



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

Location: Citizens Clean Elections Commission

1110 W. Washington, Suite 250

Phoenix, Arizona 85007

Date: Thursday, April 27, 2023

Time: 9:30 a. m.

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the Commissioners of the Citizens Clean Elections Commission and the general public that the Citizens Clean Elections Commission will hold a regular meeting, which is open to the public on April 27, 2023. This meeting will be held at 9:30 a.m. **This meeting will be held in person and virtually.** Instructions on how the public may participate in this meeting are below. For additional information, please call (602) 364-3477 or contact Commission staff at ccec@azcleanelections.gov.

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

Join Zoom Meeting

<https://us02web.zoom.us/j/85432518080>

Meeting ID: 854 3251 8080

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Please note that members of the public that choose to use the Zoom video link must keep their microphone muted for the duration of the meeting. If a member of the public wishes to speak, they may use the Zoom raise hand feature and once called on, unmute themselves on Zoom once the meeting is open for public comment. Members of the public may participate via Zoom by computer, tablet or telephone (dial in only option is available but you will not be able to use the Zoom raise hand feature, meeting administrator will assist phone attendees). Please keep yourself muted unless you are prompted to speak. The Commission allows time for public comment on any item on the agenda. Council members may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to A.R.S. § 38-431.01(H), action taken as a result of public comment will be limited to directing Council staff to study the matter, responding to any criticism, or scheduling the matter for further consideration and decision at a later date.

The Commission may vote to go into executive session, which will not be open to the public, for the purpose of obtaining legal advice on any item listed on the agenda, pursuant to A.R.S. § 38-431.03 (A)(3). The Commission reserves the right at its discretion to address the agenda matters in an order different than outlined below.

The agenda for the meeting is as follows:

- I. Call to Order.
- II. Discussion and Possible Action on Meeting Minutes for March 23, 2023.
- III. Discussion and Possible Action on Executive Director's Report, Enforcement and Regulatory Updates and Legislative Update.
- IV. Discussion and Possible Action on Debates Work Group.
- V. Discussion and Possible Action on Proposition 211, Voters' Right to Know Act, including litigation and staff research.
- VI. Discussion and Possible Action on Termination of Rulemaking regarding Proposed Amendments to R2-20-211 related to subpoenas.
- VII. Discussion and Possible Action on 2023 Chairperson.
- VIII. Public Comment
This is the time for consideration of comments and suggestions from the public. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date or responding to criticism
- IX. Adjournment.
This agenda is subject to change up to 24 hours prior to the meeting. A copy of the agenda background material provided to the Commission (with the exception of material relating to possible executive sessions) is available for public inspection at the Commission's office, 1110 W Washington St, #250, Phoenix, AZ 85007.

Dated this 25th day of April, 2023

Citizens Clean Elections Commission

Thomas M. Collins, Executive Director

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

THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona

March 23, 2023

9:30 a.m.

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<p style="text-align: right;">2</p> <p>1 PUBLIC MEETING, BEFORE THE CITIZENS CLEAN ELECTIONS 2 COMMISSION, convened at 9:30 a.m. on March 23, 2023 at the 3 State of Arizona, Citizens Clean Elections Commission, 1110 4 West Washington, Suite 250, Phoenix, Arizona, in the 5 presence of the following Board Members: 6 Mr. Mark S. Kimble, Acting Chairman 7 Mr. Galen Paton 8 Ms. Amy Chan 9 10 OTHERS PRESENT: 11 Thomas M. Collins, Executive Director 12 Paula Thomas, Executive Officer 13 Mike Becker, Policy Director 14 Gina Roberts, Voter Education Director 15 Avery Xola, Voter Education Manager 16 Alec Shaffer, Web Content Manager 17 Kyle Cummings, Assistant Attorney General 18 Mary O'Grady, Osborn Maledon. 19 Cathy Herring, CAE 20 Rivko Knox, Member of the Public 21 Lois Connell, Member of the Public 22 Sanda Clark, Member of the Public 23 Clark Paton, Member of the Public 24 25 <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p></p>	<p style="text-align: right;">3</p> <p>1 P R O C E E D I N G 2 3 CHAIRMAN KIMBLE: Good morning. Chairman Meyer is 4 not here at the moment; he may be joining us later on. But 5 in the meantime I'll chair the meeting. 6 Item -- Agenda Item I is call to order. It's 7 9:30 a.m. on March 23rd, isn't it? 8 COMMISSIONER PATON: Correct. 9 CHAIRMAN KIMBLE: Okay. This says 24th. 10 I call this meeting of the Citizens Clean Elections 11 Commission to order. I'd like to ask the audience members 12 on Zoom to please keep your microphones muted, please. 13 And with that we'll take attendance. Commissioners 14 please identify yourselves for the record. 15 COMMISSIONER PATON: Galen Paton. 16 COMMISSIONER CHAN: Amy Chan. 17 CHAIRMAN KIMBLE: And I am Mark Kimble. 18 We have a quorum. 19 Item II, discussion and possible action on minutes 20 for the February 24th, 2022, meeting. Is there any 21 discussion? 22 COMMISSIONER CHAN: Mr. Chairman? 23 CHAIRMAN MEYER: If not, do I have a motion? 24 COMMISSIONER CHAN: I would move that we adopt the 25 minutes as written. <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p></p>
<p style="text-align: right;">4</p> <p>1 I think -- is it for the February 23, 2023, meeting 2 or... 3 CHAIRMAN KIMBLE: Yes. I'm sorry. 4 COMMISSIONER CHAN: That's okay. 5 CHAIRMAN KIMBLE: 2023, yes. 6 COMMISSIONER PATON: Second. 7 CHAIRMAN KIMBLE: It's been moved and seconded that 8 we approve the minutes for the February 24, 2023 (verbatim), 9 meeting. I'll call roll. 10 Commissioner Chan. 11 COMMISSIONER CHAN: Aye. 12 CHAIRMAN KIMBLE: Commissioner Paton. 13 COMMISSIONER PATON: Aye. 14 CHAIRMAN KIMBLE: And I am Commissioner Kimble; I 15 vote aye, too. 16 The minutes are approved. 17 Item III, discussion and possible action on the 18 Executive Director's report. 19 Tom? 20 MR. COLLINS: Yes. Thank you, Mr. Chairman, 21 members. This is -- for those of you tuning in, this is our 22 first meeting since we moved our office in person, so that's 23 very exciting. So thanks to everyone for being here and -- 24 and thanks to, you know, to Paula Thomas, our executive 25 officer for all of her diligence in getting us to this place <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p></p>	<p style="text-align: right;">5</p> <p>1 where we can start again, and to Mike Becker for help -- for 2 assisting as well. 3 So thank you all for being here. 4 Just really quickly run down the executive 5 director's report. As you will note, we just had a local 6 election in the City of Phoenix, and then we'll have the 7 other -- the next consolidated election date is March 16th 8 and Alec has been working with the various localities and 9 counties to make sure our website is -- continues to be the 10 most up-to-date place to get information on elections in 11 Arizona. 12 COMMISSIONER PATON: Excuse me. It says May 16th. 13 MR. COLLINS: Yeah. Did I not say May? I'm sorry. 14 COMMISSIONER PATON: You said March. 15 MR. COLLINS: Oh. Well, you know, close. 16 CHAIRMAN KIMBLE: We're past that. 17 MR. COLLINS: We're past that, so. Sorry. 18 I did want to highlight, and if you ever want to 19 watch it, I think it's worth your time, Gina and Avery did a 20 virtual presentation for National Civics Learning Week. 21 It's really good; they got through a lot of material, both 22 how government works, how to participate; and then Avery did 23 a section on civil discourse and how to communicate with 24 folks in a way, you know, that, you know, can be positive, 25 and I thought that was all really great. <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p></p>

<p style="text-align: right;">6</p> <p>1 He delivered a similar presentation at the Maricopa 2 County College in Civic Action Hour.</p> <p>3 I think we're -- and -- and we're continuing, both 4 Gina and Avery are continuing to do the outreach work with a 5 number of different organizations.</p> <p>6 We're still working on the tenant improvement 7 process here. This is -- we're not quite there yet, 8 although hopefully we're functioning. You know, Mike is 9 working with the Secretary of State's office on finalizing 10 the biannual adjustments to the Clean Elections candidates' 11 spending limits; we had one iteration of that and we think 12 that will get revised a little bit based on some -- some of 13 our examination of it.</p> <p>14 And then Mike and Avery have been involved in the 15 elections procedures manual drafting process with the 16 Secretary's office and they met this past week.</p> <p>17 Couple of other important administrative aspects, 18 we now have a fourth party for the ballot -- qualified for 19 the ballot that is 2024, that is a party called the "No 20 Labels Party"; and then another effort, a group called the 21 "Forward Party" have sort of a kickoff event this weekend, 22 and they told the Republic that they plan to gather 23 signatures to qualify for the ballot over the summer.</p> <p>24 Also Governor Hobbs announced the members of her 25 bipartisan elections task force. Those are listed in the Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">7</p> <p>1 materials. It's a, you know, obviously, a very solid group 2 of folks who -- from both parties who have a lot of 3 experience in elections.</p> <p>4 The only cases I wanted to really highlight, we do 5 have now two cases on Prop 211. One is in state court 6 relating to state constitutional challenges relating to the 7 Voters' Right to Know Act; we'll talk a little about that 8 further on the agenda; and then -- and then this week a 9 group called Americans for Prosperity filed a lawsuit in 10 federal court.</p> <p>11 I do think -- I also want to mention that there is 12 a case called <u>Lake v. Hobbs</u> which has to do with the -- 13 the -- Kari Lake who lost the election in November has -- 14 there was -- there was a trial that was -- where she was 15 unsuccessful, there was a Court of Appeals ruling; she was 16 unsuccessful. There was a petition for review that was 17 accelerated; the Court issued a ruling yesterday following 18 its conference that said basically -- you know, affirmed the 19 vast majority of the trial court and appellate court 20 proceedings but, you know, remanded to have a hearing on one 21 aspect of it, namely whether or not the -- there was 22 evidence that the county, Maricopa County, didn't follow a 23 certain prac- -- policies.</p> <p>24 It's a -- it's a narrow issue. The way that the 25 trial court had dealt with that is they said that what Lake Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>
<p style="text-align: right;">8</p> <p>1 had done was challenge the policy themselves and that that 2 should have been done preelection because you can't -- it -- 3 just as a matter of general law, challenge an election 4 procedure after the election, right, you have a chance to do 5 that. The Court said that that -- the way that they 6 actually couched those allegations, without opining on the 7 merits of them -- they are entitled to have a -- produce 8 evidence if they have any that those procedures were not 9 properly followed.</p> <p>10 And then, you know, there continues to be some 11 other cleanup work, especially revolving around some of 12 the -- the sanctions issues in the -- in some of these other 13 election contests that were not -- you know, I mean the fact 14 that sanctions are issued means they weren't particularly -- 15 weren't particularly successful contests.</p> <p>16 I want to make a quick note, the last really quick 17 note, on the regulatory agenda. You know, we had sent over 18 R2-20-211, -220, and -223 amendments to those to GRRC. We 19 have there, you know, learned that the -- the -- one of the 20 members of GRRC has raised some new and not entirely germane 21 issues to those what we think are relatively simple 22 clarifying changes to ensure that our enforcement procedures 23 are, you know, consistent with the underlying Clean 24 Elections Act.</p> <p>25 The staff of GRRC released a memorandum yesterday Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">9</p> <p>1 supporting our position in -- and -- and essentially 2 rejecting the assertions of their council member who -- who 3 raised this issue. We'll be back in front of GRRC on -- on 4 March 28th for their study session on this issue.</p> <p>5 My hope is that, you know, we will be able to, you 6 know, have those rule changes -- those rule amendments go 7 into -- go into effect, you know.</p> <p>8 The rules are written in a way that, you know, 9 makes clear that whatever decisions the Commission makes 10 respecting how to go about obtaining legal services for the 11 purposes of enforcement proceedings and the like, that those 12 are done lawfully. So, for example, in those areas where 13 the Commission has authority to hire its own counsel, that's 14 not an issue; in those areas where the AG has a role in 15 selecting that, the rule is plainly stated that the -- that 16 it has to be a lawful -- a lawfully authorized person.</p> <p>17 So we're not really clear on -- on what -- where we 18 are -- where -- where this is headed. You know, other 19 than -- and I feel like it's fair to note that the member of 20 GRRC who raised this issue is a staff member, a lobbyist for 21 the Goldwater Institute. The Goldwater Institute is raising 22 similar issue to the Prop 211 lawsuits to the question that 23 they raised in the GRRC proceeding.</p> <p>24 So as with all things GRRC, it's a -- it's a -- you 25 know, it's -- we've never had -- when they embark upon this Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>

<p style="text-align: right;">10</p> <p>1 line of inquiry, it often takes an awful long time and this</p> <p>2 can be very costly, but perhaps in this case we may be able</p> <p>3 to -- to resolve this. But that's just a heads up for</p> <p>4 future events.</p> <p>5 So that is the -- the bulk of what I had to -- we</p> <p>6 will also be hearing more about the debate workgroup later</p> <p>7 on in the agenda, I just wanted to mention that here.</p> <p>8 But that really completes my report unless --</p> <p>9 COMMISSIONER PATON: Mr. Chairman?</p> <p>10 MR. COLLINS: -- any questions.</p> <p>11 CHAIRMAN KIMBLE: Commissioner Paton.</p> <p>12 COMMISSIONER PATON: I have a question for Tom.</p> <p>13 CHAIRMAN KIMBLE: Sure.</p> <p>14 COMMISSIONER PATON: So I'm assuming by your</p> <p>15 comment that the -- the GRRC commission is the same as the</p> <p>16 previous administration; they don't change?</p> <p>17 MR. COLLINS: Mr. Chairman, Commissioner Paton,</p> <p>18 they are current. I don't know and I haven't researched</p> <p>19 whether or not they're at-will or serve a fixed term.</p> <p>20 You know, and that will be -- so we may be -- I</p> <p>21 really don't know.</p> <p>22 So what I -- what I can say is that prior to now I</p> <p>23 hadn't -- we hadn't had a -- we haven't had a -- we hadn't</p> <p>24 had an issue with GRRC since Prop 306 passed. We did what</p> <p>25 the Council asked us to do and we have subsequently been on</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">11</p> <p>1 the consent calendar for our amendments since then.</p> <p>2 It's -- it's -- so it's a little bit of a -- so</p> <p>3 there is a hangover in that sense.</p> <p>4 I'm not sure, honestly, if the rest of the council</p> <p>5 shares this question or not, I really don't know. You know,</p> <p>6 if it is -- if that's the way it is and if they -- if they</p> <p>7 reject it, then, you know, obviously we'll have to -- we'll</p> <p>8 have to deal with that. I -- I don't have -- have any</p> <p>9 insight into the relationship among the regulatory review</p> <p>10 council, the Chair who is the general counsel for ADOA, the</p> <p>11 new ADOA director and the Governor's office. I really don't</p> <p>12 know how all that works right now.</p> <p>13 But -- so that's a long answer. The short answer</p> <p>14 to your question is, yes, the same.</p> <p>15 COMMISSIONER PATON: Okay.</p> <p>16 CHAIRMAN KIMBLE: Any other questions from</p> <p>17 Commissioners?</p> <p>18 COMMISSIONER CHAN: Mr. Chairman?</p> <p>19 CHAIRMAN KIMBLE: Commissioner Chan.</p> <p>20 COMMISSIONER CHAN: Just a comment. I just want to</p> <p>21 commend staff and our attorneys for filing a motion for</p> <p>22 reconsideration in the Legacy Foundation case. I'm -- I'm</p> <p>23 very concerned about the outcome of that case; I think it</p> <p>24 has ramifications for all regulatory agencies that -- that</p> <p>25 conduct proceedings like we do, and -- and I'm -- I hope the</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>
<p style="text-align: right;">12</p> <p>1 Supreme Court will listen to that.</p> <p>2 MR. COLLINS: I think -- if I may, Mr. Chairman. I</p> <p>3 think that -- I think that those general comments that don't</p> <p>4 go into any specificity about the facts of that case, I</p> <p>5 think we -- we have -- it's general knowledge we filed that</p> <p>6 and then we'll have to -- we have to leave that there.</p> <p>7 CHAIRMAN KIMBLE: Thank you.</p> <p>8 Any other comments from Commissioners or questions?</p> <p>9 Okay. Thank you.</p> <p>10 Item IV, I'm a little confused here, I've got two</p> <p>11 different agendas. So are we now doing the audits?</p> <p>12 MR. COLLINS: Yes.</p> <p>13 CHAIRMAN KIMBLE: Okay.</p> <p>14 MR. COLLINS: This thing -- oh. So it's probably a</p> <p>15 typo. Sorry.</p> <p>16 CHAIRMAN KIMBLE: Well, this is the whole --</p> <p>17 MR. COLLINS: Oh.</p> <p>18 CHAIRMAN KIMBLE: Item IV, discussion and possible</p> <p>19 action on the following 2022 primary and general election</p> <p>20 candidate audits.</p> <p>21 We have 12 audits before us: Kim Owens, primary</p> <p>22 election, Corporation Commission; Sandra Clark House LD 19;</p> <p>23 Oscar De Los Santos, House, LD 11; Kyle Nitschke, Senate,</p> <p>24 LD7; Tatiana Pena, House LD 11; Athena Salman, House, LD 26;</p> <p>25 Mariana Sandoval, House, LD 23; Kevin Thompson for the</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">13</p> <p>1 Corporation Commission; and Sandra Kennedy for the</p> <p>2 Corporation Commission, and Lauren Kuby for the Corporation</p> <p>3 Commission; Nick Myers for the Corporation Commission; and</p> <p>4 Kathy Hoffman, Superintendent of Public Instruction.</p> <p>5 Tom, is there anything about these audits that you</p> <p>6 wanted to discuss?</p> <p>7 MR. COLLINS: Mike? I don't know, Mike, is there</p> <p>8 anything you want to add? Do you have anything?</p> <p>9 I think you want to just...</p> <p>10 MR. BECKER: Mr. Chairman, Commissioners, the</p> <p>11 audits, they were -- they turned out very well. Want to</p> <p>12 thank the candidates for working with our auditing firm</p> <p>13 Fester & Chapman who are, again, wonderful to work with.</p> <p>14 But there are no issues with audits; they turned</p> <p>15 out very well, and we would like to thank our candidates for</p> <p>16 working with us on that.</p> <p>17 The -- just so you're aware, Kim Owens is the last</p> <p>18 primary audit you will see, the rest are general election</p> <p>19 audits, and they're the bulk of them. There will be a few</p> <p>20 more at the next -- at the next meeting, but for the most</p> <p>21 part, we're wrapping up all our audits.</p> <p>22 CHAIRMAN KIMBLE: Okay. Thank you, Mr. Becker.</p> <p>23 And any questions or comments from Commissioners?</p> <p>24 Commissioner Paton.</p> <p>25 COMMISSIONER PATON: Yes. I just want to commend</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>

<p style="text-align: right;">14</p> <p>1 everybody that -- that coaches these people to do the right</p> <p>2 thing; and I'm really glad that we audit everybody to make</p> <p>3 sure that we don't have any slipups. And so it just -- it</p> <p>4 shows the amount of work that you guys do to coach those</p> <p>5 people to do the right thing so -- so we stay out of the</p> <p>6 issues that we've had in the past.</p> <p>7 CHAIRMAN KIMBLE: Thank you, Commissioner Paton.</p> <p>8 Commissioner Chan?</p> <p>9 COMMISSIONER CHAN: Do we need a motion to approve</p> <p>10 these?</p> <p>11 MR. COLLINS: Yes.</p> <p>12 CHAIRMAN KIMBLE: Yes. Yes.</p> <p>13 COMMISSIONER CHAN: Okay. So Mr. Chairman, I move</p> <p>14 that we approve the audits contained in Item IV.</p> <p>15 CHAIRMAN KIMBLE: Commissioner Paton.</p> <p>16 COMMISSIONER PATON: I'll second it.</p> <p>17 CHAIRMAN KIMBLE: Okay. There's been a motion by</p> <p>18 Commissioner Chan, seconded by Commissioner Paton to approve</p> <p>19 the 12 audits listed in our agenda. We will call the roll.</p> <p>20 Commissioner Chan.</p> <p>21 COMMISSIONER CHAN: Aye.</p> <p>22 CHAIRMAN KIMBLE: Commissioner Paton.</p> <p>23 COMMISSIONER PATON: Aye.</p> <p>24 CHAIRMAN KIMBLE: Commissioner Kimble; I vote aye.</p> <p>25 Motion is approved 3 to nothing.</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">15</p> <p>1 MR. BECKER: Thank you.</p> <p>2 CHAIRMAN KIMBLE: Thank you, Mike.</p> <p>3 Item V, discussion and possible action on debates</p> <p>4 workgroup.</p> <p>5 Gina.</p> <p>6 MS. ROBERTS: Good morning, Mr. Chairman,</p> <p>7 Commissioners.</p> <p>8 So at the February meeting Commissions adopted the</p> <p>9 2023 Voter Education Plan. Part of that plan included an</p> <p>10 establishment and creation of a debates working group. This</p> <p>11 workgroup is tasked with reviewing our current debate</p> <p>12 process and identifying any areas for updates and</p> <p>13 improvements.</p> <p>14 So since that approval, the voter education plan,</p> <p>15 we have sent out invitations to stakeholders of the debate</p> <p>16 process to recruit members to serve on this group. I'm very</p> <p>17 happy to confirm that we have 28 members at this point; and</p> <p>18 I know that seems like a large group, but it's actually</p> <p>19 necessary to really provide diversity and representation of</p> <p>20 the stakeholders and of the voters across the state.</p> <p>21 So I can tell you when we sent out those</p> <p>22 invitations, we were very pleased that the response was</p> <p>23 overwhelmingly positive. People were excited that we were</p> <p>24 doing this and that we were doing it in a transparent and</p> <p>25 inclusive manner. So everybody was very eager to -- to join</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>
<p style="text-align: right;">16</p> <p>1 and we're very happy and grateful for all these</p> <p>2 professionals dedicating their time and expertise to this</p> <p>3 workgroup.</p> <p>4 The timeline is the workgroup will meet ideally</p> <p>5 twice a month. We're -- our kickoff meeting is going to be</p> <p>6 next Wednesday, March 29th, and it will run through May. So</p> <p>7 we'll have about six meetings, five or six meetings for the</p> <p>8 workgroup; and, again, they'll go through agenda items to</p> <p>9 ultimately produce a report for the Commission to consider</p> <p>10 of recommendations that the Commission can adopt to and,</p> <p>11 again, you know, improve our debate process.</p> <p>12 These meetings will follow open meeting law, so the</p> <p>13 public is welcome to attend them. They will operate just</p> <p>14 like our Commission meetings. We're very grateful that</p> <p>15 Commissioner Kimble will Chair the workgroup; and we will</p> <p>16 again have a -- just -- just like these meetings, we will</p> <p>17 have a court reporter there. We'll have video minutes. So</p> <p>18 the public can very much be a part of this process.</p> <p>19 And the members that we have, we are just about</p> <p>20 finalizing a member directory that we can share with the</p> <p>21 Commission once it's final so you can see everybody that</p> <p>22 will be a part of the group; but we definitely have members</p> <p>23 from the Republican Party, the Democratic Party, we have the</p> <p>24 League of Women Voters, we've got the disability community,</p> <p>25 we have candidates, campaign consultants, we have current</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">17</p> <p>1 elected officials.</p> <p>2 So we have a very great group of people who all</p> <p>3 have a stake in the debate process so we can get those</p> <p>4 different perspectives as we work through potential updates.</p> <p>5 So that's where we are with the debate group right</p> <p>6 now. Again, our first meeting is next Wednesday. We will</p> <p>7 continue to update the Commission as the workgroup</p> <p>8 progresses, but that's the update that we have for you right</p> <p>9 now.</p> <p>10 So I'm happy to answer any questions.</p> <p>11 CHAIRMAN KIMBLE: Any questions from Commissioners?</p> <p>12 Commissioner Paton?</p> <p>13 COMMISSIONER PATON: Yes. I would like to commend</p> <p>14 you Gina and people that work with you, that we're not</p> <p>15 sitting on our laurels saying this is how we've been doing</p> <p>16 it over the period of years and -- and it's been fine so</p> <p>17 far. I mean, the whole idea that you're trying to improve,</p> <p>18 you're seeking input from other people, that's just going to</p> <p>19 make a better product.</p> <p>20 And just looking back over my time period dealing</p> <p>21 with these, I mean, we've come a long way since we started</p> <p>22 these debates and I appreciate your work. Thank you.</p> <p>23 MS. ROBERTS: Thank you.</p> <p>24 CHAIRMAN KIMBLE: Thank you, Commissioner Paton.</p> <p>25 And I want to echo that. I think this is not --</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>

