kimble has been made as stated.</p> <p>7 Is there a second?</p> <p>8 COMMISSIONER CHAN: Second.</p> <p>9 COMMISSIONER MEYER: Second.</p> <p>10 CHAIRMAN TITLA: Commissioner Chan seconds.</p> <p>11 All in favor say aye.</p> <p>12 (Chorus of ayes.)</p> <p>13 CHAIRMAN TITLA: Opposed?</p> <p>14 (No response.)</p> <p>15 CHAIRMAN TITLA: Abstain?</p> <p>16 (No response.)</p> <p>17 CHAIRMAN TITLA: The motion is carried.</p> <p>18 We go to Item IX: Discussion and possible</p> <p>19 action on MUR 17-02 and 17-03, American Federation for</p> <p>20 Children.</p> <p>21 Director?</p> <p>22 MR. COLLINS: Yes. Mr. Chairman, we</p> <p>23 received a complaint which is Exhibit 1 to the proposed</p> <p>24 conciliation agreement respecting a group known as the</p> <p>25 Arizona Federation for Children that made an</p>	
11:09:55-11:11:14	Page 59	11:12:05-11:14:22	Page 61
<p>1 Director?</p> <p>2 MR. COLLINS: Yes. Commissioners, this is</p> <p>3 a quick item. The date for the second payment which is</p> <p>4 \$50,000, far less than our earlier payment to the</p> <p>5 Secretary of State, is January 2nd. That means that</p> <p>6 because we won't meet in the intervening time that I'm</p> <p>7 just requesting your authorization to apply my judgment</p> <p>8 to whether or not they have sufficiently complied with</p> <p>9 the -- with the ISA to allow for me to authorize Paula</p> <p>10 to issue that payment when the time comes.</p> <p>11 I'll say I have a meeting with the staff</p> <p>12 from the Secretary of State's this afternoon to go over</p> <p>13 where they're at and make sure we're on track. I think</p> <p>14 that we'll be able to do that. If something happens,</p> <p>15 I'm certainly -- certainly you'll be made aware of it</p> <p>16 before then, but I think we're on track in that</p> <p>17 respect. And so I just ask for the authorization to</p> <p>18 apply my judgment to their performance to issue that</p> <p>19 final payment on the ISA, and there is a proposed</p> <p>20 motion for that, I think, in your packet.</p> <p>21 CHAIRMAN TITLA: A request has been made by</p> <p>22 the director as stated.</p> <p>23 Any discussion or motion by the Commission?</p> <p>24 COMMISSIONER KIMBLE: Mr. Chairman?</p> <p>25 CHAIRMAN TITLA: Commissioner Kimble.</p>		<p>1 expenditure related to a candidate. We have secured</p> <p>2 with them an agreement to -- to file a report with</p> <p>3 respect to that amount. They also made some</p> <p>4 expenditures in District 26 that were below our</p> <p>5 threshold. That is what MUR 17-03 is.</p> <p>6 So what I would ask, unless you have any</p> <p>7 specific questions related to this -- this was on our</p> <p>8 agenda last month, then we had to delay it. I'm</p> <p>9 comfortable with this result. Although it does not</p> <p>10 require a fine, it does ensure that -- it does</p> <p>11 recognize that our reporting requirements are not the</p> <p>12 same as those that have been proposed in 16 -- in</p> <p>13 A.R.S. 1516 or in 8 -- it's Senate Bill 1516 and</p> <p>14 codified in A.R.S. 926 and that the respondent avows</p> <p>15 that these are accurate numbers and -- and the</p> <p>16 candidate and the respondent agrees to file complete</p> <p>17 expenditure reports regarding state legislative offices</p> <p>18 going forward. And I think it's overall a good</p> <p>19 agreement and resolves the matter.</p> <p>20 I'm happy to answer any questions, but I'd</p> <p>21 ask your approval to authorize me to execute this</p> <p>22 conciliation agreement. And just as a side note, I</p> <p>23 will be dismissing, because they're in compliance, MUR</p> <p>24 17-03 following this meeting and your approval of</p> <p>25 the -- of the conciliation agreement for my execution.</p>	

11:14:26-11:15:10	Page 62	11:16:25-11:16:42	Page 64
<p>1 CHAIRMAN TITLA: Any discussion or</p> <p>2 questions or possible action by the Commission on the</p> <p>3 request made by the director?</p> <p>4 COMMISSIONER KIMBLE: Mr. Chairman?</p> <p>5 CHAIRMAN TITLA: Commissioner Kimble.</p> <p>6 COMMISSIONER KIMBLE: I move we authorize</p> <p>7 Executive Director Collins to execute the conciliation</p> <p>8 agreement with the American Federation for Children in</p> <p>9 MUR 17-02.</p> <p>10 CHAIRMAN TITLA: Commissioner Kimble makes</p> <p>11 a motion.</p> <p>12 Is there a second?</p> <p>13 COMMISSIONER MEYER: Second.</p> <p>14 CHAIRMAN TITLA: Commissioner Meyer</p> <p>15 makes -- seconds.</p> <p>16 All in favor say aye.</p> <p>17 (Chorus of ayes.)</p> <p>18 CHAIRMAN TITLA: Opposed?</p> <p>19 (No response.)</p> <p>20 CHAIRMAN TITLA: Abstain?</p> <p>21 (No response.)</p> <p>22 CHAIRMAN TITLA: Motion is carried.</p> <p>23 The next item is Item X: Public comment.</p> <p>24 Anyone wish to make a comment?</p> <p>25 MR. COLLINS: Any public comment? No. No</p>		<p>1 COMMISSIONER KIMBLE: Second.</p> <p>2 CHAIRMAN TITLA: Commissioner Kimble</p> <p>3 seconds.</p> <p>4 All in favor say aye.</p> <p>5 (Chorus of ayes.)</p> <p>6 CHAIRMAN TITLA: Opposed?</p> <p>7 (No response.)</p> <p>8 CHAIRMAN TITLA: Abstain?</p> <p>9 (No response.)</p> <p>10 CHAIRMAN TITLA: We're adjourned at 11:19</p> <p>11 a.m.</p> <p>12 Thank you, everyone. Happy holidays.</p> <p>13 COMMISSIONER MEYER: Be safe.</p> <p>14 CHAIRMAN TITLA: Be safe.</p> <p>15 (Whereupon, the proceedings concluded at</p> <p>16 11:16 a.m.)</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	
11:15:13-11:16:25	Page 63		Page 65
<p>1 public comment. I think we just need a motion to</p> <p>2 adjourn.</p> <p>3 CHAIRMAN TITLA: All right. As chairman,</p> <p>4 and as said in the Apache way, we like to give items of</p> <p>5 appreciation for people that we work with, and I have</p> <p>6 an item here for Sara.</p> <p>7 Come up, please. This is the Apache way.</p> <p>8 So sorry, everyone.</p> <p>9 Gina. These are the people I had most</p> <p>10 interaction with in my term. And Paula. And the rest,</p> <p>11 it's in the mail.</p> <p>12 So thank you for all your work in your</p> <p>13 terms during the time that I worked with you. You guys</p> <p>14 have been professional, excellent and your work has</p> <p>15 been superior. Keep up the good work as you go through</p> <p>16 in the rest of your time here. So thank you. I</p> <p>17 appreciate it.</p> <p>18 MR. COLLINS: I just, again, want to remind</p> <p>19 you that you have to come to the January meeting.</p> <p>20 CHAIRMAN TITLA: Is there a motion to</p> <p>21 adjourn?</p> <p>22 COMMISSIONER CHAN: Shall we?</p> <p>23 CHAIRMAN TITLA: Commissioner Chan motions</p> <p>24 to adjourn.</p> <p>25 Second?</p>		<p>1 STATE OF ARIZONA )</p> <p>2 COUNTY OF MARICOPA )</p> <p>3 BE IT KNOWN the foregoing proceedings were</p> <p>4 taken by me; that I was then and there a Certified</p> <p>5 Reporter of the State of Arizona; that the proceedings</p> <p>6 were taken down by me in shorthand and thereafter</p> <p>7 transcribed into typewriting under my direction; that</p> <p>8 the foregoing pages are a full, true, and accurate</p> <p>9 transcript of all proceedings and testimony had and</p> <p>10 adduced upon the taking of said proceedings, all done to</p> <p>11 the best of my skill and ability.</p> <p>12 I FURTHER CERTIFY that I am in no way</p> <p>13 related to nor employed by any of the parties thereto</p> <p>14 nor am I in any way interested in the outcome hereof.</p> <p>15 DATED at Phoenix, Arizona, this 16th day of</p> <p>16 December, 2017.</p> <p>17 </p> <p>18 LILIA MONARREZ, RPR, CR #50699</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	

	44:8;48:2;54:6;55:23; 58:2,23;60:19;62:2	<b>allowed (1)</b> 22:18	56:5;57:25;58:8,25; 60:25	<b>bachelor's (1)</b> 4:10
<b>\$</b>	<b>active (3)</b> 33:18;34:4, 10	<b>allows (1)</b> 33:6		<b>back (13)</b> 8:21;10:1,2; 14:6;18:12,17;27:18; 33:20,22;35:16;45:8; 49:2;50:24
<b>\$1.5 (1)</b> 26:18	<b>actual (12)</b> 22:15; 28:17,18;36:13,16; 37:8,11;39:5,6;41:12, 21,21	<b>almost (1)</b> 19:24	<b>arose (1)</b> 41:18	<b>backfill (2)</b> 45:2;46:10
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<b>\$13 (3)</b> 19:7,9;23:2	<b>adding (1)</b> 28:19	<b>always (9)</b> 7:1;16:4; 18:7,14;31:22;41:10, 23,24;46:15	<b>Article (1)</b> 56:5	<b>ballot (2)</b> 5:22;29:21
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<b>\$17 (1)</b> 39:13	<b>additionally (1)</b> 34:11	<b>amendments (4)</b> 48:7, 8;49:19;50:2	<b>assets (2)</b> 13:16;18:23	<b>Barrett (1)</b> 15:18
<b>\$17,557,340 (1)</b> 22:7	<b>adjoined (1)</b> 64:10	<b>American (2)</b> 60:19; 62:8	<b>assigned (2)</b> 46:20,22	<b>based (8)</b> 16:3;17:2; 21:22;22:2;29:2;40:19; 55:21;56:1
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**CITIZENS CLEAN ELECTIONS COMMISSION  
EXECUTIVE DIRECTOR REPORT  
January 18, 2018**

**Announcements:**

- The public can view Commission meetings live via the internet at [www.livestream.com/cleanelections](http://www.livestream.com/cleanelections). A link is available on our website.

**Voter Education:**

- The Special Primary Election to fill the vacancy in Congressional District 8 will be held on Tuesday, February 27, 2018.
  - Voter registration deadline: January 29, 2018
  - Early voting begins: January 31, 2018
- Staff will have a voter education booth at the African American Conference on Disabilities on February 16, 2018.

