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THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC VIRTUAL MEETING

Phoenix, Arizona

January 28, 2021

9:31 a.m.

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<p style="text-align: right;">Page 2</p> <p>1 PUBLIC VIRTUAL MEETING BEFORE THE CITIZENS 2 CLEAN ELECTIONS COMMISSION convened at 9:31 a.m. on 3 January 28, 2021, 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 Ms. Amy B. Chan, Chairperson 8 Mr. Galen D. Paton 9 Mr. Damien R. Meyer 10 Mr. Mark S. Kimble 11 OTHERS PRESENT: 12 Thomas M. Collins, Executive Director 13 Paula Thomas, Executive Officer 14 Gina Roberts, Voter Education Director 15 Mike Becker, Policy Director 16 Alec Shaffer, Web Content Manager 17 Avery Oliver, Voter Education Specialist 18 Julian Arndt, Executive Support Specialist 19 Rivko Knox, AZ League of Women Voters 20 Kara Karlson, Assistant Attorney General 21 Jeanne Galvin, Assistant Attorney General 22 Kyle Cummings, Assistant Attorney General 23 Daniel Arellano, Ballard Spahr, LLP 24 Christina Borrego, Riester 25 Bailey Mills Tim Sifert Chad Campbell Cathy Herring, Tech Backup</p>	<p style="text-align: right;">Page 4</p> <p>09:32:23-09:33:19</p> <p>1 Commissioner Kimble who would be senior or Commissioner 2 Meyer now? I can't remember. 3 COMMISSIONER MEYER: I think it's me. 4 Commissioner Meyer is here. 5 COMMISSIONER KIMBLE: Commissioner Kimble 6 is here. 7 COMMISSIONER PATON: Commissioner Paton is 8 here. 9 CHAIRWOMAN CHAN: Thank you. 10 And, of course, for the record, I'm 11 Commissioner Chan, and I'm here, as well. 12 And so, with that, we can move on to Agenda 13 Item II: Discussion and possible action on Commission 14 minutes for December 17th, 2020. 15 Is there any discussion on the minutes for 16 December, the December meeting, or do I have a motion 17 to entertain? 18 COMMISSIONER KIMBLE: Madam Chairman, this 19 is Commissioner Kimble. 20 CHAIRWOMAN CHAN: Yes, Commissioner Kimble. 21 COMMISSIONER KIMBLE: I move that we 22 approve the minutes for the Commission meeting of 23 December 17th, 2020. 24 CHAIRWOMAN CHAN: Thank you. 25 Do I have a second?</p>
<p>09:31:06-09:32:21</p> <p style="text-align: right;">Page 3</p> <p>1 P R O C E E D I N G 2 3 CHAIRWOMAN CHAN: Good morning. It looks 4 like we have a quorum. We have our live stream up on 5 YouTube and our members of the public have been let 6 into the virtual meeting. So I will go ahead and call 7 the meeting to order. 8 I am Amy Chan. I am the new chairwoman of 9 the Clean Elections Commission, and Item I is to call 10 to order. It is 9:31 a.m., January 28, 2021. And, if 11 I didn't say it correctly before, I hereby call this 12 meeting to order of the Clean Elections Commission. 13 So we will now take attendance. I want to 14 welcome everybody. So to take attendance -- and 15 forgive me if I'm a little rough. I have had four 16 years to observe all these other wonderful chairpeople 17 take -- take this role, and I'm a little nervous today, 18 to be honest. So forgive me and I'm sorry, especially 19 because we have all these other attendees who have to 20 bear with me on this day. 21 So call to order and attendance. So I will 22 now take attendance. 23 Could each Commissioner, please, state your 24 presence for the record? And maybe we can go by 25 seniority, starting with Commissioner -- is that</p>	<p>09:33:25-09:34:15</p> <p style="text-align: right;">Page 5</p> <p>1 COMMISSIONER PATON: This is Commissioner 2 Paton. I'll second that. 3 CHAIRWOMAN CHAN: Thank you. 4 All right. I have a motion and a second. 5 I will now call the roll. 6 Commissioner Meyer, how do you vote? 7 We couldn't hear that. 8 COMMISSIONER MEYER: Aye. 9 CHAIRWOMAN CHAN: Thank you. 10 Commissioner Kimble, how do you vote? 11 COMMISSIONER KIMBLE: Aye. 12 CHAIRWOMAN CHAN: Commissioner Paton, how 13 do you vote? 14 COMMISSIONER PATON: Aye. 15 CHAIRWOMAN CHAN: And I vote aye, as well. 16 And we have four aye and zero nay, and the motion has 17 passed. 18 All right. And, Tom, if I'm doing anything 19 wrong, will you stop me and correct me, please? 20 MR. COLLINS: You are not -- well, I'll try 21 my best. You're not doing anything wrong. 22 CHAIRWOMAN CHAN: Thank you, but just -- 23 you know, I know you would stop me if I were. Okay. 24 Like I said, I'm a little nervous. 25 All right. Moving on to Agenda Item III:</p>

<p>09:34:18-09:36:12 Page 6</p> <p>1 Discussion and possible action on Executive Director's 2 report and legislative update, including election and 3 administrative bills, such as House Bill 2014 and House 4 Bill 2110. 5 Tom, I'll let you take it away from here. 6 MR. COLLINS: Okay. Thank you, Madam 7 Chair, and welcome. Thank you, Commissioners, for 8 being here. And I will try to keep this part of the 9 meeting brief. I know we've got other folks here who 10 have other things to do soon so -- including you all. 11 I do, obviously, want to note the 12 legislature is in session, and I'll circle back to that 13 in a second. 14 As you can see, Avery and Gina and Alec 15 have been working on a variety of new opportunities and 16 efforts to continue to work with community groups, 17 especially, that are interested in civic engagement, 18 civic education, and it's -- which is -- I mean, which 19 is great. And it's great to have that consistent 20 presence now over the course of the last two years, 21 three years, I mean -- six years, you know. 22 We are -- we wanted -- we wanted to -- we 23 will have -- we have one of the enforcement or 24 complaints that we have on this agenda for one -- one 25 aspect of that. We have some other folks -- some other</p>	<p>09:38:15-09:39:56 Page 8</p> <p>1 The House Rules Committee -- well, it went 2 through house government and -- and elections ago, and 3 this week it went through the Rules Committee. It's 4 worth noting that the Rules Committee attorney agreed 5 with our position with respect to -- that we've had 6 with respect to whether or not this was an amendment 7 under the Voter Protection Act. They said it did. 8 Nevertheless, as with last year, the majority is 9 unlikely to accept such a clause. 10 The Rules attorney, also, I should note, 11 said that he, in his view, based on Prop 306, if this 12 had a three-quarter vote, it would further the purpose 13 of Prop 306, which, you know, raises some pretty 14 interesting legal questions about how far the 15 legislature thinks it can go in furthering the purpose 16 of Prop 306, as opposed to -- and I don't think it was 17 intended to be opposed to -- the Commission's overall 18 status as a state Commission. 19 And the other -- the other bill is 2110, 20 which was up last year, and so this is the third year 21 for 2014, second year for 2110. And 2110 says -- it's 22 portrayed by its sponsor as a bill to give folks who 23 can't afford to pay traffic fines a break, which is 24 fine. That's not a policy issue that I personally -- 25 you know, on behalf of the Commission we have a</p>
<p>09:36:16-09:38:11 Page 7</p> <p>1 issues pending next steps. 2 And, then, I guess, rather than -- well, 3 you know, the other election case issue, I think, is 4 probably worth noting is that, as you all know, the 5 legislature had subpoenaed records and equipment 6 related to Maricopa County's handling of the county 7 ballots. The County Board of Supervisors voted 8 unanimously, on the 26th, to go ahead and start that 9 process. 10 So -- you know, so that was one matter that 11 was in court that it seems like that is moving forward 12 at this point. So -- and I think that that will tie 13 in, also, when we get lower in the agenda, to some of 14 our voter education issues. 15 On a legislative front, we wanted to call 16 out two specific bills because, you know, they're 17 familiar bills at this point. House Bill 2014 is a 18 bill which would, essentially, change how the Clean 19 Elections Commission specifically is treated under -- 20 under the Governor's Regulatory Review Council and 21 expand, to some extent, the number of issues that the 22 Governor's Regulatory Review Council could get called 23 into by a petition from -- from any person. The 24 sponsor of the bill sees this as an extension of 25 Prop 306.</p>	<p>09:39:57-09:41:12 Page 9</p> <p>1 particular position on. 2 What we do have a position on is the fact 3 that this bill notwithstanding any other law and then -- 4 and then frees up judges to set up whatever need-based 5 decisions they want to make. The Clean Elections Act 6 funding source is a surcharge on those fees and fines. 7 It is not a fiat fine. It has always been treated 8 differently than those kinds of fees and fines because 9 the surcharges, for example, when monetary obligations 10 were part of coming off of absolute discharge for 11 voting purposes, surcharge debt was never included in 12 there. 13 So there's example after example of how a 14 surcharge is not the same, nevertheless, the bill lumps 15 all these things together. It notwithstanding any of the 16 law, meaning it notwithstanding the Clean Elections Act. 17 And so, for those reasons, we believe that it does 18 trigger the VPA on up to -- at least up to all three 19 prongs of the VPA. It supercedes an appropriation. 20 It -- or I'm sorry. It reappropriates the surcharge to 21 other purposes. It supercedes the surcharge entirely 22 by virtue of the notwithstanding clause, and then, 23 obviously, because of those two things, it amends the 24 Clean Elections Act. 25 This one, we, also, believe doesn't further</p>

<p>09:41:15-09:42:40 Page 10</p> <p>1 the purpose because defunding the Act does not further 2 the purpose of the Act. Nevertheless, in this one, the 3 Rules attorney does not see any implication of the VPA 4 on this in the Rules attorney's view. 5 The -- because -- and I'm going to say this 6 wrong because it's still a little inscrutable to me, 7 but the upshot of the analysis is because the terms in 8 the Clean Elections Act talked about fines and fees 9 collected, somehow, if those aren't collected, it's 10 just not implicated, but that's not what the bill does. 11 The bill notwithstanding them. The bill says they don't 12 exist. 13 It doesn't say -- it doesn't say -- it 14 doesn't say we're going to preempt the collection. It 15 says we are literally going to ignore the existing law, 16 and that's -- that's why I've had a hard time following 17 the Rules attorney analysis in how this is not a direct 18 violation of the Voter Protection Act. Nevertheless, 19 those two bills are clear to be voted on by the full 20 House and could be voted on as soon as today, depending 21 upon how many calendars they decide to put out today 22 for the committee of the whole and/or third reading. 23 Now, that's a lot of background just to say 24 the reality is that the second bill -- well, the 25 first -- the first bill is what it is. We've made</p>	<p>09:44:16-09:45:54 Page 12</p> <p>1 it's within our rights and we plan to -- I plan to go 2 ahead and, at some point, assuming this gets -- if this 3 were to get moving toward the Governor's office, we 4 would ask the Governor's office to consider vetoing the 5 bill. We did that last year, although the bills never 6 actually got to his desk because of COVID. 7 So, there are a number of other voter bills 8 in the hopper. Quite a few of them got a lot of 9 attention. Julian has put together a list of -- you 10 know, tracking all those bills. Obviously, there's a 11 lot of bills having to do with, you know, participation 12 and how people participate. You know, we have not 13 heretofore weighed in on any of those bills, but 14 nevertheless, those are there, too. 15 But I just wanted to make sure that 16 everyone had, you know, sort of -- there will be other 17 decisions down the road to make about these bills, 18 potentially, but -- but, you know, I don't want to 19 sugarcoat the reality that if we don't have the entire 20 Democratic caucus, we don't have a chance to get one or 21 two Republicans to vote otherwise. So, that's that. 22 Without a VPA clause, the legislature will treat that 23 as enacted if it's signed by the Governor. 24 It's just where we are, and we'll have to 25 jump off those bridges as we come to them, if we choose</p>
<p>09:42:46-09:44:14 Page 11</p> <p>1 our -- we've made our points there. I'm not sure how 2 we'll pursue that, making those points in the Senate, 3 other than by a letter, potentially. We did appear -- 4 I appeared in the House committees on the House bills 5 in the House origin. I'm not sure that's necessary 6 again. I, also, don't know that there's anything we 7 might be able to do to change the vote count on an 8 issue like this; it being sort of a tertiary issue to, 9 at best, everybody else, but a primary issue to us. 10 With respect to the funding issue, again, 11 similar problem. In terms of, you know, that bill, 12 also, got -- you know, has bipartisan support. So 13 Republicans and Democrats are willing to look past 14 the -- or agree with the Rules attorney that you can, 15 essentially, preempt the Clean Elections Act funding 16 without violating or even implicating the Voter 17 Protection Act. So that's a harder bill. We're a 18 bipartisan commission. They're bipartisan -- they've 19 got bipartisan sponsors. So it's -- so it's a -- it's 20 a -- so that is happening. 21 So the bottom line is here to sort of try 22 to frame expectations around this. You know, we will 23 do our best to make legal cases we always have made. 24 We, also, you know, don't want to push that past the 25 point of effectiveness. And then, obviously, I think</p>	<p>09:45:57-09:47:02 Page 13</p> <p>1 to, but I just wanted to make sure that you had a 2 direct and as-frank-as-I-can-be assessment of where we 3 are on those bills. 4 So, really, that's all I had to -- had to 5 say about those things. I'm happy to answer any 6 questions and, obviously, the rest of the staff is here 7 if you have any other -- if anyone has any questions. 8 CHAIRWOMAN CHAN: Are there any 9 questions -- oh, I see Commissioner Meyer has his hand 10 raised. 11 Go ahead, Commissioner Meyer. 12 COMMISSIONER MEYER: Tom, thank you for 13 that background. So just so I'm understanding you, as 14 things currently sit on these two bills, the position 15 is being taken that it doesn't require the 75 percent 16 supermajority to pass them? 17 MR. COLLINS: Madam Chair, Commissioner 18 Meyer, that is the view of the legislative majority, 19 yes. 20 COMMISSIONER MEYER: Thank you. 21 CHAIRWOMAN CHAN: Commissioner Kimble? 22 COMMISSIONER KIMBLE: Thank you, Madam 23 Chair. 24 Tom, you alluded to this, but I made note 25 of at least eight bills that would have the effect --</p>