<p style="text-align: right;">18</p> <p>1 this is not going to be easy with this many people, but I'm</p> <p>2 very much looking forward to the differing points of view;</p> <p>3 we've got elected officials, we have political consultants,</p> <p>4 we've got some journalists, and I think it's time that we</p> <p>5 take a fresh look on how we do debates, how they're</p> <p>6 formatted, if -- if they should be more formal/less formal.</p> <p>7 Anything is pretty much on the table.</p> <p>8 And after five meetings we'll see what we come up</p> <p>9 with.</p> <p>10 Any other comments from Commissioners?</p> <p>11 Anything else, Gina?</p> <p>12 MS. ROBERTS: That's all. Thank you,</p> <p>13 Commissioners. Thank you.</p> <p>14 CHAIRMAN KIMBLE: Thank you very much.</p> <p>15 Item VI, discussion and possible action on</p> <p>16 Proposition 211, Voters' Right to Know Act, including</p> <p>17 litigation and staff research.</p> <p>18 Tom, is this you?</p> <p>19 MR. COLLINS: Yes.</p> <p>20 CHAIRMAN KIMBLE: Okay.</p> <p>21 MR. COLLINS: Yes. Thank you, Mr. Chairman,</p> <p>22 Commissioners.</p> <p>23 We have been working to, you know, get a little bit</p> <p>24 of better depth of understanding of the Act and how it will</p> <p>25 work in practice. As I mentioned earlier, we have now two</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">19</p> <p>1 lawsuits that have been filed: one in federal court, one in</p> <p>2 state court. We'll be in court on the state court matter</p> <p>3 for the first time on a hearing on May 12th and so...</p> <p>4 Anyways, so at the last Commission meeting, you</p> <p>5 know, Commissioners had mentioned that we wanted to start to</p> <p>6 parsing this out a little bit, getting a little bit better</p> <p>7 familiarity with some of the ways in which this Act</p> <p>8 functions. So what we did for this is we've sort of -- what</p> <p>9 is in your materials is sort of a broad outline that was of</p> <p>10 what -- of what was presented back in December by the</p> <p>11 Clean -- the Campaign Legal Center. I want to say about the</p> <p>12 Campaign Legal Center, and which I've said before and I'll</p> <p>13 probably to have to say, you know, the Campaign Legal Center</p> <p>14 was involved in drafting and getting this Act passed, that</p> <p>15 doesn't give them any persuasive authority over the</p> <p>16 Commission or any particular, you know, input beyond anybody</p> <p>17 else. But, you know, the outline they put together that you</p> <p>18 saw from the December presentation is in your materials as a</p> <p>19 sort of a background.</p> <p>20 We also pulled from the campaign materials because</p> <p>21 it was what was presented to the voters some examples of how</p> <p>22 certain things work from practice and we've incorporated</p> <p>23 some of that into the PowerPoint that we're going to do. So</p> <p>24 we thought that the best way to do is to break this into a</p> <p>25 couple of different units, if you will. So today we'll talk</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>
<p style="text-align: right;">20</p> <p>1 a little bit about, you know, the -- I mean, if we can go to</p> <p>2 the next slide, please.</p> <p>3 So we thought we'd start with the ballot</p> <p>4 proposition itself. You know, this is the "yes" language,</p> <p>5 ballot language. The -- and we're going to use this sort of</p> <p>6 as our outline to -- to -- to work through the issues.</p> <p>7 Requiring additional disclosures and reporting by</p> <p>8 entities and persons whom campaign media spending or in-kind</p> <p>9 contribution for campaign media spending exceeds \$50,000</p> <p>10 from the statewide campaigns or \$25,000 in other campaigns.</p> <p>11 Then identifying the original donors of</p> <p>12 contributions of more than \$5,000 in aggregate.</p> <p>13 So those two things, and we'll get into more depth</p> <p>14 about this. And the second, set up a basic framework. You</p> <p>15 hit the threshold as the filer, essentially, the end</p> <p>16 spender, and then -- and then the filing itself will be</p> <p>17 identifying original donors of contributions of more than</p> <p>18 \$5,000.</p> <p>19 Today we won't spend as much time on the penalties</p> <p>20 and the Commission's rules, but that those will be -- but</p> <p>21 those will be in future ones.</p> <p>22 Kathy, if we could...</p> <p>23 Okay. So campaign media spending, that's the broad</p> <p>24 term that's defined in 16-971. We try to break these series</p> <p>25 of slides down into categories of spending, right? So this</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">21</p> <p>1 slide will deal with candidates, the next slide will deal</p> <p>2 with initiatives and referendums, et cetera, right?</p> <p>3 So one of the differences between what we have done</p> <p>4 in Clean Elections on spending-related reports, this expands</p> <p>5 spending-related reports that the Clean Elections Commission</p> <p>6 is obligated to monitor and enforce from candidates and</p> <p>7 independent expenditures -- so that means Clean candidates</p> <p>8 and traditional candidates, we have jurisdiction over both</p> <p>9 of those, we always have; and then we also have jurisdiction</p> <p>10 over independent expenditures for candidates.</p> <p>11 Two things: One, that's all at the state level;</p> <p>12 and it's only candidates.</p> <p>13 Now under this, these definitions apply at state</p> <p>14 and city levels, you know, the state and local levels, and</p> <p>15 it's not just candidates -- it's not just IEs, rather,</p> <p>16 it's -- it's ballot measures. So we'll talk about that in</p> <p>17 the first thing.</p> <p>18 So this sets out the -- the -- the definitions as</p> <p>19 they apply to candidates. So this will be independent</p> <p>20 expenditures basically for and against candidates. A public</p> <p>21 communication that expressly advocates for or against a</p> <p>22 candidate. That's the standard that we operate under now</p> <p>23 when we do those independent expenditure reports, pages as</p> <p>24 we've had over the years.</p> <p>25 Public communication that promotes, supports,</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>

<p style="text-align: right;">22</p> <p>1 attacks, or opposes a candidate within six months preceding 2 an election involving that candidate. 3 So that incorporates a standard that exists in 4 federal law -- promotes, supports, attacks, or opposes -- 5 and then puts a timeline on that. So that, you know, is 6 a -- is a little bit different -- you know, a little bit 7 different approach -- you know, standard; but the most 8 important thing to realize about that is it's time limited. 9 Now we have a public communication that refers to a 10 clearly identified candidate within 90 days before primary 11 election until the time of the general election and that is 12 disseminated in the jurisdiction where the candidate's 13 election is taking place. 14 This is what -- if you were looking at the federal 15 elections commission law, this is what we -- what they would 16 refer to as an electioneering communication. Essentially, 17 there's a 90-day window around which when you put a 18 candidate's name out there, there is going to be a 19 presumption in our law -- maybe "presumption" is not the 20 right word. I have to be a little careful because we're 21 trying not to -- we're trying to give a broad overview and 22 not give legal advice and not commit anyone to a particular 23 position in view of litigation. We're really just trying to 24 make sure the Commission is fully briefed. 25 But this is a functional equivalent of -- of the -- Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">23</p> <p>1 of the electioneering communication standard that exists in 2 federal law. 3 Yeah, thank you. 4 So the -- the next we get into ballot measures and 5 recalls, right. Those are the other two elections in 6 Arizona outside of candidate elections. So we have a public 7 communications that promotes, supports, attacks or opposes 8 any state or local initiative or referendum; or a public 9 communication that promotes, supports, attacks or opposes 10 the recall of a public officer. 11 Those are fairly self-explanatory I think. But I 12 think, again, the most important point to take away is 13 the -- is the fact that we have a -- that this -- this Act 14 creates a broader universe of communications that the 15 Commission will have some, you know, role in requir- -- in 16 enforcing requirements of the new Act. 17 So, Kathy, if we could. 18 This is -- the next area is partisan election 19 activity and production costs. 20 So this is a little bit different, because unlike 21 the other campaign media spending that relates to 22 effectively broadcast television, mailers, you know, sort of 23 traditional mass media, mass-marketing-type activities, this 24 is an activity or public communication that supports the 25 election or defeat of candidates of an identified political Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>
<p style="text-align: right;">24</p> <p>1 party or the electoral prospects of an identified political 2 party, including the partisan voter registration, partisan 3 get-out-the-vote activity or other partisan campaign 4 activity. 5 In our discussion so far with the regulated 6 community, this is the area that probably has the most 7 concern in the sense that if you read the language there, 8 "partisan get-out-the-vote activity or other partisan 9 campaign activity," right, that's -- we're going to be 10 making rules over the course of the -- the summer. You can 11 see there where a person who is regulated under this, when 12 we see the word including X, Y, and Z, and Z is "other," 13 right, that -- that there's an inclination on the parts, 14 certainly of lawyers, who work with the regulated community 15 who want to have a better understanding of what the 16 Commission is -- is going to think qualifies as partisan 17 campaign activity. 18 COMMISSIONER PATON: I have a question. 19 MR. COLLINS: Sure. 20 CHAIRMAN KIMBLE: Commissioner Paton. 21 COMMISSIONER PATON: So that means we need to get 22 specificity on that? "Other" is very broad. 23 MR. COLLINS: Right, right. 24 COMMISSIONER PATON: I mean, it could be doing 25 cartwheels or something. I mean... Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">25</p> <p>1 MR. COLLINS: Well, as long as it was partisan and 2 campaign related. 3 COMMISSIONER PATON: Yeah. 4 MR. COLLINS: Yeah. 5 COMMISSIONER PATON: Well, with the sign. 6 MR. COLLINS: Right. 7 COMMISSIONER PATON: A cartwheel or whatever. 8 MR. COLLINS: So -- 9 COMMISSIONER PATON: I'm not a lawyer -- 10 MR. COLLINS: Sure. 11 COMMISSIONER PATON: -- but I think "other" is very 12 broad. 13 MR. COLLINS: Sure. Mr. Chairman, Commissioner 14 Paton, yeah, I think -- I would say this: I think it's 15 clear but broad. And -- and so I think what the regulated 16 community is -- is looking for and what I think the public 17 will benefit from as well, obviously, is -- is some clarity 18 as to, you know, how -- how -- how closely tied this is to 19 the gravamen of this. The gravamen of this statute is that 20 you have activity or public communication that supports the 21 election or defeat of candidates of a party, partisan 22 candidates, right? So, there's -- there is a place 23 outside -- there is a place where you go past that. 24 The example that I would use for what I think is -- 25 is -- would not be not covered back in my youth I worked for Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>

<p style="text-align: right;">26</p> <p>1 a 501(c)(3) based in Tucson -- 501(c)(3) -- 501(c)(4) based 2 in Tucson that employed canvassers essentially as part of 3 fundraising, part issue-related education, but they went 4 door to door. This was the old League of Conservation 5 Voters. In that kind of activity that doesn't have any 6 relation to a candidate or a party or those kinds of things, 7 that's going to be -- at least that's without -- that -- 8 that's an easy one it seems to me that says that's going to 9 fall outside of this definition.</p> <p>10 But I do think that -- you know, so really getting, 11 nailing down precisely what "partisan campaign activity" 12 means in some specific examples to -- to make that 13 language -- you know, like I said, it's clear on its face, 14 but to make it, you know, followable, I think will be 15 important.</p> <p>16 COMMISSIONER PATON: So the Court is probably going 17 to tell us what that's going to be anyway. True?</p> <p>18 MR. COLLINS: Um.</p> <p>19 COMMISSIONER PATON: So we can make all of our -- 20 our whatever, but --</p> <p>21 MR. COLLINS: Right.</p> <p>22 COMMISSIONER PATON: -- hopefully they will 23 delineate something before we have to deal with that?</p> <p>24 MR. COLLINS: Well, it will be interesting. So 25 that relates -- you know, Mr. Chairman, Commissioner Paton, Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">27</p> <p>1 that's a good question because, you know, I mean the way the 2 law -- the way the two lawsuits are set up, you know, they 3 would essentially assert in effect that all of this is too 4 vague and -- and overbroad.</p> <p>5 I -- I would disagree with that. So -- so the 6 lawsuits, the current lawsuits are about saying you can't do 7 any of this.</p> <p>8 Now, back to your point, though, very much we 9 anticipate over the course of this law's existence, you 10 know, sort of what we call as applied challenges which is, 11 you know: I did this, the Commission think it's this. 12 Somebody else thinks it's that, you know, that -- that 13 challenge will happen. I think as we promulgate, as we get 14 to a place where we start to promulgate draft rules, yes, I 15 anticipate that we will ultimately have a -- a -- this is 16 will be an area that will end up being pretty ripe for 17 litigation in addition to the litigation that's filed; and, 18 yeah, there may be some clarity there.</p> <p>19 I think -- well, the reason I think it's clear 20 for -- for constitutional purposes is because, you know, 21 partisan campaign activity is a limiting factor. In other 22 words, it can't mean -- like I said, it can't mean, you 23 know, sort of traditional door-to-door canvassing for, you 24 know, for a particular issue like an environmental issue.</p> <p>25 Mark, you may remember -- I'm sorry. Commissioner Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>
<p style="text-align: right;">28</p> <p>1 Chair Kimble, you know, when the League of Conservation 2 Voters did this back in the late '90s. This was, you 3 know...</p> <p>4 CHAIRMAN KIMBLE: It sounds familiar, yeah.</p> <p>5 MR. COLLINS: Yeah. So, I mean, that's just the 6 best example I have personal experience with of what I think 7 would not be partisan, not be campaign activity, you know, 8 so.</p> <p>9 But, yeah, that's -- that's going to be -- so the 10 reason I -- all these questions are good because these are 11 all the questions to have in your mind as we get to the 12 place where we're going to have drafts in front of you of -- 13 draft rules in front of you.</p> <p>14 CHAIRMAN KIMBLE: And if I could ask one other 15 question?</p> <p>16 MR. COLLINS: Sure.</p> <p>17 CHAIRMAN KIMBLE: So this applies to a 18 gubernatorial campaign all the way down to local?</p> <p>19 MR. COLLINS: Right.</p> <p>20 CHAIRMAN KIMBLE: City Council races? School board 21 races?</p> <p>22 MR. COLLINS: Well, Mr. Chairman, so this 23 particular section will be interesting. I'm not prepared to 24 nail down that.</p> <p>25 As a general proposition, the campaign media Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">29</p> <p>1 spending if it hits 25,000 in any local race, whether it's a 2 school board or a -- or a city, is going to trigger 3 potentially a filing obligation.</p> <p>4 Now, I'm not sure that the folks who drafted this 5 were thinking about school boards per se or excluding school 6 boards per se. This section, provided our school board 7 races continue to be non-partisan races and provided that 8 the vast majority -- I think it's maybe two, maybe only one 9 city, Tucson being the biggest, that do partisan, this kind 10 of activity, you know -- you have to have an identified 11 political party; you have to have an identified political 12 party for the prospects or candidates of an identified 13 political party.</p> <p>14 It seems to me that, you know, there's at least -- 15 must have been, or I assume, there was some consideration of 16 how this would affect the specific local races that are in 17 Arizona not partisan.</p> <p>18 CHAIRMAN KIMBLE: And when does this go into 19 effect?</p> <p>20 MR. COLLINS: It -- well, what we've said in court 21 so far is -- is that the -- although the law is on the 22 books, until we are in a position where we have both a 23 combination of, you know, appropriate regulatory decisions 24 and a filing system that facilitates the -- the disclosures, 25 there's -- there -- you know, it's in effect but not being Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>

<p style="text-align: right;">30</p> <p>1 acted upon.</p> <p>2 In other words, we're not currently holding anyone</p> <p>3 to account for any activity under this -- or I should say</p> <p>4 account for disclosing any spending related to these</p> <p>5 activities because --</p> <p>6 CHAIRMAN KIMBLE: Well --</p> <p>7 MR. COLLINS: -- of the --</p> <p>8 CHAIRMAN KIMBLE: The reason I ask is because there</p> <p>9 are city council races --</p> <p>10 MR. COLLINS: Correct.</p> <p>11 CHAIRMAN KIMBLE: -- mayoral races in Tucson this</p> <p>12 fall --</p> <p>13 MR. COLLINS: Yeah.</p> <p>14 CHAIRMAN KIMBLE: -- do you anticipate this will be</p> <p>15 applied to them?</p> <p>16 MR. COLLINS: Right now I -- I -- I would not.</p> <p>17 What we have told the Court is that we anticipate, based on</p> <p>18 my experience because of rulemaking -- and I say mine</p> <p>19 because I'm the person who wrote the declaration -- based on</p> <p>20 my experience, the time to do the rulemaking, the time it</p> <p>21 takes to do a computer system, we're looking at January 1,</p> <p>22 with the idea, principle idea of being that the most</p> <p>23 important so partisan races in Arizona that will start are</p> <p>24 the state legislative and Corporation Commission races that</p> <p>25 will be starting in earnest on January 1st, 2024.</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">31</p> <p>1 CHAIRMAN KIMBLE: Okay. Are there any other</p> <p>2 questions before we move on?</p> <p>3 Okay, Tom. Continue.</p> <p>4 MR. COLLINS: And the other thing that is here is</p> <p>5 important to recognize because it sort of clarifies a point</p> <p>6 that we've never really, since the days of matching funds,</p> <p>7 which none of us were here for except Mike and Paula, I</p> <p>8 think, we haven't really had to deal with what to do with</p> <p>9 production costs. So our independent expenditure reports,</p> <p>10 we have sort of left the regulated community to draw a</p> <p>11 conclusion about what -- what it should include.</p> <p>12 So some members of the regulated community on their</p> <p>13 existing trigger reports put a lot more information than</p> <p>14 others. We've never been asked to clarify that in any kind</p> <p>15 of formal policy.</p> <p>16 This makes clear that, you know, that -- that the</p> <p>17 essentially the production costs that go into, for example,</p> <p>18 a television ad, those are going to be considered campaign</p> <p>19 me- -- part of campaign media funding. Because you could</p> <p>20 otherwise say, you know, my ad buy was \$5,000 and that's the</p> <p>21 end of it, maybe my ad buy included, you know, \$20,000 in</p> <p>22 production costs, and maybe I based it on a \$5,000 poll. I</p> <p>23 don't know, these are made-up numbers.</p> <p>24 But those -- those production costs are going to go</p> <p>25 into determining whether or not you hit the threshold, for</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>
<p style="text-align: right;">32</p> <p>1 example.</p> <p>2 So if your ad buy was under the -- let's say you</p> <p>3 did an ad buy that was \$45,000, you know, but you had more</p> <p>4 than \$5,000 in production costs, that's going to -- that's</p> <p>5 going to put you over the threshold, so.</p> <p>6 Any -- any questions on any further on that slide?</p> <p>7 (No response.)</p> <p>8 Okay. Kathy, do you mind?</p> <p>9 Okay, yeah. I also want to make a quick mention of</p> <p>10 exceptions, these are important. Independent news media,</p> <p>11 that's a truncated version of what it says. It says</p> <p>12 newspapers, radio, et cetera in the statute. But basically,</p> <p>13 like every other campaign finance law in the country, there</p> <p>14 is an exception for bona fide news reporting.</p> <p>15 Non-partisan voter registration and turnout</p> <p>16 activity. You know, so we know now when we talk -- we go</p> <p>17 back to that earlier slide, we alluded to partisan</p> <p>18 get-out-the-vote, we know that if -- we know there's going</p> <p>19 to be a distinction we draw between partisan and</p> <p>20 non-partisan.</p> <p>21 Traditional book publishing and documentaries,</p> <p>22 that's again a pretty standard exception; and then</p> <p>23 importantly for our purposes here at Clean Elections,</p> <p>24 debates are not campaign media spending.</p> <p>25 So those are -- those are the big buckets of</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">33</p> <p>1 exceptions.</p> <p>2 And, you know, when you look at this, you look at</p> <p>3 the campaign media spending holistically, you know, you can</p> <p>4 see, you can see how the exceptions help put in frame the</p> <p>5 things that are supposed to be regulated, you know.</p> <p>6 Especially on that -- on the -- on the voter registration</p> <p>7 and turnout activity issue.</p> <p>8 Any questions there so far?</p> <p>9 (No response.)</p> <p>10 Okay. Kathy? Thank you.</p> <p>11 Okay. We probably ought to talk about what is a</p> <p>12 public communication.</p> <p>13 This should be relatively familiar. The first two</p> <p>14 are similar to what we use under the Clean Elections Act for</p> <p>15 to define those activities that trigger the independent</p> <p>16 expenditure reporting requirements: Broadcast, cable,</p> <p>17 satellite, Internet, other digital method of reaching</p> <p>18 voters, newspaper, magazine, outdoor advertising, mass</p> <p>19 mailing or other mass distribution, telephone banking or</p> <p>20 other form of general public political advertising marketing</p> <p>21 regardlin -- regardless of medium.</p> <p>22 So, you know, again we know it's a paid</p> <p>23 communication to the public. So, you know, that generally</p> <p>24 it seems to me doesn't contemplate, you know, volunteer</p> <p>25 telephone banking as opposed to paid telephone banking. You</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>