**2018 Candidate Information:**

- Participating candidates started qualifying and receiving funds this week.
- Participating Legislative Candidates: **46**; Received Funding: **2**
- Participating Statewide Candidates: **21**; Received Funding: **1**
- Clean Elections Training Workshops:
  - Commission staff has conducted 12 Clean Election workshops so far this election cycle.

**Enforcement – 2017:**

Complaints Pending: 1

- MUR 17-01 – Jesus Rubalcava. – Appealed agency action.

**Enforcement – 2014:**

Complaints Pending: 3

- MUR 14-006, -015 (consolidated/conciliated): Horne - pending completion of items in conciliation agreement.
  - MUR 14-007: Legacy Foundation Action Fund (LFAF) – Oral Argument was held Monday, September 11, 2017.
- MUR 14-027: Veterans for a Strong America (VSA) – on this agenda

**Miscellaneous**

- A Committee calling itself Outlaw Dirty Money introduced a constitutional amendment via initiative. “The measure would amend the state Constitution to require that people making expenditures to sway campaigns disclose the names of major donors,” an article in *The Arizona Republic* said. Dustin Gardiner, “Should Arizona voters end ‘dark money’ in state political campaigns?,” *The Arizona Republic*, Nov. 30, 2017, available at

<https://www.azcentral.com/story/news/politics/arizona/2017/11/30/should-arizona-voters-decide-ending-dark-money-state-political-campaigns-2018-elections/906549001/>. The

According to the summary provided by the group:

The Stop Political Dirty Money Constitutional Amendment establishes your Right to Know the identity of all major contributors who are trying to influence the outcome of Arizona elections. Contributors will no longer be able to hide by transferring their money through intermediaries. Anyone spending more than \$10,000 to oppose or support candidates or ballot measures must disclose everyone who contributed \$2,500 or more promptly, publicly and under penalty of perjury. The money must be tracked back to its original source. Violators will be subject to fines. Rules to implement this Amendment will be written and enforced by a non-partisan commission.

Proposed Initiative C-03-2018, Stop Political Dirty Money Amendment, *available at* <http://apps.azsos.gov/election/2018/general/initiatives.htm>.

The full amendment identifies the Clean Elections Commission as the enforcing body, and allows for private suits. It is available here:

<http://apps.azsos.gov/election/2018/general/ballotmeasuretext/C-03-2018.pdf>

The Initiative must receive more than 225,000 signatures by July 5, 2018 to be eligible for the ballot.

**From:** [Thomas Collins](#)  
**To:** [Paula Thomas](#); [Alec Shaffer](#)  
**Subject:** Executive Director Report Supplement -- SOS IT matters  
**Date:** Wednesday, January 17, 2018 8:31:27 AM

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**From:** Thomas Collins  
**Sent:** Wednesday, January 17, 2018 8:27 AM  
**To:** Damien Meyer; Mark Kimble; Galen Paton; Amy Chan; Steve Titla  
**Cc:** Roth, Joseph; Paula Thomas; Sara Larsen  
**Subject:** Executive Director Report Supplement -- SOS IT matters

Commissioners:

A quick supplement to update the Executive Director's Report. We extended the time for payment on the second installment of SOS-CEC ISA for IT projects and other matters to 1/16/18 in order to allow the SOS to complete deliverables. I have not heard from the SOS as of this morning and there are several items outstanding, including a specific request for information on the beta testing results.

On the good side, it appears as though clean elections independent expenditure reports are available for filing by independent spenders.

I hope to regroup with SOS this week or early next and get more information on their progress. Below is a status summary I sent to SOS January 5.

Thanks,  
Tom

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**From:** Thomas Collins  
**Sent:** Friday, January 5, 2018 11:53 AM  
**To:** Maaske, Bill ([bmaaske@azsos.gov](mailto:bmaaske@azsos.gov)); Atkinson, Liz ([latkinson@azsos.gov](mailto:latkinson@azsos.gov))  
**Cc:** Sara Larsen; Paula Thomas  
**Subject:** ISA follow up

Dear Liz and Bill,

I just want to confirm the following:

You agree to complete the work on the ISA by the 16th and request payment through AFIS upon completion.

We understand that the Clean Elections trigger reports are available for all filers and that in CFS 4 the same service will be available in the same manner.

Additionally, I require a report on beta testing to confirm and evaluate the test and the product for signoff per the schedule incorporated into the contract. Bill has a copy of my request.

Additionally, Sara will be confirming access and connecting Ken and Jason for the emails to filers piece.

Please let me know if you have questions

Thanks

Tom

Doug Ducey  
Governor

Thomas M. Collins  
Executive Director



Damien R. Meyer  
Chair

Steve M. Titla  
Mark S. Kimble  
Galen D. Paton  
Amy B. Chan  
Commissioners

State of Arizona  
Citizens Clean Elections Commission

1616 W. Adams - Suite 110 - Phoenix, Arizona 85007 - Tel (602) 364-3477 - Fax (602) 364-3487 - [www.azcanelections.gov](http://www.azcanelections.gov)

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**MEMORANDUM**

**To: Commissioners**

**From: Tom Collins**

**Date: 1/16/2018**

**Subject: MUR 14-027 -Veterans for a Strong America**

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On July 8, 2015, the Arizona Secretary of State's Office made a determination that there was reasonable cause to believe Veterans for a Strong America (VSA) violated A.R.S. § 16-914.02 by failing to file independent expenditure reports for an advertisement in the Arizona Republican Gubernatorial Primary. That notice was sent to the Attorney General's Office (AGO) for enforcement.

On July 14, 2015, the Commission's Executive Director generated an internal "Complaint" against VSA (Respondent) alleging that Respondent had failed to file reports required by the Act under A.R.S. §§ 16-941(D), -942(B), -957, -958.

On July 20, 2015, Respondent filed a Response arguing the advertisement in question was not subject to independent expenditure reporting requirements because the advertisement was not express advocacy. In November, I recommended the Commission find jurisdiction over the Complaint. VSA asserted the Commission lacked jurisdiction.

The Commission, however, authorized me to move forward with the matter in coordination with the Attorney General's Office on November 19, 2015.

With the AGO taking the lead, VSA has now agreed to a conciliation that would conclude both complaints. **I recommend the Commission approve this conciliation.** It will result in Clean Elections Reports being filed and a fine paid to the AGO. A copy of the proposed conciliation is attached as Exhibit 1, a copy of my Complaint is attached as Exhibit 2.



**STATE OF ARIZONA**  
**CITIZENS CLEAN ELECTIONS COMMISSION**

MUR Nos. 14-027

**CONCILIATION AGREEMENT**

In the Matter of:

Veterans for a Strong America Association,

Respondent

Pursuant to A.R.S. § 16-957(A) and A.R.S. § 16-938, the Citizens Clean Elections Commission (the "Commission"), the Arizona Attorney General's Office and Veterans for a Strong American Association ("VSAA" or "Respondent") enter this Conciliation Agreement (the "Conciliation Agreement") as set forth below:

- A. Respondent made expenditures of \$225,018 to air an advertisement during the 2014 Gubernatorial Primary mentioning candidate Christine Jones.
- B. On January 30, 2015, David Pearsall and the Torres Law Group filed a complaint with the Arizona Secretary of State alleging Respondent had failed to file certain campaign finance reports.
- C. On July 8, 2015, the Arizona Secretary of State determined that there was reasonable cause to believe that Respondent violated Arizona law. The complaint and determination were then forwarded to the Arizona Attorney General's Office.
- D. On July 15, 2015, the Commission's Executive Director filed a Complaint against Respondent alleging violation of the Citizens Clean Election Act and Rules.

1 E. On November 19, 2015, the Commission voted that it had jurisdiction over the  
2 Executive Director's Complaint, but deferred further action pending the efforts of the  
3 Arizona Attorney General's office to resolve the matter.

4 F. This Conciliation Agreement concludes the Commission's enforcement proceeding  
5 respecting the facts outlined in the Executive Director's Complaint, the Memorandum  
6 on Jurisdiction, and the Arizona Secretary of State's Reasonable Cause determination.

7 WHEREFORE, the Commission enters into the following agreement in lieu of any other action  
8 regarding this matter:

- 9 1. Respondent acknowledges that pursuant to A.R.S. §§ 16-941(D) and -958 any person  
10 who makes an independent expenditure related to a particular office above a threshold  
11 set forth in the Clean Elections Act (and not subject to an exception therein) must file  
12 reports with the Clean Elections Commission.
- 13 2. Respondent made expenditures mentioning Christine Jones during a prior election  
14 cycle and filed no reports of such expenditures.
- 15 3. The Commission and Attorney General's Office believe that these expenditures, which  
16 took the form of an advertisement broadcast and posted online in Arizona on May 28,  
17 2014 (the deadline for filing signatures for the 2014 primary), identifying Christine  
18 Jones as "Christine Jones, Arizona gubernatorial candidate" and detailing positive  
19 comments Ms. Jones made about former Secretary of State Hillary Clinton, a  
20 Democrat, was an independent expenditure for which reporting was required under  
21 Arizona law. A.R.S. 16-901.01, 914.02, -941(D), -942(B), and -958; *see also*  
22 *Committee for Justice & Fairness v. Ariz. Sec'y of State*, 332 P.3d 94 (Ariz. App. 2014).
- 23 4. The Arizona Secretary of State ("SOS") issued a reasonable cause notice pursuant to  
24 A.R.S. § 16-924 and thereby made a referral to the Arizona Attorney General's Office.
- 25 5. The Arizona Attorney General's Office agrees to be bound by this agreement and  
26 thereby conclude its efforts relating to the SOS's reasonable cause notice.

1           6.     Respondent agrees to make a payment to the Arizona Attorney General's Office in the  
2                 amount of \$2,000; such payment has already been made to the Arizona Attorney  
3                 General's Office and will be held (and not deposited or disbursed) until the Commission  
4                 votes to enter into this Conciliation Agreement.

5           7.     Respondent agrees to file reports accounting for all Christine Jones-related  
6                 expenditures related to a particular office above a threshold set forth in the Clean  
7                 Elections Act (and not subject to an exception therein) in connection with prior election  
8                 cycles. While Respondent disputes that the expenditure relating to Christine Jones  
9                 constitutes political activity on behalf of or in opposition to any candidate for public  
10                office for purposes of state or federal law, or an independent expenditure related to a  
11                particular office above a threshold set forth in the Clean Elections Act, Respondent  
12                agrees to file the report attached hereto as Exhibit A with the Commission accounting  
13                for this expenditure solely to resolve this matter, including the SOS's reasonable cause  
14                notice and any action taken or contemplated to be taken by the Commission; the  
15                parties further agree that the filing of such a report is not an admission that the  
16                Christine Jones-related expenditures constituted political activity or an independent  
17                expenditure related to a particular office but rather the filing of such a report is a  
18                settlement and compromise to resolve all matters involving the Attorney General's  
19                Office and the Commission related to the 2014 expenditures mentioning Christine  
20                Jones. The parties further agree that this Agreement will be incorporated into the filing  
21                made with the Commission. Respondent agrees to make all such filing(s) detailed here  
22                by no later than January 30, 2018.