<p>09:47:07-09:48:46 Page 14</p> <p>1 whether it's intended or not, I'm not going to 2 speculate -- of making it more difficult to vote or of 3 suppressing turnout, which would seem to be a major 4 concern to us, seeing as how voter education is a 5 central part of our mission. 6 And I think a main part of voter education 7 is getting people to vote, but there are bills like the 8 notarized signatures on early ballots. There's a 9 number of bills relating to the PEVL, either doing away 10 with it or knocking people off it if they don't vote in 11 one election. There's things on the cure time for -- 12 for unsigned ballots, unsigned early ballots, the bill 13 that purports to address the Sharpie-gate -- whatever 14 that was. 15 The County Recorder may conduct voter 16 registration drives over -- only in a government 17 building. That seems to really make it more difficult 18 for people to register, and it seems like bills that 19 make it more difficult to vote, more difficult to 20 register, more difficult to vote early, if that is your 21 choice, as it is for more than 80 percent of Arizonans, 22 are something that we need to be heard on. 23 CHAIRWOMAN CHAN: Tom? 24 MR. COLLINS: Madam Chair, Commissioner 25 Kimble, I think that, I mean, at the end of the day,</p>	<p>09:50:33-09:51:56 Page 16</p> <p>1 other, it puts a strain on someone -- on an entity 2 that's trying to be, by virtue of its mandate, 3 bipartisan, right? I mean, that's just -- so the 4 farther this way or that way you go, the more that 5 weighs on us. 6 And there is a -- so why that big, long 7 preface is because one of the ways we've tried to carve 8 out the way the voter education functions within the -- 9 within the Act is to focus on the law as it is. We 10 spend -- we go to and participate with folks who have 11 lots of issues with the way the laws are, maybe, and 12 how they will be, but you know, our focus has been on 13 trying to get people over the hump to have that 14 information. 15 Ironically, obviously, the funding bill 16 damages our ability to do that, potentially, more than 17 any of these other things, as far as our role. So the 18 cost benefit analysis is we get, you know, blowback 19 from the legislature, but on other hand, we get that 20 inherently. Two, we haven't been invited by -- and let 21 me put it this way. And this, again, goes to Clean 22 Elections' unique status as a state agency, and I say 23 "unique" winkingly. 24 We have not been invited by anyone to 25 participate in this discussion and the absence of an</p>
<p>09:48:49-09:50:28 Page 15</p> <p>1 there's a couple of different ways to approach that. 2 One, obviously, you all -- and to the extent you 3 wanted, although I think most of you haven't, probably, 4 you know, you're all, obviously, free to weigh in on 5 these bills yourselves. 6 One of the reasons why we as staff have not 7 taken the initiative on those issues and one of the 8 reasons that we -- but we, you know, obviously, are 9 open to direction -- is because, A -- and let me caveat 10 this by saying, look, I'm -- the tensions that have 11 been put on the electoral system are very difficult to 12 negotiate if you truly want to take a, quote/unquote, 13 non-partisan approach. There are only two parties in 14 the legislature, and they are diametrically opposed on 15 most of these issues. 16 If we -- if the staff were to go down and 17 say, look, you know, we -- as opposed to another 18 person, as -- I mean, the Secretary of State's Office 19 has -- I don't know if they've actually testified, but 20 they certainly have been on the internets talking about 21 these things. It just creates a -- it creates a 22 tension where the -- it inherently does. 23 So if you -- so let me put it this way. If 24 one party moves, the way an issue is treated within 25 their coalition, farther to -- in one direction or the</p>	<p>09:51:59-09:53:04 Page 17</p> <p>1 invitation, for a bureaucrat like myself, without 2 direction from you all is a -- is all I, in 3 bureaucratise, need to know. 4 COMMISSIONER KIMBLE: Well, Madam Chair -- 5 CHAIRWOMAN CHAN: Now, if you want me to do 6 something else, that's a different -- 7 COMMISSIONER KIMBLE: Well, let me just 8 push back against one thing you said, Tom. 9 MR. COLLINS: Yeah. 10 COMMISSIONER KIMBLE: You sent us this 11 grid -- 12 MR. COLLINS: Yeah. 13 COMMISSIONER KIMBLE: -- of bills, and I 14 went down the center column -- 15 MR. COLLINS: Yeah. 16 COMMISSIONER KIMBLE: -- which explains 17 what the bill would do. I didn't go down one of the 18 other columns that said who introduced it. And, you 19 know, I understand that maybe one party is responsible 20 for a majority of the issues I have, but I think it's 21 our role as a -- as a bipartisan, non-partisan 22 organization and me as an independent to stand up for 23 the voters. 24 And I think that there are a number of 25 bills here that strike out at the voters and the</p>

<p>09:53:08-09:54:30 Page 18</p> <p>1 voters' ability to vote as they wish, to make it easier 2 to register people so they are allowed to vote, and we 3 should -- it's my personal opinion we ought to be 4 opposed to things that make it more difficult for 5 people to vote. And if that comes across as being 6 against one party or another, that's not my intent. My 7 intent is to be a voter advocate. And if people see 8 that as another way, I think that's -- that's their 9 concern because these aren't bills that we introduced. 10 These are bills that other people introduced that we 11 are being forced to react to. 12 CHAIRWOMAN CHAN: Commissioner Kimble, 13 thank you. And I think I see Commissioner Meyer. 14 Is your hand raised again, Commissioner 15 Meyer? 16 COMMISSIONER MEYER: Yes. 17 CHAIRWOMAN CHAN: Go ahead. 18 COMMISSIONER MEYER: Yes, it is. I think 19 what Commissioner Kimble is saying -- and I agree with 20 that -- is shouldn't making it easier to vote be a 21 non-partisan issue in and of itself? That's kind of 22 how I see it and how we -- you know, what we do 23 regarding these bills, of course, is -- you know, I'm 24 going to take the lead from Tom and the other 25 commissioners before I make a decision, but I think</p>	<p>09:55:55-09:57:00 Page 20</p> <p>1 have to think about the big picture and whether we have 2 to think about that foundational bill of -- the bill 3 that's about funding and whether that makes it 4 impossible to do our mission, in the first place, of 5 voter education. 6 And I don't know if I'm misunderstanding 7 the big picture here and I don't know if Tom wants to 8 step in and correct me. One of the questions I had 9 about that, what I'm thinking of as a foundational bill 10 of our funding mechanism, is whether we have any 11 alternate options or plans about that bill to propose, 12 you know. Is there anything we can do about that going 13 forward before even thinking about addressing the 14 issues? 15 And I agree. I mean, it shouldn't be 16 political and yet here we are. It is, and it has been 17 for years. I mean, look at, you know, the voter I.D., 18 et cetera, et cetera. So, I mean, having said all 19 that, can I -- can I ask Tom and kind of go back to 20 that question about the funding bill, if I can call it 21 that? 22 Do we have any proposal to make to change 23 it up a little bit that would make it something more 24 palatable for us and would make it something that would 25 work for our agency? Tom, or -- I don't know -- Mike,</p>
<p>09:54:34-09:55:52 Page 19</p> <p>1 making it easier to vote in and of itself should be a 2 non-partisan issue. 3 CHAIRWOMAN CHAN: Thanks, Commissioner 4 Meyer. 5 If I may make a comment -- and, 6 Commissioner Paton, I don't know if you want to jump in 7 here. I don't want to, you know, prevent you from 8 speaking, but you know, I really agree with what 9 Commissioner Kimble has stated and Commissioner Meyer, 10 as well. I have, you know, a lot of philosophical 11 issues with making it more difficult and raising 12 barriers to registration and voting, but I, also, hear 13 what Tom is saying. 14 And one thing that weighs heavily on my 15 mind is what he mentioned about the bill that, you 16 know, if that passes, it's going to make it more 17 difficult for us to even do our voter education 18 mandate. So what I am hearing, I think, is that if 19 we're spending our political capital, so to speak, on 20 weighing in on bills that we, you know, firmly believe 21 are important to weigh in against because they make it 22 harder for people to vote and register to vote, which I 23 think -- I support us being against those bill because 24 I do believe -- I agree with you both, Commissioners 25 Meyer and Kimble, but I, also, think maybe sometimes we</p>	<p>09:57:04-09:58:29 Page 21</p> <p>1 maybe? 2 MR. COLLINS: Yes. I mean, I think that -- 3 with respect to the funding bill, I think that the -- I 4 think that the key is that, you know, we don't know the 5 immediate -- I mean, in other words, we don't know how 6 many -- how many people this will affect. We don't 7 know what the metric is going to be. I can certainly 8 tell you that at -- in one of the hearings that I 9 appeared at, the bill sponsor said that he understood 10 from the courts that they believe this would be -- have 11 a minimal financial effect. I have tried to get that 12 confirmed, and I have not been able to successfully do 13 that yet. 14 So we don't know the impact. What we know 15 is that the principle of notwithstanding the entire 16 funding mechanism is a tiger you don't want to unleash, 17 if that makes sense, because once you do that, anything 18 you can find to notwithstand in any other voter-passed 19 bill, it's really a VPA issue more than it is a Clean 20 Elections issue, really, what you think of legally, 21 right, because you can -- if you can notwithstand that, 22 you can notwithstand -- like, you could say 23 notwithstanding 36 -- whatever -- cigarettes are no 24 longer considered tobacco products and, you know, those 25 kinds of -- you know what I mean?</p>

<p>09:58:32-09:59:54 Page 22</p> <p>1 There's a lot of mischief to be made with 2 notwithstanding clauses in the VPA. I mean, that's -- 3 that's what that legal issue is. As far as pushing 4 back, I mean, obviously, you know, if this bill were to 5 pass, you know, we get -- we will be asked, as we -- as 6 we are and we will be -- as we have been, we'll be 7 asked to get -- I'm sure we'll be asked to get involved 8 in some kind of litigation. I'm not sure, but I'm -- 9 CHAIRWOMAN CHAN: Well, I prefer it not to 10 get to litigation. I'm just wondering if there's -- I 11 prefer to have some way of carving us out or -- if 12 that's possible. I don't know if it's possible. 13 MR. COLLINS: Well, in prior reform -- this 14 is criminal justice reform, I guess, they called 15 this -- they have. They, in fact, have cut -- made an 16 exception -- a specific exception for the Clean 17 Elections Act. The courts have recognized that in 18 their own guidance on certain issues, as well. 19 You know, where the courts are in terms of 20 how they're administering surcharges and stuff is -- 21 again, I'm still at a point where I don't quite have 22 the information I need to assess that, but you know, I 23 guess, what I'm trying to say is that, yes, we would 24 like to pursue that. I will say that based on just 25 being down at the legislature about these issues and</p>	<p>10:01:16-10:02:43 Page 24</p> <p>1 this bill. 2 That's a -- that's a very significant 3 difference from last year. Last year, this was -- and 4 not to say that this is -- the funding source is 5 entirely partisan. I understand that. There are 6 Democrats who hate the funding source, Republicans who 7 don't care, but the point is that, you know -- the fact 8 is that Mr. Biasiucci has more -- he's the House whip. 9 He has more power than we have. We don't have 10 political capital. We could generate -- now -- and 11 here's the alternative. 12 If we chose to go in this direction -- and 13 this might -- I don't -- I'm not sure how to resolve 14 this without another discussion, but you know, were we 15 to change direction on that, could we generate some 16 political capital? Maybe, because, you know, 17 obviously, by not speaking out, you know, we are not 18 adding -- we're not adding anything to the discussion 19 and we're not using your -- you know, none of the -- 20 the Commission is not using its, if you will, legal 21 and, arguably, moral authority to -- you know, to -- 22 CHAIRWOMAN CHAN: Well, and that takes me 23 back to, I guess -- 24 MR. COLLINS: -- to deal with the thing. 25 CHAIRWOMAN CHAN: -- what Commissioner</p>
<p>09:59:57-10:01:14 Page 23</p> <p>1 looking at the lay of the land and how they played out 2 in the committee, the Democratic caucus members who are 3 aligned with the bill sponsor, Mr. Biasiucci, don't 4 want to hear about it. 5 I mean, we had two members -- and this has 6 happened to me. I don't know if this is -- I mean, 7 this is just how -- I mean, I don't mean to just tell a 8 war story, but last year, this bill, 21- -- 2110 -- 9 what's now 2110, we had full -- we had -- although 10 there were Democratic sponsors then, we had relatively 11 full support in committee. It went to the House 12 Judiciary Committee. The House Judiciary members, at 13 that time, did an excellent -- that agreed with us did 14 an excellent job of laying out the constitutional case 15 for the exception. 16 This year, it was assigned to 17 Transportation. There are members of the 18 Transportation Committee who are very aligned with 19 Mr. Biasiucci. They -- you know, throughout the 20 hearing, on -- the hearings, on multiple bills of his, 21 you know, he got compliments from folks who we would 22 hope would vote on our side on these kinds of things. 23 And, then, when it came time for them -- for the vote, 24 half the Democrats on that committee left, which means 25 they didn't want to be on the record voting against</p>	<p>10:02:45-10:04:18 Page 25</p> <p>1 Kimble and Commissioner Meyer were then talking about. 2 Do we -- do the other commissioners -- do we want to 3 then spend some of our political capital on what we 4 believe is our core mission, which is voter education 5 and advocating for voters. I mean, I really believe 6 that is part of our mission, a very important part, and 7 the voters really need us right now, I think. They're 8 kind of -- you know, there's a battle right now, I 9 think, going on. 10 COMMISSIONER PATON: If I may -- this is 11 Commissioner Paton. 12 CHAIRWOMAN CHAN: Sure, Commissioner Paton, 13 please. 14 COMMISSIONER PATON: Could I jump in there? 15 I guess I'm back to where I was before a couple of 16 years ago. I think if we -- I think this financial 17 thing is something that could seriously damage us, and 18 I think we need to head that off at the pass as best we 19 can. And if we go on these other -- I'm going to call 20 it tangents, I understand everybody's feeling on that, 21 but we need every vote we can get. And if we -- if we 22 give them more ammunition to not support us because the 23 other people are -- you know, this -- all this 24 behind-the-scenes stuff, I think that we need to use 25 whatever political capital we have to keep this</p>

<p>10:04:22-10:05:44 Page 26</p> <p>1 financial thing -- 2 CHAIRWOMAN CHAN: Or not. 3 COMMISSIONER PATON: -- at bay, you know, 4 if we do anything else. A lot of this stuff is going 5 to die in committee and whatever and maybe we say 6 something later on down the road, but I don't want to 7 poison the well. And, you know, I don't want to be the 8 stick in the mud, but I'm afraid that if we are seen as 9 to being -- people are going to view this as really 10 partisan and -- and whether we're not or -- I mean, I 11 know I'm not, obviously, but I think we -- if we have 12 something to say about that, I think maybe we should 13 say that down the road once something erupts into a 14 real possible situation, I guess, if you understand 15 what I'm saying. 16 CHAIRWOMAN CHAN: Thanks, Commissioner 17 Paton. 18 I think -- and, Commissioner Kimble, if I 19 can just say one thing and then I'll get to you. 20 I do agree with Commissioner Paton on one 21 thing. I value what Commissioner Paton has said. I 22 agree with him that the funding thing could be a huge 23 issue for us, and I don't necessarily trust the courts 24 saying they think it's not going to be an issue. And I 25 think maybe we can wait and see what shakes out because</p>	<p>10:07:16-10:08:34 Page 28</p> <p>1 these are key parts of why the voters created the 2 Commission is to be their advocate. 3 I don't want to belabor this because I know 4 we have people here on other things, but I just wanted 5 to make that point. 6 CHAIRWOMAN CHAN: Thank you. 7 This has been a wonderful discussion, and 8 if there's nothing more, I think we can revisit this at 9 our next meeting. I think there's time for that still 10 in the legislative session. 11 So, unless there's anything else on this 12 agenda item, I will move us along to our Voter 13 Education Plan. I'm just looking at the time here. 14 Gina, I believe that is you. Am I right 15 about that? Yes. Of course, I am. 16 MS. ROBERTS: Thank you, Madam Chair. Good 17 morning, Commissioners. 18 Today I have a presentation for you to 19 discuss -- well, a brief recap of the General Election. 20 We did a brief recap in November more on the current 21 issues related to the General Election, and today I 22 have a brief recap for you in regards to our Voter 23 Education Campaign, and then I have the 2021 Voter 24 Education Plan for your review and approval. 25 So I will go ahead and share my screen, and</p>
<p>10:05:47-10:07:11 Page 27</p> <p>1 I agree with Commissioner Paton that some of these 2 bills may not go anywhere. 3 Commissioner Kimble, please, go ahead. 4 COMMISSIONER KIMBLE: Well, you made some 5 points I was going to. 6 CHAIRWOMAN CHAN: Okay. 7 COMMISSIONER KIMBLE: I'm not advocating 8 that we immediately go down and storm the capitol and 9 make a big scene with these bills. I would take 10 exception to Commissioner Paton saying that these are 11 tangents. I don't think these are tangents. I think 12 these are our core mission. I think we need to keep an 13 eye on these bills and be prepared to react, but I 14 don't think that we can just stand by and not say 15 anything if it looks like there's an attempt, for 16 instance, to do away with the PEVL or to throw people 17 off the PEVL if they don't vote in one election or to 18 make it more difficult to register. 19 And if this is the way that it looks like 20 they're heading, I think we need to come back at some 21 future meeting. And if we need a special one, so be 22 it, but I don't think we can allow these things to 23 become law. And whether that's something that we 24 should weigh in on or if they just die of their own -- 25 die on their own, that would be great, but I think</p>	<p>10:08:46-10:09:56 Page 29</p> <p>1 I am going to assume you all can see my screen unless I 2 hear otherwise. 3 So, just as a reminder, as we've gone 4 through this already, we did see an exceptionally high 5 turnout in the 2020 General Election, which was 6 phenomenal to see that level of participation from 7 voters. 8 The messaging that we included in our Voter 9 Education Campaign was, of course, how to vote in the 10 election, all of the logistics ranging from voter 11 registration, how to get your ballot, what's on your 12 ballot, the candidates that are running, information 13 about our debates, the Voter Guide, so the typical 14 messaging that we do surrounding every election so the 15 voters have all of the information they need to 16 participate. 17 We did carve out, specifically, more 18 messaging regarding the early voting process and the 19 situation that was occurring at the United States 20 Postal Service. We did focus, additionally, on the 21 security of the ballot-by-mail process, the safety and 22 the precautions taken during COVID-19 so voters could 23 vote in person. And we, also, saw the need to provide 24 more voter education about the actual administration of 25 elections, the process that it entailed, what happens</p>