<p style="text-align: right;">34</p> <p>1 have to have a -- you know, we're -- we -- this is not a 2 regulation that is about speech block speech, which is to 3 say speech itself, it's about money. And so, you know, so 4 it's paid communication of telephone banking. 5 That's a little different; I don't think there's 6 any existing, and Commissioner Chan, correct me if I'm 7 wrong, I don't think there's anything else in Arizona law 8 that talks about telephone banking specifically that I had 9 recalled, but... 10 COMMISSIONER CHAN: I don't think so. 11 MR. COLLINS: Yeah. And then -- and then 12 importantly, you know, it doesn't include -- and this has 13 been true under the Clean Elections Act as well, it does not 14 include communications between organizations and its 15 employees, stockholders or bona fide members as well. 16 So, for example, if you have a -- an organization, 17 League of Women Voters would be one that would be an 18 example, where you have members -- dues paying members or, 19 you know, bona fide members of that organization, 20 communicating with them is not going to be part of this; and 21 it never has been. 22 So Kathy, if we could -- yeah. 23 Okay. So we talked -- we want to talk a little bit 24 about who the filers are. These are what the statute refers 25 to as "covered persons." I chose to kind of say "filers" Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">35</p> <p>1 because it's sort of where the rubber meets the road. 2 You can see there the thresholds. The Commission 3 does have the authority to adjust those for inflation, which 4 will probably be in -- in the current climate important to 5 bear in mind. 6 "Filer" is a covered person. Person just -- just 7 so there's an asterisk there just to note that when we say 8 "person" here, we basically mean an entity like a natural 9 person or a corporate. You know, in general in the law, you 10 know, corporations are people, too. So, you know, that's 11 just to bear that in mind. 12 -- whose total campaign media expending or in-kind 13 acceptance is over the threshold. And this another, last 14 clause here will be something that you want to pay attention 15 here as we go forward: Accounting to all entities 16 established, financed, maintained, or controlled by that 17 person. 18 So that will be an area in which we will probably 19 want to add some clarity because determining who the person 20 is and what the entities established, financed, maintained 21 or controlled by that person are is going to be important. 22 There's some issues there around national 23 organizations in particular that might have -- that might 24 have organizations in Arizona, that might have other 25 organizations in other states and whether or not -- and what Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>
<p style="text-align: right;">36</p> <p>1 the reach of this -- of this statute would be in terms of 2 activities that are under one umbrella but done by some 3 subsidiary. 4 You know, to use one example if you had, you know, 5 Ohio Citizens For Good Stuff and Arizona Citizens For Good 6 Stuff, that's -- you know, and all -- both are organized 7 under the United States Citizens For Good Stuff, you know, 8 what -- what -- what will that mean as a practical matter 9 and what is the reach of an Arizona agency to get at 10 something that's out of state? 11 That's something I'm not expressing an opinion on 12 at this point, it's just an example of that's another area 13 where, you know, we're going to want to be as best we can -- 14 it's very clear statute, but we -- we want to make sure that 15 when we think through it, we account for all the different 16 factors that go into that, so. 17 And I want to make a quick point here: Complexity 18 is not vagueness, right? I mean, so -- so the fact that 19 a -- that there is broad language that requires you to 20 analyze multiple factors, whether it be personal 21 jurisdiction, you know, the limits of a state agency's 22 reach, as well as the actual relationship between 23 corporations and/or different kinds of entities, the fact 24 that that's required is -- is -- doesn't make anything 25 vague, it just means you have to move stepwise through your Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">37</p> <p>1 analysis. 2 You know, we see in a lot of the objections to this 3 Act, which, you know, I mean, whatever to make of them, an 4 effort to sort of conflate complexity and vagueness. These 5 terms are definable, you just have to actually make sure -- 6 and they are defined and they are influenced like all terms 7 in law by the underlying constitutional principles that we 8 operate under. 9 That cannot make something vague. That's just 10 what -- that's literally what, you know, it is to live in a 11 society governed by the rule of law. 12 Exclusions are individual personal money, 13 organizations that spend business income -- which we'll talk 14 about next time what business income is -- candidate 15 communities, that is important to note because this, you 16 know, is -- this is about independent spenders, referendum 17 spenders, but -- but a candidate committee is already 18 assumed to be do -- you know, giving -- giving the 19 information that they need to be giving under their more 20 rigorous existing disclosure obligations through the 21 Secretary of State or through, you know, or all through the 22 Secretary of State's portal. 23 And then small PACs, PACs under a certain 24 threshold. I think it's \$20,000 or something, but I didn't 25 put it in there as a note. Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>

<p style="text-align: right;">38</p> <p>1 Any -- any -- I'll stop there for a second. But</p> <p>2 any thoughts on...</p> <p>3 CHAIRMAN KIMBLE: No. No.</p> <p>4 MR. COLLINS: Okay. So, so now we get into and</p> <p>5 we'll hopefully get into some detail over the next couple of</p> <p>6 slides about what -- what the reporting looks like, right.</p> <p>7 First the report is due within five days of hitting</p> <p>8 the threshold. The report, the filers are going to -- and</p> <p>9 we will have some example on this. The filer information,</p> <p>10 the filer has got to identify the person who owns or</p> <p>11 controls traceable money. "Traceable" is a term of art in</p> <p>12 the Act, essentially any monies or any in-kind contribution</p> <p>13 that go to a covered person for campaign media spending and</p> <p>14 the donors have not opted out. We're going to talk a little</p> <p>15 bit more about donors opting out in the next slide, but</p> <p>16 basically it means monies that are there for campaign media</p> <p>17 spending.</p> <p>18 We also need the identity of the donor's entities</p> <p>19 that must maintain voter - Voters' Right to Know Act records</p> <p>20 and the relationship to the filer. We need to identify who</p> <p>21 keeps these records, and then we need the identity of at</p> <p>22 least one person who decides how to spend the relevant</p> <p>23 funds, and the amount of relevant dollars controlled by the</p> <p>24 filer on the date -- it should say date, I apologize -- on</p> <p>25 the date of the report.</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">39</p> <p>1 Those are a little abstract, the next couple slides</p> <p>2 are going to try to put some -- some concrete definition</p> <p>3 around that.</p> <p>4 So I think we'll -- if you don't mind, I just want</p> <p>5 to move to the next slide so we can sort of start that.</p> <p>6 So here we get into -- again, we'll get into this</p> <p>7 for detail in a second -- or more concretely in a second.</p> <p>8 The identity of each donor who contributed funds of more</p> <p>9 than \$5,000, date, amount, and source of money along with</p> <p>10 their intermediaries; and then of course the identity of the</p> <p>11 intermediary who transferred more than \$5,000 to the filer,</p> <p>12 and -- and -- and the date or -- I must have a -- must have</p> <p>13 had something on my mind -- amount and source.</p> <p>14 So for purposes of this presentation "state" means</p> <p>15 "date" unless it doesn't.</p> <p>16 And the identity of any person whose -- whose</p> <p>17 contribution are more than half the filer's campaign money</p> <p>18 at the beginning of the cycle.</p> <p>19 Report spending. The identity of each person who</p> <p>20 has paid \$10,000 or more during the cycle; and includes the</p> <p>21 date -- the date and the purpose of the spending, including</p> <p>22 the name of the candidate or ballot spender.</p> <p>23 So to back up one second and we'll see this more</p> <p>24 concretely in a minute, you've got a report that's got</p> <p>25 information about the filer; you've got information about</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>
<p style="text-align: right;">40</p> <p>1 the donor, and then you've got information about the</p> <p>2 spending.</p> <p>3 Now, again, in -- in the context of litigation,</p> <p>4 there's in the Complaint in the PI and the new Complaint,</p> <p>5 there's a lot of stuff about enormity and, you know,</p> <p>6 chilling speech and such. The reality is that the bulk of</p> <p>7 this information is no different than what candidates -- not</p> <p>8 candidates, what IEs were supposed to be reporting prior to</p> <p>9 the 2016 act that the legislature passed that you may recall</p> <p>10 essentially gave 501(c)(4)s a free pass. It was called at</p> <p>11 that time derogatively the Dark Money Bill, right.</p> <p>12 So -- so in 2016 the legislature and the</p> <p>13 then-Secretary of State, you know, pushed through a bill</p> <p>14 that sharply limited the amount of disclosure that could be</p> <p>15 made by a -- anyone who claimed and filed proper paperwork</p> <p>16 to be a social welfare organization under the IRS.</p> <p>17 The information here for the most part is</p> <p>18 information that previously would have been required for</p> <p>19 somebody who was -- who was playing heavily in -- in state</p> <p>20 elections. So, you know, my personal view is that, you</p> <p>21 know, that in a sense, those arguments therefore prove too</p> <p>22 much because what -- what -- what in 2016 was so -- I mean,</p> <p>23 certainly the State's argument for its 2016 law was that the</p> <p>24 IRS was somehow better equipped to regulate campaign</p> <p>25 spending than the State of Arizona and had more expertise to</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">41</p> <p>1 do so, which is not true.</p> <p>2 So anyway, so that's just trying to put this in</p> <p>3 some context as to how daunting this actually is versus what</p> <p>4 the reality is at the federal level and in many, many</p> <p>5 states; and certainly in Arizona prior to 2016.</p> <p>6 So Kathy, if we could -- I think we're going to get</p> <p>7 to the filing, to the slide I was promising.</p> <p>8 Okay. I guess I put this first.</p> <p>9 Real quick, donors rights. Donors -- filers have</p> <p>10 to inform donors in writing of the right to opt out before</p> <p>11 using money for campaign media spending.</p> <p>12 In my view what this creates is this says, look,</p> <p>13 the donors have a right to -- to know what's going on with</p> <p>14 their money, inform donors that the money that will be used</p> <p>15 for campaign spending and their identities may be disclosed.</p> <p>16 That can get -- they can get that at any time; they don't</p> <p>17 have to get it before they get the money, but they do</p> <p>18 have to get it before they spend the money.</p> <p>19 So they have 21 days to do it. If they -- for</p> <p>20 example, if I collected money from the, you know -- from the</p> <p>21 ABC Foundation, and I -- and I had -- wanted to use it for</p> <p>22 campaign media spending, I have to give them up to 21 days</p> <p>23 to give me consent; or if they give it to me right away,</p> <p>24 then that -- that's the earlier date.</p> <p>25 Donors who have given monies obtained elsewhere</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>

<p style="text-align: right;">42</p> <p>1 have to provide the identities of persons who gave more than 2 2,500 to the filer; same rule for in-kind; they have to keep 3 the records for five years.</p> <p>4 And then we will have, there's a specific provision 5 of the Voters' Right to Know Act that talks about giving -- 6 the Commission giving specific rules on notice to donors. 7 And right now we're looking at those from the perspective of 8 there are very -- there are a number of disclosures like 9 that, the IRS requires one if you're a social welfare 10 organization and the donation is not tax deductible, you 11 have to tell a person that. Likewise for the FEC, you know, 12 and for other candidate contributions in the state, you have 13 to say this was authorized or not authorized by the 14 candidate, for example. If it's an IE, it has to say not 15 authorized by any candidate; if it's candidate, has to say 16 authorized by, you know, you know, you know John Smith 17 for -- for Senate.</p> <p>18 COMMISSIONER PATON: I have a question. 19 MR. COLLINS: Sure. 20 COMMISSIONER PATON: Are we going to have to get a 21 lot more staff? 22 MR. COLLINS: Is that the question? 23 COMMISSIONER PATON: Uh-huh. 24 It seems like this is a whole bunch of stuff. 25 MR. COLLINS: Well, the -- so the staffing issue -- Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">43</p> <p>1 Mr. Chairman.</p> <p>2 COMMISSIONER PATON: What if these people are in 3 Nebraska somewhere?</p> <p>4 MR. COLLINS: Well, those are -- those are two -- 5 well, okay. So let me -- let me take the first one first 6 and then we'll...</p> <p>7 So staff-wise what we have -- what we are kind of 8 looking at is -- is, you know, what -- we don't want to put 9 the cart before the horse. You know, we have -- you know, I 10 may certainly believe that under the existing law of the 11 United States and the State of Arizona that the Voters' 12 Right to Know Act should pass constitutional muster; but, 13 nevertheless, the folks who brought these lawsuits are 14 serious people with serious arguments. And so, you know, 15 you know, assessing the staff requirements for that makes it 16 a little difficult because we don't know, we don't want to 17 hire people we're not going to need if something were to 18 go --</p> <p>19 COMMISSIONER PATON: Right. 20 MR. COLLINS: What I think we'll end up doing is 21 really evaluating this on a -- on a -- over time. 22 I will say this: For the most part in our 23 independent expenditure regulation -- and, you know, the 24 City of Phoenix had a similar law on the books and we'll see 25 a form that they've produced later on in this presentation, Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>
<p style="text-align: right;">44</p> <p>1 to the best of my knowledge, they did not have to grow their 2 staff incredibly large.</p> <p>3 You know, we -- we could theoretically add, you 4 know, an -- an investigator-type position under, you know, 5 Mike's division. That, you know, and then -- and then, you 6 know, we --</p> <p>7 COMMISSIONER PATON: Mike has a division? 8 MR. COLLINS: Well, Mike and Gina and Paula all 9 have divisions. 10 They do. 11 COMMISSIONER PATON: I mean, are -- are -- where -- 12 are we getting more funding I guess? 13 MR. COLLINS: Well, we -- there's -- there was a -- 14 there's a 1 percent -- 1 additional percent surcharge on the 15 fines and fees was added by the initiative to offset the 16 costs.</p> <p>17 Right now as far as our spending, we're pretty -- 18 it may not seem that way, but we're pretty frugal on most 19 things. I mean, in terms of -- in terms of our budget. We 20 have not really ever had -- we certainly have never had a 21 bloated staffing. I mean, we are -- we -- and we are also 22 able to outsource or hire a lot of contracting; we've been 23 able to contract for some of our more intensive 24 investigations. 25 Just to give you an example, I think this is before Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">45</p> <p>1 all of you were on the Commission, but we had a candidate 2 who we did a pretty thorough investigation of -- of his 3 campaign activities and how they, you know, how they used 4 certain funds they ought not to have been using, and they 5 therefore exceeded, at least in our view, the thresholds of 6 monies -- both the type and thresholds of money they were 7 entitled to take.</p> <p>8 We ran that investigation through -- we had an 9 outside -- we had an outside attorney that we hired, and we 10 had an outside private investigator that we hired who were 11 free of conflicts and -- and we were able to undertake it 12 that way.</p> <p>13 There are also going to be -- and this will get 14 into the regulatory issues that we're going to speak about 15 starting at the next Commission meeting, there are also some 16 issues about how we want to organize that itself, how much 17 that needs to go through the Commission, how much that needs 18 to be separated out from the Commission and how much, 19 frankly, that may end up relying on the Attorney General's 20 office. Those are all topics for discussion.</p> <p>21 And so the -- the staffing question and policy 22 unfor- -- on -- on -- I should say the rules related to 23 enforcement and the staffing are interrelated, and -- and -- 24 and since we're really in a position where we're still, you 25 know, kind of waiting for some things to gel before we can Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>

<p style="text-align: right;">46</p> <p>1 weigh in to how the enforcement works.</p> <p>2 COMMISSIONER PATON: It just seems a rather</p> <p>3 daunting all these things. It seems like it's tripling</p> <p>4 things to me.</p> <p>5 MR. COLLINS: Well, the real issue -- I mean, to</p> <p>6 your point, Mr. Chairman, Commissioner Paton, from my</p> <p>7 experience, the real issue is how good can we get a</p> <p>8 compli- -- how good would people be at compliance first.</p> <p>9 You know our approach over the past -- certainly</p> <p>10 the past eight years has been to try to get folks into</p> <p>11 compliance if we can; and many times that works. In other</p> <p>12 words, we will -- I'll give you an example. We will get</p> <p>13 someone -- someone will forward to us or we'll receive or</p> <p>14 I'll even receive at home sometimes a mailer that ought to</p> <p>15 have been -- and I'll check, I'll happen to look at the</p> <p>16 campaign finance reports and find out that -- that this</p> <p>17 person, that there should have been a report filed and it</p> <p>18 wasn't; and I'll pick up the phone and call and say, Hey,</p> <p>19 you know, are you aware of this obligation, and almost</p> <p>20 always that results in a filing, you know, without a</p> <p>21 complaint, without a formal proceeding.</p> <p>22 The -- the -- at the levels these are set at,</p> <p>23 \$50,000, \$25,000, they should be -- and I'm going to -- I'm</p> <p>24 going to put Mike on the spot, but I think they should be</p> <p>25 noticeable. So we're not --</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">47</p> <p>1 COMMISSIONER PATON: So -- so that bar is pretty</p> <p>2 high? So that shouldn't make it as high as I think it's</p> <p>3 gonna --</p> <p>4 MR. COLLINS: Yeah, right.</p> <p>5 COMMISSIONER PATON: -- the work?</p> <p>6 MR. COLLINS: Yes. And -- and, by and large, when</p> <p>7 we're able -- unless -- I mean, there are certain filers who</p> <p>8 are committed to not filing for reasons they don't believe</p> <p>9 it, they think it's an infringement on their constitutional</p> <p>10 rights, and those are the cases that tend to go -- you know,</p> <p>11 go on -- go on farther.</p> <p>12 But, you know, part of this is, and by -- what</p> <p>13 we've tried to do both with the Court and communications at</p> <p>14 least with the rep- -- the regulated community, move</p> <p>15 stepwise through this so that we can come out with a -- what</p> <p>16 we think is a lasting, stable set of guidelines and rules</p> <p>17 that should make compliance -- now, there are going to be</p> <p>18 people who are not going to -- who are going to -- who are</p> <p>19 going to make all kinds of claims about how this infringes</p> <p>20 on their rights; but, our goal would be to make sure that</p> <p>21 the actual physical act of compliance, like clicking and</p> <p>22 sending and all that stuff and -- and the rules themselves,</p> <p>23 are all clear enough that that part is not an issue, right?</p> <p>24 COMMISSIONER PATON: Okay.</p> <p>25 MR. COLLINS: We -- you know, people want to have</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>
<p style="text-align: right;">48</p> <p>1 arguments about how they feel like there's -- there's an</p> <p>2 affront to their First Amendment rights, that's one</p> <p>3 argument. What we would like to do is take the</p> <p>4 administrative proc- -- part of that, you know, it's just</p> <p>5 it's cumbersome or whatever, you know, off the table through</p> <p>6 technology outreach and education. And I -- I really do</p> <p>7 think we've had a pretty good success with -- with that for</p> <p>8 the most part.</p> <p>9 I mean, as you've seen, I mean, I'll just -- two</p> <p>10 examples. Number one, since 2014 the number of complaints</p> <p>11 that the Commission has received has dropped from like, I</p> <p>12 don't know, 40-something that year to like, what, 8 or less</p> <p>13 this year.</p> <p>14 MR. BECKER: Less than that.</p> <p>15 MR. COLLINS: And very few on the IE front at all,</p> <p>16 so.</p> <p>17 COMMISSIONER PATON: Okay.</p> <p>18 MR. COLLINS: So. It's a good point, we have to</p> <p>19 monitor it, absolutely.</p> <p>20 COMMISSIONER PATON: I guess -- I guess I didn't</p> <p>21 really think of the bar.</p> <p>22 I mean, what does that -- I mean, I don't know how</p> <p>23 much campaign things cost or whatever.</p> <p>24 MR. COLLINS: Sure.</p> <p>25 COMMISSIONER PATON: So most legislative districts</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">49</p> <p>1 probably don't even hit that in general maybe.</p> <p>2 MR. COLLINS: Yeah. They may hit the 25, but it's</p> <p>3 going to be in --</p> <p>4 COMMISSIONER PATON: Not from one party.</p> <p>5 MR. COLLINS: Right.</p> <p>6 COMMISSIONER PATON: Okay.</p> <p>7 MR. COLLINS: And it's going to be a handful of</p> <p>8 districts where the 25 -- yeah.</p> <p>9 COMMISSIONER PATON: Okay. So it will be like</p> <p>10 Corporation Commission and Governor or whatever?</p> <p>11 MR. COLLINS: That's -- that's my anticipation</p> <p>12 generally, yes.</p> <p>13 COMMISSIONER PATON: Okay. I guess I got too</p> <p>14 excited.</p> <p>15 MR. COLLINS: No, no. It's a good question.</p> <p>16 Absolutely.</p> <p>17 CHAIRMAN KIMBLE: Before we move on from this</p> <p>18 slide, Tom. If donors do want to opt out --</p> <p>19 MR. COLLINS: Yep.</p> <p>20 CHAIRMAN KIMBLE: -- what does that mean? Can</p> <p>21 their money not be used?</p> <p>22 MR. COLLINS: Correct.</p> <p>23 CHAIRMAN KIMBLE: Okay.</p> <p>24 MR. COLLINS: Now --</p> <p>25 CHAIRMAN KIMBLE: So they just can't opt out and</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>

<p style="text-align: right;">50</p> <p>1 then that's it, they can still use their money?</p> <p>2 MR. COLLINS: Well, no, they can opt out and they</p> <p>3 can't use money for campaign media spending.</p> <p>4 CHAIRMAN KIMBLE: Okay.</p> <p>5 MR. COLLINS: So let's say you give your money to a</p> <p>6 501(c)(4) that's purported primary purpose is not election</p> <p>7 activity. If your donor said don't use my donation for</p> <p>8 election activity, you can still use it for the social</p> <p>9 welfare purpose that the 501(c)(4) purports to have,</p> <p>10 absolutely.</p> <p>11 CHAIRMAN KIMBLE: Okay.</p> <p>12 MR. COLLINS: So, there may be some --</p> <p>13 CHAIRMAN KIMBLE: Okay.</p> <p>14 MR. COLLINS: -- there may turn out to be some</p> <p>15 nuances there in terms of -- you know, but I -- but I</p> <p>16 think generally speaking, it's pretty straightforward that</p> <p>17 don't spend your money on these -- on these categories;</p> <p>18 and -- and, you know, I anticipate that most of the -- I</p> <p>19 mean, I can tell you, I know for a fact from just our</p> <p>20 research from the communication with folks in the regulated</p> <p>21 community, they're -- they're conscious of that.</p> <p>22 You know, what they have said is to the effect of,</p> <p>23 you know, our biggest issue is really not so much the</p> <p>24 disclosure but the surprise disclosure. I mean, so -- so</p> <p>25 long as we're educating and we have -- you know, we have a</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">51</p> <p>1 good sense of what the policy is, I think that, you know, we</p> <p>2 should be able to at least anticipate that.</p> <p>3 CHAIRMAN KIMBLE: Okay. Thank you.</p> <p>4 MR. COLLINS: Kathy?</p> <p>5 Okay. So now we get into this example which is</p> <p>6 this is -- this is from the Stop Dark Money website that's</p> <p>7 the campaign website. We used this because rather than</p> <p>8 developing one of our own, we wanted to use this as an</p> <p>9 example. You know, obviously this is only for</p> <p>10 illustrative -- illustrative purposes, this is not to be</p> <p>11 interpreted as a, you know, any kind of, you know,</p> <p>12 stipulation to this is how it works or to -- or to any kind</p> <p>13 of adoption of Stop Dark Money's positions on anything at</p> <p>14 all.</p> <p>15 So but they set up a mock, you know, 501(c)(4),</p> <p>16 it's got a million dollars in traceable monies, that is to</p> <p>17 say monies that can be spent on campaign media spending;</p> <p>18 \$50,000 in nontraceable monies, that is to say monies where</p> <p>19 for a person has said I don't want my money spent on, you</p> <p>20 know, campaign media.</p> <p>21 It solicits the money, it notifies the potential</p> <p>22 donors that their donations may be used for campaign media</p> <p>23 spending unless they opt out; and then we see the breakdown</p> <p>24 of the next slide, if we could, of where that money came</p> <p>25 from.</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>
<p style="text-align: right;">52</p> <p>1 So it's a little hard to read. But essentially</p> <p>2 you've got -- and we'll break this down in the next couple</p> <p>3 slides.</p> <p>4 You got a million dollar to the bottom line.</p> <p>5 \$300,000 of that came from Moms for America of which, you</p> <p>6 know, there are -- Moms for America has a bunch of donors</p> <p>7 itself. And we'll -- and this, after we go through all</p> <p>8 this, it will tell us what happens to all these different</p> <p>9 organizations and entities and how they report it.</p> <p>10 They get another \$200,000 from an LLC; they get</p> <p>11 170,000 from Dads for America, which is a smaller group, a</p> <p>12 more grassroots group. We can see that because it says all</p> <p>13 of its donors except one gave less than \$2,500; they've got</p> <p>14 a \$130,000 from Acme for-profit contribution, that came from</p> <p>15 the business profits, right, so we'll see how they start to</p> <p>16 come together, that's business income; a hundred thousand</p> <p>17 dollars from a group called Our Best Days Ahead; then we</p> <p>18 have personal monies, Maeve Murphy, then Louis Garland who</p> <p>19 is a -- first money is a foreign national, then we have</p> <p>20 Louis Garland who has opted out of his money being used for</p> <p>21 campaign spending.</p> <p>22 So it gets to a million dollar. So we may have to</p> <p>23 go back to this, Kathy, I hope we don't but let's go to the</p> <p>24 next one to start to break it down.</p> <p>25 So, Acme. Acme is donated to its Americans for</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">53</p> <p>1 Security. It's donating its own business income. So what</p> <p>2 does that mean for them? They do not need to maintain</p> <p>3 transfer records because they're not taking in money that</p> <p>4 they're going to -- they're taking only their business. And</p> <p>5 they have no reports to file with the government. They have</p> <p>6 to tell Americans for Security that the source of its</p> <p>7 donation is its own business income, but they don't have any</p> <p>8 independent filing obligation.</p> <p>9 The individual donors who each gave less than</p> <p>10 \$5,000, they -- they don't have to provide Americans for</p> <p>11 Security with any information about the source of their</p> <p>12 donations at all.</p> <p>13 If we go to the next one.</p> <p>14 So then we get into some of these bigger sort of</p> <p>15 nested donations. Moms for America, Draylock, Dads for</p> <p>16 America and Our Best Days Ahead. Okay, all of those groups</p> <p>17 came from -- had money that came from -- if you remember the</p> <p>18 other slide, money that came from other original sources</p> <p>19 so -- and those entities are all major donors, that is</p> <p>20 they've given over \$5,000.</p> <p>21 Those entities themselves don't have a filing</p> <p>22 obligation to the government. Those entities themselves.</p> <p>23 But they do need to tell Americans for Security the original</p> <p>24 sources of their contributions and any intermediaries who</p> <p>25 transferred the money before it got to them. 'Kay?</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>