23           8.     The Commission shall not commence any additional legal action against Respondent  
24                 to collect any fines that might be collected so long as Respondent is not in default.

25           9.     Each and all of the covenants, terms, provisions, and agreements herein contained  
26                 shall be binding upon, and inure to the benefit of, the parties hereto and, to the extent



permitted by this Agreement, their respective heirs, legal representatives,  
predecessors, successors, and assigns.

10. Respondent shall be in default of this Agreement in the event that Respondent fails to  
make the above-noted filing(s) by January 30, 2018, or provides false information to the  
Commission in the above-noted filing(s):

11. In the event of default hereunder, at the option of the Commission, all unpaid amounts  
owed shall be immediately due and payable. In addition, interest shall accrue on the  
unpaid balance from the date that the payments become due and payable. Interest  
shall accrue at the statutory rate of ten percent (10%) pursuant to A.R.S. § 44-1201(A).

12. Nothing contained in this Agreement shall be construed to prevent any state agency  
which issues licenses for any profession from requiring that the debt in issue be paid in  
full before said agency will issue Respondent a new license.

13. The Commission may waive any condition of default without waiving any other  
condition of default and without waiving its rights to full, timely future performance of  
the conditions waived.

14. Respondent acknowledges that all obligations payable pursuant to this Agreement  
constitute a fine, penalty, or forfeiture payable to and for the benefit of a governmental  
unit, and not compensation for actual pecuniary loss; and that pursuant to 11 USC §  
523 such obligations are not subject to discharge in bankruptcy.

15. This Conciliation Agreement shall be construed under the laws of the State of Arizona.

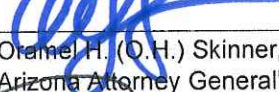
16. In the event that any paragraph or provision hereof shall be ruled unenforceable, all  
other provisions hereof shall be unaffected thereby.

17. This Conciliation Agreement shall constitute the entire agreement between the parties  
and shall not be modified or amended except in a writing signed by all parties hereto.

18. This Agreement shall not be subject to assignment.

- 1 19. No delay, omission, or failure by the Commission to exercise any right or power  
2 hereunder shall be construed to be a waiver or consent of any breach of any of the  
3 terms of this Agreement by the Respondent.  
4 20. Respondent has obtained independent legal advice in connection with the execution of  
5 this Agreement or have freely chosen not to do so. Any rule construing this Agreement  
6 against the drafter is inapplicable and is waived.

7  
8 Dated this 29th day of December, 2017.

9 By:  1.2.2018  
Oramel H. (O.H.) Skinner, Asst. AG  
Arizona Attorney General's Office

10  
11 By:   
for VSAA, Respondent

12  
13 Dated this \_\_\_th day of January, 2018.

14 By: \_\_\_\_\_  
15 Thomas M. Collins, Executive Director  
16 Citizens Clean Elections Commission  
17  
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26

Doug Ducey  
Governor

Thomas M. Collins  
Executive Director



Thomas J. Koester  
Chair

Timothy J. Reckart  
Mitchell C. Laird  
Steve M. Titla  
Damien Meyer  
Commissioners

State of Arizona  
Citizens Clean Elections Commission

1616 W. Adams - Suite 110 - Phoenix, Arizona 85007 - Tel (602) 364-3477 - Fax (602) 364-3487 - [www.azcleanelections.gov](http://www.azcleanelections.gov)

**NOTICE OF COMPLAINT AND OPPORTUNITY TO RESPOND**  
**Via Federal Express and E-mail**

July 14, 2015

Veterans for a Strong America  
c/o Donald F. McGahn  
Jones Day  
51 Louisiana Avenue, N.W.  
Washington, D.C. 20001-2113  
[dmcgahn@jonesday.com](mailto:dmcgahn@jonesday.com)

**RE: CCEC MUR #14-027**

Dear Mr. McGahn:

This letter serves as an internal complaint against Veterans for a Strong America (VSA) by the Executive Director of the Arizona Citizens Clean Elections Commission.

**Complaint**

Recently, the Arizona Secretary of State's Office publicly released its determination of reasonable cause to believe that VSA violated A.R.S. § 16-914.02 by failing to meet that statute's reporting requirements. I have reviewed that letter as well as the supporting materials.

The Citizens Clean Elections Act (Act) and related rules provide for reports of independent expenditures. *See* A.R.S. §§ 16-941(B), (D), -942(B), -956(A)(7); -958; Ariz. Admin. Code R2-20-109; *see also Clean Elections Institute v. Brewer*, 209 Ariz. 241, 245 ¶ 13, 99 P.3d 570, 574 (2004). If an entity engages in independent expenditures in statewide and legislative races in Arizona, it is required to file campaign finance reports with the Secretary of State regarding those expenditures and may be subject to additional filing requirements, including identifying contributions and expenditures, which are subject to enforcement by provisions of the Article 2, of Chapter 6, Title 16. *See, e.g.,* A.R.S. §§ 16-913, -914.02, 920, -941(D); -942(B); -956(A)(7); -958; Ariz. Admin. Code R-2-20-109(F). The issue here is whether independent expenditure reports should have been filed but were not.

The Clean Elections Act also defines "expressly advocates" in Arizona law (in part) as follows:

- [1.] Making a general public communication, such as in a broadcast medium, newspaper, magazine, billboard or direct mailer

- [2.] referring to one or more clearly identified candidates and
- [3.] targeted to the electorate of that candidate(s)
- [4.] that in context can have no reasonable meaning other than to advocate the election or defeat of the candidate(s), as evidenced by factors such as the presentation of the candidate(s) in a favorable or unfavorable light, the targeting, placement or timing of the communication or the inclusion of statements of the candidate(s) or opponents.

A.R.S. § 16-901.01(A)(2).

According to your May 28, 2015 letter to the Arizona Secretary of State, VSA ran an advertisement in Arizona beginning May 28, 2014 identifying Christine Jones, a Republican candidate for governor in Arizona, and criticizing her positive statements about former Secretary of State Hillary Clinton, a Democrat. *See* McGahn Letter at 2. That advertisement, which may have been express advocacy, is the subject of this Complaint. VSA filed no reports related to the advertisement, according to the Secretary of State. *See* Secretary of State Reasonable Cause at 3. The advertising buy was about \$50,000. *Id.* at 2.

Any person making independent expenditures cumulatively exceeding \$700 during the 2014 election cycle was required to file reports under the Act and rules, unless exempted. *See* Arizona Secretary of State, Clean Elections Act 2013-2014 Biennial Adjustments, [http://apps.azsos.gov/election/2014/Info/CCEC\\_Biennial\\_Adjustment\\_Charts.htm](http://apps.azsos.gov/election/2014/Info/CCEC_Biennial_Adjustment_Charts.htm). During the 2014 election cycle, VSA did not file as an exempt organization with the Commission. If VSA made independent expenditures and failed to file either an exemption form or campaign finance reports, it has violated A.R.S. §§ 16-941(D), -942(B), -956(A)(7); -958; and Ariz. Admin. Code R2-20-109.

#### Opportunity for Response

Commission rules require notification to be given to the Respondent of a Complaint. Ariz. Admin. Code R2-20-204(A). Additionally, the rules provide that you be advised of compliance procedures. Those procedures are set forth in Article 2 of the Commission's Rules (Arizona Administrative Code Sections R2-20-201 to R2-20-228) as well as the Clean Elections Act (specifically Arizona Revised Statutes §§ 16-940 to 16-961), which are available on the Commission website at [www.azcleelections.gov](http://www.azcleelections.gov).

The Commission's rules provide that a Respondent "be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting, *within five days from receipt of a written copy of the complaint*, a letter or memorandum setting forth reasons why the Commission should take no action." Ariz. Admin. Code R2-20-205(A). Your response must be notarized, or the Commission will not consider it. Ariz. Admin. Code R2-20-205(C). Generally, a failure to respond to a complaint within five days may be viewed as an admission to the allegations. *Id.*

The purpose of requesting a response is to determine whether VSA has violated provisions of the Citizens Clean Elections Act or rules and are subject to penalties under the Act or rules, including A.R.S. §§ 16-941(D), -942(B), -958, and the rules implementing these statutes. In addition to any other factual or legal information you wish to provide, please provide evidence that VSA is incorporated in any state, including any articles of incorporation.

Commission rules require that you be given this notice and Complaint. The issuance of this notice and Complaint do not constitute a finding related to the Complaint. A finding, if any, may be made only after the Commission has reviewed the matter. I intend to coordinate with the Arizona Attorney General's Office on this matter to ensure all compliance issues are resolved efficiently. Please contact us if you have any questions at (602) 364-3477 or by e-mail at [sara.larsen@azcleaselections.gov](mailto:sara.larsen@azcleaselections.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Collins", written in a cursive style.

Thomas M. Collins  
Executive Director  
Citizens Clean Elections Commission

cc: James Driscoll-MacEachern (email only)  
Sara Larsen, Financial Affairs & Compliance Officer (email only)



REC'D OSBORN MALEDON P.A.

JAN 10 2018

1 Timothy A. La Sota, SBN 020539

2 **TIMOTHY A. LA SOTA, PLC**

3 2198 EAST CAMELBACK ROAD, SUITE 305

4 PHOENIX, ARIZONA 85016

5 TELEPHONE: (602) 515-2649

6 [tim@timlasota.com](mailto:tim@timlasota.com)

7 *Attorney for Defendant Governor's Regulatory Review Council*

8 **SUPERIOR COURT OF ARIZONA**

9 **MARICOPA COUNTY**

10 ARIZONA ADVOCACY NETWORK; SEN. DAVID  
11 BRADLEY; SEN. OLIVIA CAJERO-BEDFORD;  
12 SEN. LUPE CONTRERAS; SEN. ANDREA  
13 DALESSANDRO; SEN. STEVE FARLEY; SEN.  
14 KATIE HOBBS; SEN. CATHERINE MIRANDA;  
15 SEN. MARTIN QUEZADA; SEN. ANDREW  
16 SHERWOOD; REP. RICHARD C. ANDRADE; REP.  
17 LELA ALSTON; REP. MARK A. CARDENAS; REP.  
18 KEN CLARK; REP. DIEGO ESPINOZA; REP.  
19 CHARLENE R. FERNANDEZ; REP. RANDALL  
20 FRIESE; REP. ROSANNA GABALDON; REP.  
21 ALBERT HALE; REP. STEFANIE MACH; REP.  
22 MATTHEW KOPEC; REP. JUAN JOSE MENDEZ;  
23 REP. REBECCA RIOS; REP. MACARIO SALDATE;  
24 REP. CECI VELASQUEZ; REP. BRUCE WHEELER;  
25 and BRICKLAYERS AND ALLIED  
CRAFTWORKERS LOCAL UNION #3 AZ-NM;

Plaintiffs,

vs.