<p>10:09:59-10:11:13 Page 30</p> <p>1 to your ballot, how do you know, how can you confirm as 2 a voter if your ballot was counted. So those are the 3 overarching messaging themes that occurred during the 4 General Election. 5 And the paid media tactics that we utilized 6 to connect and reach with voters, we had ads that were 7 on television and YouTube. We enlisted radio reads. 8 We had print ads and, of course, we were in the digital 9 world and videos and banners and social media and 10 search. So if you go to Google and you type in "voter 11 registration," an ad would pop up leading you to the 12 Clean Elections voter registration page. And we had 13 billboards. 14 So, the media that we used here, the ads 15 that we ran were all highly focused on, again, the 16 logistics of voting. We partnered with Riester. They 17 have been a partner that we've been -- a proud partner 18 who's worked with us for the past several years, and so 19 we worked with them closely to ensure that the dollars 20 that we put behind reaching these voters, that we get 21 our max reach through there. And so we found across 22 the board that the metrics for our success were 23 performing well above industry standards. So we were 24 very happy with our reach and our tactics here on the 25 paid media side.</p>	<p>10:12:31-10:13:35 Page 32</p> <p>1 new format. It appeared to be more convenient and 2 accessible for voters to tune in either during the live 3 segment or on demand. Voters were able to submit 4 questions in real time through phone, text and email, 5 or they could submit questions in advance of the 6 debate. 7 And we did partner with the "Arizona 8 Capitol Times" to provide moderator services, and we 9 felt that was a success, as well, because it's really 10 important, during our debates, that we have a strong 11 moderator who knows how to really get those questions 12 and answers flowing. 13 In addition to our partnership with the 14 "Arizona Capitol Times" -- I may have mentioned this 15 during the Primary Election, but I wanted to refresh 16 your memory. We, also, partnered with "Cap Times" for 17 their Meet the Candidates event, and we found this was, 18 also, very successful. And it allowed the Commission 19 to keep these videos up on our website as content 20 throughout the General Election cycle so voters could 21 continue to learn, as much as possible, the candidates 22 that were choosing to represent them. 23 And this quote here, this is just some 24 feedback from "The Capitol Times" directly. And they 25 found that it was one of their most successful and</p>
<p>10:11:13-10:12:28 Page 31</p> <p>1 This is just some examples of the ads that 2 we ran. You can see they're very straightforward, when 3 the General Election debate -- or General Election day 4 is, Voter Education Guide, voting early. You can see 5 the signed, sealed, counted, relaying key dates and 6 messages, the schedule for the debates, you know, 7 letting folks know that they can vote from home and, of 8 course, voter registration. So, again, all of our 9 messaging was very straightforward for the voter in 10 terms of the logistics of voting. 11 In addition, being at a statewide election 12 year, the Commission, of course, we had our debates. 13 So we did have our legislative debates this year, as we 14 did in the Primary. Of course, we have them in the 15 General Election, as well. Out of 30 legislative 16 districts, we had 24 debates that we hosted and, as 17 you'll recall, of course, due to COVID, we had to pivot 18 earlier in this year and transform our debate model 19 into a virtual model. And we saw great success with 20 that. 21 And of the debates that we held for the 22 General Election, specifically, we had over 9,000 views 23 of those videos. Now, when you compare that to 24 previous years, it's tripled. So we were really happy 25 to see the level of engagement with the voters in this</p>	<p>10:13:37-10:14:56 Page 33</p> <p>1 amazing events. And, again, it lends to that virtual 2 component where we're finding voters really are more in 3 tune with that option. Again, they can watch it from 4 their phone. They can watch it from the comfort of 5 their couch and the TV. So it's really -- it's more 6 convenient for the voter to engage in the political 7 process in this virtual format. 8 We, also, had our statewide debates, and 9 this year the only statewide race on the ballot was the 10 corporation commissioner. And we do partner with 11 Arizona PBS to broadcast our debates. We've had that 12 partnership for several years, and with our corporation 13 commissioner debate, again, we found solid success in 14 the viewerships in the households. The debate was ran 15 on September 30th, and AZ PBS, they ran it both at 5:00 16 p.m. and at 10:00 p.m. in their broadcast. 17 And the household -- so, in addition to the 18 household viewings, which, actually, as we see higher 19 views at the 10:00 p.m. showing as opposed to the 5:00 20 p.m. -- and I imagine that has to do with work, evening 21 time, things like that -- we -- the debate is, also, 22 hosted on AZ PBS, on the Arizona Horizon, their 23 website, as well. So we were able to reach, roughly, 24 around 10,000 views with the corporation commissioner 25 debate.</p>

<p>10:14:56-10:16:13 Page 34</p> <p>1 In addition to the legislative and 2 corporation commissioner debate, we, also, sponsored 3 the U.S. Senate debate this year, and this was 4 phenomenal success. We were able to partner with 5 several prominent news sources, media sources, Arizona 6 PBS, Arizona Public Media, KJZZ and "The Arizona 7 Republic" for this debate. 8 And this is the feedback that the -- the 9 information that I have here is directly from Arizona 10 Horizon, and the U.S. Senate debate received the third 11 highest ratings of any PBS show on any PBS station in 12 the country in the past two years. And that's 13 phenomenal, the level of interest from voters to want 14 to engage with that debate. 15 This is just an example of some of the 16 creative that we ran to let voters know, hey, this 17 debate is occurring, how you can tune in. And here's a 18 still of the actual set with Ted Simons, as he served 19 as one of the moderators. So it was quite a successful 20 sponsorship for the U.S. Senate debate. 21 In addition to the debates, we, of course, 22 had our Voter Education Guide. This guide contains the 23 profiles for all the candidates that are running for 24 statewide and legislative office. For the General 25 Election, specifically, we sent out about 2.2 million</p>	<p>10:17:26-10:18:42 Page 36</p> <p>1 considering the amount of content that needed to be 2 translated into sign language, the physical task of 3 doing the signing and the interpreters, and so it was 4 quite a production. 5 We were very proud of it. We received 6 positive feedback from the candidates and from members 7 of the legislature who were running about having this 8 accessible version available for voters. We partnered 9 with -- again, through the Arizona Commission for the 10 Deaf and Hard of Hearing. We were able to bring on 11 Linda Bove. She's the -- an acclaimed Sesame Street 12 actress -- a deaf actress. And so she really lead the 13 team here in making sure that all of the signers and 14 the interpreters were consistent in the translation of 15 these political terms, election terms. 16 And we were happy to host this content on 17 our website for voters. So, again, it's opening up 18 voter education and making it as accessible as possible 19 to all voters across the state. And just the amount of 20 voters in our state, I believe it's over a million 21 voters who are deaf or hard of hearing. It was quite 22 the necessity. So we're very happy with this project. 23 This screen here is meant to reflect our 24 outreach efforts for the year. In working with Alec 25 and Avery and trying to figure out how do I capture the</p>
<p>10:16:16-10:17:22 Page 35</p> <p>1 voter guides, and we make every effort to provide the 2 Voter Guide in an accessible format. So we have -- we 3 automatically send it out in both English and Spanish, 4 but we, also, have different versions available for 5 voters, such as large print. 6 This is an example of our Navajo version of 7 the cover. We, also, provide it in plain text on our 8 website, so it's accessible for screen readers, and we 9 partnered with Sun Sounds of Arizona to provide an 10 audio version of the guide. And we've had that 11 partnership for several years, and we value it 12 immensely because not only do voters engage with the 13 audio version through Sun Sounds' toll free number, but 14 they, also, submit questions, too. And so it's 15 available -- we partner with Sun Sounds, and we work 16 with them to be able to connect with the voters through 17 their services and respond to their voter education 18 questions. 19 For the first time ever this year, we, 20 also, produced the Voter Education Guide -- oops. 21 Excuse me -- in American Sign Language. This was a 22 partnership that we did for both the Primary and 23 General Election voter guides, and we worked with the 24 Arizona Commission for the Deaf and the Hard of 25 Hearing. And this was a very immense undertaking just</p>	<p>10:18:46-10:19:58 Page 37</p> <p>1 amount of outreach that the staff has undertaken, it 2 was difficult to figure out how to present that to you. 3 And so I decided on a word cloud because I felt it 4 really -- this isn't even a fraction of the amount of 5 outreach that Avery has conducted through the year and, 6 of course, during the pandemic, as well. 7 So most of this was -- you know, all of it 8 was virtual. And being able to still keep that level 9 of commitment and outreach to it, I think, is a 10 testament to Avery's skills and abilities in fostering 11 those partnerships and relationships with these 12 community-based organizations, but when you just look 13 at the word cloud, you can see it's a well-range of 14 communities that we're reaching out to. We see 15 colleges here, students, cities, Tempe, Mesa, you know, 16 the words civics, engagement, education, health, 17 voting, you know, informing. 18 There's -- veterans. There's just a whole 19 level here that we're reaching across the state. And 20 so I think this is, again, a great representation of 21 the efforts that have been undertaken by Alec and 22 Avery. 23 And, briefly, I'll go over our website. 24 So, everything that we do, we guide voters to our 25 website. Our website is really the crux of the</p>

<p>10:20:02-10:21:11 Page 38</p> <p>1 information that we provide to voters. It has 2 everything the voter needs ranging from, you know, how 3 to get their ballot, how to register to vote, to seeing 4 the candidates in their district or learning about 5 their upcoming debate. 6 And so during the time period of the 7 General Election, it was great to see that the number 8 of page views that we had was about 1.7 million of page 9 views, which is phenomenal because all of the content 10 that we're providing, voters are consuming. And this 11 is just a screenshot of some of the pages -- the top 12 pages that voters were interested in, and you can see a 13 lot of that had to do with early voting and election 14 security. 15 So, you know, if there's no questions in 16 regards to the efforts that we did in the 2020 General 17 Election, I'm happy to jump into our plans for this 18 year. 19 Even though it is not a statewide election 20 year, there are elections every year. So we have our 21 local elections that will be occurring March, May, 22 August and November. These local elections, we've 23 continuously tried to promote the message that local 24 elections are just as important, if not more, because 25 the decisions made at the local level can impact voters</p>	<p>10:22:23-10:23:40 Page 40</p> <p>1 perceptions are about voting and the political process, 2 and our goal here is to make decisions based off of our 3 learnings directly from voters. We want their 4 feedback, and that feedback will guide the creative and 5 our outreach efforts for the remainder of the year. So 6 the timeline for that is through February and April. 7 Some of the themes that -- and the messages 8 that we know that -- or we expect that we'll be 9 covering for this year -- again, this will be driven by 10 the research, but of course, participation in the 11 political process. That's in our preamble. It's the 12 heart of the Clean Elections Act. And so that 13 includes, you know, voting but, also, civics and 14 candidate information, running for office or supporting 15 those who do, but some of the themes that really stood 16 out to us that are going to be important are rebuilding 17 that trust and confidence in the electoral system. 18 We know that there are a lot of voters 19 right now who, perhaps, have lost trust in the system, 20 and so we need to look at how can we educate people 21 further on the realities of the electoral system and 22 how your ballot is processed, the safeguards and the 23 securities that are in place and, really, trying to 24 focus on, you know, there is a difference between 25 policy and politics and election administration. Yes,</p>
<p>10:21:13-10:22:20 Page 39</p> <p>1 and their daily lives. So we'll be working with the 2 counties and our local jurisdictions to call all of 3 that election information and host that on our website. 4 We'll, of course, be running our outreach 5 and our media and our creative to connect with voters 6 to inform them of these elections and how they can 7 participate. And, of course, we do have the start of 8 the qualifying period towards the end of this year. So 9 those are some key dates for us. As you can see, the 10 March election is already well underway. Our duo cover 11 ballots have already gone out, and the voter 12 registration deadline is up and coming. So we are 13 definitely engaging in letting voters know how they can 14 participate in these local elections this year. 15 And as we do, typically, in odd years, the 16 Commission invests in research. So that is our goal 17 for this year, as well. We'd like to jump into 18 research with voters both from a qualitative and 19 quantitative aspect, and the goal here is to really -- 20 really take a pulse of where voters are right now 21 coming off of this General Election -- well, the whole 22 election year, you know, all of 2020, but specifically 23 the General Election. 24 We would like to learn more about what 25 voters are feeling, how they view elections, what their</p>	<p>10:23:43-10:24:51 Page 41</p> <p>1 they do overlap, but you know, when we're talking about 2 how that ballot is handled, you know, it's handled by 3 your neighbors. It's handled by poll workers. It's 4 handled by public servants, you know, government staff, 5 government employees, not necessarily by politicians. 6 And so we want to dive back deep into the 7 weeds of election administration, and we saw that 8 voters had the interest in that from what we've seen in 9 our search histories and the progress of our website, 10 the pages that were hit. We can see that voters want 11 to know more about this, and so we want to continue to 12 provide that service to them, all while kind of 13 thinking about the overarching theme of what is our 14 responsibility to you, what is the responsibility of 15 the Clean Elections Commission to voters as it 16 entails -- or pertains to voter education. 17 So, again, these are just some thoughts and 18 themes of messagings that we'll be exploring, but 19 again, we will really rely heavily on our research to 20 shape our plans. 21 So, of course, we'll have a Youth Voter 22 Outreach Campaign. As you know, we still have our 23 wings, and we'll continue to utilize that and that 24 imagery to connect with voters. We will be focusing, 25 primarily, on our Instagram account as our primary</p>