<p style="text-align: right;">54</p> <p>1 Okay. So that's starting to -- you know, that</p> <p>2 starts to sort of illustrate how this is going to work.</p> <p>3 The -- the filer, the end spender is asking information from</p> <p>4 the intermediary or, you know, secondary source about where</p> <p>5 they've gotten their money and that, and then we'll -- we'll</p> <p>6 see this illustrated further as we go to the forms.</p> <p>7 So if we can go to the next.</p> <p>8 Okay. Maeve Murphy under this example can't be</p> <p>9 designated as traceable monies because she's a foreign</p> <p>10 national and therefore a prohibited donor.</p> <p>11 At least I think that's still how we currently</p> <p>12 understand things, I'm not entirely sure. There may be some</p> <p>13 areas for candidates. Anyways, I think that's still true.</p> <p>14 And then Louis Garland said, Hey, I'm not traceable</p> <p>15 money because I'm not -- you're not -- I don't want you</p> <p>16 spending my money on campaign media spending. So his money</p> <p>17 can't be used for campaign media spending in Arizona, and he</p> <p>18 will not be identified in Americans for Security's reports</p> <p>19 required by the Voters' Right to Know Act, right. If you</p> <p>20 opt out, then your name is not going to end up in -- in --</p> <p>21 in any report.</p> <p>22 So we can go to the next one.</p> <p>23 So, okay, so this one is a little harder to see,</p> <p>24 but this is the Phoenix Election Funding Disclosure Report</p> <p>25 under the Phoenix Dark Money ordinance. And you can see</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">55</p> <p>1 there many of the things that we've talked about.</p> <p>2 And this is, you know, not necessarily -- I</p> <p>3 couldn't find, like, a perfect one that had, you know, every</p> <p>4 bell and whistle of -- because of the Phoenix election is</p> <p>5 more of a -- it's not going to be necessarily be drawing</p> <p>6 money from all over the country.</p> <p>7 But here you have the person reporting, which is</p> <p>8 Worker Power; you have the expenditure information, that's</p> <p>9 who they're spending the money on. We talked about that</p> <p>10 earlier; you under the VRKA, you've got to do anybody who is</p> <p>11 getting \$10,000 or more needs to be identified. You've got</p> <p>12 the identification of the candidate they're spending on, and</p> <p>13 as well as the -- what they have -- what they're doing.</p> <p>14 Then you've got original source of revenue</p> <p>15 information, AS- --AFSCME. That's the union, the state and</p> <p>16 muni- -- the state and municipal -- federal, state, county,</p> <p>17 municipal employee union. They're the -- they made a</p> <p>18 donation of -- I don't know, I can't see that far, I</p> <p>19 apologize.</p> <p>20 CHAIRMAN KIMBLE: It's 25,000.</p> <p>21 MR. COLLINS: 25,000 to -- to -- to Worker Power,</p> <p>22 right? So you see -- and then -- and then there's no</p> <p>23 intermediary there.</p> <p>24 So this is a pretty simple example, but it -- it at</p> <p>25 least illustrates what we're talking about in a pretty fine,</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>
<p style="text-align: right;">56</p> <p>1 in a pretty discrete way, you know. You've got who the</p> <p>2 organ- -- who the end spender is, who their vendor is, who</p> <p>3 the source is.</p> <p>4 Here AFSCME doesn't -- there's some</p> <p>5 nuances/differences between the state law and the Phoenix</p> <p>6 law but, essentially, you know, AFSCME would, you know, have</p> <p>7 to check that all of their -- you know, there's no other</p> <p>8 donor that they're required to report and there's no</p> <p>9 intermediary here.</p> <p>10 So that's -- so that's kind of how that -- that's</p> <p>11 kind of how that fits together.</p> <p>12 We'll -- we'll -- we'll have to spend more time on</p> <p>13 this, obviously, but the goal here was to try to say here</p> <p>14 are the pieces of the puzzle and then here's how they fit</p> <p>15 together on a form that we -- that we will be developing and</p> <p>16 we hope through our work with the Secretary of State's</p> <p>17 office over the next several months.</p> <p>18 I don't know, that may be hard to jump into</p> <p>19 questions right now, but certainly if you have some time to</p> <p>20 review this and have other questions, we want to spend some</p> <p>21 time on this at the next several meetings. This is really,</p> <p>22 like I said, just a part one.</p> <p>23 You know, I think that the broader view we got in</p> <p>24 December covered a lot of ground really fast; but I think</p> <p>25 that, you know, as we get towards implementing this in</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>	<p style="text-align: right;">57</p> <p>1 practice, we'll have to a real -- you, know we'll have to</p> <p>2 have -- I want you all to feel comfortable having as much</p> <p>3 information as you have and -- and fire away at the</p> <p>4 questions you have.</p> <p>5 If we can go to the next slide I wanted to note.</p> <p>6 Okay. So there's also as a backstop to all of this</p> <p>7 and to try to make sure that the public receives all the</p> <p>8 information that they are entitled to, there's an</p> <p>9 antistructuring provisional law and these are the elements</p> <p>10 of it.</p> <p>11 May not structure or assist in structuring or</p> <p>12 attempt or assist in an attempt to structure any</p> <p>13 solicitation, contribution, donation, expenditure,</p> <p>14 disbursement or other transaction to evade the reporting</p> <p>15 requirements of this chapter or any rule adopted under it.</p> <p>16 So in the Stop Dark Money campaign literature, they</p> <p>17 refer to banking-type regulations that, you know, go against</p> <p>18 structuring. You know, the famous type of example is you</p> <p>19 are trying to cover up a crime and you pay the person you</p> <p>20 committed the crime against. You know, let's say you give</p> <p>21 them \$999,000 a year for 20 years in an attempt to not, you</p> <p>22 know, trigger a -- the bank having to list you as a</p> <p>23 suspicious activity, right? I mean, that's -- you know, our</p> <p>24 longest serving Speaker of the House of the United States</p> <p>25 representative went to prison for that.</p> <p style="text-align: center;">Miller Certified Reporting, LLC www.MillerCertifiedReporting.com</p>

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1 So, you know, that -- that -- those are the kinds
2 of things that we're going to be looking for.
3 Obviously, you know, we've heard some thoughts and
4 concerns from folks. We've talked to the regulated
5 community about, well, what is an attempt to assist and is
6 that, I mean, if I'm a lawyer and I tell somebody "X," is
7 that structuring? I mean, so there may be some nuance there
8 that we want -- we want to create.
9 One of the things that's in the Clean Elections
10 Act, for example, itself, you know would -- would -- who has
11 a hook here, is that the Clean Elections Act itself says,
12 you know, bars the delaying of reporting a contribution
13 to -- to avoid, you know, some -- the reporting -- to get --
14 for example, if you want to report in the next reporting
15 period and you sort of delay the report, right, those kinds
16 of things are not, you know, generally accepted protocols to
17 ensure that folks are, you know, complying in good faith.
18 So that's -- and that's ironic as I'm sure you have
19 questions.
20 CHAIRMAN KIMBLE: Are there any questions or
21 comments from the Commissioners?
22 COMMISSIONER PATON: No.
23 COMMISSIONER CHAN: Mr. Chairman, I just want to
24 thank Tom because, you know, it's new law; it's very -- it's
25 got a lot of language and new provisions, and I think this

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1 Anyone on Zoom can raise their hand or do something
2 else to call attention to themselves.
3 (No response.)
4 I guess not. No one seems to want to make comment.
5 Item IX, motion to adjourn.
6 COMMISSIONER CHAN: Mr. Chairman, I move we
7 adjourn.
8 CHAIRMAN KIMBLE: Thank you, Commissioner Chan.
9 Is there a second?
10 COMMISSIONER PATON: I second it.
11 CHAIRMAN KIMBLE: Moved and seconded that we
12 adjourn. I'll call the roll.
13 Commissioner Chan.
14 COMMISSIONER CHAN: Aye.
15 CHAIRMAN KIMBLE: Commissioner Paton.
16 COMMISSIONER PATON: Aye.
17 CHAIRMAN KIMBLE: Mark Kimble votes aye.
18 We are adjourned. Thank you.
19 (Meeting adjourns at 10:50 a.m.)
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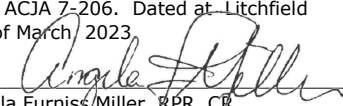
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1 overview is really helpful.
2 CHAIRMAN KIMBLE: Agree.
3 Anything else?
4 Commissioner Paton?
5 COMMISSIONER PATON: I just: Tag Mike, you're it.
6 CHAIRMAN KIMBLE: Thank you, Tom.
7 Item VII, discussion and possible action on 2023
8 chairperson.
9 It seems like we ought to wait until we have more
10 than three of us. I mean, kind of hate to overthrow
11 Chairman Meyer in his absence, so maybe we ought to at least
12 wait until he's here.
13 Any -- any objection to putting this off?
14 COMMISSIONER CHAN: No objection.
15 CHAIRMAN KIMBLE: Okay. Item VIII, public comment.
16 This is the time for consideration of comments and
17 suggestions from the public. Action taken as a result of
18 public comment will be limited to directing staff to study
19 the matter or rescheduling the matter for further
20 consideration and decision at a later date or responding to
21 criticism.
22 Please limit your comment to no more than two
23 minutes.
24 Does any member of the public wish to make comments
25 at this time either in person or on Zoom?

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C E R T I F I C A T E

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2
3 STATE OF ARIZONA)
4) ss.
5 COUNTY OF MARICOPA)
6
7 BE IT KNOWN that the foregoing proceedings were
8 taken before me, Angela Furniss Miller, Certified Reporter
9 No. 50127, all done to the best of my skill and ability;
10 that the proceedings were taken down by me in shorthand and
11 thereafter reduced to print under my direction.
12
13 I CERTIFY that I am in no way related to any of the
14 parties hereto nor am I in any way interested in the outcome
15 thereof.
16
17 I FURTHER CERTIFY that I have complied with the
18 requirements set forth in ACJA 7-206. Dated at Litchfield
19 Park, Arizona, this 27th of March, 2023.
20
21 
22 Angela Furniss Miller, RPR, CR
23 CERTIFIED REPORTER (AZ50127)
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I CERTIFY that Miller Certified Reporting, LLC, has
complied with the requirements set forth in ACJA 7-201 and
7-206. Dated at LITCHFIELD PARK, Arizona, this 27th of
March, 2023.


Miller Certified Reporting, LLC
Arizona RRF No. R1058

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CITIZENS CLEAN ELECTIONS COMMISSION
EXECUTIVE DIRECTOR REPORT
April 27, 2023

Announcements:

- The following jurisdictions are conducting an election on May 16th:
 - Town of Carefree
 - City of Tempe
 - Cochise County Jail District
 - City of Tucson
- All elections are ballot by mail, meaning every eligible, registered voter was automatically mailed a ballot beginning April 19th.

Voter Education Outreach:

- Avery met with the Inter-Tribal Council of Arizona to discuss outreach.
- Avery met with All Voting is Local to discuss potential collaborations and upcoming events.
- To coordinate outreach, Avery met with the Maricopa County Recorder's Office voter outreach manager.
- Avery continues to reach out to grassroots organizations to provide resources and trusted election information.
- Avery represents Clean Elections on a number of civic engagement committees and councils.
- Avery met with the librarian for the Tempe Public Library to discuss fall programming.
- Avery presented to the Ed Pastor Center's Spirit of Service Scholars on How to Run for Public Office.
- Gina presented to an international delegation on accountability and transparency in government, focusing on elections and voter education, campaign finance, and running for office. The delegation included approximately 30 visitors from around the world (see attachment for additional information).

Administration

- We hope to have Secretary of State's finalize the biennial adjustments to Clean Elections candidate spending limits soon.
- Staff from different parts of Clean Elections will participate with other election officials in the Election Procedures Manual Drafting process.
- Gov. Hobbs Bipartisan Elections Task Force met for the first time last week.
- Maricopa County released its report on ballot-on-demand printer issues from the 2022 election. The report is here:
<https://www.maricopa.gov/DocumentCenter/View/82599/Maricopa-Election-Report-and-Attachments>. A summary is here:
<https://www.maricopa.gov/CivicAlerts.aspx?AID=2690>.

Legal

- Legacy Foundation Action Fund v. Clean Elections
 - Our motion for reconsideration and amicus in support from the Attorney General were declined without comment.
- Center for Arizona Policy v. Fontes
 - Suit challenging Prop. 211, the Voters Right to Know Act, on state constitutional grounds. Superior Court for Maricopa County.
 - **Oral argument May 12. Please contact Tom for information.**
- Americans for Prosperity v. Meyer.
 - Suit challenging Prop. 211 on First Amendment grounds.
- The Power of Fives, LLC v. Clean Elections, CV2021-015826, Superior Court for Maricopa County & Clean Elections v. The Power of Fives, LLC et al. CV2022-053917, Superior Court For Arizona. Various motions pending.
- Lake v. Hobbs, CV23-0046-PR. Kari Lake appeal from trial court order affirming Governor Hobbs victory. Motions pending in Arizona Supreme Court.
- Kentch v. Mayes, Superior Court for Mohave County, a Rule 60 motion is pending. The motion is for a new trial based on Hamadeh's allegation of factual developments the court should have been aware of in this election challenge. Oral argument set for May.
- State ex rel. Mayes v. Cochise County et al., C20231630, Pima County Superior Court. The Attorney General's Office sought an injunction against Cochise County to block an agreement delegating election duties to the County Recorder. The judge declined to issue the injunction, indicating the agreement was a legal delegation. The Attorney General's Office has said it is not planning to appeal.
- Arizona Republican Party v. Fontes, CV23-0018-PR. The GOP et al. have filed a petition for review from the January memorandum decision in which the Court of Appeals rejected their challenge to vote by mail.
- Litigation challenging SB1485, HB2492 and HB2243, as well as SB1260 is ongoing.
- There are additional post-hearing and sanctions related litigation arising from other election law cases and contests in Superior Court and District Court.

Appointments

- No additional information at this time

Enforcement

- MUR 21-01, TPOF, pending.

Regulatory Agenda

The Commission may conduct a rulemaking even if the rulemaking is not included on the annual regulatory agenda.

The following information is provided as required by A.R.S. § 41-1021.02:

- Notice of Docket Opening:
 - R2-20-211. R2-20-220, R2-20-223- clarify roles of executive director and other representatives of the commission in enforcement proceedings. October 28, 2022
 - R2-20-305 & R2-20-306 provide for a process to address complaints against a commissioner. January 20, 2023.
- Notice of Proposed Rulemaking:
 - R2-20-211. R2-20-220, R2-20-223- clarify roles of executive director and other representatives of the commission in enforcement proceedings. October 28, 2022
 - R2-20-305 & R2-20-306- - provide for a process to address complaints against a commissioner. January 20, 2023
- Federal funds for proposed rulemaking: **None**
- Review of existing rules: **None pending**
- Notice of Final Rulemaking: R2-20-220, and R2-20-223 have been submitted to Secretary of State for publication.
- Rulemakings terminated: **Proposed termination of proposed amendments to R2-20-211 this agenda.**
- Privatization option or nontraditional regulatory approach considered: **None Applicable**

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International Visitor
Leadership Program
U.S. Department of State

Global Ties Arizona (GTAZ) proudly implements the International Visitor Leadership Program for central and northern Arizona on behalf of the U.S. Department of State. GTAZ works with local community partners to coordinate a local agenda tailored to the group's areas of interest and expertise. The International Visitor Leadership Program supports U.S. public diplomacy and furthers U.S. foreign policy objectives.

GTAZ looks forward to welcoming the following delegates and State Department appointed personnel to Arizona.

PROGRAM NAME / THEME: Transparency and Accountability in Government I
A Multi-Regional Project

PROGRAM OBJECTIVES: *The Department of State has outlined the following specific objectives for the project:*

- Enhance understanding of ethical systems for accountability and transparency in government in the United States;
- Explore the role of citizens, traditional and new media, academia, and civil society in fostering transparency and accountability in government, including highlight the mechanisms that enable citizens to foster good governance, ethical standards, and accountability at the local, state, and federal levels;
- Examine the effect of transparency on trade, investment, and economic development; and
- Address international efforts to strengthen the integrity of governments.

DATES OF VISIT TO ARIZONA: April 4 - April 8, 2023

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LIST OF PARTICIPANTS

Bulgaria	Mr. Georgi Valentinov GEORGIEV Chairman, Sofia City Council
Cambodia	Mr. Pisey PECH Executive Director, Transparency International Cambodia
Egypt	Mr. Mohamed Ahmed Abdelgaber Ahmed NORALLA Chief of Staff, Office of Senator Mohamed Farid
Georgia	Mr. Giorgi KLDIASHVILI Executive Director, Institute for Development of Freedom of Information (IDFI)
Hungary	Ms. Fanni MATYASOVSKI Urgent Actions Coordinator, Amnesty International
Italy	Ms. Letizia PERINI City Councilor, City of Florence
India	Ms. Amrita JOHRI Lead, Information and Research, Satark Nagrik Sangathan
Kazakhstan	Ms. Jamilya MARICHEVA Owner, Editor in Chief, ProTenge media
Kenya	Mr. Stephen Kangethe KARUGA Senior Legal Officer, Ethics and Anti-Corruption Commission
Kosovo, Republic of	Ms. Merita SEFAJ Investigator, Police Inspectorate of Kosovo
Liberia	Mr. Harold Marvin AIDOO Executive Director, Integrity Watch Liberia

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Malawi

Ms. Bertha PHIRI

Executive Director, Malawi Economic Justice Network

Moldova

Mr. Andrei CHISTOL

State Secretary, Ministry of Culture of the Republic of Moldova

Nepal

Mr. Ajaya Babu SHIWAKOTI

Central Member, Nepali Congress Party

Pakistan

Ms. Samina SHABIR

Cantonment Executive Officer (CEO), Cantonment Board Clifton and Cantonment Board Manora, Karachi

**Republic of
North Macedonia**

Ms. Tatjana POPOVSKA

Special Advisor and Chief of Cabinet of the Deputy Prime Minister for Good Governance, Government of the Republic of North Macedonia

South Sudan

Ms. Catherine Charles Modi VITALIANO

Programmer Officer, South Sudan Democratic Engagement, Monitoring and Observation Program

Taiwan

Mr. Kun Feng LIN

Director, Comprehensive Department of Keelung City Government

Timor-Leste

Mr. Abel AMARAL

Executive Director, Fundasaun Mahein

Trinidad and Tobago

Ms. Devala GOSINE

Manager, Customs and Excise Division of Trinidad and Tobago

Tunisia

Ms. Amal FADHEL

Head of Value Added Tax Department, Tunisian Ministry of Finance

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BIOGRAPHIC INFORMATION

Bulgaria

Name: **Mr. Georgi Valentinov GEORGIEV**

Present Position: Chairman, Sofia City Council

Concurrent Position: Assistant Professor, Commercial and Civil Law, Sofia University

Languages: English

U.S. Travel: No previous U.S. travel

Professional Background: Mr. Georgi Georgiev has been serving as Chairman of the Sofia City Council, the local governing body of the Bulgarian capital city, since 2021. He was first elected as a council member in 2019 and served as the Budget Committee Chair until 2021. Mr. Georgiev has been proactive on issues surrounding energy security and curbing Russian influence. He holds a master's degree in law from King's College London and is an expert in commercial law.

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Cambodia

Name: **Mr. Pisey PECH**

City: Phnom Penh

Present Position: Executive Director, Transparency International Cambodia

Languages: Khmer (primary), English

U.S. Travel: No previous U.S. travel

Professional Background: Mr. Pisey Pech is the Executive Director of Transparency International Cambodia. He leads program staff in pursuit of the organization's strategic goals: to increase engagement with good governance principles, accountability, and anti-corruption. Mr. Pech's area of expertise lies in economic and social affairs, public financial management, policy reform, corporate integrity systems, good governance, social accountability, and aid effectiveness. His organization is one of the key NGO players in transparency efforts within Cambodia and internationally.

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Egypt

Name: **Mr. Mohamed Ahmed Abdelgaber Ahmed NORALLA**

City: Alexandria

Present Position: Chief of Staff, Office of Senator Mohamed Farid

Concurrent Position: Quality and Strategic Management Specialist, Loops Live

Languages: Arabic (primary), English

U.S. Travel: No previous U.S. travel

Professional Background: Mr. Mohamed Abdel Gaber serves as the Chief of Staff for Senator Mohamed Farid, deputy chair of the Egyptian Senate's Human Rights Committee. Mr. Abdel Gaber was a founding member of the Alexandria branch of the Al Dostour Party, led by former director general of the International Atomic Energy Agency (IAEA) and Nobel Peace Prize laureate, Dr. Mohamed ElBaradei. Mr. Abdel Gaber received his Bachelor of Science in commerce and economics from Alexandria University in 2016. Following service in the military, he became a founding member of the Cairo Liberal Club (CLC), a youth civil society organization focused on promoting liberal public policies that contribute to the prosperity of Egypt and Egyptians. He has represented CLC at training and networking events for NGOs and think tanks hosted in Beirut by Liberal International, the pre-eminent network for liberal parties and liberalism founded at Oxford University.

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Georgia

Name: **Mr. Giorgi KLDIASHVILI**

City: Tbilisi

Present Position: Executive Director, Institute for Development of Freedom of Information

Languages: Georgian (primary), English

U.S. Travel: District of Columbia, Illinois, New York

Professional Background: Mr. Giorgi Kldiashvili is the Executive Director and Founder of the Institute for the Development of Freedom of Information (IDFI). IDFI is a leading civil society organization focusing on issues of open governance, including anti-corruption and access to public information. Mr. Kldiashvili has more than 15 years of experience studying and developing transparency and anti-corruption policies in Georgia and internationally. Mr. Kldiashvili is the author of publications on a range of topics including access to information, anti-corruption policy and good governance, accountability and transparency, e-Governance and e-Democracy, open data, civil service and public administration, media and internet. Further, Mr. Kldiashvili was a CSO Steering Committee Member of the Open Government Partnership (OGP) from 2017-2020.

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Hungary

Name:

Ms. Fanni MATYASOVSKI

City:

Budapest

Present Position:

Urgent Actions Coordinator, Amnesty International

U.S. Travel:

No previous U.S. travel

Professional Background:

Ms. Fanni Matyasovszki is an NGO worker at Amnesty International's Hungary chapter. She used to work as an investigative journalist at Direkt36, one of Hungary's top investigative journalism centers. Direkt36 was part of the international journalism consortia that released the Pandora Papers story, and separately, the Pegasus spyware story in 2021. Ms. Matyasovszki has authored several articles on transparency issues and Covid-19.