THE STATE OF ARIZONA, a body politic;  
MICHELE REAGAN, in her official capacity as  
Secretary of State; THE CITIZENS CLEAN  
ELECTIONS COMMISSION; and GOVERNOR'S  
REGULATORY REVIEW COUNCIL;

Defendants.

No. CV2017-096705

**MOTION TO DISMISS  
COMPLAINT AGAINST  
DEFENDANT  
GOVERNOR'S  
REGULATORY REVIEW  
COUNCIL**

(assigned to the Honorable  
David Udall)

1 Pursuant to Ariz. R. Civ. P. 12(b)(6), Defendant Governor's Regulatory Review  
2 Council moves to dismiss the Complaint filed against it by Plaintiff Arizona Advocacy  
3 Network for failure to state a claim upon which relief can be granted. To wit, the  
4 Governor's Regulatory Review Council is a non-jural entity and thus lacks capacity to sue  
5 or be sued<sup>1</sup>. This Motion is supported by the following Memorandum of Points and  
6 Authorities.  
7

### 8 MEMORANDUM OF POINTS AND AUTHORITIES

9 State entities created by the Legislature have only the powers and attributes  
10 ascribed to them by the Legislature. *Cox v. Pima County Law Enforcement Merit*  
11 *Improvement Council*, 27 Ariz.App. 494, 495, 556 P.2d 342 (1976). The Arizona Court  
12 of Appeals recently explained that this means that in the absence of a statute conferring  
13 the power to sue and be sued to a state entity, that entity is a non-jural entity and lacks  
14 such capacity:  
15

16  
17 Governmental entities have no inherent power and possess only those powers  
18 and duties delegated to them by their enabling statutes. Thus, a governmental  
19 entity may be sued only if the legislature has so provided. The legislature will so  
20 provide in plain language in the entity's enabling statutes. *See, e.g.*, A.R.S. § 38–  
21 882(D) (“The corrections officer retirement plan is a jural entity that may sue  
22 and be sued.”); A.R.S. § 23–106(A) (“The [Industrial] commission may, in its

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23 <sup>1</sup> Defendant Governor's Regulatory Review Council's attorney did confer with Plaintiffs'  
24 counsel about the possibility of Plaintiffs amending their complaint to dismiss the Governor's  
25 Regulatory Review Council but add Council members in their official capacity. However,  
Plaintiffs' counsel indicated he would prefer to keep the Complaint as originally filed.  
Plaintiffs' counsel has indicated a willingness to dismiss the Governor's Regulatory Review  
Council altogether if there is agreement among all the parties that it is not an indispensable  
party, but at this time there is no such agreement.

1 name, sue and be sued.”).

2 *McKee v. State*, 388 P.3d 14, 21, 241 Ariz. 377, 384 (App. 2016)(internal citations and  
3 quotations omitted).

4 *McKee* reaffirms decades of Arizona caselaw on the point of jural and non-jural  
5 entities. But it also tells us that we need not engage in a complicated legal or academic  
6 exercise to determine if the Governor’s Regulatory Review Council has the capacity to  
7 sue or be sued. Instead, we simply look to the entity’s enabling statute. And in this case,  
8 the Arizona Legislature has not given the Governor’s Regulatory Review Council the  
9 ability to sue or be sued.  
10

11  
12 There are but seven statutes that cover the functions of the Governor’s Regulatory  
13 Review Council in its entirety, and there is not one word in those statutes about the  
14 capacity of this agency to sue or be sued. *See* Arizona Revised Statutes §§ 41-1051 to  
15 1057. Accordingly, the Governor’s Regulatory Review Council is a non-jural entity and  
16 Plaintiffs’ claims against it must be dismissed. *McKee*, 388 P.3d at 21, 241 Ariz. at 384;  
17 *see also Kimball v. Shofstall*, 494 P.2d 1357, 1359, 17 Ariz.App. 11, 13 (1972)(pointing  
18 out that the Legislature has given some state agencies the capacity to sue and be sued, but  
19 not given this capacity to other state agencies).  
20

21  
22 For the foregoing reasons, the Governor’s Regulatory Review Council respectfully  
23 requests that the Complaint against it be dismissed.  
24  
25

1                   **RESPECTFULLY SUBMITTED** this 5<sup>th</sup> day of January, 2018.

2                                   **TIMOTHY A. LA SOTA, PLC**

3  
4                                   By: /s/ Timothy A. La Sota

5                                   Timothy A. La Sota

6                                   2198 East Camelback Road, Suite 305

7                                   Phoenix, Arizona 85016

8                                   [tim@timlasota.com](mailto:tim@timlasota.com)

9                                   *Attorney for Defendant Governor's Regulatory*  
10                                  *Review Council*

11 I hereby certify that on January 5<sup>th</sup>, 2018, I caused the foregoing document to was filed  
12 with the Maricopa County Superior Court Clerk via the Turbo Court E-file system.

13 I hereby certify that on January 5<sup>th</sup>, 2018 the foregoing was sent via first class U.S. mail  
14 and email to:

15 Israel G. Torres

16 James E. Barton II

17 Saman J. Golestan

18 TORRES LAW GROUP, PLLC

19 2239 West Baseline Road

20 Tempe, Arizona 85283 602.626.8805

21 [James@TheTorresFirm.com](mailto:James@TheTorresFirm.com)

22 Attorneys for Plaintiffs

23 Timothy Berg

24 FENNERMORE CRAIG

25 2394 E Camelback Rd. Suite 600

Phoenix, AZ 85016

[tberg@fclaw.com](mailto:tberg@fclaw.com)

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7 Attorneys for Defendant Citizens Clean Elections Commission

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/s/ Timothy A. La Sota

Mary R. O'Grady, 011434  
Joseph N. Roth, 025725  
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Attorneys for Defendant  
The Citizens Clean Elections Commission

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA

Arizona Advocacy Network; Sen. David  
Bradley; Sen. Olivia Cajero-Bedford; Sen.  
Lupe Contreras; Sen. Andrea Dalessandro;  
Sen. Steve Farley; Sen. Katie Hobbs; Sen.  
Catherine Miranda; Sen. Martin Quezada;  
Sen. Andrew Sherwood; Rep. Richard C.  
Andrade; Rep. Lela Alston; Rep. Mark A.  
Cardenas; Rep. Ken Clark; Rep. Diego  
Espinoza; Rep. Charlene R. Fernandez;  
Rep. Randall Friese; Rep. Rosanna  
Gabaldon; Rep. Albert Hale; Rep. Stefanie  
Mach; Rep. Matthew Kopec; Rep. Juan  
Jose Mendez; Rep. Rebecca Rios; Rep.  
Macario Saldate; Rep. Ceci Velasquez;  
Rep. Bruce Wheeler; and Bricklayers and  
Allied Craftworkers Local Union #3 AZ-  
NM,

Plaintiffs,

vs.

The State of Arizona, a body politic;  
Michele Reagan, in her official capacity as  
Secretary of State; and The Citizens Clean  
Elections Commission; Governor's  
Regulatory Review Council,

Defendants.

No. CV2017-096705

**DEFENDANT THE CITIZENS  
CLEAN ELECTIONS  
COMMISSION'S ANSWER**

(Assigned to  
the Honorable David K. Udall)

1 Defendant Citizens Clean Elections Commission (“CCEC” or “the Commission”)  
2 answers Plaintiffs’ Complaint as follows. Any allegations not specifically admitted  
3 below are denied.

4 1. The Commission admits the allegations in Paragraph 1 except that it does  
5 not agree with Plaintiffs’ analysis of every provision of SB 1516 discussed in the  
6 Complaint or with every aspect of the constitutional analysis in the Complaint.

7 2. The Commission admits the allegation in Paragraph 2.

8 3. As to the allegations in Paragraph 3, the Commission admits that some of  
9 the Senate Plaintiffs opposed SB 1516 but lacks sufficient knowledge to form a belief as  
10 to whether some Senate Plaintiffs refused to vote on SB 1516 and therefore denies that  
11 allegation.

12 4. The Commission admits the allegations in Paragraph 4.

13 5. The Commission lacks sufficient information to admit or deny the  
14 allegations in Paragraph 5 and therefore denies them.

15 6. The Commission admits the allegation in Paragraph 6.

16 7. The Commission admits the allegation in Paragraph 7.

17 8. The Commission admits the allegation in Paragraph 8.

18 9. The Commission admits the allegation in Paragraph 9.

19 10. The Commission admits the allegations in Paragraph 10.

20 11. The Commission admits the allegation in Paragraph 11.

21 12. The Commission admits the allegations in Paragraph 12.

22 13. The Commission admits that paragraph 13 accurately quotes A.R.S. § 16-  
23 940(A).

24 14. The Commission admits the allegation in Paragraph 14.

25 15. The Commission admits the allegation in Paragraph 15.

26 16. As to the allegation in Paragraph 16, the Commission admits only that the  
27 CEA established new contribution limits and the process for the Commission’s  
28 enforcement of those limits.

- 1           17.    The Commission admits the allegation in Paragraph 17.
- 2           18.    The Commission admits the allegation in Paragraph 18.
- 3           19.    The Commission admits the allegation in Paragraph 19.
- 4           20.    The Commission admits the allegation in Paragraph 20.
- 5           21.    The Commission admits that Paragraph 21 accurately quotes the definition  
6 of political committee that the CEA incorporated by reference.
- 7           22.    The Commission admits the allegation in Paragraph 22.
- 8           23.    The Commission admits the allegation in Paragraph 23.
- 9           24.    The Commission admits the allegation in Paragraph 24.
- 10          25.    The Commission admits the allegation in Paragraph 25.
- 11          26.    The Commission admits the allegation in Paragraph 26.
- 12          27.    The Commission admits the allegation in Paragraph 27.
- 13          28.    As to the allegation in Paragraph 28, the Commission admits that the  
14 Clean Elections Institute has intervened to defend the CEA but denies that it did so only  
15 when the State sought nominal party status in challenges to the CEA.
- 16          29.    The Commission admits the allegation in Paragraph 29.
- 17          30.    The Commission admits the allegation in Paragraph 30.
- 18          31.    The Commission admits the allegation in Paragraph 31.
- 19          32.    The Commission admits the allegation in Paragraph 32.
- 20          33.    The Commission admits the allegation in Paragraph 33.
- 21          34.    The Commission admits that Paragraph 34 accurately quotes language  
22 from Section 12 of SB 1516.
- 23          35.    The Commission admits the allegation in Paragraph 35.
- 24          36.    The Commission denies the allegation in Paragraph 36 because SB 1516  
25 does not limit any entity's obligation to report independent expenditures as required by  
26 the CEA, but it admits that SB 1516 created exceptions from being regulated as political  
27 committees.
- 28          37.    The Commission admits the allegation in Paragraph 37.