<p>10:24:55-10:26:08 Page 42</p> <p>1 youth channel and, of course, we'll be targeting key 2 events throughout the year, such as graduation, to 3 connect with voters. 4 We do have a civics curriculum that 5 Commission staff has worked on and developed with our 6 partners, and this curriculum was built in an effort to 7 provide teachers tools and assets that they can use in 8 the classroom that would still count towards the 9 curriculum standards, but while they can continue to 10 teach students about civics and voting and the 11 importance of voting informed. 12 And so we have this in a format where it 13 could be launched either in person or virtual, 14 depending on whether or not schools are in person, and 15 so we'll be looking at rolling that out towards the end 16 of this year. And, of course, we plan on creating 17 additional assets for teachers and students, such as 18 expanding our toolkits for students who, perhaps, want 19 to have a voter registration drive. 20 We will continue to foster our partnerships 21 that we've developed, and we hope to meet with all of 22 hour 15 county recorders and election officials. We 23 recently met with the Maricopa County Recorder, and our 24 goal is to have direct communications with our local 25 election partners to make sure we understand what their</p>	<p>10:27:24-10:28:35 Page 44</p> <p>1 continuing to get word out to the community about 2 upcoming elections. 3 And we will continue to work on our website 4 and our technology that the Commission has. These are 5 very important tools and resources for voters that we 6 provide. As I mentioned, our website is the crux of 7 all of that -- of what we do. And so we recently 8 completed an audit of the website. As you'll recall, a 9 few years ago we did a redesign, and so this is the 10 first presidential election since that redesign. 11 And just looking at how much the website 12 has grown and levels of content that we provide to 13 voters, we want to make sure that it's user friendly 14 still and that it's meeting the needs of voters and of 15 the information that we intend to put out there. The 16 website, you know, I'd like to look at it in two 17 different ways. It's a resource for voters when it 18 comes to the logistics of voting, but it's, also, 19 perhaps, subject matter expert content, if you will. 20 It explains what a presidential preference 21 election is. It explains the security of tabulation 22 machines. It explains, you know, how your ballot is 23 processed. And so there's a lot of great information 24 out there that we see the community is engaging with. 25 When we pull our reports and we look at referrals and</p>
<p>10:26:10-10:27:20 Page 43</p> <p>1 needs are in terms of voter education, you know, the 2 things that they're seeing with their voters and their 3 community. We'd like to continue our partnerships with 4 the Arizona Commission for the Deaf and Hard of Hearing 5 and continue to provide voter education in an 6 accessible format for that community. 7 We'll be creating a request-a-speaker 8 module for our website to make it more convenient for 9 the community to request a member of -- a Commissioner 10 or the Commission staff to speak at community events 11 and provide information, whether it's running for 12 office or, you know, how to get registered to vote, 13 looking forward to 2022, how to prepare. 14 And we'll, also, be creating a video series 15 for voter education information, such as either the 16 process -- processing of your ballot, how is it 17 tabulated, you know, how to register to vote, 18 understanding how to follow the money in the elections, 19 things like that. So we plan to create this video 20 series so they'll serve as resources, whether it's, you 21 know, a community-based organization having a local 22 chapter meeting and they can have these resources at 23 their fingertips to share with their members during 24 those events. And, of course, we'll continue to work 25 with our media partners and ensure that we're</p>	<p>10:28:39-10:29:43 Page 45</p> <p>1 we look at backlinks, it's amazing to see our website. 2 Again, I'd like to point out, because I 3 just -- again, I'm a personal fan of this, but I love 4 the fact the "Rolling Stone" links to our website. 5 We've seen "Cosmopolitan" link to it. We've seen 6 "FiveThirtyEight" link to it. We've seen sites from a 7 national level that are driving users to the Clean 8 Elections website. And, of course, the level of 9 engagement in state, as well, if they're on news sites, 10 they're on a political website. We see a lot of folks 11 that are linking to Clean Elections and looking to our 12 website as a source for official election information. 13 So we'll continue to work on improving our 14 applications that we host on the website, such as the 15 dashboard and the compass and, of course, our app, and 16 all the while making sure that the content we provide 17 in a technical format is accessible. 18 And in addition to voting and the 19 elections, again, that overarching theme of 20 participation in the political process, you know, that 21 expands further than just voting. So we're looking at 22 making sure voters know how to connect with their 23 current elected officials, who is representing them in 24 office, you know, understanding that the legislature is 25 in session right now. We'll provide information on</p>

<p>10:29:45-10:30:42 Page 46</p> <p>1 redistricting, which will occur this year. The new 2 lines will be drawn and how that intersects with 3 voting, and updating and refreshing the content on our 4 website for running for office. 5 So looking forward to next year, we'll have 6 a statewide election. All of the statewide offices 7 will be on the ballot. Of course, we'll have our local 8 elections, as well, too. So we'll do as much 9 preparation as we can in 2021 for all of our efforts 10 looking forward to the statewide election cycle next 11 year. 12 So with that, I'm happy to answer any 13 questions. 14 CHAIRWOMAN CHAN: Thank you so much, Gina. 15 Are there any questions from any of the 16 commissioners or comments? 17 (No response.) 18 CHAIRWOMAN CHAN: Okay. Gina, thank you so 19 much -- oh, I'm sorry. 20 COMMISSIONER PATON: This is Galen Paton. 21 CHAIRWOMAN CHAN: Commissioner Paton, go 22 ahead. 23 COMMISSIONER PATON: Gina, that was just so 24 impressive and, you know, I'm proud that I'm a part of 25 it. And the staff has just done an outstanding job,</p>	<p>10:31:59-10:33:10 Page 48</p> <p>1 that, but that's great. So thank you so much for all 2 your work. 3 CHAIRWOMAN CHAN: Gina, it looks like we 4 have a question from Rivko Knox on one of the last two 5 slides, the terms SEO and SEM. 6 Could you explain what those terms mean? 7 MS. ROBERTS: Yes. Madam Chair, 8 Commissioners -- Rivko, hello. Yes, that's terms in 9 regards to search engine optimization and search engine 10 marketing. 11 So think about Google, if you will. So, if 12 you go to Google and you type in "voter registration," 13 so one of two things will occur. If the Commission is 14 employing a paid ad, then you would see ad at the top 15 of your Google search, and it would have a link to the 16 Commission's voter registration pages or, you know, if 17 it's not an ad, then it's the optimization that we've 18 built within our website, making sure that behind the 19 scenes, the technical components of our website, we've 20 primed it so that we are optimized in the tier that we 21 appear on Google search. 22 So we do see that search is one of our -- 23 actually, one of our strongest areas. We've seen 24 millions of oppressions of voters when it comes to 25 search and looking to research voting terms, election</p>
<p>10:30:47-10:31:57 Page 47</p> <p>1 and I can't say enough. Thank you. 2 MS. ROBERTS: Thank you. 3 CHAIRWOMAN CHAN: Commissioner Kimble? 4 COMMISSIONER KIMBLE: I agree with 5 everything Commissioner Paton said. Our website is 6 outstanding, a lot of excellent information there that 7 you can find in one place. And I'm a big fan of 8 everything, Gina, you've done in voter education. 9 Thank you. 10 MS. ROBERTS: Thank you, Madam Chair. 11 Commissioners Paton and Kimble, thank you. And I'd be 12 remiss if I didn't call out Alec specifically. He is 13 our webmaster, and so the website is his baby. So 14 thank you so much for acknowledging that, the efforts 15 on our website. 16 CHAIRWOMAN CHAN: Commissioner Meyer? 17 COMMISSIONER MEYER: Yeah, I just want to 18 echo what Commissioners Paton and Kimble said. And, 19 also, thank you so much to Avery for all the outreach 20 he is doing. It's wonderful and very much appreciated. 21 And I, also, just want to comment on the 22 civics curriculum for the -- for the high school, 23 middle school and elementary kids, that's really 24 exciting. I would like to learn a little bit more 25 about that, Gina. So maybe we can talk offline about</p>	<p>10:33:15-10:34:16 Page 49</p> <p>1 terms, if you will, and so that's driving a lot of 2 users to our website. So that's -- we look at how can 3 we improve our website behind the scenes; can we tag 4 certain pages certain ways so that they appear better 5 when Google is indexing our website. 6 CHAIRWOMAN CHAN: Thank you, Gina. And I 7 see Rivko wrote thank you from someone from the 20th 8 Century. 9 And if I can just echo what Commissioner 10 Paton said so well, you know, Gina, you've built such a 11 wonderful team with Avery and Alec, and the three of 12 you together are just indomitable. So thank you so 13 much. 14 And I don't know if any other members of 15 the public have any comments or questions they have for 16 you. 17 (No response.) 18 CHAIRWOMAN CHAN: And I don't see anything. 19 And, if there isn't any further discussion, 20 I would ask for a motion to adopt the Voter Education 21 Plan as presented by Ms. Roberts. 22 COMMISSIONER MEYER: This is Commissioner 23 Meyer. I move we adopt the Voter Education Plan 24 presented by Ms. Roberts. 25 CHAIRWOMAN CHAN: Thank you.</p>

<p>10:34:19-10:35:13 Page 50</p> <p>1 COMMISSIONER KIMBLE: Commissioner Kimble, 2 second. 3 CHAIRWOMAN CHAN: Thank you, Commissioner 4 Kimble. 5 All right. It's been moved and seconded. 6 With that, I will call the roll. 7 Commissioner Meyer? 8 COMMISSIONER MEYER: Aye. 9 CHAIRWOMAN CHAN: Okay. Commissioner 10 Kimble? 11 COMMISSIONER KIMBLE: Aye. 12 CHAIRWOMAN CHAN: Commissioner Paton? 13 COMMISSIONER PATON: Aye. 14 CHAIRWOMAN CHAN: And I vote aye, as well. 15 That is four ayes and zero nays, and so we have adopted 16 the Voter Education Plan as presented by Gina Roberts. 17 Thank you so much. 18 Before we move on to Item V, I just wanted 19 to check in with the court reporter, if she needs a 20 break. It is -- it's been about an hour, and I just 21 wanted to do that before we jump into the next item on 22 the agenda. 23 MR. COLLINS: If I may, just to dovetail 24 that question, to the court reporter, we do have -- 25 after the next item -- well, the next item after that</p>	<p>10:36:07-10:36:54 Page 52</p> <p>1 among the court reporter and Mr. Arellano, I guess, is 2 really what -- 3 CHAIRWOMAN CHAN: Okay. And the court 4 reporter is fine for now. 5 MR. COLLINS: Okay. 6 CHAIRWOMAN CHAN: So -- and Mr. Arellano is 7 here for the -- Item VI? 8 MR. COLLINS: Yeah, I think. 9 CHAIRWOMAN CHAN: So you want to do Item VI 10 first? 11 MR. COLLINS: That might -- that might -- 12 that would probably make some sense, actually, if 13 there's no -- I mean, if nobody cares -- if nobody has 14 any opinions otherwise. 15 CHAIRWOMAN CHAN: All right. Why don't we 16 then go out of order. We'll do Item VI first: 17 Discussion and possible action on MUR 20-03, Arizona 18 Education Association. 19 And I believe -- Tom, are you going to 20 present that or is this Mike? Because -- I apologize. 21 MR. COLLINS: No, no, I screwed up the 22 order here. I apologize, Madam Chair. 23 CHAIRWOMAN CHAN: That's okay. Okay. That 24 is Tom. 25 MR. COLLINS: Yeah.</p>
<p>10:35:17-10:36:02 Page 51</p> <p>1 is a -- will have more interaction, potentially, among 2 the commissioners and the audience. 3 CHAIRWOMAN CHAN: Okay. 4 MR. COLLINS: Because it's an 5 enforcement-related thing. 6 CHAIRWOMAN CHAN: Okay. 7 MR. COLLINS: So, I guess, my -- what I'm 8 trying to say is, like, yes, that's important and we 9 should find that out. 10 CHAIRWOMAN CHAN: Okay. So our court 11 reporter -- 12 MR. COLLINS: Because we may have worse -- 13 and let me put it this way -- 14 CHAIRWOMAN CHAN: So Item V will probably 15 be a little shorter? Item VI could be longer is what 16 you're saying, Tom? 17 MR. COLLINS: Yeah. 18 CHAIRWOMAN CHAN: Okay. 19 MR. COLLINS: Although, Item VI, if we 20 wanted to, I mean, it's -- yeah. Or if you -- yeah. I 21 mean, whatever works for you and for the court 22 reporter. 23 And then, obviously, Mr. Arellano is here. 24 So I just want to make sure that we, also, get him out 25 of here. So whatever works among the three of the --</p>	<p>10:36:54-10:37:41 Page 53</p> <p>1 CHAIRWOMAN CHAN: So I will ask Tom to go 2 ahead and give an overview recommendation and -- 3 MR. COLLINS: And do we know -- I just want 4 to make sure. I'm sorry. 5 Cathy, do we know if Mr. Arellano is on the 6 line? 7 CHAIRWOMAN CHAN: I thought I saw him, but 8 did he -- 9 MR. COLLINS: I can't -- 10 MR. ARELLANO: He is, yes. 11 MR. COLLINS: Okay. All right. 12 CHAIRWOMAN CHAN: Oh, there he is. 13 MR. COLLINS: Okay. Perfect. 14 CHAIRWOMAN CHAN: Sorry. 15 MR. ARELLANO: Yeah. 16 CHAIRWOMAN CHAN: You just -- your picture 17 has your name now. 18 MR. COLLINS: I mean, is it okay with you, 19 Daniel, if we could -- if we do your thing now? 20 MR. ARELLANO: That would be -- I would 21 prefer that. That would be wonderful. Thank you. 22 MR. COLLINS: Okay. Okay. Thank you. 23 Thank you, Madam Chair. 24 So, you know, the premise of this MUR is 25 that there was, to our knowledge, two mailings and some</p>

<p>10:37:46-10:39:28 Page 54</p> <p>1 internet advertisements featuring some folks who 2 happened to have been running for the legislature in 3 2020. We got the complaint in September, although with 4 the mail and everything, it's not -- it was dated 5 September. We got it a little later than that, and we 6 got our response from the Education Association timely. 7 I've laid out in the -- in the memo about as much as I 8 think I have to say on the matter. 9 This is -- to frame this in the context of 10 the law, just, first, you know, this is an issue that 11 we've dealt with on a regular basis. Two, it has to do 12 with how you apply 16-901.01, which is the statute that 13 defines express advocacy for the purposes of Title 16, 14 Chapter 6, and was part the Clean Elections Act. 15 And there is -- you know, there are a 16 couple of key cases. I think some of you are probably 17 familiar with them by now. There's the Wisconsin Right 18 to Life case from the U.S. Supreme Court and then -- 19 and then, in Arizona, we have a Court of Appeals 20 published case, I believe -- unless it got depublished 21 sometime -- called the Committee for Justice and 22 Fairness versus Arizona Secretary of State. 23 Those cases turn on what is the functional 24 equivalent of express advocacy. Express advocacy is a 25 term of art that says is the communication designed to</p>	<p>10:40:51-10:42:17 Page 56</p> <p>1 And with that, Mr. Arellano. 2 MR. ARELLANO: Thank you, Madam Chair and 3 members of the Commission. I'm Daniel Arellano of the 4 Law Firm of Ballard Spahr, and I'm here this morning on 5 behalf of the Arizona Education Association. We 6 submitted a written response to this complaint to the 7 Commission, and I would, also, direct the Commission's 8 attention to that response, as well, in addition to any 9 questions you may have for me this morning. 10 There's really relatively little, I think, 11 factual dispute as to the communications at issue. You 12 know, we don't dispute that these were -- there were 13 two mailers and a series of social media advertisements 14 that urge constituents of particular legislators to, in 15 turn, urge those legislators to call for a special 16 session. And these all went out in August of 2020, and 17 they were, I think, importantly, made in the context of 18 a broader discussion going on over that -- the course 19 of that summer over the prospect of a special session 20 for the legislature. 21 The -- the context here, I think, is 22 important because the legislature had abruptly 23 adjourned in March of 2020 due to the COVID-19 crisis. 24 They formerly adjourned sine die later in May. And 25 almost as soon as the legislature adjourned, there</p>
<p>10:39:33-10:40:51 Page 55</p> <p>1 urge you to vote for or against the candidate. In this 2 particular case, I've outlined, based on what statute 3 and cases -- at least when I read them, when I think 4 about that. 5 And unless you have questions for me on 6 that at this point, obviously, my -- I would just -- I 7 would defer to -- well, unless you have questions for 8 me, I just -- I would -- that's my presentation. And 9 I'd like to, obviously, give the commissioners a chance 10 to talk with and for Mr. Arellano to talk with the 11 commissioners. 12 So -- but long story short, at least for 13 the purposes of whether there may be reason to believe, 14 I believe that we've met that standard at this point, 15 but obviously, I'm open to any questions. And I 16 hope -- and that's kind of -- that's all I have to say 17 about that. 18 CHAIRWOMAN CHAN: Thank you, Tom. And I 19 apologize. I had to step out for a moment to remind my 20 kids to go to class. We're doing virtual school. I 21 apologize about that. 22 First of all, I know probably Mr. Arellano 23 wants to speak, but I wondered if the commissioners had 24 any questions first about what Tom had said before 25 we -- okay.</p>	<p>10:42:19-10:43:45 Page 57</p> <p>1 began to be fairly public calls for the legislature to 2 go into special session to address any numbers of 3 things, but as most pertinent here, there was, also, an 4 ongoing discussion for the legislature to address and 5 to buttress school funding. 6 And Arizona Education Association, which is 7 a nonprofit public advocacy organization, had begun its 8 advocacy for a special session as early as that June. 9 On June 24th, the AEA published a report called The 10 Future of Arizona Schools where it very specifically 11 advocated for a new session to address school funding 12 and school safety, including, for example, additional 13 personal protective equipment for school staff and 14 students. 15 And the AEA then made a separate call again 16 on August 12th, and we cite this in the letter. There 17 was -- they had set up a portal whereby people would go 18 on and join their names to letters to advocate their 19 legislators to call a special session. So the 20 advertisements at issue in this complaint were part of 21 that series, and so that's kind of the background and 22 kind of factual context here. 23 Legally, I think it's important to keep in 24 mind the standard that's applied here and, under the 25 statute, it's whether the communication, quote, in</p>