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Italy

Name: **Ms. Letizia PERINI**

City: Florence

Present Position: City Councilor, City of Florence

Concurrent Position: Deputy Leader of the Democratic Party

Languages: Italian (primary), English

U.S. Travel: No previous U.S. travel

Professional Background: Ms. Letizia Perini is a member of Florence's Democratic Party (PD), where she concurrently holds positions within the city and municipal leadership. Ms. Perini serves as a City Councilor in Mayor Nardella's cabinet; the deputy leader of the PD in Florence; and the Councilor for Culture, Youth Policies, and Environmental Policies for the Metropolitan City of Florence. Ms. Perini previously served as the assistant to the Mayor of the Comune of Bagno a Ripoli from 2015-2016. She went on to serve as a "Consigliera di quartiere" (Quartiere 3 in Florence) from 2014-2019. In her capacity as the Metropolitan City of Florence's Councilor for Culture, Ms. Perini is looking to expand cultural bridges. In October 2021, Ms. Perini hosted a friendship agreement signing between the Lakota Nation and the Region of Tuscany, the Metropolitan City of Florence, and the University of Florence's UNESCO Transdisciplinary Chair of Human Development and Culture of Peace. As a result of Ms. Perini's work, every year in October, the city will celebrate the Day of Remembrance for the Lakota people and all Native Americans.

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India

Name: **Ms. Amrita JOHRI**

City: New Delhi

Present Position: Lead, Information and Research, Satark Nagrik Sangathan

Concurrent Position: Committee Member, National Campaign for Peoples' Right to Information

Languages: Hindi (primary), English

U.S. Travel: District of Columbia, Georgia

Professional Background: Ms. Amrita Johri leads research and policy analysis for the NGO Satark Nagrik Sangathan (SNS), a citizens' advocacy group that focuses on the promotion of transparency and accountability in government. Ms. Johri created and implemented citizen-led campaigns for the enactment of anti-corruption and grievance legislation to address peoples' complaints in accessing essential government services. At SNS, she works to help poor and marginalized communities to use the Right to Information Act (RTI Act) to hold the government accountable for the delivery of basic rights, entitlements, and services such as rations, pensions, health, sanitation, and education programs. Ms. Johri is also a member of the National Campaign for Peoples' Right to Information. She has co-authored national reports on the law's implementation and has been involved in litigation to ensure the proper functioning of information commissions, the apex appellate authority under the RTI Act.

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Kazakhstan

Name: **Ms. Jamilya MARICHEVA**

City: Almaty

Present Position: Owner and Editor in Chief, ProTenge Media

Concurrent Position: Media Trainer and Social Media Consultant

Languages: Russian (primary), English

U.S. Travel: No previous U.S. travel

Professional Background: Ms. Jamilya Maricheva is the creator, owner, and editor of ProTenge Media, which has become an influential media source for informing, educating, and mobilizing citizens against government misappropriations. Ms. Maricheva and her team have effectively stopped the misuse of hundreds of millions of tenge in budget money. The ProTenge team developed proposals to change the openness policy of the Development Bank of Kazakhstan, which were implemented in 2022. Ms. Maricheva was awarded the State Department 2021 Anti-Corruption Champion Award.

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Kenya

Name:

Mr. Stephen Kangethe KARUGA

Present Position:

Senior Legal Officer, Ethics and Anti-Corruption Commission

Languages:

Kikuyu (primary), English, Swahili/Kiswahili

U.S. Travel:

No previous U.S. travel

Professional Background:

Mr. Stephen Karuga serves as Senior Legal Counsel of Kenya's Ethics and Anti-Corruption Commission (EACC), a public body established in 2011. Mr. Karuga also serves as an Executive Assistant to the Secretary and Chief Executive Officer of the Commission. In this capacity, Mr. Karuga is one of the highest-ranking Kenyan officials in the anti-corruption field, serving as a key liaison between the EACC and international law enforcement partners including American diplomatic missions abroad, such as the Bureau of International Narcotics and Law Enforcement Affairs (INL), the Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT), as well as the United Nations Office on Drugs and Crime (UNODC) and others.

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Kosovo, Republic of

Name: **Ms. Merita SEFAJ**

City: Prishtina

Present Position: Investigator, Police Inspectorate of Kosovo

Languages: Albanian (primary), English

U.S. Travel: Alaska

Professional Background: Ms. Merita Sefaj serves in the investigation unit of Kosovo's Police Inspectorate (PIK), where she has been involved in several major cases related to transparency and accountability. In her role, Ms. Sefaj oversees the investigation of police corruption and misuse of authority by members of the Kosovo Police.

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Liberia

Name: **Mr. Harold Marvin AIDOO**

City: Monrovia

Present Position: Executive Director, Integrity Watch Liberia

Languages: English

U.S. Travel: No previous U.S. travel

Professional Background: Mr. Harold Marvin Aidoo is the Founder and Executive Director of Integrity Watch Liberia, a civil society organization (CSO) working to promote inclusive development, democratic governance, gender equity, and respect for the rule of law. Mr. Aidoo founded Integrity Watch in 2021 after spending six years working for the Institute for Research and Democratic Development (IREDD), a CSO devoted to promoting democracy and development. Mr. Aidoo and his organization seek to use technology tools to help bring better governance and accountability to Liberia. Within the first year of founding Integrity Watch, Mr. Aidoo's team built a reporting app (Citizens Corruption Reporting Platform) that allows Liberian citizens to report acts of corruption directly to Integrity Watch and the Liberia Anti-Corruption Commission. Mr. Aidoo also organized a Bipartisan Legislative Caucus committed to promoting fiscal transparency, particularly regarding natural resource concession agreements. Under Mr. Aidoo's guidance, Integrity Watch is working on government expenditure tracking through budget analysis.

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Malawi

Name: **Ms. Bertha PHIRI**

City: Lilongwe

Present Position: Executive Director, Malawi Economic Justice Network

Languages: English

U.S. Travel: District of Columbia

Professional Background: Ms. Bertha Phiri is the Executive Director of the Malawi Economic Justice Network (MEJN). MEJN is a coalition of civil society organizations championing participatory economic governance, transparency, and accountability. It serves as the principle CSO network championing these issues in Malawi. MEJN's overall goal is to ensure government economic policies and strategies benefit vulnerable Malawians. As the head of MEJN, Ms. Phiri is among the key leaders in the transparency and accountability sector.

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Moldova

Name: **Mr. Andrei CHISTOL**

City: Chisinau

Present Position: State Secretary, Ministry of Culture of the Republic of Moldova

Languages: Romanian (primary), English, French, Russian

U.S. Travel: No previous U.S. travel

Professional Background: Mr. Andrei Chistol was reappointed as the State Secretary of the Ministry of Culture in 2022, a role he held previously in 2019-2020. He has also served as Ministry Coordinator since 2008, supporting the creation of ARTCOR Creative Industries Center and MEDIACOR Media Center. Mr. Chistol implemented the partnership agreement with the National Association for Inbound and Domestic Tourism in Moldova (ANTRIM), the Activity to Support Competitiveness in Light Industry and Tourism in Moldova (MCTA), and the Start Innovation in the Creative Industries and Digital Media project funded by USAID.

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Nepal

Name:

Mr. Ajaya Babu SHIWAKOTI

Present Position:

Central Member, Nepali Congress Party

Concurrent Position:

Freelance Activist

Languages:

Nepali (primary), English

U.S. Travel:

No previous U.S. travel

Professional Background:

Mr. Ajaya Babu Shiwakoti is a central member of the Nepali Congress Party, as well as a freelance activist, focusing on information accessibility, transparency, and accountability. Mr. Shiwakoti's advocacy work has resulted in high level government officials being held accountable, including a sexual assault case against the sitting speaker and a corruption case against the sitting minister. Mr. Shiwakoti consistently uses his outreach skills to counter the People's Republic of China's disinformation regarding the Millennium Challenge Corporation Compact. In his party's election in early 2022, Mr. Shiwakoti was elected with the highest number of votes. Mr. Shiwakoti actively encourages members of marginalized communities to participate in the development planning and budgeting process.

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Pakistan

Name: **Ms. Samina SHABIR**

City: Karachi

Present Position: Cantonment Executive Officer, Cantonment Board Clifton and Cantonment Board Manora, Karachi

Languages: Urdu (primary), English

U.S. Travel: No previous U.S. travel

Professional Background: As a Cantonment Executive Officer, Ms. Samina Shabir plays an essential role in providing basic municipal, health, and education services to the Pakistani public, as well as collecting taxes and fees to support the administration of the cantonment. Ms. Shabir joined the Military Lands and Cantonment Department in 2012. She manages over 100 employees, and her cantonments provide services to over 106,000 community members. During the COVID-19 crisis, she played a leadership role in educating her organization on the risks posed by the pandemic, performing outreach to educate the public about the virus and measures they could take to prevent its spread, and acquiring and providing personal protective equipment to doctors and other healthcare providers within her jurisdiction.

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Republic of North Macedonia

Name: **Ms. Tatjana POPOVSKA**

City: Skopje

Present Position: Special Advisor and Chief of Cabinet of the Deputy Prime Minister for Good Governance, Government of the Republic of North Macedonia

Languages: Macedonian (primary), English

U.S. Travel: District of Columbia

Professional Background: Ms. Tatjana Popovska joined the Deputy Prime Minister for Good Governance, Slavica Grkovska's, cabinet as Chief of Staff and Special Advisor in March 2022. Her current role oversees vital issues related to good governance, anti-corruption, and rule of law goals and objectives. Ms. Popovska has been taking the lead on North Macedonia's Summit for Democracy commitments. Her job is to inform, advise, and coordinate good governance policy development and to ensure interaction with a broad array of government agencies, civil society, the media, and the public.

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South Sudan

Name: **Ms. Catherine Charles Modi VITALIANO**

City: Juba

Present Position: Program Officer, South Sudan Democratic Engagement, Monitoring and Observation Program

Languages: Other (primary), English

U.S. Travel: No previous U.S. travel

Professional Background: Ms. Catherine Charles Modi Vitaliano is a civil society representative at the Public Financial Management Oversight Committee (PFM-OC). She represents the South Sudan Democratic Engagement Monitoring and Observation Program (SSUDEMOP). Her areas of expertise are governance and policy analysis with a special focus on women and young women. Ms. Vitaliano is a trained lawyer and human rights defender. In her role as technical support to the PFM-OC, Ms. Vitaliano uses her expertise to demonstrate how young women can participate in shaping the national agenda.

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Taiwan

Name: **Mr. Kun-Feng LIN**

City: Keelung

Present Position: Director, Department of Comprehensive Development, Keelung City Government

Languages: Chinese (Mandarin) (primary), English

U.S. Travel: No previous U.S. travel

Professional Background: Mr. Kun-Feng Lin is the Director of the Department of Comprehensive Development for the Keelung City Government. Through his career in politics and his experience as a former reporter and political talk show host, he has developed an expertise in media, politics, civic engagement, and technology. Mr. Lin entered public service by joining the 2018 reelection campaign of Taipei Mayor Ko Wen-je and subsequently becoming the official municipal spokesperson. In his current role, Mr. Lin oversees citizen outreach and civic engagement on behalf of the municipal government, such as making information on public services and official policies accessible. Mr. Lin is working on completing a master's degree. His thesis examines how the Taiwanese public accesses information on politics and government, particularly via digital platforms.

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Timor-Leste

Name:

Mr. Abel AMARAL

City:

Dili

Present Position:

Executive Director, Fundasaun Mahein

Languages:

Tetum (primary), English, Indonesian

U.S. Travel:

No previous U.S. travel

Professional Background:

Mr. Abel Amaral has been working at the Fundasaun Mahein since 2019 and serves as the Interim Executive Director. Fundasaun Mahein is a nonpartisan organization that seeks to bolster the democratic process and forge enduring solutions to challenges in the security sector. The organization's mission is to assist in increasing the legitimacy and capacity of Timor-Leste's security sector through citizen participation in the development of relevant legislation, policy, and budgets.

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Trinidad and Tobago

Name: **Ms. Devala GOSINE**

City: San Fernando

Present Position: Manager, Customs and Excise Division of Trinidad and Tobago

Languages: English (primary)

U.S. Travel: No previous U.S. travel

Professional Background: Ms. Devala Gosine is a second level manager within Trinidad and Tobago's Customs and Excise Division. In her role, Ms. Gosine has improved customs capabilities by applying regulations and rules to introduce automation and move away from paper-based systems, which are prone to corruption. Ms. Gosine holds a bachelor's degree in computing and information systems from the University of London and a master's degree in information technology from the University of Liverpool.

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Tunisia

Name: **Ms. Amal FADHEL**

City: Tunis

Present Position: Head, Value Added Tax Department, Tunisian Ministry of Finance

Languages: Arabic (primary), English, French

U.S. Travel: No previous U.S. travel

Professional Background: Ms. Amal Fadhel serves as the Financial Services Advisor at the Ministry of Finance, Studies and Tax Legislation Division in Tunisia. She has been involved in Tunisian civil society and is affiliated with several Tunisian NGOs. She is interested in contributing to future collaborations with the US Department of Agriculture on issues of mutual interest, including food security.

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ACCOMPANIED BY U.S. DEPARTMENT OF STATE APPOINTED LIAISONS:

- Brion JOHNSON
- Agota KUPERMAN
- Venci KURCISKI
- Ljubinka RUZICA
- Dragoslava VITOLIC-DJOKOVICH

A NOTE ABOUT INTERPRETATION:

- All members of the group speak English however, please keep in mind that English may not be their first language. Please be mindful of this when presenting to and interacting with members of the group. Please speak at a slower pace, pause after complete thoughts and sentences, and try to avoid the use of acronyms, idioms, or slang.

LOCAL PROGRAM STAFF:

GLOBAL TIES ARIZONA

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Phoenix, AZ 85014

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Kristin Allen, Executive Director

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Paige Holtsclaw, Program Coordinator

Email: Paige@globaltiesarizona.org | Cell: 207-317-6925

Tracking List: 2023 Bills

HB2017 - Public officers; residency requirements

Sponsor

Rep. Timothy M. Dunn (R)

Summary

The deputy or assistant of an elected officer of Arizona is not required to be an Arizona resident, but is required to be a U.S. citizen.

Action Taken

Passed House Government 9-0

Failed in the House 15-45

HB2072 - Voter registration; same day

Sponsor

Rep. Laura Terech (D)

Summary

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

HB2073 - Automatic voter registration

Sponsor

Rep. Laura Terech (D)

Summary

Every person who is applying for a driver license or renewal, including a nonoperating identification license or renewal, or who is making changes to drive license information and who is otherwise qualified to register to vote must be registered to vote automatically on completion of the license application unless the applicant declines to register. A person who is not qualified to register to vote and who unknowingly registers under this provision is not guilty of false registration or false swearing. Effective January 1, 2024.

HB2078 - Counties; elections; state audits

Sponsor

Rep. Lupe Diaz (R)

Summary

An "eligible person" (defined as a candidate in the election, a county political party chairperson, or the chairperson of a political committee that supports or opposes a ballot measure that was on the ballot in the election) is authorized to make a written request to the county recorder or other officer in charge of elections for an explanation and supporting documentation regarding an action taken by an election officer that appears to violate statute, irregularities in precinct or voting center results, and/or inadequacy of or irregularity in documentation required to be maintained by statute. The county recorder or other officer in charge of elections is required to provide the requested explanation and supporting documentation within 20 days after the request. If the eligible person is not satisfied, the person is authorized to request an additional explanation and supporting documentation, which the county recorder or other officer in charge of elections must provide within 10 days. If the eligible person is not satisfied with the additional explanation, the person is authorized to submit a written request to the Secretary of State regarding the requests. The Secretary of State is required to review the matters in question and may request additional information from the county recorder or other officer in charge of elections, which must be responded to within 30 days. If not satisfied with the response, the Secretary of State is authorized to conduct an audit of the claimed actions, irregularities, or inadequacies of the county recorder or other officer in charge of elections. The county recorder or other officer in charge of elections is required to remedy matters specified in the Secretary of State's findings within 30 days. The Secretary of State is authorized to assess a civil penalty of no more than \$500 for each unresolved finding against the county recorder or other officer in charge of elections.

Action Taken

Passed House Municipal Oversight & Elections 6-4

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

Passed Senate Elections 5-3

HB2096 - Early ballots; Friday deadline

Sponsor

Rep. Selina Bliss (R)

Summary

Early ballots are no longer allowed to be deposited at any polling place on election day, and instead are required to be delivered in person to the office of the county recorder or to a polling place or other voting location by 5:00 PM on the Friday before election day. Repeals statutes governing on-site tabulation of early ballots.

HB2116 - Election laws; revisions; appropriation

Sponsor

Rep. Athena Salman (D)

Summary

Numerous changes to statutes relating to election law. A conviction for a felony no longer suspends the person's right to vote. For an early ballot issued at an early voting location, if the voter presents proper identification, the county recorder is allowed to tabulate the voter's ballot without conducting signature verification on the ballot affidavit. The hours for on-site early voting are extended through 5:00PM on the Monday preceding the election, instead of 5:00PM on the Friday preceding the election, and emergency voting during that time period is eliminated. If a county recorder determines that a provisional ballot voter is not properly registered to vote, the county recorder is required to use the information from the provisional ballot to register the person to vote for subsequent elections. An electronic pollbook used in Arizona is required to comply with the requirements in the election instructions and procedures manual adopted by the Secretary of State. Appropriates \$100,000 from the general fund in each of FY2023-24 and FY2024-25 to the Secretary of State to provide risk-limiting audit grants to officers in charge of elections to conduct risk-limiting audits for the 2024 general election instead of a hand count audit. The Secretary of State is required to report any findings and recommendations related to the use of risk-limiting audits to the Legislature by March 31, 2025.

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HB2124 - Ballot measure amendments

Sponsor

Rep. Athena Salman (D)

Summary

Various changes to statutes relating to initiative and referendum measures. Repeals statute requiring constitutional and statutory requirements for statewide initiative measures to be strictly construed and requiring persons using the initiative process to strictly comply with those constitutional and statutory requirements. At any time before a person or organization submits an application for initiative petition or referendum petition, a political committee that intends to file that application is allowed to submit the proposed description of the principal provisions of the measure to the Attorney General for a determination of whether the description is lawful and sufficient. The Attorney General is required to approve or reject the description within ten days after submittal. If rejected, the Attorney General must state the reasons for the rejection. If approved, any challenge to the description must be filed in the superior court within ten days after the Attorney General's approval. Repeals statute allowing a political committee that intends to support or oppose an initiative or referendum measure to submit a copy of the text of the proposed law, referral or constitutional amendment to the director of the Legislative Council to prepare recommendations to improve the text of the proposed measure. Contains a legislative intent clause.

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HB2133 - Candidates; missed filings; termination

Sponsor

Rep. Athena Salman (D)

Summary

If a candidate committee fails to file a timely and complete campaign finance report within five days after the filing deadline, the candidate's candidacy is terminated by operation of law, is prohibited from making any further expenditures, and the candidate is no longer eligible to be a candidate for the office for which the candidate committee is established.

Effect on CCEC

Could lead the Commission to require funding to be returned, require new rules to determine how much must be returned, timeframe of the return, etc. Could lead to confusion with the pamphlet and debates regarding who is attending, why the candidate is not in the pamphlet, etc.

HB2134 - Campaign finance; caregiving expenditures

Sponsor

Rep. Athena Salman (D)

Summary

Declares that a candidate committee's payment for direct care, protection and supervision of a child or other individual for whom the candidate has direct caregiving responsibilities is a lawful expenditure of candidate committee monies. A legislative intent section states that this change is clarifying and not substantive.

Effect on CCEC

Would require updating eligible uses of the CCEC funding.

HB2143 - Rulemaking review; time frame

Sponsor

Rep. Timothy M. Dunn (R)

Summary

When the Legislature has granted a one-time rulemaking exemption to an agency, the agency is required to review any rule adopted under the exemption within six months after the rule was adopted, reduced from one year, to determine whether it should be amended or repealed.

Action taken

Passed House Government 9-0

Passed the House 60-0 and was sent to the Senate

A strike everything amendment was added and this bill is now about water usage.

HB2144 - Open meetings; capacity; posting; violation

Sponsor

Rep. Timothy M. Dunn (R)

Summary

All public bodies are required to provide for an amount of seating sufficient to accommodate the reasonably anticipated attendance of all persons desiring to attend the deliberations and proceedings, when feasible. The agenda for a public meeting is required to include notice of the time that the public will have physical access to the meeting place. A head of a public body that violates this requirement is liable for a civil penalty as provided in statute for open meeting law violations.

Effect on CCEC

Already provide numerous seats for the public both in person and virtually.

Action Taken

Passed House Government 6-3

Passed the House 60-0 and was sent to the Senate

Passed Senate Government 8-0

HB2155 - Middle school students; civics; instruction.

Sponsor

Rep. David Livingston (R)

Summary

Establishes the Arizona Civics Education and Leadership Development Program within the Arizona Department of Education (ADE) to provide civics education and leadership development training to middle school students who are enrolled in a school district, charter school, or private school in Arizona. ADE is required to develop procedures for eligible nonprofit organizations to apply to be instructional service providers for the Program, and eligibility requirements are listed. By November 1 of each year, each service provider is required to report specified information on the Program to ADE, and ADE is required to compile the reports and submit them to the Governor and the Legislature. Appropriates \$300,000 from the general fund in FY2023-24 to the newly established Arizona Civics Education and Leadership Development Fund for the Program.

Effect on CCEC

Would be an opportunity to use CCEC civics program that has already been developed.

HB2229 - Legislative intent; secrecy; mail voting

Sponsor

Rep. Liz Harris (R)

Summary

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

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HB2305 - Ballots; signature verification; observers

Sponsor

Rep. Cory McGarr (R)

Summary

The county recorder and county officer in charge of elections are required to allow representatives of the two largest political parties entitled to continued representation on the ballot to observe each stage of the signature verification process for early, provisional and conditional provisional ballots.

Action Take

Passed House Municipal Oversight & Elections 6-4

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

Passed Senate Elections 5-3

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

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HB2306 - Ballot custody; verification; observers

Sponsor

Rep. Cory McGarr (R)

Summary

The county recorder and the county officer in charge of elections are required to maintain an accurate log of the chain of custody for unvoted and voted ballots. The chain of custody log must begin when unvoted ballots are received by the county recorder and county officer in charge of elections from the ballot printer and continue until completion of the canvass. Representatives of the two largest political parties entitled to continued representation on the ballot are required to observe and verify each transfer of custody.

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HB2308 - Secretary of state; election; recusal

Sponsor

Rep. Rachel Jones (R)

Summary

The Secretary of State is prohibited from taking any action with respect to the portion of an election in which the Secretary of State is a candidate, and is required to announce publicly the person in the Secretary of State's office who will perform those duties. Was amended by removing the requirement to announce the person that is handling the duties of the Secretary and to allow for the Secretary to certify the statewide canvas.

Action Taken

Passed House Municipal Oversight & Elections 7-3

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

Passed Senate Elections 5-3

Passed the Senate 16-14 and was sent back to the House as it was amended

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HB2319 - Elections; rule of construction

Sponsor

Rep. Alexander Kolodin (R)

Summary

The Legislature declares that the purpose of statutes regulating the conduct of elections is to provide the people of Arizona with a transparent system for conducting elections. If there are two competing interpretations of statutes regulating the conduct of elections, the provisions are required to be aggressively construed in favor of the reading that provides greater transparency. The Legislature declares that existing court opinions relating to statutes regulating the conduct of elections do not have precedential force or effect if the opinions conflict with the rule of construction prescribed in this legislation.

Action Taken

Passed House Municipal Oversight & Elections 6-4

Passed the House 31-26 and was sent to the Senate

Passed Senate Elections 5-3

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

Vetoed by the Governor

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HB2322 - Early ballots; signatures; guidelines; challenges

Sponsor

Rep. Alexander Kolodin (R)

Summary

The Secretary of State's July 2020 signature verification guide constitutes the minimum requirements for comparison of signatures. Challengers to the verification of questioned ballots must be allowed to be present and to make challenges during the verification of signatures without regard to whether a challenge is made at a polling place, voting center, or early election board or other counting facility. A legislative intent section states that these are clarifying changes to confirm existing law.