1           38.    The Commission admits that Paragraph 38 accurately quotes the definition  
2 of “primary purpose” in SB 1516.

3           39.    As to the allegation in Paragraph 39, the Commission denies that SB 1516  
4 provides that entities registered with the ACC cannot be regulated as a political  
5 committee. Rather, SB 1516 requires that the entity be “in good standing with the  
6 corporation commission.”

7           40.    The Commission admits the allegations in Paragraph 40.

8           41.    As to the allegation in Paragraph 41, the Commission denies that the  
9 exemption in SB 1516 is based on entities “registered” with the Arizona Corporation  
10 Commission. Rather SB 1516 requires that the entity be “in good standing with the  
11 Corporation Commission.”

12          42.    The Commission admits the allegations in Paragraph 42.

13          43.    The Commission admits the allegations in Paragraph 43.

14          44.    As to the allegation in Paragraph 44, the Commission lacks sufficient  
15 information to form a belief regarding the basis for actions by the Governor’s  
16 Regulatory Review Council and denies that GRRC made the determination described in  
17 Paragraph 44.

18          45.    The Commission denies that Paragraph 45 fully and accurately describes  
19 GRRC’s role and responsibilities.

20          46.    The Commission admits that Paragraph 46 accurately quotes a portion of  
21 the Commission’s Notice of Proposed Exempt Rulemaking.

22          47.    As to the allegations in Paragraph 47, the Commission admits only that the  
23 Commission’s rules speak for themselves and that its rules are consistent with the  
24 Commission’s authority under the CEA.

25          48.    As to the allegation in Paragraph 48, the Commission incorporates by  
26 reference its answers to the paragraphs above.

27          49.    The Commission admits that Paragraph 49 accurately quotes the cited  
28 portion of the Arizona Constitution.

1           50.    The Commission denies that SB 1516 has the effect described in  
2 Paragraph 50. If SB 1516 were interpreted as Plaintiffs assert that it should be, the  
3 Commission would agree with Plaintiffs that it does not satisfy constitutional  
4 requirements and is unenforceable as applied to the CEA.

5           51.    The Commission admits the allegation in Paragraph 51.

6           52.    The Commission admits the allegation in Paragraph 52.

7           53.    The Commission denies the allegations in Paragraph 53 and affirmatively  
8 asserts that A.R.S. 16-956(A)(7) requires the Commission to “monitor reports filed  
9 pursuant to [Title 16, chapter 6]” of the Arizona Revised Statutes.

10          54.    The Commission admits the allegation in Paragraph 54.

11          55.    The Commission admits the allegation in Paragraph 55.

12          56.    The Commission admits the allegation in Paragraph 56.

13          57.    The Commission admits the allegation in Paragraph 57.

14          58.    The Commission admits that SB 1516 removed the definition of “political  
15 committee” from Title 16 but denies that it amended the CEA. If SB 1516 were  
16 interpreted as Plaintiffs assert that it should be, the Commission would agree with  
17 Plaintiffs that it does not satisfy constitutional requirements and is unenforceable as  
18 applied to the CEA.

19          59.    The Commission lacks sufficient information to admit or deny the  
20 allegation in Paragraph 59.

21          60.    As to the allegation in Paragraph 60, the Commission admits that it is  
22 responsible for enforcing the CEA.

23          61.    The Commission admits the allegations in Paragraph 61 and notes that  
24 Commission rules also address the Commission’s enforcement process.

25          62.    As to the allegation in Paragraph 62, the Commission admits only that  
26 SB 1516 purports to create exceptions for certain entities but denies that these  
27 exceptions remove such entities from regulation by the Commission.

28          63.    The Commission admits the allegations in Paragraph 63.

1           64.    The Commission admits the allegations in Paragraph 64.

2           65.    As to the allegation in Paragraph 65, the Commission admits that the  
3 definitions of “contribution” and “expenditure” incorporated into the CEA do not  
4 include the purported exemptions added by SB 1516.

5           66.    As to the allegation in Paragraph 66, the Commission admits that the  
6 purported amendments to the definitions of “contribution” and “expenditure” effectively  
7 alter the contribution limits in A.R.S. § 16-941 and, if effective, permit parties to spend  
8 unlimited amounts to support their.

9           67.    The Commission denies the allegation in Paragraph 67.

10          68.    The Commission denies that A.R.S. § 16-938 has any impact on the  
11 Commission’s jurisdiction over complaints and, therefore, denies the allegations in  
12 Paragraph 68.

13          69.    The Commission denies that SB 1516 impacts the Commission’s  
14 jurisdiction over complaints alleging a violation of A.R.S. § 16-941(D) and, therefore,  
15 denies the allegations in Paragraph 69.

16          70.    The Commission admits the allegation in Paragraph 70 except that it  
17 denies that A.R.S. § 16-938 has any impact on the Commission’s jurisdiction. If A.R.S.  
18 § 16-938 was interpreted as Plaintiffs assert that it should be, the Commission would  
19 agree with Plaintiffs that it does not satisfy constitutional requirements and is  
20 unenforceable.

21          71.    As to the allegation in Paragraph 71, the Commission incorporates its  
22 answers in the previous paragraphs.

23          72.    The Commission admits that Paragraph 72 accurately quotes the relevant  
24 section of the Arizona Constitution.

25          73.    The Commission admits the allegations in Paragraph 73.

26          74.    As to the allegation in Paragraph 74, the Commission denies that the  
27 failure of SB 1516 to receive the support of three-fourths of the members of each House  
28 of the Legislature invalidates SB 1516 in its entirety.

1           75. As to the allegation in Paragraph 75, the Commission denies that the  
2 failure of SB 1516 to receive the support of three-fourths of the members of each House  
3 of the Legislature invalidates SB 1516 in its entirety.

4           76. The Commission admits that SB 1516 did not further the purpose of the  
5 CEA, but denies that the entire bill is subject to the requirements of Article 4, Part 1,  
6 § 1(6)(B) and, therefore, denies the allegations in Paragraph 76.

7           77. The Commission admits that SB 1516 did not receive sufficient support in  
8 the legislature to have the effect of amending the CEA, but denies that the entire bill is  
9 subject to the requirements of Article 4, Part 1, § 1(6)(B) and, therefore, denies the  
10 allegations in Paragraph 77.

11           78. As to the allegation in Paragraph 78, the Commission incorporates its  
12 answers in the previous paragraphs.

13           79. The Commission admits the allegation in Paragraph 79.

14           80. The Commission admits the allegation in Paragraph 80.

15           81. The Commission denies the allegation in Paragraph 81.

16           82. As to the allegation in Paragraph 82, the Commission denies that  
17 SB 1516's regulation is based on whether a group is "registered" with the Arizona  
18 Corporation Commission but admits that it treats some 501(c) groups differently than  
19 others.

20           83. The Commission admits the allegation in Paragraph 83.

21           84. The Commission denies the allegation in Paragraph 84.

22           85. The Commission admits the allegation in Paragraph 85.

23           86. The Commission admits the allegation in Paragraph 86.

24           87. As the allegation in Paragraph 87, the Commission incorporates its  
25 answers in the previous paragraphs.

26           88. The Commission admits the allegation in Paragraph 88.

27           89. The Commission admits the allegation in Paragraph 89.

28           90. The Commission admits the allegation in Paragraph 90.

91. The Commission admits that SB 1516 permits some contributions and expenditures to avoid disclosure.

92. With regard to Plaintiffs' prayer for relief,

a. the Commission denies that Plaintiffs are entitled to a declaration that SB 1516 in its entirety violates the constitutional provisions referenced in the Complaint;

b. the Commission admits that Plaintiffs are entitled to enjoin A.R.S. § 16-901(7), -901(8), 16-901(43), -905(C), -911(b)(4), -911(b)(5), -921, and -938 to the extent they amend the CEA.

c. The Commission denies that Plaintiffs are entitled to an award of fees or costs against the Commission.

WHEREFORE, having fully answered the Complaint, the Commission prays for whatever relief as this Court deems just and proper.

DATED this 8<sup>th</sup> day of January, 2018.

OSBORN MALEDON, P.A.

By s/ Nathan T. Arrowsmith

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Attorneys for Defendant

The Citizens Clean Elections Commission

THE FOREGOING has been electronically filed  
and e-delivered this 8<sup>th</sup> day of January, 2018, to:

The Honorable David K. Udall  
Maricopa County Superior Court  
222 E. Javelina, SE-2E  
Mesa, AZ 85210

1 COPY of the foregoing e-mailed and mailed  
2 this 8<sup>th</sup> day of January, 2018, to:

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19 **Review Council**

20 /s/ Jessica Lopez

21 7369914  
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25  
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28

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**From:** TurboCourt Customer Service <CustomerService@TurboCourt.com>  
**Sent:** Monday, January 08, 2018 4:50 PM  
**To:** OMAccounting; Jessica Lopez  
**Subject:** AZTurboCourt E-Filing Courtesy Notification

PLEASE DO NOT REPLY TO THIS EMAIL.

A party in this case requested that you receive an AZTurboCourt Courtesy Notification.

AZTurboCourt Form Set #2472490 has been DELIVERED to Maricopa County - Superior Court.

You will be notified when these documents have been processed by the court.

Here are the filing details:

Case Number: CV2017-096705 (Note: If this filing is for case initiation, you will receive a separate notification when the case # is assigned.)

Case Title: Arizona Advocacy Network, Et.Al. Vs. The State Of

Filed By: Nathan T Arrowsmith

AZTurboCourt Form Set: #2472490

Keyword/Matter #: 15265.6

Delivery Date and Time: Jan 08, 2018 4:49 PM MST

Forms:

Summary Sheet (This summary sheet will not be filed with the court. This sheet is for your personal records only.)

Attached Documents:

Answer: Defendant The Citizens Clean Elections Commission's Answer

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Theresa Dwyer (No. 010246)  
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Attorneys for Defendants  
State of Arizona and  
Secretary of State Michele Reagan

ARIZONA SUPERIOR COURT

MARICOPA COUNTY

ARIZONA ADVOCACY NETWORK; et al.,

Plaintiffs,

v.

THE STATE OF ARIZONA, a body politic;  
MICHELE REAGAN, in her official capacity  
as Secretary of State; and THE CITIZENS  
CLEAN ELECTIONS COMMISSION;  
GOVERNOR'S REGULATORY REVIEW  
COUNCIL,

Defendants.

No. CV2017-096705

**ANSWER OF STATE OF ARIZONA  
AND MICHELE REAGAN**

(Assigned to the Hon. David Udall)

Defendant State of Arizona (the "State") and Defendant Michele Reagan in her official capacity as Secretary of State (the "Secretary") answer Plaintiffs' Verified Complaint for Declaratory and Injunctive Relief (the "Complaint") as follows:

NATURE OF ACTION

1. The State and the Secretary admit that Senate Bill 1516 was enacted by the 52nd Arizona Legislature during its Second Regular Session in March 2016 ("S.B. 1516"), but deny the remaining allegations in Paragraph 1 of the Complaint.