<p>10:43:48-10:45:06 Page 58</p> <p>1 context can have no reasonable meaning other than to 2 advocate the election or defeat of the candidate. And 3 so the inquiry is not whether candidate advocacy is one 4 reasonable meaning of the communications, nor is it 5 even whether the -- whether candidate advocacy is the 6 most reasonable meaning of the -- of the 7 communications. Rather, we look to whether there's a 8 reasonable -- whether there's some reasonable meaning 9 other than candidate advocacy, and we certainly have 10 that here. 11 I think, you know, as Mr. Collins correctly 12 noted, I think there are generally three kind of legal 13 cases, precedence, regulations, I think, that are at 14 issue that kind of guide the inquiry. The first is the 15 Committee for Justice and Fairness case, which is an 16 Arizona Court of Appeals case that dealt with 17 advertisements that went out immediately before the 18 election and called on people to then -- to then call 19 a -- who was then a candidate for statewide office to 20 tell them to protect the children, a very kind of 21 vague, you know, not specific to any particular 22 legislative or policy issue question. 23 In here, the thing, I think, is this -- 24 these communications are distinguishable from those in 25 Committee for Justice and Fairness in two critical</p>	<p>10:46:20-10:47:28 Page 60</p> <p>1 And so -- so, it was part of a timely conversation, I 2 think, in that respect. 3 The other kind of factor at issue, too -- 4 and this is discussed in the letters, as well as 5 Mr. Collins's recommendation -- is some of the IRS 6 guidance at issue as to what constitutes express 7 advocacy for nonprofit organizations, and that looks to 8 whether it identifies a legislative issue and, also, 9 whether it was part of a pattern or part of a series of 10 issue advocacy; in other words, you know, kind of 11 looking to, you know, is this really merely a pretext 12 for, you know, candidate advocacy that's kind of made 13 under the guise of issue advocacy or is it part of, you 14 know, a good faith kind of pattern of this -- of these 15 kind of exhortations. 16 And here, again, we have that pattern. We 17 actually have -- you know, we have publicly reported 18 and among "The Capitol Times" and "The Republic" that 19 immediately after the legislature ended, there were -- 20 you know, there were discussions of a special session. 21 And, then, with respect to AEA specifically, we have at 22 least two recorded public communications preceding the 23 advertisements at issue here. We have one on June 24th 24 and another one on August 12th. 25 Finally, I think that the third piece of</p>
<p>10:45:07-10:46:17 Page 59</p> <p>1 respects. The first is the timing. Again, the 2 communications in that case went out immediately before 3 the election, and here we were more than two months 4 out. Again, these were in August of 2020. By then the 5 Primary had already finished and the General Election 6 was more than two months away. 7 The other is that the issue here is a much 8 more concrete policy issue that was, actually, you 9 know, actionable at the time it was being discussed. 10 The communication at issue in the Court of Appeals case 11 was simply to tell then Superintendent Tom Horne to 12 protect children, not people who harm them. That, 13 obviously, is a very, you know, vague, general 14 sentiment and probably an aspersion at that; whereas, 15 here there was a -- the question was to call a special 16 session. 17 Granted it wasn't a particular bill. It 18 wasn't a particular piece of legislation, per se, 19 because the legislature had formally adjourned by that 20 point, but it was something within the power of 21 legislators to do if enough legislators or the governor 22 determined that there is -- that there's a need for a 23 special session. They have the power to call that 24 special session at any time of year regardless of 25 whether the legislature is formally in session or not.</p>	<p>10:47:32-10:48:43 Page 61</p> <p>1 kind of legal doctrine to look to here is the Wisconsin 2 Right to Life case, the standard from which is drawn 3 almost verbatim in our statute that, no, you know, no 4 reasonable meaning other than standard. And the Court 5 in that case found that the ads at issue in that case 6 to be issue advocacy because they were consistent with 7 that of a genuine issue add. They focused on a 8 legislative issue. We do so here, as well. Again, the 9 legislature going into special session is, broadly 10 speaking, a legislative issue. They take a position on 11 that issue. 12 We did that here. We asked voters to urge 13 our legislators to call for a special session. We 14 exhorted the public to adopt that position. And the 15 other factor at issue in that case is the urge the 16 public to contact public officials with respect to the 17 matter. The ads do that here, too. They listed the 18 official phone numbers for these legislators so that 19 voters could contact them and advocate for this 20 particular issue. 21 And importantly here, the ads don't mention 22 an election, the legislators' candidacy, the 23 legislators' political party or any other indicia of 24 electoral politics, other than the fact that these are 25 legislators who, by definition, every two years are up</p>

<p>10:48:46-10:49:50 Page 62</p> <p>1 for election. So we don't have the -- kind of the 2 typical indicia of candidate advocacy one would expect 3 to find. 4 And I'd venture to say that, you know, if 5 this was meant to be candidate advocacy, it was a very 6 poor way of doing it. Again, this was, you know, 7 months before the election and without -- without any 8 indication of when the election would happen, what 9 party it was, who to vote for instead of this 10 candidate. Those factors simply aren't present. 11 And so because of that, looking at the 12 totality of the circumstances and the context in which 13 these ads were made, we -- you know, we would contend 14 that there is a reasonable explanation or a reasonable 15 meaning other than candidate advocacy and that is a -- 16 what's here was a genuine issue ad. 17 And with that, I'm happy to answer any 18 questions the Commission may have. 19 CHAIRWOMAN CHAN: Thank you. 20 Do any of the other commissioners have 21 questions for Mr. Arellano? 22 (No response.) 23 CHAIRWOMAN CHAN: Okay. Mr. Arellano, 24 thank you very much. I really appreciate your 25 presentation, and I -- you know, these First Amendment</p>	<p>10:51:16-10:52:30 Page 64</p> <p>1 is how you pronounce his name. And, you know, it does 2 say contact him, ask him to call for a special session; 3 "Arizona can't afford to keep failing our students and 4 educators;" "Arizona deserves safe classrooms," among 5 other things. 6 And so, you know, it does have that one 7 specific piece to ask him to call a special session, 8 but without that piece, you know, it's almost like 9 without that one specific piece, you know, how do 10 you -- I guess, is it just that one piece that makes 11 it -- puts it outside of that, I guess, is what I'm 12 asking. Is that -- is that what you're saying, 13 aside -- and the flier kind of puts it outside of the 14 cases that we're talking about or the law? 15 MR. ARELLANO: Madam Chair, thank you for 16 the question, and I want to respond to that in two 17 parts because I think you are talking about something 18 that's very important, which is the First Amendment 19 issue -- issues, I mean, anytime we're dealing with 20 these types of advertisements. 21 You know, we regularly advise clients with 22 respect to -- you know, we try to discern where the 23 line is, you know, what they need to report and what 24 they don't and what's genuine issue advocacy and when 25 does it become candidate advocacy, and it's a very</p>
<p>10:49:55-10:51:12 Page 63</p> <p>1 issues are always painful because it is -- it is 2 something that I take very seriously. I mean -- I 3 mean, you want to be able to speak freely in elections 4 and advocate for or against candidates or make this 5 speech without running afoul of election requirements. 6 And, you know, the thing that you mentioned 7 that's kind of tripping me up a little bit is, you 8 know, months before an election and yet it's in that 9 sweet spot right between the Primary and General. And, 10 you know, your clients -- when you say it's months 11 before the election, your clients are kind of 12 benefitting from the fact that our Primary was moved 13 back this year. 14 And so I just bring that up because I 15 think -- not -- I don't think you are being 16 disingenuous, but I bring that up because I think 17 that's the only reason that, you know, you're outside 18 of that -- that kind of window, which I think is 19 something that I'm kind of considering as far as what 20 I'm thinking about. 21 And the other thing I want to, I guess, 22 bring up -- and I don't know if you have a comment on 23 it -- is, you know, I'm looking at -- I think they're 24 all the same but -- the fliers. I'm just looking at 25 the one about Representative Jeff Weninger -- I think</p>	<p>10:52:35-10:53:44 Page 65</p> <p>1 challenging thing to do. And I think it goes to, you 2 know, the kind of inherent vagueness, I think, at issue 3 in these types of -- in these types of cases. 4 And with respect to the timing issue -- I 5 don't want to overrepresent the importance of timing. 6 I think there is -- it is possible, I think, to have 7 candidate advocacy, you know, more than 60 days before 8 an election or more than 90 days before an election. I 9 mean, if in January you run an ad saying, you know, 10 vote for Candidate X in November, I mean, it would be 11 pretty hard for this not to be candidate advocacy, but 12 I think it is an important factor, I think, to 13 consider. 14 And so I don't think the presence or 15 absence of any one factor here is determinative, and I 16 think that's true of the -- of the fact that these call 17 for the special session. I mean, I think we would -- 18 we could fairly characterize the advertisements as the 19 primary, kind of, message of the communication was 20 calling for the -- was calling for the special session. 21 Were it not for that piece, would these be -- they 22 would certainly be closer to the line of candidate 23 advocacy, you know, because then all you would have is 24 kind of a criticism of the legislator without any 25 particular action piece tied to it.</p>

<p>10:53:47-10:54:47 Page 66</p> <p>1 That being said, you know, I've 2 certainly -- you know, we've certainly nixed ads 3 before for other clients where they -- you know, it's a 4 piece that's very clearly, you know, a hit piece on a 5 candidate right before the election, as they say, but 6 call them to tell them what you think. And they're, 7 like, no, that's -- that's not really enough by itself 8 to fix these, but here I don't -- I don't think we have 9 that type of advertisement here where there's just kind 10 of a -- you know, the ancillary kind of phone number at 11 the end that's, you know, ancillary to the rest of the 12 ad. I think really the message to contact them, I 13 think, is really the thrust of it. 14 So I would say that the presence of that, I 15 think, does certainly, you know, pushes towards the -- 16 you know, substantially closer, I think, to the 17 issue -- or to the side of issue advocacy, and that 18 together with the absence of other indicia of candidate 19 advocacy, I think, are what make this issue advocacy, 20 again, because we don't reference the election or the 21 candidates' candidacy. 22 CHAIRWOMAN CHAN: Okay. Thank you. 23 Do any of the other commissioners have -- 24 oh, Commissioner Kimble. 25 COMMISSIONER KIMBLE: I wanted to comment</p>	<p>10:56:15-10:57:44 Page 68</p> <p>1 The AEA talked about we should have a 2 special session as early as June. It doesn't seem to 3 me out of place that they then send out a mailer a 4 couple of months later saying -- urging people to call 5 for a special session. You know, if this was a regular 6 year where the legislature met until they finished 7 their work and there was no discussion about we need -- 8 we need a special session, then, I guess, I might be 9 persuaded, but this is -- this is in the context of a 10 discussion about a special session. 11 And that's pretty much all that I see in 12 the ads is, yes, let's have a special session; call 13 them up and tell them you want a special session. So, 14 I guess, I'm not really persuaded at this point. I 15 don't know that I'm opposed to taking this the next 16 step and doing some more -- some more investigation by 17 Tom, but -- but I guess, at this point, I would need to 18 be persuaded more than I am now. 19 CHAIRWOMAN CHAN: Well, I think if we -- if 20 we vote that there is reason to believe that a 21 violation occurred, I don't think it's giving Tom room 22 for more investigation. I think there's going to be, 23 you know, sanctions of sort involved. 24 Am I right about that, Tom? 25 MR. COLLINS: Well, Madam Chair,</p>
<p>10:54:49-10:56:11 Page 67</p> <p>1 on this, but do we have any other members of the public 2 who want to address this on either side before I say 3 anything more? 4 CHAIRWOMAN CHAN: Oh, yes, thank you, 5 Commissioner Kimble. 6 Are there any other members of the public 7 who wish to weigh in on this? I should have asked. 8 (No response.) 9 CHAIRWOMAN CHAN: I believe the person who 10 filed the complaint was not going to be here today, and 11 I don't know that -- I don't see anybody else here, I 12 don't believe. 13 Yeah, I'm not seeing anyone else, I don't 14 think. Hopefully, I'm not missing them. 15 Commissioner Kimble, did you want to weigh 16 in? 17 COMMISSIONER KIMBLE: Well, I don't know. 18 I read this -- both of these -- both the complaint and 19 the response over several times, and I guess my feeling 20 is I just don't see that this is -- that the -- I don't 21 agree with the complaint. I think you've got to put 22 this in the context of this year. It's a very unusual 23 year with COVID shutting down the legislature and, as 24 soon as the legislature shuts down, they talk about 25 maybe there will be a special session.</p>	<p>10:57:48-10:59:21 Page 69</p> <p>1 Commissioner Kimble, I would say this. If you believe 2 at this point that the mailer and the Facebook ads do 3 have a reasonable meaning other than to advocate for or 4 against the candidates' election, we should -- the MUR 5 should terminate. There's no -- as Mr. -- I agree with 6 Mr. Arellano that this is principally a legal issue. 7 In an investigatory context, we would be 8 looking at, you know, trying to capture what -- within 9 the complaint, perhaps without the complaint, and what 10 within the complaint specifically may fit within this 11 issue. We would be looking at what the spend was. So 12 that the burden here, as it were, is for AEA to reveal 13 what the spending was, and that would be the facts that 14 we don't -- that we don't have. 15 And, yes, Madam Chair, we have, typically, 16 tried to resolve these matters by some force of -- by 17 some conciliation process, but I think, to Commissioner 18 Kimble's point and to your point about procedurally -- 19 and I'm not your lawyer -- although, you know, I mean, 20 I am a lawyer, but as you know, I'm not your lawyer. I 21 just think it's fair for me to say if you believe that 22 there is a reasonable meaning other than to advocate 23 for an election -- that's the standard. And so if that 24 legal -- that standard may be applied to other 25 communications through an investigation, but if you</p>