Action Taken

Passed House Municipal Oversight & Elections 6-4

Passed the House 47-13 and was sent to the Senate

Passed Senate Elections 5-3

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

Vetoed by the Governor

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HB2334 - Permanent early voting list

Sponsor

Rep. Seth Blattman (D)

Summary

The active early voting list is renamed the permanent early voting list. The county recorder is no longer required to remove a voter from the list if the voter fails to vote using an early ballot in all elections for two consecutive election cycles.

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HB2364 - Lobbyists; gift ban exemption

Sponsor

Rep. Leezah Elsa Sun (D)

Summary

The maximum value of a gift that a lobbyist may give to a member of the Legislature is increased to \$20, from \$10.

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HB2377 - Public officers; lobbying; prohibition

Sponsor

Rep. Leo Biasiucci (R)

Summary

A public officer is prohibited from representing another person for compensation before any public agency.

Action Taken

Passed House Regulatory Affairs 7-0

Passed the House 44-16 and was sent to the Senate

Passed Senate Government 5-3

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

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HB2378 - Officials; political action committee prohibition

Sponsor

Rep. Leo Biasiucci (R)

Summary

An individual who is an election officer or employee or who oversees any significant aspect of election operations is prohibited from being a chairperson, treasurer or other member of a political action committee. Does not apply to an individual's membership in a candidate committee for that individual's own candidacy.

Action Taken

Passed House Municipal Oversight & Elections 10-0

Passed the House 49-11 and was sent to the Senate

Passed Senate Elections 5-3

Failed in the Senate 13-16

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HB2415 - Active early voting lists; removal

Sponsor

Rep. Leo Biasiucci (R)

Summary

The county recorder is required to remove a voter from the active early voting list if the voter fails to vote an early ballot in all elections for one election cycle, instead of two consecutive election cycles.

Action Taken

Passed House Municipal Oversight & Elections 6-4

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

Passed Senate Elections 5-3

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

Vetoed by the Governor

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HB2477 - Electoral college; support

Sponsor

Rep. Steve Montenegro (R)

Summary

The Legislature affirms the importance of the electoral college for presidential elections in this country for a list of specified reasons.

Action Taken

Passed House Municipal Oversight & Elections 6-4

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

Passed Senate Elections 5-3

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

Vetoed by the Governor

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HB2552 - Voting; elections; tally; prohibition

Sponsor

Rep. Austin Smith (R)

Summary

For every election held in Arizona, the person who receives the highest number of legal votes is required to be declared elected. The state, counties, municipalities, or political subdivisions are prohibited from using a voting method in an election or nomination process for any state, city, town, county, or federal office that allows voters to select or rank, designate or otherwise indicate approval of or preference for more candidates than are eligible to be declared elected for any office; that allows ballots cast to be tabulated in any manner that involves the elimination of candidates through multiple rounds of tabulation or the transfer or redistribution of votes between or among candidates; or that requires the ranking of every candidate for an office as a condition of a voter's vote being counted in the final tally.

Action Taken

Passed House Municipal Oversight & Elections 6-4

Passed the House 31-28

Passed Senate Elections 5-3

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

Vetoed by the Governor

HCR2004 - Legislators; minimum age of eighteen

Sponsor

Rep. Matt Gress (R)

Summary

The 2024 general election ballot is to carry the question of whether to amend the state Constitution to lower the minimum age to qualify to be a member of the Legislature to 18, from 25, and to require the person to be a resident of Arizona for at least three consecutive years at the time of election and of the district from which s/he is elected for at least one consecutive year at the time of election. Previously the person was required to be a resident of Arizona for at least three years and a resident of the county from which s/he is elected for at least one year.

Effect on CCEC

Increases the value of the Commission's current involvement with schools

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SB1011 - Municipalities; partisan elections

Sponsor

Sen. John Kavanagh (R)

Summary

Municipal elections may be held with the candidate's political party registration indicated on the ballot. Applies to municipal elections held on or after January 1, 2024.

Action Taken

Passed Senate Government 6-1

Passed the Senate 18-12 and was sent to the House

Passed House Municipal Oversight & Elections 6-4

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SB1020 - Open meetings; capacity; posting

Sponsor

Sen. John Kavanagh (R)

Summary

All public bodies are required to provide for an amount of seating sufficient to accommodate the reasonably anticipated attendance of all persons desiring to attend the deliberations and proceedings, when feasible. The agenda for a public meeting is required to include notice of the time that the public will have physical access to the meeting place.

Effect on CCEC

Commission already provides numerous seats for the public both in person and virtually

.

SB1048 - Campaign finance; reporting threshold; lobbyists

Sponsor

Sen. John Kavanagh (R)

Summary

The list of receipts that must be itemized in campaign finance reports is modified to require itemization of contributions from in-state individuals whose contributions exceed \$200 for that election cycle, increased from \$100, and to require itemization of contributions from individuals who are registered lobbyists.

Effect on CCEC

Current individual contribution limit for CCEC candidates is \$180. No reporting would be required at that level. (The individual contribution limit for CCEC candidates will increase for 2024 based on inflation.)

Action Taken

Passed Senate Government 5-3

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

Passed House Municipal Oversight & Elections 6-4

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SB1054 - Middle school students; civics; instruction

Sponsor

Sen. David Gowan (R)

Summary

Establishes the Arizona Civics Education and Leadership Development Program within the Arizona Department of Education (ADE) to provide civics education and leadership development training to middle school students who are enrolled in a school district, charter school, or private school in Arizona. ADE is required to develop procedures for eligible nonprofit organizations to apply to be instructional service providers for the Program, and eligibility requirements are listed. By November 1 of each year, each service provider is required to report specified information on the Program to ADE, and ADE is required to compile the reports and submit them to the Governor and the Legislature. Appropriates \$300,000 from the general fund in FY2023-24 to the newly established Arizona Civics Education and Leadership Development Fund for the Program.

Effect on CCEC

Would be an opportunity to use CCEC civics program that has already been developed.

Action Taken

Passed Senate Education 5-2

Passed Senate Appropriations 8-2

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

Passed House Education 8-2

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SB1105 - Early ballots; election day tabulation

Sponsor

Sen. Frank Carroll (R)

Summary

County recorders or other officers in charge of elections are required, instead of allowed, to provide for a qualified voter who appears at their designated polling place or at a voting center on elected day with their voted early ballot to have their ballot tabulated.

Action Taken

Passed Senate Elections 5-3

Failed in the Senate 14-16

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

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SB1170 - Ballot drop boxes; prohibition

Sponsor

Sen. Jake Hoffman (R)

Summary

A strike everything was passed that changed the bill. The bill now allows for drop boxes provided that the county can have live video monitored by an election official from 5pm to 8pm, one representative from the two largest political parties are able to monitor the box from 8am to 5pm, the video has motion detection, night vision, and is able to be viewed by the public. A \$1 million-dollar appropriation was also included in the bill.

Action Taken

Passed Senate Elections 5-3

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

Passed House Municipal Oversight & Elections 6-4

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SB1213 - Legislative council; procedures manual

Sponsor

Sen. Anthony Kern (R)

Summary

The Legislative Council replaces the Secretary of State for the purposes of issuing an official elections instructions and procedures manual.

Action Taken

Passed Senate Elections 5-3

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

Passed House Municipal Oversight & Elections 6-3

SB1217 - Election procedures manual; submittals

Sponsor

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

Summary

The Secretary of State is required to post the draft Election Instructions and Procedures Manual (Manual) on the Secretary of State's website, provide an opportunity for submitting public comment on the draft manual and post those comments on the Secretary of State's website. If the Governor and/or the Attorney General fail to approve the draft Manual by December 31 of the year before the general election or the Secretary of State does not submit a draft Manual for approval, the most recently approved Manual remains in effect. Beginning in January of the even-numbered year, if a new Manual is not issued and approved, the Secretary of State is required to provide an annotated version of the previous official Manual that reflects any new or revised laws and applicable court decisions. The Secretary of State shall continue to provide an annotated version of the previous official Manual each year until a new Manual is approved.

SCR1002 - Constitutional amendments; sixty percent approval

Sponsor

Sen. Anthony Kern (R)

Summary

The 2024 general election ballot is to carry the question of whether to amend the state Constitution to require approval by 60 percent of the votes cast on the measure for an initiative or referendum measure that amends the state Constitution to become law, instead of a majority of the votes cast. A strike everything amendment was passed. The bill now prohibits rank choice voting and any other voting similar to rank choice.

Action Taken

Passed Senate Elections 5-3

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

Passed House Municipal Oversight & Elections 6-4

SB 1330 - Voting; absence from employment

Sponsor

Sen. Ken Bennett (R)

Summary

Allows for registered voters to be absent from their place of employment for up to 5 hours either at the beginning or end of their designated work shift in order to vote without a loss of pay or use of personal time. The employee must notify their employer prior to election day.

SB1265 - Voting; elections; tally; prohibition.

Sponsor

Sen. Anthony Kern (R)

Summary

For every election held in Arizona, the person who receives the highest number of legal votes is required to be declared elected. The state, counties, municipalities, or political subdivisions are prohibited from using a voting method in an election or nomination process for any state, city, town, county, or federal office that allows voters to select or rank, designate or otherwise indicate approval of or preference for more candidates than are eligible to be declared elected for any office; that allows ballots cast to be tabulated in any manner that involves the elimination of candidates through multiple rounds of tabulation or the transfer or redistribution of votes between or among candidates; or that requires the ranking of every candidate for an office as a condition of a voter's vote being counted in the final tally.

Action Taken

Passed Senate Elections 5-3

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

Passed Municipal Oversight & Elections 6-2

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SB1270 - Open meetings; capacity

Sponsor

Sen. John Kavanagh (R)

Summary

Schools, school boards, executive boards, and municipalities are required to provide for an amount of seating sufficient to accommodate the reasonably anticipated attendance of all persons desiring to attend the deliberations and proceedings, when feasible. The agenda for a public meeting is required to include notice of the time that the public will have physical access to the meeting place.

Effect on CCEC

Already provide numerous seats for the public both in person and virtually

Action Taken

Passed Senate Government 5-2

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

Passed House Government 9-0

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

Signed by the Governor

SB1287 - Election returns; canvass; review

Sponsor

Sen. Steve Kaiser (R)

Summary

If returns from any polling place in the election district where polls were opened and an election held are found to be "in question," the canvass of the election is required to be postponed from day to day until the governing body holding the election has to its satisfaction examined all the returns and ascertained the facts which the returns disclose or until six postponements have been had.

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SB1296 - Voter registration; same day.

Sponsor

Sen. Christine Marsh (D)

Summary

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

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SB1299 - Governor; inauguration expenses; reporting

Sponsor

Sen. Wendy Rogers (R)

Summary

For any ceremonial event to commemorate the inauguration of a Governor, the Office of the Governor is required to publicly post on the Office of the Governor's website a list of specified information about persons or entities that organized or funded the event. The Office is required to publicly post the information within 15 days after the date of the event.

Action Taken

Passed Senate Government 8-0

Passed the Senate 29-0 and was sent to the House

Passed House Government 9-0

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SB1303 - Campaign finance; contributions; reporting

Sponsor

Sen. J.D. Mesnard (R)

Summary

If an in-state individual has made prior campaign contributions that total less than \$100 during an election cycle, only those contributions that when added to the prior contributions total more than \$100 and all subsequent contributions are required to be reported on a campaign finance report.

Effect on CCEC

Keeps the threshold for reporting contributions lower than the current \$180 limit CCEC candidates may raise thus all contributions will need to be reported.

Action Taken

Passed Senate Elections 5-3

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SB1324 - Images; voter lists; records; contest

Sponsor

Sen. Ken Bennett (R)

Summary

No later than ten days before each election, the county recorder or other officer in charge of elections is required to publish and post online a list of all voters who are registered to vote in the election, including persons who are on the inactive voter list. After the primary and general election and no later than 48 hours after the delivery of the official county canvass, the county recorder or other officer in charge of elections is required to submit to the Secretary of State, who shall immediately post online in a convenient downloadable format, a list of all persons who voted in the election, all ballot images used in the tabulation of the election, and the "cast vote record" (defined) in a sortable format. It is a class 1 (highest) misdemeanor to alter the contents of an image or a cast vote record from the database. The county recorder or other officer in charge of elections is required to ensure that paper ballots are stored in a manner that allows for convenient retrieval.

Action Taken

Passed Senate Elections 5-3

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

SB1066 - Election mailings; third-party disclosures

Sponsor

Sen. John Kavanagh (R)

Summary

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

Action Taken

Passed Senate Elections 5-3

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

Passed House Municipal Oversight & Elections 10-0

SB1095 - Early ballot envelope; notice**Sponsor**

Sen. Frank Carroll (R)

Summary

The envelope accompanying an early ballot is required to state: "Failure to mail an early ballot or deposit an early ballot in a ballot drop box by the Friday before the election will result in delayed election results."

Action Taken

Passed Senate Elections 5-3

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

Passed House Municipal Oversight & Elections 5-4

SB1135 - Spoiled early ballots; election day**Sponsor**

Sen. John Kavanagh (R)

Summary

If a voter brings the voter's early ballot to a polling place or other voting location on election day, the county recorder is required to remove the voter from the active early voting list and an early ballot will no longer be sent to the voter automatically. If a voter brings an early ballot to a polling place or voting center on election day, the early ballot is considered spoiled and the voter must exchange the early ballot for a regular ballot. County recorders or other officers in charge of elections are required, instead of allowed, to provide for a qualified voter who appears at their designated polling place or at a voting center on elected day with their voted early ballot to have their ballot tabulated. Also deletes authorization for county boards of supervisors to establish emergency voting centers.

Action Taken

Passed Senate Elections 5-3

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

Passed House Municipal Oversight & Elections 6-4

SB1141 - Early ballot drop off; identification

Sponsor

Sen. Jake Hoffman (R)

Summary

For any voter or voter's agent who delivers one or more voted early ballots in affidavit envelopes at any polling place or voting center, the election board must require the person to present identification for his/her own early ballot, and to attest in writing that he/she is the voter's family member, household member or caregiver for another person's early ballot. Knowing violations are a class 5 (second-lowest) felony.

Action Taken

Passed Senate Elections 5-3

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

Passed House Municipal Oversight & Elections 6-4

SB1178 - Early voting; identification; signature

Sponsor

Sen. Ken Bennett (R)

Summary

If a voter is issued an early ballot at any voting location during the period of early voting after presenting and confirming the required identification, the voter's early ballot is deemed ready for tabulating, and additional signature verification of the completed affidavit envelope is not required.

Action Taken

Passed Senate Elections 8-0

Passed the Senate 30-0 and was sent to the House

Failed House Municipal Oversight & Elections 0-9

HB2613 - Voting equipment; requirements; origin

Sponsor

Rep. Steve Montenegro (R)

Summary

Beginning January 1, 2028, the Secretary of State is prohibited from certifying a vote recording and vote tabulating machine or device used for elections for federal, state or county offices unless 100 percent of all the machine's or device's parts and components are sourced from the United States, and 100 percent of all the machine's or device's manufacturing and assembly is performed in the United States. Does not apply to vote recording and vote tabulating machines and devices that are acquired before January 1, 2028.

Action Taken

Passed House Municipal Oversight & Elections 6-4

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

Passed Senate Elections 5-3

SB1140 - Elections; voting centers prohibited

Sponsor

Sen. Jake Hoffman (R)

Summary

A strike everything amendment was adopted that changed the bill. The bill now allows for the use of voting centers but does not allow for them to take the place of polling places. Requires to schools to open their doors as voting locations, as well as requiring schools to close on primary and general election days. Requires in-service or developmental days for teachers on primary and election days. Prohibits teachers from taking those days off.

Action Taken

Passed Senate Elections 5-3

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

Passed House Municipal Oversight & Elections 6-4

SB1258 - Public officers; announcements; report

Sponsor

Sen. J.D. Mesnard (R)

Summary

For any publication, resource or public service announcement that is issued by a public officer, that contains the public officer's name or likeness, and that is distributed free of charge or through the use of taxpayer resources, the public officer is required to publish a quarterly report describing the amount of money that was spent on the publication, resource, or public service announcement.

Action Taken

Passed Senate Elections 5-3

HB2604 - Licenses; not proof of citizenship.

Sponsor

Rep. Lydia Hernandez (D)

Summary

The Arizona Department of Transportation is no longer prohibited from issuing a driver license, instruction permit, or nonoperating identification license for a person who does not submit satisfactory proof that the applicant's presence in the U.S. is authorized under federal law. Possession of a driver license, instruction permit, or nonoperating identification license is not proof of citizenship.

HB2591 - Elections; early ballot drop boxes

Sponsor

Rep. Gail Griffin (R)

Summary

All ballot drop boxes used in Arizona to receive voted early ballots must be located inside a county building, except that a drop box may be located outside of a building if the ballot drop box is secured to a building or footing. Ballot drop boxes must be usable only on Monday through Friday from 8:00AM to 5:00PM and must include a functioning camera or video recorder that photographs or video records and stores the images of each person who deposits one or more early ballots. The camera or video recorder may be motion activated. Establishes a fine of \$1,000 for each ballot for a person who knowingly marks a voted or unvoted ballot or ballot envelope with the intent to fix an election and for possessing a voted or unvoted ballot with the intent to sell the voted or unvoted ballot of another person.

Action Taken

Passed House Municipal Oversight & Elections 6-4

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

Passed Senate Elections 5-3

Failed in the Senate 13-14

HB2682 - Lobbyists; campaign contributions; prohibition

Sponsor

Rep. Oscar De Los Santos (D)

Summary

Lobbyists are prohibited from making or promising to make campaign contributions to or soliciting or promising to solicit campaign contributions for a member of the Legislature or the Governor at any time, instead of only during the regular session of the Legislature.

HB2701 - Secure ballot containers; pilot program

Sponsor

Rep. Quang H. Nguyen (R)

Summary

A county with a population of more than 230,000 persons and less than 400,000 persons (Yavapai County) is authorized to establish and implement a pilot program for the use of secure ballot deposit containers to receive voted early ballots. Each secure ballot deposit container is required to unlock for purposes of depositing ballots by use of a card or other similar means that is issued to the voter by the county recorder for that purpose and must provide for secure retention of the voted ballots until accessed by a person who is authorized by the county recorder to collect the ballots for verification and tabulation. Appropriates \$1.5 million from the general fund in FY2023-24 to the Secretary of State for disbursement to a county recorder for the pilot program.

HB2722 - Elections; option; full hand count

Sponsor

Rep. Gail Griffin (R)

Summary

The officer in charge of elections, the county recorder, or any person who is designated by the county board of supervisors is allowed to count by hand all or any portion of the ballots in an election. If the hand count is for less than one hundred percent of the ballots, the specific ballots to be counted must be randomly selected.

Action Taken

Passed House Municipal Oversight & Elections 6-4

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

Passed Senate Elections 5-3

HB2728 - Election worker harassment task force

Sponsor

Rep. Seth Blattman (D)

Summary

Establishes a 10-member Election Worker Harassment Task Force in the Secretary of State's Office to coordinate, investigate, prosecute, or refer for prosecution violations of Chapter 16 (Elections and Electors). The Task Force is required to submit a report of its activities to the Governor and the Legislature by January 1, 2025 and each year after.

SB1332 - Cast vote record; public records

Sponsor

Sen. Janae Shamp (R)

Summary

For every election held in Arizona and after completion of the official canvass, the cast vote record for that election is a public record.

Action Taken

Passed Senate Elections 5-3

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

Passed House Municipal Oversight & Elections 6-4

SB1341 - Voters; false communication; enterprises; enforcement

Sponsor

Sen. Juan Mendez (D)

Summary

It is a class 5 (second lowest) felony for an enterprise to knowingly communicate to a registered voter by any means false information that is intended to impede the voter in exercising the voter's right to vote. A registered voter to whom false information is communicated is authorized to file a civil action for relief, including an application for a permanent or temporary injunction, restraining order or other order against the person communicating the false information.

SB1342 - Civics education; professional development; appropriation

Sponsor

Sen. Juan Mendez (D)

Summary

The State Board of Education (SBE) is required to prescribe academic standards that require all school districts and charter schools to provide instruction on American civics education that promotes civic service, prepares students for the duties of citizenship, and includes instruction on a list of specified topics. Establishes the American Civics Education Instruction Grant Program in the Arizona Department of Education (ADE). Grants issued under the Program must be used to pay teachers' costs of attending a professional development course in civics education and media literacy. Establishes grant eligibility requirements. Appropriates \$100,000 from the general fund in FY2023-24 to the American Civics Education Instruction Fund for the Program.

Effect on CCEC

Would be an opportunity to use CCEC civics program that has already been developed.

SB1389 - Ballots; pollbooks; instructions; tabulating; storage

Sponsor

Sen. Ken Bennett (R)

Summary

Various changes to statutes relating to elections. Early ballots that are returned at voting locations on election day may be removed by two authorized election workers who must be members of different political parties and who deliver the ballots to a designated receiving site. After the canvass is completed, the county recorder is required to deposit all rejected provisional and early ballots in a secure facility that is managed by the county treasurer.

Action Taken

Passed Senate Elections 8-0

SB1422 - Voting; elections; tally; prohibition..

Sponsor

Sen. Justine Wadsack (R)

Summary

For every election held in Arizona, the person who receives the highest number of legal votes is required to be declared elected. The state, counties, municipalities, or political subdivisions are prohibited from using a voting method in an election or nomination process for any state, city, town, county, or federal office that allows voters to select or rank, designate or otherwise indicate approval of or preference for more candidates than are eligible to be declared elected for any office; that allows ballots cast to be tabulated in any manner that involves the elimination of candidates through multiple rounds of tabulation or the transfer or redistribution of votes between or among candidates; or that requires the ranking of every candidate for an office as a condition of a voter's vote being counted in the final tally.

SB1436 - Permanent early voting list.

Sponsor

Sen. Priya Sundareshan (D)

Summary

The active early voting list is renamed the permanent early voting list. The county recorder is no longer required to remove a voter from the list if the voter fails to vote using an early ballot in all elections for two consecutive election cycles.

SB1437 - Ballot delivery; collection

Sponsor

Sen. Priya Sundareshan (D)

Summary

A voter is authorized to give the voter's voted early ballot to another person to deliver to a polling place, a ballot drop box, an election official, the U.S. Postal Service, or any other entity allowed by law to transmit post. It is no longer a class 6 (lowest) felony for a person to collect voted early ballots from another person.

SB1451 - Early voting; preceding weekend

Sponsor

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

Summary

If the county recorder or other officer in charge of elections is able to revise precinct registers and other elections materials in a timely manner for use on election day to indicate which voters have requested an early ballot, which voters have already voted, and which voters are on the inactive voter

list, the county recorder or other office in charge of elections is allowed to operate the on-site early voting locations during the Saturday, Sunday and Monday immediately preceding election day.

SB1452 - Primary election date; May

Sponsor

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

Summary

Beginning in 2024, the primary election is moved to the last Tuesday before the last Monday in May in any year in which a general election or special election is held, instead of the first Tuesday in August in those years.

Effect on CCEC

It would reduce the amount of time candidates have to collect \$5 qualifying contributions. Currently, candidates may begin collecting \$5 qualifying contributions August 1 of the year prior to the election, which is approximately one year before the primary election. This change would reduce collection time by 3 months (May to August).