1 Judgment Act (A.R.S. §§ 12-1831 to -1846), but deny the remaining allegations in  
2 Paragraph 10 of the Complaint.

3 11. The State and the Secretary admit the allegations in Paragraph 11 of the  
4 Complaint.

#### 5 STATEMENT OF FACTS

##### 6 **The Citizens Clean Elections Act**

7 12. Answering Paragraph 12 of the Complaint, the State and the Secretary admit  
8 that: (a) the voters of Arizona passed the CCEA, as an initiative measure known as  
9 Proposition 200, in a statewide election on November 3, 1998; and (b) the CCEA became  
10 effective on November 23, 1998.

11 13. Answering Paragraph 13 of the Complaint, the State and the Secretary  
12 affirmatively allege that A.R.S. § 16-940(A) is the best evidence of its contents and  
13 speaks for itself. Nevertheless, the State and the Secretary admit that Paragraph 13 of the  
14 Complaint does nothing more than accurately quote A.R.S. § 16-940(A).

15 14. Answering Paragraph 14 of the Complaint, the State and the Secretary admit  
16 that Plaintiffs have accurately quoted a limited portion of A.R.S. § 16-940(B). Further  
17 answering Paragraph 14 of the Complaint, the State and the Secretary affirmatively allege  
18 that: (a) A.R.S. § 16-940(B) is the best evidence of its contents and speaks for itself; and  
19 (b) the allegations set forth in Paragraph 14 of the Complaint present conclusory  
20 arguments and legal conclusions to which no response is required. To the extent that any  
21 additional response to the allegations in Paragraph 14 of the Complaint is required, the  
22 State and the Secretary deny them.

23 15. Answering Paragraph 15 of the Complaint, the State and the Secretary  
24 affirmatively allege that: (a) A.R.S. § 16-941 is the best evidence of its contents and  
25 speaks for itself; and (b) the allegations set forth in Paragraph 15 of the Complaint present  
26 conclusory arguments and legal conclusions to which no response is required. To the

1 extent that any additional response to the allegations in Paragraph 15 of the Complaint is  
2 required, the State and the Secretary deny them.

3 16. Answering Paragraph 16 of the Complaint, the State and the Secretary  
4 affirmatively allege that: (a) A.R.S. § 16-941(B) is the best evidence of its contents and  
5 speaks for itself; and (b) the allegations set forth in Paragraph 16 of the Complaint are  
6 conclusory arguments and legal conclusions to which no response is required. To the  
7 extent that any additional response to the allegations in Paragraph 16 of the Complaint is  
8 required, the State and the Secretary deny them.

9 17. Answering Paragraph 17 of the Complaint, the State and the Secretary admit  
10 that Plaintiffs have accurately quoted a limited portion of A.R.S. § 16-941(D). Further  
11 answering Paragraph 17 of the Complaint, the State and the Secretary affirmatively allege  
12 that: (a) A.R.S. § 16-941(D) is the best evidence of its contents and speaks for itself; and  
13 (b) the allegations set forth in Paragraph 17 of the Complaint present conclusory  
14 arguments and legal conclusions to which no response is required. To the extent that any  
15 additional response to the allegations in Paragraph 17 of the Complaint is required, the  
16 State and the Secretary deny them.

17 18. Answering Paragraph 18 of the Complaint, the State and the Secretary admit  
18 that Plaintiffs accurately quote a portion of A.R.S. § 16-958(A). Further answering  
19 Paragraph 18 of the Complaint, the State and the Secretary affirmatively allege that:  
20 (a) A.R.S. § 16-958(A) is the best evidence of its contents and speaks for itself; and  
21 (b) the allegations set forth in Paragraph 18 of the Complaint present conclusory  
22 arguments and legal conclusions to which no response is required. To the extent that any  
23 additional response to the allegations in Paragraph 18 of the Complaint is required, the  
24 State and the Secretary deny them.

25 19. Answering Paragraph 19 of the Complaint, the State and the Secretary  
26 affirmatively allege: (a) A.R.S. §§ 16-901 and 16-961(A) are the best evidence of their

1 contents and speak for themselves; and (b) the allegations set forth in Paragraph 19 of the  
2 Complaint are vague and ambiguous, and present conclusory arguments and legal  
3 conclusions to which no response is required. To the extent that any additional response  
4 to the allegations in Paragraph 19 of the Complaint is required, the State and the Secretary  
5 deny them.

6 20. Answering Paragraph 20 of the Complaint, the State and the Secretary  
7 affirmatively allege: (a) the CCEA is the best evidence of its contents and speaks for  
8 itself; and (b) the allegations set forth in Paragraph 20 of the Complaint present only  
9 conclusory arguments and legal conclusions to which no response is required. To the  
10 extent that any additional response to the allegations in Paragraph 20 of the Complaint is  
11 required, the State and the Secretary deny them.

12 21. Answering Paragraph 21 of the Complaint, the State and the Secretary  
13 affirmatively allege that A.R.S. § 16-901(19) is the best evidence of its contents and  
14 speaks for itself. Nevertheless, the State and the Secretary admit that Paragraph 21 of the  
15 Complaint does nothing more than accurately quote the 1998 version of A.R.S. § 16-  
16 901(19).

17 22. The State and the Secretary affirmatively allege that the allegations set forth  
18 in Paragraph 22 of the Complaint are vague and ambiguous because they use the past  
19 tense (i.e., “provided”) without identifying the version of A.R.S. § 16-956(B) upon which  
20 Plaintiffs rely. Further answering Paragraph 22 of the Complaint, the State and the  
21 Secretary affirmatively allege that: (a) current and past versions of A.R.S. § 16-956(B) are  
22 the best evidence of their contents and speak for themselves; and (b) Paragraph 22 of the  
23 Complaint also presents conclusory arguments and legal conclusions to which no response  
24 is required. To the extent that any additional response to the allegations in Paragraph 22  
25 of the Complaint is required, the State and the Secretary deny them.

26 23. Answering Paragraph 23 of the Complaint, the State and the Secretary

1 affirmatively allege that, to the extent it is a valid rule, Ariz. Admin. Code (“A.A.C.”)  
2 R2-20-109 is the best evidence of its contents and speaks for itself. Further answering  
3 Paragraph 23, the State and the Secretary affirmatively allege that the historical notes to  
4 Title 2, Chapter 20 of the Arizona Administrative Code, which includes A.A.C. R2-20-  
5 109, state the following: “The [Secretary] has received a Notice of Rule Expiration from  
6 the G.R.R.C. stating R2-20-109 and R2-20-111 have automatically expired [published at  
7 23 A.A.R. 1757].” To the extent that any additional response to the allegations in  
8 Paragraph 23 of the Complaint is required, the State and the Secretary deny them.

9 24. Answering Paragraph 24 of the Complaint, the State and the Secretary  
10 affirmatively allege that, to the extent it is a valid rule, A.A.C. R2-20-111 is the best  
11 evidence of its contents and speaks for itself. Further answering Paragraph 24, the State  
12 and the Secretary affirmatively allege that the historical notes to Title 2, Chapter 20 of the  
13 Arizona Administrative Code, which includes A.A.C. R2-20-111, state the following:  
14 “The [Secretary] has received a Notice of Rule Expiration from the G.R.R.C. stating R2-  
15 20-109 and R2-20-111 have automatically expired [published at 23 A.A.R. 1757].” To  
16 the extent that any additional response to the allegations in Paragraph 24 of the Complaint  
17 is required, the State and the Secretary deny them.

18 25. The State and the Secretary affirmatively allege that the allegations  
19 contained in Paragraph 25 of the Complaint purport to set forth arguments and legal  
20 conclusions to which no response is required. To the extent any additional response to the  
21 allegations of Paragraph 25 of the Complaint is required, the State and the Secretary deny  
22 them.

23 26. The State and the Secretary lack sufficient information or knowledge to  
24 form a belief as to the truth of the allegations set forth in Paragraph 26 of the Complaint,  
25 and therefore deny those allegations.

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1 Elections Institute.

2 **Senate Bill 1516**

3 30. The State and the Secretary admit the allegations in Paragraph 30 of the  
4 Complaint.

5 31. The State and the Secretary admit the allegations in Paragraph 31 of the  
6 Complaint.

7 32. The State and the Secretary admit the allegations in Paragraph 32 of the  
8 Complaint.

9 33. The State and the Secretary admit the allegations in Paragraph 33 of the  
10 Complaint.

11 34. Answering Paragraph 34 of the Complaint, the State and the Secretary  
12 affirmatively allege that S.B. 1516 is the best evidence of its contents and speaks for itself.  
13 Nevertheless, the State and the Secretary admit that Paragraph 34 of the Complaint  
14 accurately quotes portions of A.R.S. § 16-938(A).

15 35. Answering Paragraph 35 of the Complaint, the State and the Secretary  
16 affirmatively allege that S.B. 1516 is the best evidence of its contents and speaks for itself.  
17 To the extent that any additional response to the allegations in Paragraph 35 of the  
18 Complaint is required, the State and the Secretary deny them.

19 36. The State and the Secretary affirmatively allege that: (a) the allegations  
20 contained in Paragraph 36 of the Complaint purport to set forth arguments and legal  
21 conclusions to which no response is required; and (b) S.B. 1516 is the best evidence of its  
22 contents and speaks for itself. To the extent that any additional response to the allegations  
23 in Paragraph 36 of the Complaint is required, the State and the Secretary deny them.

24 37. Answering Paragraph 37 of the Complaint, the State and the Secretary  
25 affirmatively allege that S.B. 1516 is the best evidence of its contents and speaks for itself.  
26 Nevertheless, the State and the Secretary admit that Paragraph 37 of the Complaint

1 selectively quotes and paraphrases portions of S.B. 1516. To the extent that any  
2 additional response to the allegations in Paragraph 37 of the Complaint is required, the  
3 State and the Secretary deny them.

4 38. Answering Paragraph 38 of the Complaint, the State and the Secretary  
5 affirmatively allege that S.B. 1516 is the best evidence of its contents and speaks for itself.  
6 Nevertheless, the State and the Secretary admit that Paragraph 38 of the Complaint quotes  
7 A.R.S. § 16-901(43), but omits footnote 3 of the subject statutory definition. To the  
8 extent that any additional response to the allegations in Paragraph 38 of the Complaint is  
9 required, the State and the Secretary deny them.

10 39. The State and the Secretary affirmatively allege that: (a) the allegations  
11 contained in Paragraph 39 of the Complaint purport to set forth arguments and legal  
12 conclusions to which no response is required; and (b) S.B. 1516 is the best evidence of its  
13 contents and speaks for itself. To the extent that any additional response to the allegations  
14 in Paragraph 39 of the Complaint is required, the State and the Secretary deny them.