<p>10:59:23-11:00:59 Page 70</p> <p>1 believe that standard hasn't been met, I think -- I 2 think, you -- you would want to terminate this MUR. 3 COMMISSIONER PATON: This is Commissioner 4 Paton. Could I jump in here? 5 CHAIRWOMAN CHAN: Oh, yes, I'm sorry. 6 Please go ahead, Commissioner Paton. 7 COMMISSIONER PATON: Yes. Well, I'm a 8 former educator myself, and I find that this in here, 9 politicians like Kate McGee refuse to fund public ed -- 10 public schools, I mean, obviously, they don't say who 11 she's -- who she's running against, but they're 12 advocating against her. And I think that this should 13 be looked into further. 14 CHAIRWOMAN CHAN: That's -- that's how I 15 was viewing it from my own point of view and consistent 16 with our previous decisions. 17 Commissioner Kimble, I understand what 18 you're saying. This has been a different year. I 19 think in my kind of thinking it over in my mind, I was 20 having -- I was considering it the way you articulated 21 it, as far as this is a different year. Everything is 22 different this year and, at the same time, I thought 23 then why -- why this timing? Why between the Primary 24 and General? Why not earlier before school started? 25 And so -- and, perhaps, Mr. Arellano wants</p>	<p>11:02:15-11:03:29 Page 72</p> <p>1 that he's failed to do something and they're 2 advocating, obviously, for them to vote against him. 3 CHAIRWOMAN CHAN: Thank you. 4 And, Commissioner Meyer, did I see you had 5 your -- you wished to speak? 6 COMMISSIONER MEYER: I did, and 7 Commissioner Paton made the point, just his last 8 comment, that I was going to ask about. And this is on 9 page 21 of our materials. 10 And, I guess, I'd ask Mr. Arellano, you 11 know, on page 21, which is the page that says 12 "Representative Jeff Weninger failed to keep us safe," 13 with an F on it, I mean, how is that not advocacy 14 against the re-election of this candidate? 15 MR. ARELLANO: I would address that, I 16 think -- I think it goes further to the context in 17 which the advocacy was made, and I think it goes to 18 legislator accountability, which is certainly something 19 that, you know, constituents can advocate for or 20 against. That is, you know, divorced from, you know, 21 the electoral aspects of that person's candidacy. You 22 know, I think it is fair to point out the way in which 23 a given legislator has either succeeded or failed at 24 advancing the issues that AEA cares about, that AEA 25 thinks that particular constituent may think about.</p>
<p>11:01:02-11:02:11 Page 71</p> <p>1 to weigh in on that, but that was part of my 2 consideration, as well. You know, it is advocating, in 3 my mind, against a candidate. Even though they have 4 the words there of contact and ask him to call a 5 special session, it's saying "Arizona can't afford to 6 keep failing our students and educators," "Arizona 7 deserves safe classrooms." It's, like, they're blaming 8 him, you know, kind of advocating against a candidate. 9 And the timing between the General and -- 10 you know, all of it taken together, to me -- and I'm 11 sorry, Tom, if you want to jump in here -- 12 MR. COLLINS: No, I'm just waiting for 13 whenever I have -- I just wanted to indicate I had -- 14 CHAIRWOMAN CHAN: Okay. 15 COMMISSIONER PATON: Well, also, this 16 one -- I'm sorry. It's hard to talk -- 17 CHAIRWOMAN CHAN: That's all right. Sure. 18 COMMISSIONER PATON: -- with these windows, 19 or whatever, and I'm going to my phone and on this at 20 the same time. 21 The one what really kind of bothers me is 22 "Representative Jeff Weninger failed to keep us safe" 23 and an F -- you know, an F circled, you know. That's 24 clearly, you know, the opposite of advocating for this. 25 It's, obviously, something that they're pointing at him</p>	<p>11:03:30-11:04:36 Page 73</p> <p>1 And here we're dealing with issues of 2 school funding and school safety, and I think the 3 school safety issue, I think, in this context is tied 4 to the school funding question in the sense that, I 5 think, part of the funding they wanted was for 6 additional, you know, protections and PPE, and that 7 kind of thing, to protect student safety -- you know, 8 safety from COVID. 9 And so I think pointing out to voters the 10 way in which a particular legislator has failed to do 11 those things and then pairing that with the call for a 12 special session, I think is it is time for that vote or 13 the opportunity for that particular legislator to, you 14 know, redeem themselves, so to speak, and, you know, 15 make up for whatever legislative, you know, 16 deficiencies they might have had up until then by then 17 calling for that special session. And so that's how I 18 think that, you know, that criticism, paired together 19 with the call, work in conjunction, I think, to 20 advocate for the issue in the end. 21 And I do, again, want to circle back to the 22 standard that Mr. Collins stated, which I think is 23 actually really helpful, which, you know, you simply 24 have to decide, I think, at this juncture is the 25 explanation that these advertisements were made for --</p>

<p>11:04:41-11:06:06 Page 74</p> <p>1 you know, specific to an issue, specific to the issue 2 of a special session, is that -- is that meaning simply 3 unreasonable? And only if that -- if that meaning is 4 completely unreasonable, I think, is there cause to 5 then advance on the complaint. 6 I think as -- you know, again, the 7 standard, again, isn't whether candidate advocacy was 8 the most likely or most reasonable explanation among 9 several. That may well be the case to a given reader. 10 The question is simply whether -- is there -- is there 11 some reasonable meaning to this other than candidate 12 advocacy, and that's what we're dealing with here. And 13 I do think that standard is met. 14 CHAIRWOMAN CHAN: Thank you, Mr. Arellano. 15 Any other comments from any other 16 commissioners? 17 COMMISSIONER MEYER: I have one other 18 comment. I guess it's a question for Tom and, I guess, 19 Mr. Arellano, as well. I mean, when I'm looking at 20 this, I feel like the Senator Brophy-McGee mailer can 21 be interpreted as more issue advocacy, but the one as 22 to Representative Weninger is more candidate advocacy. 23 Is that -- can they be separated, or how -- 24 how do we address that concern? And I don't know if 25 any of the other commissioners feel the same way.</p>	<p>11:07:31-11:08:58 Page 76</p> <p>1 look, the test is whether or not, you know, it's a -- 2 it's no reasonable meaning. The way that we have 3 addressed "no reasonable meaning" in our -- looking at 4 this, guided by CJF, is that you have to actually 5 analyze what "reasonable" is, and that's what the memo 6 tries to lay out from -- from my review. 7 That said, you know, if you -- if you 8 analyze one piece of mail and say in context it has no 9 reasonable meaning and you analyze another piece of 10 mail and say in context it has a reasonable meaning 11 other than to express advocacy, then there's -- they 12 don't need to be treated identically. And that's -- I 13 mean, that's fine. 14 I mean, I would note -- and just to be 15 candid -- and one of the ways we tried to deal with the 16 complaint is -- and if we were in the context -- well, 17 one of the ways we tried to deal with the complaints is 18 we lumped together -- the complaint lumps together -- 19 so we just went with that framing -- the internet ads 20 that are in Appendix C of the complaint. 21 Now, there are about four different formats 22 there. Two of the formats say politicians like 23 so-and-so did this thing; call them and tell them to do 24 this. I think one of them says politicians did this 25 thing. I don't think it has a call number on it.</p>
<p>11:06:10-11:07:28 Page 75</p> <p>1 CHAIRWOMAN CHAN: Commissioner Meyer, 2 without -- because there's no -- is there no "F" on the 3 Brophy-McGee one? 4 COMMISSIONER MEYER: Well, on the 5 Brophy-McGee one, to me, it just says, you know, hey, 6 this is how she voted; we think that's wrong; contact 7 her, you know, and asks for a special session. It 8 doesn't -- I don't think it's as -- you know, I feel 9 like -- I feel like it's more targeted at the issue of 10 cutting public funding than at the senator herself; 11 whereas, you know, the big grade of F is directed 12 directly at Representative Weninger and is more -- I 13 feel, more directed at him than at the issue of 14 education. 15 CHAIRWOMAN CHAN: I think -- maybe just to 16 chyme in about that, I think cutting school funding is, 17 also, kind of a negative anti-candidate thing to say. 18 COMMISSIONER MEYER: Well, it's targeted at 19 the issue is what I'm saying, not the person. 20 MR. COLLINS: I guess, Madam Chair, and 21 Commissioner Meyer, if the question is to me to go 22 first, if everyone is okay with that. 23 COMMISSIONER MEYER: Yes, please, Tom. 24 MR. COLLINS: I think -- I think -- again, 25 just -- you know, I just want to stress that, like,</p>	<p>11:09:01-11:10:36 Page 77</p> <p>1 Another one just says call so-and-so and tell them, and 2 then I think there's one other. 3 So, you know, if you -- the way the 4 complaint is framed, you know, there are -- there's 5 probably -- the way I addressed the complaint was to 6 say, look, these are -- these are one effort that seems 7 to be the shared view and, in that effort, there is -- 8 you know, I think that those are for the purpose of 9 express advocacy; but, look, I mean, what I'm trying to 10 say is that the way the statute is written, you know, 11 it's a communication-by-communication assessment, but 12 the most important factor in that assessment -- and 13 I'll just give you an example from our own cases. 14 You know, we have a case that's still 15 pending at the Court of Appeals on other bases called 16 the Legacy Foundation Action Fund. It's mentioned in 17 the complaint. It's not something that we relied on in 18 putting together the memo, but in that case, we really 19 focused on analyzing why the recommendation was not -- 20 why the proposed alternative reasoning -- reading was 21 not reasonable. 22 You know, we looked at -- in that 23 particular case, it was an ad about Scott Smith, who 24 was running for governor. He had just announced he was 25 running. He had -- it said things about his -- about</p>

<p>11:10:40-11:12:21 Page 78</p> <p>1 the record of an organization that he had once run that 2 had nothing to do with his tenure there, et cetera, 3 et cetera. Okay. So that's how we analyzed 4 reasonableness here. 5 In my effort to -- and in the memo, I tried 6 to -- I made what I thought was the right -- my 7 assessment of the special session call itself, but 8 again, you know, look, the question isn't whether or 9 not -- the question really is, you know, no alternative 10 reasonable -- no alder reasonable meaning. 11 And so, basically, another way to put that 12 is we would -- we are saying, at least preliminarily, 13 if you were to vote to find reason to believe, that the 14 Education Association was unreasonable in thinking that 15 the call to action in their mailer or online was -- was 16 a -- was a reasonable -- was reasonable, that their 17 putting that in there was not -- would not reasonably 18 change the meaning of the -- of the document into one 19 that is not merely or exclusively for express advocacy. 20 So, you know, I think that I would agree 21 with everyone that this analysis is more difficult, I 22 believe, than most people think because of the -- and 23 that's why we spend a lot of time on it when it comes 24 up, but you know, I would just -- you know, but if you 25 don't -- but, again, the real question is, is it</p>	<p>11:13:39-11:14:46 Page 80</p> <p>1 I still don't think it would be quite a 2 slam dunk candidate advocacy case because you're still 3 as far out from the election as we were, but you know, 4 it would make this a tougher case, I think, for us. 5 But I think it's critical to look at that particular 6 part of the message in conjunction with what's on the 7 flip side which raises -- so the first piece said he 8 failed to keep us safe. The second side of it says 9 "Arizona can't afford to keep failing our students and 10 educators" and then contact for a special session. 11 And so the failure, I think, is -- the 12 comment about the failure to keep us safe, you know, 13 pairs with and is part of the message of this failure 14 cannot continue and there's still an opportunity to 15 rectify that failure by calling for the special 16 session. And so I think that's why that message is 17 read the way it is. 18 And legally, I think I'd venture to say 19 that if this is a close question for the Commission, I 20 think if it's a close question whether something is 21 candidate advocacy or not, that, I think, under the 22 legal standard is dispositive, you know, against a 23 finding of enforcement. In other words, if it's a 24 close question, that means that the -- you know, the 25 reading that this is not candidate advocacy is not</p>
<p>11:12:26-11:13:39 Page 79</p> <p>1 reasonable or not, and that's really the crux of the 2 decision. 3 So, I guess, my point is if -- as you're 4 parsing through this, if you wanted to, say, take X and 5 Y and Z and treat them differently, I don't think 6 there's anything that would preclude you from doing 7 that, although, again, I would defer to Mr. Arellano 8 and any things he wants to raise about that; but that's 9 a long way of saying, you know -- you know, keeping our 10 eye on what the lodestar is, you know, I think there 11 are facts there that if you might interpret different 12 ways -- I guess I don't want to go beyond that without 13 giving Mr. Arellano a chance to talk about this. 14 CHAIRWOMAN CHAN: Mr. Arellano, would you 15 like to comment or respond? 16 MR. ARELLANO: Yes. Thank you. 17 So, Commissioner Meyer, in looking to that 18 particular Weninger piece, I do think it's helpful, 19 yes, if you were to look at just the one -- and this, I 20 think, went to, you know, Chairwoman Chan's point 21 earlier. If you were to just look at the side of the 22 mailer that says "Representative Jeff Weninger failed 23 to keep us safe" and that was the only mailer that went 24 out, then I think this would present a much closer 25 question.</p>	<p>11:14:50-11:15:58 Page 81</p> <p>1 necessarily unreasonable. And if it's not 2 unreasonable, then there's no basis, I think, for 3 enforcement. 4 More concretely to your question, 5 Commissioner Meyer, as to whether the advertisements 6 can be separated, I mean, I do think that it's 7 important on one level to look at these in the 8 collective, I think, to understand the context in which 9 they were made over the course of that summer; but that 10 being said, if the Commission were to find a particular 11 mailer to be -- you know, to be actionable but not 12 others, I do think it's important -- I do think it 13 would be possible to separate them in that respect. 14 And I think -- you know, I don't know if 15 the -- you know, if AEA can break out by, you know, a 16 particular mailer and how much they spent on each one, 17 but I do think it's -- you know, if all but one were -- 18 you know, were not -- were not actionable, I do think 19 it's possible to -- you know, if the Commission wanted 20 to separate them out and, you know, find cause for some 21 but not others. 22 CHAIRWOMAN CHAN: Thank you, Mr. Arellano. 23 All right. If there's no further comments 24 from the commissioners, what I'm going to propose is 25 this. You know, I had some questions for Mr. Arellano</p>