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SB1471 - Ballot tabulation; hand count comparison

Sponsor

Sen. John Kavanagh (R)

Summary

By September 1, 2023, the officer in charge of elections in a county with a population of more than two million persons (Maricopa County) is required to randomly select four election precincts in the county from the ballot test decks used for logic and accuracy testing for the 2022 general election and is required to recount all races using 100 of those ballots from each precinct. The recounting is required to include the use of duplication boards, adjudications boards and other functions generally used or required in ballot tabulations. The hand count boards are required to consist of volunteers who are members of the three largest political parties in the state and must include on each team a member of at least two different political parties. The actual ballots must be counted through a county ballot tabulator, and photocopies of the actual ballots must be hand counted. The officer in charge of elections is required to compare the totals, and if there is a difference great than 0.1 percent, the ballots and photocopies must be retabulated and recounted. During the hand counting, the officer in charge of elections is required to calculate how many ballots per hour each hand counting team is able to process, and estimate how many persons working 16 hours each day would be required to hand count the entire number of ballots cast in the November 2022 election. The officer in charge of elections is required to report on the results of the tabulations and calculations to the Governor and the Legislature. Self-repeals March 1, 2024.

Action Taken

Passed Senate Elections 5-3

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

Passed House Municipal Oversight & Elections 6-4

SB1485 - National popular vote; interstate agreement

Sponsor

Sen. Juan Mendez (D)

Summary

Establishes an agreement among the states to elect the U.S. President by national popular vote.

SB1486 - Voting; ranking; ballot format

Sponsor

Sen. Juan Mendez (D)

Summary

Establishes requirements for any election in which ranked choice voting is used. Provides for elimination rounds, the transfer for votes, and the sequence of tabulation. Single-seat ranked choice voting may be used in any county or municipal election contest in which a voter has three or more voting options for a particular office or issue, and multiseat ranked choice voting may be used in any county or municipal election contest in which a voter has three or more voting options for that group of offices. Establishes requirements for ballot format and voter instructions for ranked choice voting.

Effect on CCEC

Would dramatically change how the Commission handles debates as well as the candidate statement pamphlet. May require the Commission to provide multiple candidate statement pamphlets as well as multiple debates. May require a constant update of the Commission's website to ensure that the correct information is available to the public.

SB1487 - Voted ballots; custody; in-state

Sponsor

Sen. Juan Mendez (D)

Summary

The county recorder or other officer in charge of elections, the county board of supervisors, any state elected official and any employee, contractor or vendor of those persons are prohibited from removing from the state any one or more of the ballots cast for an election.

SB1510 - Campaign finance; public service corporations

Sponsor

Sen. Juan Mendez (D)

Summary

A public service corporation, an affiliate of a public service corporation, and a "principal" (defined) of a public service corporation or its affiliate are prohibited from contributing directly or indirectly to an Arizona Corporation Commission (ACC) candidate or candidate committee. An ACC candidate is prohibited from accepting or soliciting contributions directly or indirectly from these persons and

entities. A campaign expenditure by these persons or entities is not an independent expenditure if the expenditure is a coordinated public service corporation expenditure, and is considered an in-kind contribution to the ACC candidate. Establishes a list of expenditures that constitute a coordinated public service corporation expenditure.

SB1515 - Polling places; drop boxes; campuses

Sponsor

Sen. Juan Mendez (D)

Summary

The board of supervisors of each county is required to designate at least one polling place or voting center on the main campus of each state university in that county and is required to provide for at least one early ballot dropbox at each state university satellite location and each community college campus and community college satellite location in that county.

SB1518 - Ballots; election day; identification

Sponsor

Sen. Ken Bennett (R)

Summary

During the period of early voting or on election day, if a voter is issued an early ballot at any voting location or presents at any voting location the voter's mailed early ballot and the voter presents and confirms the required voter identification, the voter's early ballot is deemed ready for tabulating, and additional signature verification of the completed affidavit envelope is not required. After the period of early voting, a voter who delivers the voter's own voted early ballot to the county recorder or other officer in charge of elections or to a polling location is required to present and confirm the required voter identification before depositing the voted early ballot in a secure ballot box that is separate from ballot tabulators. Only the voter may deliver the voter's own voted early ballot.

Action Taken

Passed Senate Elections 5-3

Passed the Senate 29-0 and was sent to the House

Passed House Municipal Oversight & Elections 7-3

SB1555 - Early voting locations

Sponsor

Sen. Juan Mendez (D)

Summary

A county recorder or other officer in charge of elections is permitted to make changes to the approved early voting locations and must notify the public and the board of supervisors regarding the changes as soon as is practicable. A county recorder or other officer in charge of elections who establishes early voting locations may continue to operate those early voting locations during the three-day period

immediately preceding election day, except that on-site early voting is required to end as needed to ensure that precinct registers and other election materials are revised for use on election day to indicate which voters have requested an early ballot, which voters have already voted and which voters are on the inactive voter list.

SB1556 - Automatic voter registration; same day

Sponsor

Sen. Juan Mendez (D)

Summary

A person who is otherwise qualified to register to vote may register during the 28 days immediately preceding an election and is eligible to vote in that election if the person has been a resident of the county and the precinct in which the person resides for at least 29 days immediately preceding the election. A person who is otherwise qualified to register to vote may register on Election Day at the polling place for the precinct in which that person maintains residence. A person who registers to vote under these provisions may vote only with a provisional ballot and does not qualify a person to vote in a partisan primary election. Every person who is applying for a driver license or renewal, including a nonoperating identification license or renewal, or who is making changes to drive license information and who is otherwise qualified to register to vote must be registered to vote automatically on completion of the license application unless the applicant clearly expresses a decision not to register. A person who is not qualified to register to vote and who unknowingly registers under this provision is not guilty of false registration or false swearing. Effective January 1, 2024.

SB1565 - Ballot processing; electronic adjudication; limitation

Sponsor

Sen. Frank Carroll (R)

Summary

Machines, devices, firmware, or software used in Arizona elections are prohibited from including any artificial intelligence or learning hardware, firmware, or software. Artificial intelligence or learning software or firmware is prohibited from being used in the processing of early ballots or by the election board in verifying the voter's affidavit.

Action Taken

Passed Senate Elections 5-3

Passed the Senate 16-11 and was sent to the House

Passed House Municipal Oversight & Elections 6-4

Passed the House 31-26 and was sent to the Governor

Vetoed by the Governor

SB1566 - Voter registration; reregistration; ten years

Sponsor

Sen. Frank Carroll (R)

Summary

The county recorder is required to cancel all voter registrations on the effective date of this legislation, and on April 2 in every year thereafter that ends in 1. Before doing so, the county recorder is required to notify each person who was on the voter registration rolls on that date that the person's voter registration is canceled and that the person must reregister to vote. The county recorder is required to provide information and instructions on how to reregister to vote and is required to archive the voter registration rolls for each date on which all voter registrations are canceled.

Action Taken

Passed Senate Elections 5-3

SB1589 - Voter registration databases; designation

Sponsor

Sen. Ken Bennett (R)

Summary

The Secretary of State is required to designate a list of voter registration databases and voter registration database services to be used monthly by each county recorder to determine possible registrations in multiple jurisdictions and possible changes of address.

SB1595 - Early ballots; identification; tabulation

Sponsor

Sen. J.D. Mesnard (R)

Summary

Beginning after 7:00PM on the Friday preceding election day, if a voter deposits an early ballot at a polling place, the voter is required to present the required voter identification and sign the signature roster or electronic pollbook before depositing the ballot. If a "voter's agent" (defined elsewhere in statute) delivers a voter's ballot to any polling place, the ballot will be counted and valid only if the voter presents the required voter identification to the county recorder or other officer in charge of elections no later than the 5th business day after election day for a primary, general, or special election that includes a federal office, and no later than the 3rd business day after election day for any other election.

Action Taken

Passed Senate Elections 5-3

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

Passed House Municipal Oversight & Elections 5-4

SB1596 - Polling places; public office spaces

Sponsor

Sen. J.D. Mesnard (R)

Summary

A state, county, municipal, or school district office is required to provide sufficient space for use as a polling place for any state, county, or municipal election when requested by the officer in charge of elections. Appropriates a total of \$10 million to be dispersed to counties to offset election related costs that come from this bill.

Action Taken

Passed Senate Elections 5-3

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

Passed House Municipal Oversight & Elections 6-4

Passed House Appropriations 9-6

SB1597 - Early ballot on-site tabulation; requirement

Sponsor

Sen. J.D. Mesnard (R)

Summary

No later than the 2024 general election, every county recorder or other officer in charge of elections is required, instead of allowed, to provide for a qualified voter who appears at the voter's designated polling location or at a voting center on election day with their voted early ballot to have the ballot tabulated on-site.

Action Taken

Passed Senate Elections 5-3

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

Passed House Municipal Oversight & Elections 5-4

SB1598 - Elections; observers; federal candidates

Sponsor

Sen. J.D. Mesnard (R)

Summary

Each political party and each candidate for federal office is allowed to have one poll observer in each polling place or early voting location at any one time during the election. A poll observer is prohibited from approaching an election official's table or equipment or the voting booths any closer than is reasonably necessary to properly perform the poll observer's functions. Each poll observer must be allowed to observe the setup of the voting location before the polls open and the closeout procedures at the voting location after the polls close. Poll observers are prohibited from interacting with a voter. Poll observers must be a registered voter in Arizona, and cannot be a candidate who appears on the

ballot. One representative at any one time of each candidate for federal office, who has been appointed by the candidate, is added to the list of persons allowed to remain inside the 75-foot limit while the polls are open and the list of persons who may be designated as early ballot challengers.

Action Taken

Passed Senate Elections 5-3

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

Passed House Municipal Oversight & Elections 6-4

SB1666 - Early ballot list; daily returns

Sponsor

Sen. Juan Mendez (D)

Summary

On request from a county chairman or state chairman, the Secretary of State is required to provide at no cost a daily listing of persons who have returned their early ballots, Monday through Friday, beginning with the first Monday following the start of early voting and ending on the Monday before the election.

HB2746 - Appropriation; secretary of state; elections

Sponsor

Rep. Laura Terech (D)

Summary

Appropriates \$1.67 million from the general fund in FY2023-24 to the Secretary of State for election administration expenses, including enhancing the security and technological reliability of the voter registration database.

HB2757 - Court of appeals; retention election

Sponsor

Rep. Ben Toma (R)

Summary

Each judge of the court of appeals must be elected for retention on a statewide basis at the general election preceding the expiration of the judge's term in office. All otherwise eligible registered voters in Arizona are eligible to vote in these statewide races.

Action Taken

Passed House Judiciary 5-3

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

Passed Senate Judiciary 6-1

HB2768 - Political parties; precinct committeemen; organization

Sponsor

Rep. Mariana Sandoval (D)

Summary

On completion of the primary election canvass, the county recorder is required to provide to the current county chairperson of each political party that is entitled to continued representation written notice of the number of elected precinct committeemen in the county for that political party for the purposes of making the calculations required for the state committee meeting. On receipt of the county recorder's notice, the current county chairperson is required to provide that notice to the chairperson of the legislative district committee of that political party.

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HB2785 - Early voting; absentee; military

Sponsor

Rep. Liz Harris (R)

Summary

Eliminates early voting by mail in Arizona, all mail ballot elections, and the active early voting list. County boards of supervisors are required to authorize an on-site early voting location at the main office of the county recorder. The county recorder is prohibited from opening more than a single location for early voting, and only those voters who have signed an application, under penalty of perjury, that states that they expect to be absent from their precincts on election day are allowed to vote at an on-site early voting location. Only a voter who expects to be outside the state of Arizona on election day and the 15 days immediately preceding is eligible to receive a mail ballot. The county recorder is prohibited from mailing a ballot to an address in Arizona. All early votes are required to be counted on election day before 7PM. The voter's signature on an early ballot affidavit must be notarized and must contain the notary's statement that the voter voted the ballot without assistance and outside the view of any other person. Voters who are ill or have a disability and cannot go to the polls are required to vote with a special election board. A county political party, early election board, and party observers are authorized to challenge early ballots on the grounds of inconsistent signatures or unmatching last four digits of social security numbers or dates of birth. The county recorder or other officer in charge of elections is required to provide to the county political party a copy of all early ballot envelopes along with all reference signatures and information for all accepted ballots before removing those ballots from their privacy envelopes in sufficient time for the county political party to challenge any unmatched signatures or information.

Action Taken

Passed House Municipal Oversight & Elections 6-4

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HB2796 - Licensure; citizenship status; documentation

Sponsor

Rep. Flavio Bravo (D)

Summary

Agencies and political subdivisions are prohibited from requiring an individual who is applying for a "license" (defined) to provide documentation of citizenship or alien status. If an agency or political subdivision requires an individual's social security number for the purposes of applying for a license,

the agency is required to accept an individual's federal tax identification number in lieu of a social security number.

SB1593 - Recall; requirements; petitions

Sponsor

Sen. Ken Bennett (R)

Summary

A special recall election must be held on the next following consolidated election date that is 120 days or more, increased from 90 days or more, after the order calling the election. A candidate for office in a special recall election is required to file a nomination petition between 90 and 120 days before the date of the recall election, instead of between 60 and 90 days before.

Action Taken

Passed Senate Elections 6-2

Passed the Senate 28-2 and was sent to the House

HB2560 - Images; voter lists; records; contest.

Sponsor

Rep. Ben Toma (R)

Summary

No later than ten days before each election, the county recorder or other officer in charge of elections is required to publish and post online a list of all voters who are registered to vote in the election, including persons who are on the inactive voter list. After the primary and general election and no later than 48 hours after the delivery of the official county canvass, the county recorder or other officer in charge of elections is required to submit to the Secretary of State, who shall immediately post online in a convenient downloadable format, a list of all persons who voted in the election, all ballot images used in the tabulation of the election, and the "cast vote record" (defined) in a sortable format. It is a class 1 (highest) misdemeanor to alter the contents of an image or a cast vote record from the database. The county recorder or other officer in charge of elections is required to ensure that paper ballots are stored in a manner that allows for convenient retrieval.

Action Taken

Passed House Municipal Oversight & Elections 6-4

HB2231 - Early absentee voting; limitations; conflicts

Sponsor

Rep. Liz Harris (R)

Summary

Early voting is renamed early absentee voting. Qualified electors are only allowed to vote by early absentee ballot if the elector is physically unable to go to the polls due to illness, hospitalization, incarceration, or other confinement, or the elector expects to be absent from the elector's precinct at the time of the election, including electors covered by the federal Uniformed and Overseas Citizens Absentee Voting Act, or the elector is blind or has a visual impairment. Severability clause. Directs legislative council staff to prepare conforming legislation.

Action Taken

Passed House Municipal Oversight & Elections 6-4

HB2254 - Rulemaking; regulatory costs; legislative ratification

Sponsor

Rep. Justin Wilmeth (R)

Summary

If a proposed rule is estimated to increase regulatory costs in Arizona in excess of \$500,000 within two years after implementation or to have an adverse impact on economic growth, the proposed rule cannot become effective until the Legislature enacts legislation ratifying the proposed rule. The agency is prohibited from filing a final rule with the Secretary of State before obtaining legislative approval of the rule through legislation. Was amended from two years after implementation to five years after implementation.

Action Taken

Passed House Government 5-4

Passed the House 31-27 and was sent to the Senate

Passed Senate Government 5-3

Passed the Senate 16-14 and was sent back to the House as it was amended

SB1695 - Election violations; disenfranchisement; new election

Sponsor

Sen. Jake Hoffman (R)

Summary

For the primary and general election in a county with a population of more than one million persons (Maricopa and Pima), the county board of supervisors, county recorder and county officer in charge of elections are prohibited from canvassing the results of an election in which election laws were violated and the violations resulted in the disenfranchisement of at least one percent of the eligible voters in the county. The county board of supervisors, county recorder and county officer in charge of elections are required to hold a new primary or general election. Any member of the board of supervisors who violates these requirements must forfeit that office.

Action Taken

Passed Senate Government 5-3

Failed in the Senate 14-15

SCR1027 - Cities; towns; elections**Sponsor**

Sen. Justine Wadsack (R)

Summary

The 2024 general election ballot is to carry the question of whether to amend the state Constitution to state that for any municipality that provides for election of municipal council members by district, ward, precinct or other geographic designation, only those voters who are qualified electors of the district, ward, precinct or other geographic designation, as applicable, are eligible to vote for that council member candidate in the municipality's primary, general, runoff or other election.

Action Taken

Passed Senate Government 5-3

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

Passed House Municipal Oversight & Elections 6-4

HB2325 - Voting; procedures; electors in detention (Mail ballot elections; technical correction)**Sponsor**

Rep. Alexander Kolodin (R)

Summary

Minor change in Title 16 (Elections and Electors) related to mail ballot elections. Apparent striker bus.

A striker amendment was proposed and passed House Municipal Oversight & Elections. The striker allows for those in pretrial detention to request a ballot to vote and describes the procedures to be followed to allow for this to happen.

Action Taken

Passed House Municipal Oversight & Elections 8-2

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

Passed Senate Elections 5-3

SB1264 - Officials; political action committee prohibition.

Sponsor

Sen. J.D. Mesnard (R)

Summary

An individual who is an election officer or employee or who oversees any significant aspect of election operations is prohibited from being a chairperson, treasurer or other member of a political action committee. Does not apply to an individual's membership in a candidate committee for that individual's own candidacy.

Action Taken

Passed Senate Elections 5-3

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

Passed House Municipal Oversight & Elections 7-3

HCR2006 - Bonds; elections; technical correction

Sponsor

Rep. Justin Heap (R)

Summary

Would ask the voters to approve a repeal session. The session would be held every two years and no business would be allowed other than repealing existing laws.

Action Taken

Passed Municipal Oversight & Elections 6-4

Passed the House 31-27 and was sent to the Senate

HB2767 - Legislators; personally identifiable information; confidentiality

Sponsor

Rep. Mariana Sandoval (D)

Summary

A "public official" (defined as a person who is duly elected or appointed to Congress, the Legislature, a statewide office, or a county, municipal, or political subdivision office) is added to the list of persons who may request that the general public be prohibited from accessing public records containing that person's identifying information that are maintained by the county or the Department of Transportation. A person or entity in Arizona is prohibited from accessing a public official's actual residence address or license plate number but is allowed to access the public official's city or town of residence.

HB2736 - Accessible early voting

Sponsor

Rep. Seth Blattman (D)

Summary

Absentee voting for uniformed services voters and overseas voters is expanded to include voters with visual impairments.

HB2691 - Elections; ballot chain of custody

Sponsor

Rep. Justin Heap (R)

Summary

Ballot boxes must be locked with a tamper evident seal. The county recorder or other officer in charge of elections is required to prepare a chain of custody record for the transportation and delivery of all voted ballots. The record must include the time and signature for each point of contact, including the signature of the voting location supervisor when the election board members leave with the voted ballots, the signature of each election board member delivering the voted ballots, and the signature of the supervisor at the receiving site who receives the voted ballots. The chain of custody records are required to include the date, time, location and name of any election official who handles or processes a ballot. The county recorder or other officer in charge of elections is required to maintain a record of all voting irregularities that occur during early voting, emergency voting and election day voting, and information that must be included in the record is specified.

Action Taken

Passed House Municipal Oversight & Elections 6-3

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

Passed Senate Elections 5-3

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

Vetoed by the Governor

SB1074 - Tabulating equipment; standards; source codes (Election; contest; technical correction)

Sponsor

Sen. Sonny Borrelli (R)

Summary

A strike everything amendment was adopted. The bill now allows the use of electronic equipment to tabulate vote only if all of the following occur: the equipment meets or exceeds the standards set by the US Department of Defense, all parts of the electronic equipment are manufactured in the USA, and all source codes for the equipment are submitted and maintained by the Auditor General. In addition, for any action taken in the Superior Court regarding vote tabulation issues, the Court may appoint a Special Master to review the issue. The Special Master will submit their report to the Secretary of State for review.

Action Taken

Passed Senate Elections 5-3

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

Passed House Municipal Oversight & Elections 6-4

Passed the House 31-27 and was sent to the Governor

Vetoed by the Governor

HB2121 - Election procedures; registrations; campaign finance

Sponsor

Rep. Athena Salman (D)

Summary

Numerous changes to statutes relating to elections. Would reinstate the \$5 Clean Elections Fund Tax Checkoff box. Would require the Commission to assist in paying for updating and replacing campaign reporting systems. Would reinstate matching funds but would base them on the clean elections candidate being able to raise twenty percent of the original number of \$5 qualifying contributions for the office they are seeking. For every person who provides proof of U.S. citizenship when applying for, renewing or replacing a driver license or nonoperating identification license, or updating the person's existing residence address or name on file with the Arizona Department of Transportation (ADOT), ADOT is required to electronically collect and transmit voter registration information to the Secretary of State for the purpose of registering the person to vote or updating an existing voter registration record. The Secretary of State and ADOT Director, after consulting with all county recorders, are required to adopt rules to implement a secure automatic electronic voter registration system that collects and transmits voter registration information. The Secretary of State is required to evaluate implementation of a secure automatic electronic voter registration system at other agencies, including the Arizona Health Care Cost Containment System (AHCCCS). By December 31, 2022, any agency that allows a person to affirmatively register to vote or to update the person's registration through the internet must allow the person to complete the registration without a driver license or nonoperating identification license and with any proof of citizenship that is valid under Arizona law. Eliminates the requirement for a voter to live in the boundaries of an election district for 29 days prior to an election to be eligible to vote in that election. By the 2024 primary election and for each election thereafter, each county recorder is required to designate at least one election official at each polling place, voting center or early voting location in the county to serve as a registration clerk to facilitate and enable eligible persons to register to vote on-site on election day or during early voting. A registration clerk must be present for all hours during which a polling place, voting center or early voting location is open. Every qualified voter in Arizona has the right, after registering to vote, to vote a secret ballot in all elections for which that voter is eligible to vote. By December 31, 2026, the Secretary of State, county recorders and other officers in charge of elections are required to evaluate incorporating "risk-limiting audit" (defined) protocols into ballot hand count procedures. Reduces individual and political action committee contributions limits to \$1,000 to candidates for legislative, county, municipal or district office, from \$6,250, and to \$2,500 for candidates for statewide office, from \$6,250. Much more. Due to voter protection, several sections of this legislation require the affirmative vote of at least 3/4 of the members of each house of the Legislature for passage.

Effect on Clean Elections

Would reinstate the \$5 Clean Elections Fund Tax Checkoff box. Would require the Commission to assist in paying for updating and replacing campaign reporting systems. Would reinstate matching funds but would base them on the clean elections candidate being able to raise twenty percent of the original number of \$5 qualifying contributions for the office they are seeking.

SB1144 - Electronic ballot adjudication; prohibition

Sponsor

Sen. Jake Hoffman (R)

Summary

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

Action Taken

Passed Senate Elections 5-3

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

Passed House Municipal Oversight & Elections 6-3

HCR2033 - Primary elections; eligible candidates

Sponsor

Rep. Austin Smith (R)

Summary

The 2024 general election ballot is to carry the question of whether to amend the state Constitution to require the direct primary election for partisan offices to be conducted in a manner so that each political party that has qualified for representation on the ballot must be permitted to nominate for each office a number of candidates equal to the number of positions to be filled for that office in the ensuing general election, and all otherwise eligible candidates who are so nominated must be placed on the ballot in the next ensuing general election. The direct primary election law enacted by the Legislature supersedes any contrary or inconsistent provision of any charter, law, ordinance, rules, resolution, or policy of any city.

Action Taken

Passed House Municipal Oversight & Elections 6-4

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

Passed Senate Elections 5-3

Passed the Senate 16-13 and was sent to the Secretary of State

SCR1037 - Elections; systems; equipment (Presidential electors; constitutional appointments)

Sponsor

Sen. Anthony Kern (R)

Summary

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

Action Taken

Passed Senate Elections 5-3

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

Passed House Municipal Oversight & Elections 6-4

Passed the House 31-27 and was sent to the Secretary of State



Citizens Clean Elections Commission

Proposition 211 – The Voters Right To Know Act

Part 2

Ballot language

A “YES” vote shall have the effect of

- [R]equiring additional disclosures and reporting by entities and persons whose campaign media spending and/or in-kind contributions for campaign media spending exceeds \$50,000 in statewide campaigns or \$25,000 in other campaigns,
- [I]dentifying original donors of contributions of more than \$5,000 in aggregate;
- [C]reating penalties for violations of the law;
- [A]llowing the Citizens Clean Elections Commission to adopt rules and enforce the provisions of the law.