15 40. The State and the Secretary deny the allegations in Paragraph 40 of the  
16 Complaint. Further answering Paragraph 40 of the Complaint, the State and the Secretary  
17 affirmatively allege that S.B. 1516 is the best evidence of its contents and speaks for itself.

18 41. Answering Paragraph 41 of the Complaint, the State and the Secretary  
19 affirmatively allege that S.B. 1516 is the best evidence of its contents and speaks for itself.  
20 Further, the State and the Secretary affirmatively allege that Paragraph 41 of the  
21 Complaint is vague and ambiguous in referencing “this exemption” without identifying  
22 the statutory provision at issue. To the extent that any additional response to the  
23 allegations in Paragraph 41 of the Complaint is required, the State and the Secretary deny  
24 them.

25 42. Answering Paragraph 42 of the Complaint, the State and the Secretary  
26 affirmatively allege that: (a) S.B. 1516 is the best evidence of its contents and speaks for



1 itself; and (b) the Arizona Legislature considered S.B. 1516, but did not pass certain  
2 proposed amendments to Title 16, Chapter 6, Article 2 of the Arizona Revised Statutes as  
3 proposed in the final version of the bill because they lacked the requisite three-fourths  
4 vote for enactment. The State and the Secretary deny the remaining allegations in  
5 Paragraph 42 of the Complaint.

6 43. The State and the Secretary admit that the Arizona Legislature amended  
7 Title 16, Chapter 6, Article 1 of the Arizona Revised Statutes by S.B. 1516 (as enacted),  
8 but deny the remaining allegations of Paragraph 43 of the Complaint.

9 44. The State and the Secretary lack sufficient information or knowledge to  
10 form a belief as to the truth of the allegations set forth in Paragraph 44 of the Complaint,  
11 and therefore deny those allegations. However, in further response to Paragraph 44 of the  
12 Complaint, the State and the Secretary affirmatively allege that the historical notes to Title  
13 2, Chapter 20 of the Arizona Administrative Code, which include A.A.C. R2-20-109 and  
14 R2-20-111, state the following: “The [Secretary] has received a Notice of Rule Expiration  
15 from the G.R.R.C. stating R2-20-109 and R2-20-111 have automatically expired  
16 [published at 23 A.A.R. 1757].”

17 45. Answering Paragraph 45 of the Complaint, the State and the Secretary admit  
18 that the G.R.R.C. is established under A.R.S. §§ 41-1051 to -1057, but deny the remaining  
19 allegations in Paragraph 45 of the Complaint.

20 46. The State and the Secretary lack sufficient information or knowledge to  
21 form a belief as to the truth of the allegations set forth in Paragraph 46 of the Complaint,  
22 and therefore deny those allegations. To the extent Paragraph 46 of the Complaint simply  
23 quotes portions of “Notice of Proposed Exempt Rulemaking” issued by the Commission  
24 on some unspecified date, the State and the Secretary affirmatively allege that such Notice  
25 is the best evidence of its content, speaks for itself, and represents nothing more than the  
26 Commission’s position in an ongoing dispute between the Commission and the G.R.R.C.

47. The State and the Secretary affirmatively allege that Paragraph 47 of the Complaint presents only conclusory arguments and legal conclusions to which no response is required. To the extent that any additional response to the allegations in Paragraph 47 of the Complaint is required, the State and the Secretary deny them.

### FIRST CLAIM FOR RELIEF

(Voter Protection Act)

48. The State and the Secretary deny the allegations contained in Paragraph 48 of the Complaint.

49. Answering Paragraph 49 of the Complaint, the State and the Secretary affirmatively allege that Article 4, Part 1, Section 1(6)(B) of the Arizona Constitution is the best evidence of its contents and speaks for itself. Moreover, the State and the Secretary deny that Paragraph 49 of the Complaint accurately quotes Article 4, Part 1, Section 1(6)(B) of the Arizona Constitution. The State and the Secretary affirmatively allege that Paragraph 49 of the Complaint does nothing more than accurately quote Article 4, Part 1, Section 1(6)(C) of the Arizona Constitution, which also is the best evidence of its contents and speaks for itself. To the extent that any additional response to the allegations in Paragraph 49 of the Complaint is required, the State and the Secretary deny them.

50. The State and the Secretary deny the allegations contained in Paragraph 50 of the Complaint.

## Redefining Political Committee Using “Primary Purpose”

51. Answering Paragraph 51 of the Complaint, the State and the Secretary affirmatively allege that S.B. 1516, and specifically A.R.S. §§ 16-901(43) and 16-905(C), are the best evidence of their contents and speak for themselves. To the extent that any additional response to the allegations in Paragraph 51 of the Complaint is required, the State and the Secretary deny them.

1           52. Answering Paragraph 52 of the Complaint, the State and the Secretary  
2 affirmatively allege that S.B. 1516, and specifically A.R.S. §§ 16-901(43) and 16-905(C),  
3 are the best evidence of their contents and speak for themselves. To the extent that any  
4 additional response to the allegations in Paragraph 52 of the Complaint is required, the  
5 State and the Secretary deny them.

6           53. Answering Paragraph 53 of the Complaint, the State and the Secretary  
7 affirmatively allege that the scope of the Commission's authority is as provided in the  
8 CCEA (i.e., A.R.S. §§ 16-940 to -961), which is the best evidence of its contents and  
9 speaks for itself. To the extent that any additional response to the allegations in Paragraph  
10 53 of the Complaint is required, the State and the Secretary deny them.

11           54. Answering Paragraph 54 of the Complaint, the State and the Secretary  
12 affirmatively allege that A.R.S. § 16-941(D) is the best evidence of its contents and  
13 speaks for itself. To the extent that any additional response to the allegations in Paragraph  
14 54 of the Complaint is required, the State and the Secretary deny them.

15           55. Answering Paragraph 55 of the Complaint, the State and the Secretary  
16 affirmatively allege that A.R.S. § 16-956 is the best evidence of its contents and speaks  
17 for itself. To the extent that any additional response to the allegations in Paragraph 55 of  
18 the Complaint is required, the State and the Secretary deny them.

19           56. Answering Paragraph 56 of the Complaint, the State and the Secretary admit  
20 that the Commission has adopted rules, but deny the remaining allegations contained  
21 therein.

22           57. Answering Paragraph 57 of the Complaint, the State and the Secretary  
23 affirmatively allege that, to the extent it is a valid rule, A.A.C. R2-20-109(B)(4)(b) is the  
24 best evidence of its contents and speaks for itself. Further answering Paragraph 57, the  
25 State and the Secretary affirmatively allege that the historical notes to Title 2, Chapter 20  
26 of the Arizona Administrative Code, which includes A.A.C. R2-20-109, state the

1 following: “The [Secretary] has received a Notice of Rule Expiration from the G.R.R.C.  
2 stating R2-20-109 and R2-20-111 have automatically expired [published at 23 A.A.R.  
3 1757].” To the extent that any additional response to the allegations in Paragraph 57 of  
4 the Complaint is required, the State and the Secretary deny them.

5 58. Answering Paragraph 58 of the Complaint, the State and the Secretary admit  
6 that S.B. 1516 deleted the definition of “political committee” from A.R.S. § 16-901, but  
7 affirmatively allege that S.B. 1516 included an equivalent definition, specifically  
8 “committee,” in A.R.S. § 16-901(10). Further, the State and the Secretary affirmatively  
9 allege that S.B. 1516 includes definitions for “candidate committee” in A.R.S. § 16-  
10 901(8), “political action committee” in A.R.S. § 16-901(41), and “political party” in  
11 A.R.S. § 16-901(43), all of which further define and clarify the term “committee” found in  
12 A.R.S. § 16-901(10). The State and the Secretary deny the remaining allegations  
13 contained in Paragraph 58 of the Complaint.

14 59. The State and the Secretary deny the allegations contained in Paragraph 59  
15 of the Complaint.

16 60. Answering Paragraph 60 of the Complaint, the State and the Secretary  
17 affirmatively allege that the CCEA is the best evidence of its contents and speaks for  
18 itself. To the extent that any additional response to the allegations in Paragraph 60 of the  
19 Complaint is required, the State and the Secretary deny them.

20 61. The State and the Secretary deny the allegations contained in Paragraph 61  
21 of the Complaint. Further answering Paragraph 61 of the Complaint, the State and the  
22 Secretary affirmatively allege that A.R.S. § 16-957(A) is the best evidence of its contents  
23 and speaks for itself.

24 62. The State and the Secretary deny the allegations contained in Paragraph 62  
25 of the Complaint.

1                                   **Redefining “Contribution” and “Expenditure”**

2           63.    Answering Paragraph 63 of the Complaint, the State and the Secretary  
3 affirmatively allege that A.R.S. §§ 16-911(B) and 16-901(14) are the best evidence of  
4 their contents and speak for themselves. Nevertheless, the State and the Secretary admit  
5 that Paragraph 63 of the Complaint accurately quotes a small portion of A.R.S. § 16-  
6 911(B)(4). To the extent that any additional response to the allegations in Paragraph 63 of  
7 the Complaint is required, the State and the Secretary deny them.

8           64.    Answering Paragraph 64 of the Complaint, the State and the Secretary  
9 affirmatively allege that A.R.S. §§ 16-911(B)(5) and 16-921 are the best evidence of their  
10 contents and speak for themselves. Nevertheless, the State and the Secretary admit that  
11 Paragraph 63 of the Complaint accurately quotes a small portion of A.R.S. § 16-  
12 911(B)(5). To the extent that any additional response to the allegations in Paragraph 64 of  
13 the Complaint is required, the State and the Secretary deny them.

14          65.    The State and the Secretary deny the allegations contained in Paragraph 65  
15 of the Complaint.

16          66.    The State and the Secretary deny the allegations contained in Paragraph 66  
17 of the Complaint.

18                                   **Restricting Enforcement**

19          67.    The State and the Secretary deny the allegations contained in Paragraph 67  
20 of the Complaint.

21          68.    The State and the Secretary deny the allegations contained in Paragraph 68  
22 of the Complaint.

23          69.    The State and the Secretary deny the allegations contained in Paragraph 69  
24 of the Complaint.

25          70.    The State and the Secretary deny the allegations contained in Paragraph 70  
26 of the Complaint.



1 THIRD CLAIM FOR RELIEF

2 (Equal Protection)

3 78. The State and the Secretary deny the allegations contained in Paragraph 78  
4 of the Complaint.

5 79. Answering Paragraph 79 of the Complaint, the State and the Secretary  
6 affirmatively allege that S.B. 1516 is the best evidence of its contents and speaks for itself.  
7 Further, the State and the Secretary affirmatively allege that Paragraph 79 of the  
8 Complaint is vague and ambiguous. To the extent that any additional response to the  
9 allegations in Paragraph 79 of the Complaint is required, the State and the Secretary deny  
10 them.