<p>11:16:02-11:17:23 Page 82</p> <p>1 at first, but I did -- based on what Tom had presented 2 to us, I, frankly, was inclined to -- I was inclined to 3 believe or agree with Tom's recommendation from the 4 start. And I am happy to go ahead with a vote if the 5 other commissioners are comfortable going ahead, you 6 know, if there are no more questions -- oh, 7 Commissioner Meyer, please. 8 COMMISSIONER MEYER: I just want to share 9 with the other commissioners how I see this, and that 10 is I -- respectfully to Mr. Arellano, I disagree on the 11 Representative Weninger ad. I think that is candidate 12 advocacy. I think the Senator Brophy-McGee one is more 13 issue. And, then, on the Facebook ads that are on, I 14 think, page 2, I kind of have the same issue, and that 15 is I think the first -- where are they? 16 I think the first two where it says 17 politicians like so-and-so, I think those fall in the 18 same line as the Representative Weninger one in that 19 they are targeted at the candidate, but I think the 20 last two that say, hey, call your congressman and tell 21 them to call for a public session -- or a special 22 session, those are -- I don't think those are candidate 23 advocacy. So that's how I see it. 24 So I'm going to vote to follow Tom's 25 recommendation, but I wanted them to know how I see</p>	<p>11:18:47-11:19:43 Page 84</p> <p>1 unless -- and, obviously, this is -- and I would ask -- 2 I guess, I would recommend the Commission ask 3 Mr. Arellano what he thinks about this, but I would 4 encourage you to actually, on the record, go through 5 those four types and determine which ones you want the 6 staff to pursue because of the -- because it's a legal 7 question. 8 CHAIRWOMAN CHAN: Well, I didn't 9 necessarily agree with Commissioner Meyer. 10 COMMISSIONER MEYER: So, Commissioners -- 11 MR. COLLINS: Fine. I'm just saying 12 what -- I'm just saying that as a -- per my -- for my 13 purposes, as a matter of -- as a matter of procedure 14 and having a clean record, I just -- we have some 15 things on the record that say one thing and then, if we 16 have a vote that says another thing, that creates a 17 cognitive dissonance that -- that does not work within 18 our structure of our -- so however you want to -- you 19 do whatever you want to do. 20 CHAIRWOMAN CHAN: Okay. 21 MR. COLLINS: I'm just saying if you decide 22 to go piece by piece, from my perspective, it's better 23 to go piece by piece. That's all. 24 CHAIRWOMAN CHAN: I mean -- okay. You 25 know, Commissioner Meyer, did you want to --</p>
<p>11:17:26-11:18:43 Page 83</p> <p>1 these issues when they look at the investigation. 2 CHAIRWOMAN CHAN: Thank you, Commissioner 3 Meyer. 4 Tom, did you have something to add? 5 MR. COLLINS: I just -- for efficiency's 6 sake, what I would recommend the Commission do 7 regardless of what you want -- you know, how it breaks 8 out is we've broken down the memo into Senator McGee -- 9 Brophy-McGee, Representative Weninger and then the 10 categories of Facebook ads that Commissioner Meyer 11 identified. 12 I will tell you that, based on what 13 Mr. Arellano said, I do agree that it is going to be 14 more difficult to pursue all of those with the 15 knowledge that some of those may not, than to simply 16 make the determination legally now of what you believe 17 is in and what you believe is out and narrow that 18 playing field because, otherwise, you are telling the 19 Respondent that we don't think these are all in the 20 category, but we want to look at them anyway. 21 So I would -- if you want -- if I -- if 22 there's no problem with going piece by piece, given 23 that we have a pretty clear categorization -- 24 Brophy-McGee, Weninger, Facebook and then the two types 25 of Facebook ads -- I would -- I would encourage,</p>	<p>11:19:45-11:21:00 Page 85</p> <p>1 COMMISSIONER MEYER: Yes. I have one just 2 procedural question. On the Facebook ads, page 2, I 3 agree. I am trying -- it looks like there's five to 4 me, not four. What am I -- where is the dividing line 5 there? Or is there another place I can see those? 6 MR. COLLINS: They're -- yeah. Go ahead. 7 MR. ARELLANO: I was going to say, if I 8 may, I think the distinction Mr. Collins is drawing, I 9 think, in categorizing the Facebook ads into two -- and 10 it's one with which I would agree -- is that I think 11 the first few are prefaced with politicians like 12 "blank" refuse to fund public schools and then call for 13 the special session, and then the last -- I believe 14 it's three, just say contact "blank" and tell "blank" 15 to call for a special session to fund public schools, 16 without the preparatory remark about what they have or 17 haven't done so far. 18 And so to piggyback on that point, I think 19 I'd be inclined to agree that it may be helpful for us 20 to determine whether, you know, the Commission thinks 21 that there are -- that any of these warrant further 22 review for enforcement. And if the determination is 23 that none of them do, then I think that ends the 24 matter, but if there is a determination that at least 25 some of them warrant further review, I do think it</p>

<p>11:21:02-11:22:09 Page 86</p> <p>1 would be helpful to isolate which ones do and which 2 ones don't. 3 COMMISSIONER PATON: This is Commissioner 4 Paton. 5 CHAIRWOMAN CHAN: Yes, Commissioner Paton. 6 COMMISSIONER PATON: I would just say I 7 completely agree with Commissioner Meyer, exactly what 8 he said, and I would advocate that we do just what he 9 said. 10 CHAIRWOMAN CHAN: All right. So, 11 Commissioner Meyer, what I think I heard -- I know Tom 12 wants to go individually, but I think what I heard was 13 just backing out the Brophy-McGee mailer -- no. 14 COMMISSIONER MEYER: Madam Chair, can I 15 make a suggestion? 16 CHAIRWOMAN CHAN: Yes. 17 COMMISSIONER MEYER: We have four 18 categories here. We have Representative Weninger and 19 Senator Brophy-McGee. We have the first two Facebook 20 ads that say politicians like "blank," and then the 21 fourth category is that ones that say contact whomever, 22 okay? I suggest we do four separate votes on those 23 four separate issues and then -- 24 CHAIRWOMAN CHAN: Okay. 25 COMMISSIONER MEYER: -- and then the</p>	<p>11:23:12-11:24:01 Page 88</p> <p>1 looking through my handout to make sure I knew -- 2 MS. KARLSON: Madam Chair? 3 CHAIRWOMAN CHAN: Yes. I'm sorry. 4 MS. KARLSON: If you're having to go back 5 through and look through your documents -- 6 CHAIRWOMAN CHAN: Yes. 7 MS. KARLSON: -- maybe right now would be a 8 good time for the court reporter to take a break. 9 CHAIRWOMAN CHAN: Thank you. 10 Is that all right with Mr. Arellano, as 11 well? I apologize, because I know you mentioned your 12 time was -- 13 MR. ARELLANO: That's okay, if it would 14 help the Commission to go through and review. 15 CHAIRWOMAN CHAN: Okay. Because I wanted 16 to make sure I had -- I printed everything out and yet, 17 for some reason, I'm having trouble finding -- 18 MR. ARELLANO: And I should note I don't -- 19 and I've looked at my copy, as well, of the complaint. 20 I think the copies of the mailers were attached to the 21 complaint, but the Facebook ads were just listed, I 22 think, in a spreadsheet. 23 CHAIRWOMAN CHAN: Is that the spreadsheet? 24 Okay. Thank you. 25 MR. ARELLANO: But we -- yeah, but we have</p>
<p>11:22:09-11:23:07 Page 87</p> <p>1 Commission can look at whichever ones we find reason to 2 believe a violation may have occurred on. I think 3 that's the easiest and quickest way to do it. 4 CHAIRWOMAN CHAN: Okay. 5 COMMISSIONER MEYER: I don't know if anyone 6 disagrees with that, but I would make a motion we 7 proceed in that fashion, if I can even make that. 8 CHAIRWOMAN CHAN: Do we -- I don't even 9 know if we need a motion to proceed in that fashion. 10 MR. COLLINS: Well, obviously, unless -- 11 you know, we -- no. I mean, you are free to make 12 whatever motions you want to make, however you want to 13 make them. 14 CHAIRWOMAN CHAN: Do we need a motion to 15 proceed in that fashion, then, Tom? Can I just -- 16 MR. COLLINS: Oh, no. No, no, no. No, you 17 could just call -- you could just ask for the motions 18 as -- 19 CHAIRWOMAN CHAN: Ask for the motion. 20 Okay. So we're going to -- I will do that. 21 I will break it out by Weninger, Brophy-McGee, Facebook 22 ads and contact your representative, but -- I'm sorry. 23 And I feel terrible because I am a little worried about 24 the court reporter. Just -- after this, we will 25 definitely take a break. I want to make sure -- I was</p>	<p>11:24:02-11:24:35 Page 89</p> <p>1 no -- 2 CHAIRWOMAN CHAN: And I can -- 3 MR. ARELLANO: -- dispute with how it's 4 characterized in the memo by Mr. Collins -- oh, excuse 5 me. 6 CHAIRWOMAN CHAN: Oh, I'm sorry. And I 7 spoke over you. I apologize. 8 MR. ARELLANO: No, I was -- go ahead, 9 please. 10 CHAIRWOMAN CHAN: You go ahead. I 11 apologize. 12 MR. ARELLANO: I was just going to say the 13 Facebook ads themselves, I don't think, were included 14 as exhibits with the complaint, but we don't dispute 15 with how they're characterized by Mr. Collins in that 16 memo. 17 CHAIRWOMAN CHAN: All right. Well, thank 18 you. That's very helpful. Thank you. 19 All right. Can I check in with the court 20 reporter and see -- is it all right to take a 21 five-minute -- would five minutes work or do we need 22 ten minutes? 23 Is that all right? I'm going to wait and 24 hear back from the court reporter, if I can. Five is 25 fine.</p>

<p>11:24:52-11:38:33 Page 90</p> <p>1 Okay. Let's take a five-minute break and 2 then we will come back. We will -- I will ask for the 3 motion. So I'll just kind of break it all out and 4 we'll get that done when we come back and finish up the 5 meeting, and thank you for everybody's patience on 6 this. Thank you so much. 7 We will break five minutes. Come back at 8 11:30. 9 (Whereupon, a recess was taken in the 10 proceedings.) 11 CHAIRWOMAN CHAN: Okay. We are back, 12 hopefully. It looks like we are on YouTube, and it 13 looks like the members of the public are back and 14 everyone can hear me. 15 Welcome back after our break. It was a 16 little longer than planned. Thank you for your 17 patience. 18 And I was able to look at all the motions, 19 but frankly, I thought the four categories were one 20 thing. And now, after looking at the memo again, I'm 21 thinking, perhaps, they are another thing. So I was 22 thinking the four categories we were going to be making 23 motions on were the Brophy-McGee, the Weninger, the 24 Facebook and the contact your legislator, but maybe I 25 can have Tom weigh in.</p>	<p>11:39:43-11:40:37 Page 92</p> <p>1 what the record reflects. 2 COMMISSIONER MEYER: Madam Chairman, 3 that's -- I agree that that's what the record reflects. 4 CHAIRWOMAN CHAN: Maybe I was the only one 5 confused, and thank you for clearing that up for me, 6 Tom. I really appreciate. 7 I think, then, unless anybody else has any 8 comments, then I can move forward and ask for a motion. 9 And I believe -- does anybody have any 10 comments or questions before I ask for a motion? And 11 I'll tell you what the motion is that I think we're 12 going forward with. 13 (No response.) 14 CHAIRWOMAN CHAN: Okay. So I think what 15 we're going to be doing is -- what I think we're going 16 to be doing is, do we have a motion -- here's my 17 understanding. 18 MS. KARLSON: Excuse me, Madam Chair. 19 CHAIRWOMAN CHAN: Oh, yes, Kara. Go ahead. 20 Thank you. 21 MS. KARLSON: I think it would be helpful 22 if we got Mr. Arellano on the record saying whether or 23 not he agrees that those are the four categories that 24 have been discussed. 25 CHAIRWOMAN CHAN: Thank you.</p>
<p>11:38:35-11:39:40 Page 91</p> <p>1 And, Tom, can you help clarify for me if 2 these are the correct ones? And -- I just want to make 3 sure we're all on the same page and if the 4 Commissioners have any thoughts, too. 5 Please go ahead, Tom. 6 MR. COLLINS: Okay. Thank you, Madam 7 Chair, Commissioners. And, you know, I think -- and I 8 think I'm summarizing what we've -- what we've said, 9 and I, also, think this is consistent with what 10 Mr. Arellano has said. 11 So, obviously, Madam Chair, if there are 12 objections or problems with this, please, obviously, we 13 want to make sure we ask him, but I believe they are 14 this. There's the Senator Brophy-McGee mailer. There 15 is the Jeff Weninger mailer. There is category 1 of 16 Facebook ads, which is those Facebook ads that begin 17 with the phrase politicians like so-and-so. And then 18 there is category 2 of Facebook ads, which is those ads 19 that simply say call your -- call the legislator and 20 tell them to do X. So it's -- 21 CHAIRWOMAN CHAN: Okay. 22 MR. COLLINS: So those are the categories, 23 as I understand them, we've come to. Again, that's 24 what -- based on the conversation, I think, the 25 record -- I just want to make sure. I believe that's</p>	<p>11:40:38-11:41:45 Page 93</p> <p>1 Mr. Arellano, please let us know. 2 MR. ARELLANO: I do agree with 3 Mr. Collins's categorization of the communications, 4 yes. 5 CHAIRWOMAN CHAN: Thank you. 6 MR. ARELLANO: Yes. Thank you. 7 CHAIRWOMAN CHAN: All right. So -- and am 8 I correct in my thinking that the commissioners -- 9 well, I suppose we still need a motion on the 10 Brophy-McGee mailer, perhaps. 11 Is there a motion on -- okay. So let me 12 see. 13 COMMISSIONER MEYER: I can make a motion, 14 Chairman. 15 CHAIRWOMAN CHAN: Okay. 16 COMMISSIONER MEYER: Madam Chairman. 17 CHAIRWOMAN CHAN: Okay. So, yes, go ahead 18 Mr. -- Commissioner Meyer. 19 COMMISSIONER MEYER: I move that as to the 20 Senator Brophy-McGee mailer, that there is no reason to 21 believe that a violation may have occurred and that the 22 MUR be released as to that specific mailer. 23 CHAIRWOMAN CHAN: Okay. Is there a second? 24 COMMISSIONER MEYER: Tom, will that work? 25 MR. COLLINS: Well, again, without being</p>

<p>11:41:47-11:42:54 Page 94</p> <p>1 your lawyer, I will -- I'll say yes, but -- 2 COMMISSIONER MEYER: Kara, is that clear 3 enough? 4 MS. KARLSON: That's a beautiful motion. I 5 should, also, add for these purposes, I'm not going to 6 be your lawyer because of due process concerns, but I 7 think that, to cover our basis, if Mr. Arellano has an 8 objection, he should make it now. 9 MR. ARELLANO: I have no objection to the 10 motion as phrased. 11 CHAIRWOMAN CHAN: Is there a second? 12 COMMISSIONER KIMBLE: Madam Chair, I will 13 second that. 14 CHAIRWOMAN CHAN: All right. We have a 15 motion and a second. 16 Commissioner Meyer, how do you vote? 17 COMMISSIONER MEYER: Aye. 18 CHAIRWOMAN CHAN: Commissioner Kimble? 19 COMMISSIONER KIMBLE: I couldn't hear. Are 20 you calling on me? If so, I vote aye. 21 CHAIRWOMAN CHAN: Commissioner Paton? 22 COMMISSIONER PATON: I would vote aye. 23 CHAIRWOMAN CHAN: Okay. I'm going to vote 24 no on that motion, but the motion passes 3 to 1. 25 And the next mailers we will vote on -- or</p>	<p>11:44:03-11:45:09 Page 96</p> <p>1 "Politician," I believe, if I've got it right, Facebook 2 Category Number 1? 3 COMMISSIONER MEYER: Madam Chairman, I have 4 a motion. I move that as to the category of Facebook 5 ads that started with the words "Politicians like" 6 referenced in the memorandum on page 2 and 3, that 7 there is reason to believe that a violation of the Act 8 may have occurred and that staff move forward with an 9 investigation as to those ads. 10 CHAIRWOMAN CHAN: Okay. Thank you. 11 Is there a second? 12 COMMISSIONER PATON: This is Commissioner 13 Paton. I would second that motion. 14 CHAIRWOMAN CHAN: Thank you. 15 All right. Commissioner Meyer, how do you 16 vote? 17 COMMISSIONER MEYER: Aye. 18 CHAIRWOMAN CHAN: And you voted aye? 19 COMMISSIONER MEYER: Aye. 20 CHAIRWOMAN CHAN: Thank you. 21 Commissioner Kimble? 22 COMMISSIONER KIMBLE: No. 23 CHAIRWOMAN CHAN: Commissioner Paton? 24 COMMISSIONER PATON: Aye. 25 CHAIRWOMAN CHAN: Okay. And I vote aye.</p>
<p>11:43:01-11:43:59 Page 95</p> <p>1 take a motion on would be the Weninger mailer, and -- 2 COMMISSIONER MEYER: Madam Chairman, I can 3 make a motion. 4 CHAIRWOMAN CHAN: All right. Please do. 5 COMMISSIONER MEYER: I move that as to the 6 Representative Weninger mailer, that there is reason to 7 believe that a violation of the Act may have occurred 8 and that the staff move forward with their 9 investigation. 10 CHAIRWOMAN CHAN: All right. Thank you. 11 Is there a second? 12 COMMISSIONER PATON: This is Commissioner 13 Paton. I would second that. 14 CHAIRWOMAN CHAN: Thank you. All right. 15 Let's go ahead and take our vote. 16 Commissioner Meyer? 17 COMMISSIONER MEYER: Aye. 18 CHAIRWOMAN CHAN: Commissioner Kimble? 19 COMMISSIONER KIMBLE: No. 20 CHAIRWOMAN CHAN: Commissioner Paton? 21 COMMISSIONER PATON: Aye. 22 CHAIRWOMAN CHAN: And I vote eye. And the 23 motion is passed 3 to 1. 24 Do I have a motion regarding the Facebook 25 Category Number 1, the ads which begin with</p>	<p>11:45:12-11:46:09 Page 97</p> <p>1 The vote is 3 to 1. 2 And I would entertain a final motion on 3 Facebook Category Number 2. 4 COMMISSIONER MEYER: Madam Chairman, I can 5 make a motion. 6 CHAIRWOMAN CHAN: Thank you. 7 COMMISSIONER MEYER: I move that as to the 8 category of Facebook ads that say -- start with the 9 words contact "blank" and tell "blank" to call for a 10 special session, that as to those ads, there is not a 11 reason to believe that a violation of the Act occurred 12 and that the Commission staff do not move forward with 13 an investigation as to those issues. 14 CHAIRWOMAN CHAN: All right. 15 COMMISSIONER MEYER: As to those ads. 16 Excuse me. 17 CHAIRWOMAN CHAN: Is there a second? 18 COMMISSIONER KIMBLE: This is Commissioner 19 Kimble. I second. 20 CHAIRWOMAN CHAN: Okay. Thank you. 21 Commissioner Meyer, how do you vote? 22 COMMISSIONER MEYER: Aye. 23 CHAIRWOMAN CHAN: Commissioner Kimble? 24 COMMISSIONER KIMBLE: Aye. 25 CHAIRWOMAN CHAN: Commissioner Paton?</p>

<p>11:46:10-11:47:22 Page 98</p> <p>1 COMMISSIONER PATON: Aye. 2 CHAIRWOMAN CHAN: And I vote aye, as well. 3 And we passed that 4 to 0. Thank you. 4 And with that, we are blissfully done with 5 this item. 6 Thank you so much, Mr. Arellano, for your 7 time. Thank you, Tom, and thank you, Commissioners, 8 and everyone. 9 Okay. That Item is complete, unless 10 there's any other -- anyone else who wants to speak on 11 that. 12 COMMISSIONER MEYER: Madam Chairman -- or 13 Chairperson, I'm having a little trouble hearing you. 14 I don't know if you could turn your mic up. Is anyone 15 else having that problem? 16 CHAIRWOMAN CHAN: Sure. Let me get closer, 17 too, and see if I can turn it up. I apologize. Maybe 18 I need my -- I should have done my -- perhaps, I should 19 have done my headphones. 20 COMMISSIONER KIMBLE: It was fine before we 21 took the break. 22 CHAIRWOMAN CHAN: I don't know what 23 happened. There we go. Is that better, hopefully? I 24 hope. Can you hear me better now? 25 COMMISSIONER MEYER: Yes.</p>	<p>11:48:32-11:49:28 Page 100</p> <p>1 really had all the candidates and their campaigns 2 getting the information to our auditors quickly and 3 allowing us to go through it and find minor things and 4 get those corrected. So, for that, I want to say thank 5 you to everybody. 6 It was a great -- a great team effort, and 7 these audits turned out well. Nothing major popped up, 8 a few minor things that were correctly assessed. 9 And I'd ask the Commission to just approve these. 10 CHAIRWOMAN CHAN: That was very fast. 11 Thank you. Excellent. We appreciate that. 12 COMMISSIONER MEYER: Madam Chairperson, I 13 have a motion. 14 CHAIRWOMAN CHAN: Excellent. I love it. 15 Thank you. Please. 16 COMMISSIONER MEYER: I move that we approve 17 all five of the audits, as recommended by Mr. Becker. 18 CHAIRWOMAN CHAN: Excellent. 19 Do I have a second? 20 COMMISSIONER KIMBLE: This is Commissioner 21 Kimble. I second. 22 CHAIRWOMAN CHAN: Wonderful. All right. 23 Commissioner Meyer, how do you vote? 24 COMMISSIONER MEYER: Aye. 25 CHAIRWOMAN CHAN: Commissioner Kimble?</p>
<p>11:47:23-11:48:29 Page 99</p> <p>1 CHAIRWOMAN CHAN: Okay. Great. Thank you. 2 I apologize about that. My computer actually turned 3 off during the break. I had to plug it back in, so 4 maybe that was part of the problem. Maybe it reset. 5 So thank you for letting me know. 6 All right. Let's move back to Item V: 7 Discussion and possible action on 2020 Primary Election 8 candidate audits. I believe -- is Mike going to take 9 this one, I believe. 10 MR. BECKER: Yes. I will take that one. 11 CHAIRWOMAN CHAN: All right. Thank you, 12 Mike. Hi. 13 MR. BECKER: Good morning. I will keep 14 this brief. These are the final Primary Election 15 audits for our candidates. 16 COMMISSIONER KIMBLE: Excuse me, Mike. I 17 can't hear you. I can hear you very faintly. 18 MR. BECKER: Okay. Sorry, Commissioners. 19 These are the final audits for our candidates from the 20 Primary, the last five. The audits were fine. 21 I want to -- I do want to say thank you to 22 our auditing firm, Fester & Chapman. They did a great 23 job, especially dealing with the COVID issue. I, also, 24 want to thank our candidates and their campaigns for 25 working so well with us. This was the first year we</p>	<p>11:49:29-11:50:29 Page 101</p> <p>1 COMMISSIONER KIMBLE: Aye. 2 CHAIRWOMAN CHAN: Commissioner Paton? 3 COMMISSIONER PATON: Aye. 4 CHAIRWOMAN CHAN: I vote aye, as well. And 5 by a vote of 4 to 0, we have approved the audits 6 identified in Item V of the agenda. 7 Thank you, Mike. 8 All right. That was so fast, I don't even 9 know what's next. Oh, Item VII: Discussion and 10 possible action on proposed meeting dates for February 11 through July of 2021. 12 All right. Commissioners, hopefully, you 13 all had a chance to review the dates that Ms. Thomas 14 proposed, and unless there's any discussion, I'll 15 entertain a motion and a second on the dates. 16 COMMISSIONER KIMBLE: Madam Chair? 17 CHAIRWOMAN CHAN: Yes, Commissioner Kimble. 18 COMMISSIONER KIMBLE: I move we approve the 19 dates in the attachment of Item VII. 20 CHAIRWOMAN CHAN: Okay. Wonderful. 21 COMMISSIONER MEYER: Second. 22 CHAIRWOMAN CHAN: Thank you. 23 All right. Let's take our vote. 24 Commissioner Meyer? 25 COMMISSIONER MEYER: Aye.</p>

<p>11:50:30-11:51:38 Page 102</p> <p>1 CHAIRWOMAN CHAN: Commissioner Kimble? 2 COMMISSIONER KIMBLE: Aye. 3 CHAIRWOMAN CHAN: Commissioner Paton? 4 COMMISSIONER PATON: Aye. 5 CHAIRWOMAN CHAN: And I vote aye, as well. 6 By a vote of 4 to 0, we have approved the dates 7 proposed. And so we'll be seeing you on all these 8 dates, Commissioners, and thank you for that, since I'm 9 the only not termed-out Commissioner at this point. I 10 really appreciate you all being here, truly. 11 All right. Moving on to Item VIII, very 12 important business. We have recognition of 13 Commissioner Paton for his service on the Commission 14 and as the chairman. 15 So, we want to thank you very much for all 16 you did last year, and I don't know if Tom wants to say 17 a few words. 18 MR. COLLINS: Well, obviously, I don't -- I 19 mean, I think I can speak for all, I'm sure, the staff 20 members, but -- also, add in, obviously, your 21 colleagues, but I think that when we assess the last 22 year, looking at the kinds of issues that there were, I 23 think that Chairman Paton's leadership was -- was very 24 effective. 25 I think that one of the initiatives that he</p>	<p>11:52:52-11:54:04 Page 104</p> <p>1 I guess what I would like to say to 2 Commissioner Paton is, you know, one thing that I 3 really appreciate about you is I feel like we all, you 4 know, come at this and sometimes we all agree and we 5 don't all agree at other times. And I think you seemed 6 to have a unique view, at times, that I really value 7 because it's when you come from a different angle that 8 it helps me see things differently, and I think that's 9 very, very valuable. And so I want to thank you for 10 that. 11 I'll never forget that rule that we put in 12 place that kind of seemed to lead to Prop 306. I will 13 never forget that, and I think, you know, your 14 foresight was really -- I just will never forget that. 15 It was really important. So when you -- when you say 16 things, I really listen. And it's not that I don't 17 listen to other people either, but I think you have 18 some really valuable input that -- that, you know, we 19 all kind of operate inside of our boxes, and I think 20 it's really valuable that we have people with different 21 viewpoints and approaches on the Commission. 22 So thank you so much and thank you for your 23 leadership over the past year. 24 COMMISSIONER PATON: Well, thank you. I 25 enjoyed being there. I've enjoyed the staff immensely,</p>
<p>11:51:40-11:52:51 Page 103</p> <p>1 did under Chair -- as Chair was this Senate debate 2 sponsorship, which we had never done before. I think 3 Gina has given us not only the fact that we did it and 4 it was important, but the fact that it was viewed and 5 used by folks. And I think that Commissioner Paton's 6 focus on voter education, although we were not able to 7 do all of the things that we would have done in that 8 year, I think we did a lot. And I credit Commissioner 9 Paton with that personally. 10 And, obviously, you know, although there 11 are two days left on your term, I suspect we'll see you 12 again, I hope. 13 COMMISSIONER PATON: With everybody else. 14 MR. COLLINS: But -- yeah, but I really -- 15 I think it was -- I think it was a -- I think we made 16 serious strides this year under -- under duress. And I 17 think that that -- I think that that -- under the 18 duress everybody had. I'm not trying to say that our 19 duress was more duress than other people's duress. 20 It's simply that I feel like we had an able, able 21 steward. 22 So that's my view, and I don't know that 23 I'm supposed to say anything about this at all. 24 CHAIRWOMAN CHAN: No. And, again, I'm 25 sorry, Tom, to put you on the hot seat.</p>	<p>11:54:08-11:55:31 Page 105</p> <p>1 the other people, the other commissioners. And I think 2 we all are doing this to benefit the state, benefit the 3 voters, and remember that we are in charge of 4 disseminating monies. And we have to be responsible, 5 and people that have come before us, we have to treat 6 them all fairly and not do snap judgments and whatever 7 and just try to get a -- you know, see if we can get a 8 4-0 vote on a lot of things. 9 So, anyway, I enjoyed my time, and I guess 10 it's not over. 11 CHAIRWOMAN CHAN: No. 12 COMMISSIONER KIMBLE: Madam Chair? 13 CHAIRWOMAN CHAN: Yes, Commissioner Kimble. 14 COMMISSIONER KIMBLE: I just want to echo 15 what you and what Tom have said. 16 And thank you for everything, Galen, and 17 welcome to the ever-expanding club of former members 18 whose terms have expired. 19 COMMISSIONER PATON: Well, thank you, sir. 20 CHAIRWOMAN CHAN: Sorry. What can I say? 21 COMMISSIONER MEYER: I just want to thank 22 Commissioner Paton, as well. We don't agree on 23 everything, but I very much respect your opinion and 24 thank you for all your contributions to the Commission. 25 I sincerely mean that. And as an aside, today hearing</p>


11:55:35-11:56:42 Page 106

1 you say that I agree with everything Commissioner Meyer
2 just said, that was one of the highlights of my times
3 on the Commission. Thank you for that.
4 COMMISSIONER PATON: I didn't know I was so
5 hard to get along with.
6 COMMISSIONER MEYER: No, no. I'm joking.
7 COMMISSIONER PATON: I know.
8 CHAIRWOMAN CHAN: All right. Well, with
9 that, I guess we can move on to Item Number IX.
10 Is there any member of the public that
11 would like to make comments at this time? Is there any
12 member of the public -- oh, yeah, I see Rivko is still
13 here. I'm not sure if anybody else is here.
14 Anybody?
15 (No response.)
16 CHAIRWOMAN CHAN: No comments?
17 (No response.)
18 CHAIRWOMAN CHAN: All right. You can,
19 also, send comments to the Commission by mail or email
20 at ccec@azcleelections.gov.
21 And if there are no public comments at this
22 time, we move on to our motion to adjourn. And at this
23 time, I would entertain a motion.
24 COMMISSIONER KIMBLE: Madam Chair?
25 CHAIRWOMAN CHAN: Yes.

11:56:43-11:57:10 Page 107

1 COMMISSIONER KIMBLE: This is Commissioner
2 Kimble. I move we adjourn.
3 CHAIRWOMAN CHAN: All right. Is there a
4 second?
5 COMMISSIONER PATON: This is Commissioner
6 Paton. I would second.
7 CHAIRWOMAN CHAN: All right. Thank you.
8 Commissioner Meyer, how do you vote?
9 COMMISSIONER MEYER: Aye.
10 CHAIRWOMAN CHAN: Commissioner Kimble?
11 COMMISSIONER KIMBLE: Aye.
12 CHAIRWOMAN CHAN: Commissioner Paton?
13 COMMISSIONER PATON: Aye.
14 CHAIRWOMAN CHAN: And I vote aye. And with
15 a vote of 4 to 0, we are adjourned. See you next
16 month. Thank you.
17 (Whereupon, the proceedings concluded at
18 11:57 a.m.)
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Page 108

1 STATE OF ARIZONA)
2 COUNTY OF MARICOPA)
3 BE IT KNOWN the foregoing proceedings were
4 taken by me; that I was then and there a Certified
5 Reporter of the State of Arizona, and by virtue thereof
6 authorized to administer an oath; that the proceedings
7 were taken down by me in shorthand and thereafter
8 transcribed into typewriting under my direction; that
9 the foregoing pages are a full, true, and accurate
10 transcript of all proceedings and testimony had and
11 adduced upon the taking of said proceedings, all done to
12 the best of my skill and ability.
13 I FURTHER CERTIFY that I am in no way
14 related to nor employed by any of the parties thereto
15 nor am I in any way interested in the outcome hereof.
16 DATED at Phoenix, Arizona, this 30th day of
17 January, 2021.
18
19 
20 LILIA MONARREZ, RPR, CR #50699
21
22
23
24
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