11 80. In answering Paragraph 80 of the Complaint, the allegations set forth therein  
12 present only conclusory arguments and legal conclusions to which no response is  
13 required. To the extent that any additional response to the allegations in Paragraph 80 of  
14 the Complaint is required, the State and the Secretary deny them.

15 81. In answering Paragraph 81 of the Complaint, the allegations set forth therein  
16 present only conclusory arguments and legal conclusions to which no response is  
17 required. To the extent that any additional response to the allegations in Paragraph 81 of  
18 the Complaint is required, the State and the Secretary deny them.

19 82. In answering Paragraph 82 of the Complaint, the allegations set forth therein  
20 present only conclusory arguments and legal conclusions to which no response is  
21 required. To the extent that any additional response to the allegations in Paragraph 82 of  
22 the Complaint is required, the State and the Secretary deny them.

23 83. In answering Paragraph 83 of the Complaint, the allegations set forth therein  
24 present only conclusory arguments, speculation, and legal conclusions to which no  
25 response is required. To the extent that any additional response to the allegations in  
26 Paragraph 83 of the Complaint is required, the State and the Secretary deny them.

84. In answering Paragraph 84 of the Complaint, the allegations set forth therein present only conclusory arguments, speculation, and legal conclusions to which no response is required. To the extent that any additional response to the allegations in Paragraph 84 of the Complaint is required, the State and the Secretary deny them.

85. In answering Paragraph 85 of the Complaint, the allegations set forth therein present only conclusory arguments, speculation, and legal conclusions to which no response is required. To the extent that any additional response to the allegations in Paragraph 85 of the Complaint is required, the State and the Secretary deny them.

86. In answering Paragraph 86 of the Complaint, the allegations set forth therein present only conclusory arguments and legal conclusions to which no response is required. To the extent that any additional response to the allegations in Paragraph 86 of the Complaint is required, the State and the Secretary deny them.

#### FOURTH CLAIM FOR RELIEF

(Article VII § 16 of the Arizona Constitution)

87. The State and the Secretary deny the allegations contained in Paragraph 87 of the Complaint.

88. Answering Paragraph 88 of the Complaint, the State and the Secretary admit that Plaintiffs have accurately quoted Article 7, Section 16 of the Arizona Constitution. Further answering Paragraph 88 of the Complaint, the State and the Secretary affirmatively allege that Article 7, Section 16 of the Arizona Constitution is the best evidence of its contents and speaks for itself. Moreover, additional allegations set forth in Paragraph 88 of the Complaint present conclusory arguments and legal conclusions to which no response is required. To the extent that any additional response to the allegations in Paragraph 88 of the Complaint is required, the State and the Secretary deny them.

89. In answering Paragraph 89 of the Complaint, the allegations set forth therein



1 present only conclusory arguments, speculation, and legal conclusions to which no  
2 response is required. To the extent that any additional response to the allegations in  
3 Paragraph 89 of the Complaint is required, the State and the Secretary deny them.

4 90. In answering Paragraph 90 of the Complaint, the allegations set forth therein  
5 present only conclusory arguments, speculation, and legal conclusions to which no  
6 response is required. To the extent that any additional response to the allegations in  
7 Paragraph 90 of the Complaint is required, the State and the Secretary deny them.

8 91. In answering Paragraph 91 of the Complaint, the allegations set forth therein  
9 present only conclusory arguments, speculation, and legal conclusions to which no  
10 response is required. To the extent that any additional response to the allegations in  
11 Paragraph 91 of the Complaint is required, the State and the Secretary deny them.

#### 12 GENERAL DENIAL

13 92. The State and the Secretary deny each and every allegation of the Complaint  
14 that is not expressly admitted herein.

#### 15 AFFIRMATIVE DEFENSES

16 1. The Complaint fails to state a claim, in whole or in part, upon which relief  
17 may be granted.

18 2. Plaintiffs' claims are barred, in whole or in part, because Plaintiffs lack  
19 standing to assert any or all of the causes of action alleged in the Complaint.

20 3. By reason of Plaintiffs' own conduct, acts, and/or omissions, Plaintiffs'  
21 claims are barred from any relief by the doctrine of laches.

22 4. Plaintiffs have not sustained any injury or damage as a result of any actions  
23 taken by the State and/or the Secretary, and thus are barred from asserting any claim  
24 against them.

25 5. The State and the Secretary reserve the right to assert all additional  
26 affirmative defenses, including those set forth in Arizona Rule of Civil Procedure 8(c), as

1 more information becomes known through discovery.

2 PRAYER FOR RELIEF

3 WHEREFORE, having answered the Complaint in full, the State and the Secretary  
4 request the following relief: that Plaintiffs take nothing by their Complaint; that judgment  
5 on the Complaint and on each cause of action alleged therein be entered in favor of the  
6 State and the Secretary and against Plaintiffs; that the State and the Secretary be awarded  
7 their reasonable attorneys' fees and costs incurred in defending this matter pursuant to  
8 A.R.S. § 12-348.01; and for such other relief as the Court deems appropriate.

9 RESPECTFULLY SUBMITTED this 8th day of January, 2018.

10 FENNEMORE CRAIG, P.C.

11  
12 By /s/ Timothy Berg

13 Timothy Berg  
14 Theresa Dwyer  
15 Emily Ward  
16 Dena Sanders  
17 Attorneys for Defendants  
18 State of Arizona and  
19 Secretary of State Michele Reagan  
20  
21  
22  
23  
24  
25  
26

1 ELECTRONICALLY FILED  
on the 8th day of January, 2018, with the  
2 Clerk of the Maricopa County Superior  
Court using AZTurboCourt.

3 COPY transmitted via eFiling system to:

4 The Honorable David K. Udall  
5 Maricopa County Superior Court  
222 E. Javelina Avenue, Room 2E  
6 Mesa, AZ 85210-6234

7 A copy has been emailed and mailed this  
8th day of January, 2018, to:

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Executive Director



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**Steve M. Titla**  
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**State of Arizona**  
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Below are the election bills that may impact the Commission.

**HCR 2007 -- Clean Elections; Unlawful Contributions; Rulemaking**

- Bars participating candidates from spending any money with parties except for voter files, as defined in statute.
- Strips commission of rulemaking exemption
- Effect on CCEC—Major
  - o Rulemaking change does not advance Commission independence.
  - o Participation limitation affects participating candidates own funds, not just clean funds, thus restricting their activity with no clear quid pro quo link.
  - o Heavily involves commission in party business, may have associational issues under the First Amendment.

**SB 1023 – Campaign Contributions; Reportable Amounts**

**Sponsor – Senator Kavanagh**

- The bill raises the amount of money that requires a candidate to report the contributor's identification from \$50 to \$200
- Effect on CCEC – May change the reporting requirement for CCEC candidates as they may only receive a maximum contribution of \$160. Would need an exemption in the bill to ensure this is not an issue.

**HB 2182 – Campaign Finance; Candidate Committee; Transfers**

**Sponsor – Reps. Coleman: Shope**

- The bill would allow for a candidate to transfer funds from one campaign account to a different campaign account. The two accounts must be registered to the same candidate.

- Effect on CCEC – Unclear. Need to ensure 16-941(B) is not affected. Commission staff will need to continue to review campaign finance reports to ensure transfers did not exceed allotted amounts.

#### HB 2184 – Secretary of State; Rulemaking

Sponsor – Rep. Coleman

- The bill would allow for the Arizona Administrative Code to have the force of law in Arizona.
- Effect on CCEC – May create issues if the Code differs from commission rules and the code is enforced as law. Gives the Secretary power to create law, bypassing the legislative process.

#### SB 1037 – Election and Ethics; Commission; Duties

Sponsor – Senator Quezada

- This bill would establish the Arizona Election and Ethics Commission
- Effect on CCEC – May create issues where the CCEC and the Ethics Commission would be investigating the same complaint creating possible dual penalties.

#### HB 2049 – Campaign Finance; Corporate Recipients; Registration

Sponsor – Reps. Clark: Alston, Andrade, Salman

- This bill would require Corporations, LLCs, and Labor Organizations that make contributions, attempting to influence an election, to file with the Secretary of State and disclose the amount they are spending.
- Effect on CCEC – May create more complaints for lack of timely filing.

#### HB 2050 – Independent Expenditures; Corporations; Funding Disclosure

Sponsor – Reps. Clark: Alston, Andrade, Salman

- This bill would require Corporations, LLCs, and Labor Organizations that make independent expenditures, to file campaign finance reports with the Secretary of State. It would also require a person that makes expenditures for fundraising or advertisements to disclose the four funding sources that made the largest aggregate contributions.
- Effect on CCEC – May create more complaints filed with the CCEC because of the lack of timely filing.

#### HB 2051 – Presidential Preference Election; Independent Voters

Sponsor – Reps. Clark: Alston, Andrade

- This bill would allow Independents to vote in the Presidential Preference Election.
- Effect on CCEC – Minor. CCEC may need to increase voter education to insure Independents understood the change.

#### HB 2052 – Automatic Voter Registration; Licenses; IDs

Sponsor – Reps. Clark: Alston, Andrade, Chavez, Salman

- This bill would allow for anyone applying for or renewing a driver's license to automatically be registered to vote if they are not yet.
- Effect on CCEC – Minimal. CCEC may need to increase voter education to insure the change is understood.

#### HB 2078 – Electronic Filing System; Political Subdivisions

Sponsor – Rep. Finchem

- The bill would require the Secretary of State to develop an electronic filing system for counties, cities, towns, school districts and special taxing districts to opt into. The filing system would be over seen by the Secretary of State.
- Effect on CCEC – None. Unless it interferes with the reports the Commission requires, it would not affect the CCEC.

#### HB 2104– Clean Elections; County Candidates

Sponsor – Rep. Powers Hanley: Alston, Blanc, Clark, Fernandez, Gabaldon, Navarrete, Saldate, Salman

- The bill would allow for County Elected officials to use the CCEC system when running for office.
- Effect on CCEC – Major. This would put a major strain on the CCEC system in terms of funding Statewide, Legislative, and County-wide candidates. May require the re-introduction of the \$5 tax check-off box.

#### HB 2121 – Ballot Measures; Paid Circulator Definition

Sponsor – Rep. Leach

- The bill changes the definition of “paid circulator” removing the way they are currently paid (by the number of signatures). The circulator will now have to be compensated differently.
- Effect on CCEC – None. May be used for other purposes.

## HB 2153 – Campaign Finance; Nonprofits; Disclosure

Sponsor – Rep. Leach

- The bill exempts 501(c) entities from being required to disclose information regarding their contributors, registering as a political action committee, and submitting to audits, subpoenas, or producing evidence regarding potential campaign finance violations.
- Effect on CCEC – Does not appear to apply and in any event, the Commission has not had a complaint filed against a 501(c) that has resulted in the need for audits, or subpoenas.