Recap

Key Provisions

- Defines **campaign media spending** for candidate elections, referendums & initiatives, recalls, partisan campaign activity, some related expenses. Exceptions: nonpartisan voter reg, news.
- Defines public communications. Excludes internal comms.
- Filer thresholds: \$50,000 statewide, \$25,000 others. Inflation adj.
- **Persons required to file are referred to as Covered Persons.**
- Reports required within five days of threshold. Reports include spending & identity of each donor who contributed more than \$5,000 and intermediaries.
- Donors informed of right to opt out of their \$\$ being used for campaign media spending.
- Anti-structuring.

Transfer Records

- Transfer records means a written record of
 - The identity of a person who directly or indirectly contributed or transferred more than \$2,500 of original monies for campaign media spending,
 - The amount of the contribution or transfer, and
 - The person to whom those monies were transferred.
- A covered person must maintain transfer records for 5 years and provide them on request to the Commission.
- Original monies – business income or an individual person's income.

Transfer Records - Interaction between covered person and donors

Any person that donates more than \$5,000 in traceable monies in an election cycle to a covered person.

- Must inform covered person in writing
- Within 10 days after receiving a written request from the covered person
- Of the identity of each other person who contributed more than \$2,500 in original monies being transferred
- And the amount of each other person's original monies being transferred.

Transfer Records - Documentation between covered person and donors

- If the original monies were previously transferred, then the donor must disclose all such previous transfers of more than \$2,500 and identify intermediaries.
- Donor must retain records for at least 5 years and provide the records at the request of the Commission.
- Similar subsection for in-kind donations.
- Traceable monies-
 - (a) Monies that have been given, loaned or promised to be given to a covered person and for which no donor has opted out of their use or transfer for campaign media spending pursuant to the VRKA.
 - (b) Monies used to pay for in-kind contributions to a covered person to enable campaign media spending.

Covered person reports recap

- Covered persons must report
 - Identity of the person who owns/controls traceable monies.
 - Identity of any entity established, financed, maintained or controlled by the person who owns/controls traceable monies and that maintains its own transfer records and the entity's relationship to the covered person.
 - Name, mailing address, position of an individual who ctrl's, directly or indirectly, how the traceable monies are spent.
 - The total amount of traceable monies owned/controlled by the covered person on the date the report is made.

Covered person reports recap

- The identity of each donor of original monies who contributed, directly or indirectly, more than \$5,000 of traceable monies or in-kind for campaign media spending during the election cycle & the date and amount of each donor's contributions.
- The identity of each person who acted as an intermediary and that transferred traceable monies of more than \$5,000 from the original source to the covered person with the date, amount and sources (original & intermediate), of the transferred monies.
- Identity of each person who that received \$10,000 or more from the covered person, date and purpose of the transfer, including full name & office sought of any candidate

Covered person reports recap

- Identity of each person who that received \$10,000 or more from the covered person, date and purpose of the transfer, including full name & office sought of any candidate or a description of any ballot measure that was supported, opposed, or referenced in a public communication that was paid for, in whole or in part, by the disbursed money.
- The identity of any person whose total contributions of traceable monies to the covered person constituted more than half of the traceable monies of the covered person at the start of the election cycle.

Exceptions

- Identity of an original source that is otherwise protected from disclosure by law or a court order shall not be disclosed or included in a disclaimer.
- Identity of an original source shall not be disclosed or included in a disclaimer if the source demonstrates to the satisfaction of the Commission that there is a reasonable probability that public knowledge of the source's identity would subject the source or their family to a serious risk of physical harm.
- No original source who has given \$5,000 or less all together is required to be publicly disclosed.

Covered person reports and transfer records together

- Transfer information must be provided to the covered person upon that person's request.
- For reporting purposes, to determine the sources, intermediaries, and amounts of indirect contributions received, a covered person may rely on the information it receives in response to its request unless the covered person knows or has reason to know the information is false or unreliable.

Any person, association of persons or entity, other than a registered candidate committee or political action committee, regardless of legal form, that makes an expenditure for the purpose of influencing the result of a local City of Phoenix election **totaling \$10,000 or more within 16 days prior to an election** must file this form with the City Clerk within 48 hours of making the expenditure (excluding Saturdays/Sundays/legal holidays). This form can be submitted by email, fax or in person to the contact information listed at the bottom of this page. (If an expenditure does not meet this criteria but is still required to be reported pursuant to PCC Ch. 12, Article VII, Division 3, it must be reported on a regular 'Election Funding Disclosure' form instead). Both the 'Campaign Finance Reporting Schedule' (for a list of due dates) and the 'Election Cycle' (for current election cycle dates) can be found online at www.phoenix.gov/elections.

Person, Association of Persons, or Entity Reporting

Name: Worker Power	<input checked="" type="checkbox"/> New Report OR <input type="checkbox"/> Amendment
Address: 1021 S 7th St Ave., Phoenix, AZ 85007	

Expenditure Information

Name (Vendor/Payee): UNITE HERE Local 11		
Address (Vendor/Payee): 777 S Figueroa St, Ste 4050, Los Angeles, CA 90017		Expenditure Amount: 4402.81
Name of Candidate/Ballot Measure: Carlos Garcia	Office Sought (Candidate Only): City Council	<input checked="" type="checkbox"/> Support or <input type="checkbox"/> Oppose
Communication Medium: Canvassing		Date of Expenditure: 3/13/2023
Description of Purchase: Field Canvassing Expenses (Estimates)		

Original Source #1 Information

☒ Additional original sources on additional pages attached

Name: AFSCME	
Address: 1625 L Street NW Washington, DC 20036	
Employer: N/A	
Amount: \$25000.00	Date Received: 02/13/2023
<input type="checkbox"/> Unknown – Noting that at least one (1) written request was sent to contributor as required, to obtain the information.	

Intermediary Transfer Information Related to Original Source #1 (if any)

☐ Additional intermediary sources on page 2

Name:	
Address:	
Employer:	
Amount:	Date of Transfer:
A written transfer record was provided by intermediary as required to be able to make the expenditure. <input type="checkbox"/> Yes <input type="checkbox"/> No	

I CERTIFY, UNDER PENALTY OF PERJURY, THAT I HAVE EXAMINED THE CONTENTS OF THIS REPORT AND TO THE BEST OF

VRKA frequency:

First: \$50,000 or more statewide, \$25,000 or more other campaigns.

Subsequent: every \$25,000 or more statewide. \$15,000 other campaigns.

PACs and Parties

- PACs and Parties that are covered persons may satisfy timing requirements of VRKA by filing periodic campaign finance reports as required by law for those entities.
- However, disclosures required by VRKA must be included in those reports.
 - Identity of original sources of traceable funds who gave directly or indirectly more than \$5,000 in traceable monies.
 - Identity of any intermediaries who transferred directly or indirectly more than \$5,000 in traceable monies.
- PACs and Parties that spends money or accepts in-kind within 20 days of an election that would require a report under this section, it shall file a report pursuant to this section within 3 days of that spending or in-kind contribution.

Disclaimer requirements for public communications

- The commission shall establish disclaimer requirements for public communications by covered persons.
- Public communications by covered persons shall state, at a minimum, the names of the top three donors who directly or indirectly made the three largest contributions of original monies during the election cycle to the covered person.
- A political action committee that complies with these requirements need not separately comply with the requirements prescribed in A.R.S. 16-925(B) (pre-existing law dealing with disclaimers).

Disclaimer requirements for public communications

- Information available for certain technological communications
 - If it is not technologically possible for a public communication disseminated on the internet or by social media message, text message or short message service to provide all the information required by this subsection,
 - Then the public communication must provide a means for viewers to obtain, immediately and easily, the required information without having to receive extraneous information.

Questions?



Katie Hobbs
Governor

Thomas M. Collins
Executive Director



Damien R. Meyer
Chair

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

State of Arizona
Citizens Clean Elections Commission

1110 W. Washington St. - Suite 250 - Phoenix, Arizona 85007 - Tel (602) 364-3477
Fax (602) 364-3487 - www.azcleanelections.gov

MEMORANDUM

To: Commissioners

From: Thomas Collins, Executive Director

Date: 4.25.2023

Subject: Recommendation to terminate Proposed Amendments to R2-20-211.

In 2022, I recommended a set of three rule amendments to clarify responsibilities for certain enforcement and investigatory procedures. The rules were published for public comment, noticed in the Arizona Administrative Register, and a noticed public hearing was held by the Commission where it approved the Proposed Rules.

The Proposed Rules were submitted to the Governor's Regulatory Review Council pursuant to 2018's Proposition 306.

The Council held study sessions in February and March on the Proposed Amendments and business meetings in March and April. After the Commission staff received no questions at the February study session, the Proposed Amendments were set on the consent calendar for the March Council business meeting.

At the March meeting, a member of the Council raised questions about the Proposed Amendment to R2-20-211. *See* Exhibit 1 (Proposed Amendment). That member, Jenna Bentley, suggested the 211 amendment was an invalid delegation of the subpoena power created by the Clean Elections Act. The Council tabled the entire package.

At its March Study Session, the Council received a memo from its own staff explaining that the 211 amendment was valid. Commission staff appeared and answered questions and provided its view that the 211 amendment was valid.

Chairwoman Nicole Sornsin ordered the Commission to submit a brief prior to the April business meeting and ordered the Council's own assistant attorney general to provide the Council legal advice to the Council. Additionally, the Council staff attorney submitted a new memo.

The Attorney General's Office prepared a briefing memo on the Commission's behalf for GRRC. Again, the staff attorney and the Commission's attorneys agreed the 211 amendment was valid. *See Exhibit 2 & 3 (Council Staff and Attorney General memos).*

Nevertheless, the Council voted 6-1 to return the 211 amendment to the Commission. Although not all Council members articulated their basis for their vote, some expressed views. For example, Council member Bentley reiterated her view about delegation stated at the March business meeting. Council member John Sundt indicated he disliked a provision of the proposed 211 amendment that allowed additional attorneys for the Executive Director to be involved in subpoenas. The Council approved unanimously the other two Proposed Amendments in the package.

Video minutes of the Council are available here:
<https://archive.org/details/04.04.2023-cm>

In addition to the briefs and memos, the Council received 145 pages of public comment that based on their uniform messaging and shared inaccuracies were likely the result of an organized influence campaign. All the comments went against the Commission.

The purpose of the 211 amendment was to clarify responsibility for subpoenas and avoid conflicts that could arise between the Commission, its staff and the Attorney General's Office. The rules currently envision either the Executive Director or and Assistant Attorney General could be involved in subpoenaing a person. Although this had never been an issue before, Commission staff had reason to believe this could become an issue.

Given the return and other legal developments, including case law and Proposition 211, I recommend terminating this proposed amendment so that we can revisit these issues with more analysis in a future proceeding as needed.

NOTICES OF PROPOSED RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Proposed Rulemaking.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same *Register* issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the *Register* within three weeks of filing. See the publication schedule in the back of each issue of the *Register* for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule (A.R.S. §§ 41-1013 and 41-1022).

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

NOTICE OF PROPOSED RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

[R22-236]

PREAMBLE

1. **Article, Part, or Section Affected (as applicable)**

R2-20-211	Amend
R2-20-220	Amend
R2-20-223	Amend
2. **Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statute: A.R.S. §§ 16-956(A)(6) and (A)(7)
 Implementing statute: A.R.S. § 16-948(C)
3. **Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rules:**
 Notice of Rulemaking Docket Opening: 28 A.A.R. 3489, October 28, 2022 (*in this issue*)
4. **The agency's contact person who can answer questions about the rulemaking:**
 Name: Tom Collins, Executive Director
 Address: Citizens Clean Elections Commission
 1802 W. Jackson St.
 Phoenix, AZ 85007
 Telephone: (602) 364-3477
 Email: ccec@azcleelections.gov
 Website: www.azcleelections.gov
5. **An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**
 The Commission needs to amend its rules to clarify how the Commission may issue subpoenas, take depositions, prevent ex parte communications, and draft notices of appealable agency actions. Such clarification will ensure the rules are clear, concise, and consistent and the public is aware of how the Commission ensures compliance with clean elections rules and statutes.
6. **A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material.**
 None
7. **A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
 Not applicable
8. **The preliminary summary of the economic, small business, and consumer impact:**
 There is little to no economic, small business, or consumer impact, other than the cost to the Commission to prepare the rule package, because the rulemaking simply clarifies statutory requirements and processes that already exist. Thus, the economic impact is minimized.

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:

Name: Tom Collins, Executive Director
 Address: Citizens Clean Elections Commission
 1802 W. Jackson St.
 Phoenix, AZ 85007
 Telephone: (602) 364-3477
 Email: ccec@azcleanelections.gov
 Website: www.azcleanelections.gov

10. The time, place, and nature of the proceedings for to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request and oral proceedings on the proposed rule:

An oral proceeding regarding the proposed rules will be held as follows:

Date: December 15, 2022
 Time: 9:30 a.m.
 Location: Citizens Clean Elections Commission
 1802 W. Jackson St.
 Phoenix, AZ 85007
 Or virtually
<https://us02web.zoom.us/j/81604218149>
 Meeting ID: 816 0421 8149
 One tap mobile
 +13462487799,,81604218149# US (Houston)
 +16694449171,,81604218149# US

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Not applicable

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law, and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable

c. Whether a person submitted an analysis to the agency that compares the rule's impact on the competitive-ness of business in this state to the impact on business in other states:

No analysis was submitted.

12. A list of incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

13. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

ARTICLE 2. COMPLIANCE AND ENFORCEMENT PROCEDURES

Section

R2-20-211. Subpoenas and Subpoenas Duces Tecum; Depositions
 R2-20-220. Ex Parte Communications
 R2-20-223. Notice of Appealable Agency Action

ARTICLE 2. COMPLIANCE AND ENFORCEMENT PROCEDURES

R2-20-211. Subpoenas and Subpoenas Duces Tecum; Depositions

- A. The Commission may authorize its Executive Director ~~or Assistant Attorney General~~ to issue subpoenas requiring the attendance and testimony of any person by deposition and to issue subpoenas duces tecum for the production of documentary or other tangible evidence in connection with a deposition or otherwise. The Executive Director may delegate the authority to issue subpoenas to any person authorized to provide legal services. The Executive Director's delegate may delegate this authority to any person authorized to provide legal services as the Executive Director's delegate deems necessary.
- B. If the Commission orders oral testimony to be taken by deposition or for documents to be produced, the subpoena shall so state and shall advise the deponent or person subpoenaed that all testimony will be under oath. The Commission may authorize its Executive Director to take a deposition and have the power to administer oaths. The Executive Director may delegate the authority to take depositions to any person authorized to provide legal services. The Executive Director's delegate may delegate this authority to any person authorized to provide legal services as the Executive Director's delegate deems necessary.

C. The deponent shall have the opportunity to review and sign depositions taken pursuant to this rule.

R2-20-220. Ex Parte Communications

- A. In order to avoid the possibility of prejudice, real or apparent, to the public interest in enforcement actions pending before the Commission pursuant to its compliance procedures, except to the extent required for the disposition of ex parte matters as required by law (for example, during the normal course of an investigation or a conciliation effort), no interested person outside the agency shall make or cause to be made to any Commissioner or any member of any Commission staff any ex parte communication relative to the factual or legal merits of any enforcement action, nor shall any Commissioner or member of the Commission's staff make or entertain any such ex parte communications.
- B. This rule shall apply from the time a complaint is filed with the Commission or from the time that the Commission determines on the basis of information ascertained in the normal course of its statutory responsibilities that it has reason to believe that a violation of a statute or rule over which the Commission has jurisdiction has occurred or may occur, and remains in force until the Commission has finally concluded all action with respect to the matter in question.
- C. Nothing in this Section shall be construed to prohibit contact between a respondent or respondent's attorney and any staff member or other authorized representative of the Commission or the Commission staff attorney or the Administrative Counsel or the Assistant Attorney General in the course of representing the Commission or the respondent with respect to an enforcement proceeding or civil action. No statement made by a Commission representative attorney or staff member shall bind or estop the Commission.

R2-20-223. Notice of Appealable Agency Action

If the Commission makes a probable cause finding pursuant to R2- 20-215 or decides to initiate an enforcement proceeding pursuant to R2-20-217, ~~the any person authorized to provide legal services on behalf of the Commission Assistant Attorney General (AAG)~~ shall draft and serve notice of an appealable agency action pursuant to A.R.S. § 41-1092.03 and § 41-1092.04 on the respondent. The notice shall identify the following:

1. The statute or rule violated and specific facts constituting the violation;
2. A description of the respondent's right to request a hearing and to request an informal settlement conference; and
3. A description of what the respondent may do if the respondent wishes to remedy the situation without appealing the Commission's decision.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 16. ARIZONA MEDICAL BOARD

[R22-245]

PREAMBLE

1. **Article, Part, or Section Affected (as applicable)** **Rulemaking Action**
R4-16-401 Amend
2. **Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
Authorizing statute: A.R.S. § 32-1404(D)
Implementing statute: A.R.S. § 32-1456(D)
3. **Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
Notice of Rulemaking Docket Opening: 28 A.A.R. 3489, October 28, 2022 (*in this issue*)
4. **The agency's contact person who can answer questions about the rulemaking:**
Name: Patricia McSorley, Executive Director
Address: Arizona Medical Board
1740 W. Adams St., Suite 4000
Phoenix, AZ 85007
Telephone: (480) 551-2700
Fax: (480) 551-2704
Email: patricia.mcsorley@azmd.gov
Website: www.azmd.gov
5. **An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**
Under Laws 2021, Chapter 259, the legislature amended A.R.S. § 32-1456 to require the Board to make a rule providing for a medical assistant training program designed and offered by a physician. The Board fulfills the statutory requirement in this rulemaking. An exemption from Executive Order 2022-01 for this rulemaking was provided by Brian Norman, of the Governor's Office, in an email dated September 29, 2022.
6. **A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
The Board does not intend to review or rely on a study in its evaluation of or justification for any rule in this rulemaking.



GOVERNOR'S REGULATORY REVIEW COUNCIL

ATTORNEY MEMORANDUM - REGULAR RULEMAKING

MEETING DATE: March 7, 2023; April 4, 2023

TO: Members of the Governor's Regulatory Review Council (Council)

FROM: Council Staff

DATE: March 31, 2023

SUBJECT: CITIZENS CLEAN ELECTION COMMISSION
Title 2, Chapter 20

Amend: R2-20-211, R2-20-220, R2-20-223

Note: This Council staff memorandum supersedes the previous memorandum dated March 15, 2023 and all legal analysis therein.

Staff Update:

The Citizens Clean Election Commission ("Commission") submitted a rulemaking package to the Council seeking to amend three rules in Title 2, Chapter 20, Article 2. Specifically, the Commission sought to amend rules R2-20-211 to allow the Executive Director of the Commission to delegate authority to issue subpoenas and take depositions to "any person authorized to provide legal services." Similarly, the Commission sought to amend R2-20-223 to allow "any person authorized to provide legal services on behalf of the Commission" to draft and serve notice of an appealable agency action rather than only the Assistant Attorney General.

This rulemaking was considered at the Governor's Regulatory Review Council ("Council") Study Session on February 28, 2023 and Council Meeting on March 7, 2023. At the March 7, 2023 Council Meeting, Council Member Bentley questioned whether the Commission had authority to delegate its subpoena power. Specifically, Council Member Bentley cited *Cudahy Packing Co. v. Holland*, 315 U.S. 357 (1942) as prohibiting agency delegation of

subpoena power unless expressly authorized. Council Member Bentley requested Council staff provide additional information clarifying the concerns raised. Ultimately, the Council voted to table consideration of this rulemaking to the March 28, 2023 Study Session and April 4, 2023 Council Meeting.

At the March 28, 2023 Study Session there was also discussion regarding whether the Commission's rulemaking was properly before the Council given the language in A.R.S. § 16-974(D) which states "[t]he [C]ommission's rules and any commission enforcement actions pursuant to this chapter are not subject to the approval of or any prohibition or limit imposed by any other executive or legislative governmental body or official. Notwithstanding any law to the contrary, rules adopted pursuant to this chapter are exempt from title 41, chapters 6 and 6.1."

Council staff previously prepared a memorandum addressing some of the Council's concerns dated March 15, 2023. Given Council staff's updated understanding regarding the structure of A.R.S. Title 16 and the additional concerns raised by the Council at the March 28, 2023 Study Session, Council staff has revised the March 15, 2023 memorandum to include additional analysis in Section III(1) and modified analysis in Sections III(2) and (3), including additional case analysis of *NLRB v. John S. Barnes Corp.* in Section III(3)(c).

I. QUESTIONS PRESENTED

1. Is the Commission's rulemaking exempt from Council review and the requirements of the Administrative Procedures Act (APA) pursuant to A.R.S. § 16-974(D)?
2. Does statute grant the Commission express authority to delegate issuing subpoenas, taking depositions, and drafting and serving notices of an appealable agency action?
3. Does *Cudahy Packing Co. v. Holland*, 315 U.S. 357 (1942) prohibit delegation of subpoena power by an agency when delegation authority was not expressly granted by statute?
4. Is the term "legal services," included in the proposed amended language in Commission rules R2-20-211 and R2-20-223, defined in either the Commission's rules or statutes?

III. ANALYSIS

- 1. Is the Commission's rulemaking exempt from Council review and the requirements of the Administrative Procedures Act (APA) pursuant to A.R.S. § 16-974(D)?**

Short Answer:

No. While A.R.S. § 16-974(D) exempts Commission rulemakings to implement, and arising out of statutory authority from, A.R.S. Title 16, Chapter 6.1 from Council review and the requirements of the APA generally, the current rulemaking is being brought pursuant to statutes in A.R.S. Title 16, Chapter 6, Article 2, which does not have a similar exemption.

Full Analysis:

The exemption from Council review outlined in A.R.S. § 16-974(D) is applicable only to “rules and any commission enforcement actions *pursuant to this chapter*....” (emphasis added). The chapter referenced is A.R.S. Title 16, Chapter 6.1, which was recently added by the Voters’ Right to Know Act (*see* 2022 AZ Init. Meas. 4, § 3, approved as Proposition 211, effective December 5, 2022), under which A.R.S. § 16-974 is codified.

However, the Commission indicated at the March 28, 2023 Study Session that the current rulemaking is being brought pursuant to the Citizens Clean Elections Act, the statutes of which are found in A.R.S. Title 16, Chapter 6, Article 2. A.R.S. Title 16, Chapter 6, Article 2 currently has no similar statutory exemption from Council review of the Commission’s rulemakings as found in Chapter 6.1. In fact, while such an exemption did exist at one time in A.R.S. § 16-956(C), that exemption was removed pursuant to Proposition 306, which was approved by Arizona voters in November 2018. Since that time, the Commission has submitted several rulemakings implementing, and arising out of the statutory authority from, A.R.S. Title 16, Chapter 6, Article 2 to the Council for its review and approval. Similarly, the current rulemaking is properly before the Council.

2. Does statute grant the Commission express authority to delegate issuing subpoenas, taking depositions, and drafting and serving notices of an appealable agency action?

Short Answer:

No. No statute in A.R.S. Title 16, Chapter 6 expressly authorizes the Commission to delegate its duties.

Full Analysis:

The Commission cites to A.R.S. § 16-956(A)(7) as part of its statutory authority for these rules which states, “[t]he [C]ommission shall [e]nforce this article, ensure that money from the fund is placed in candidate campaign accounts or otherwise spent as specified in this article and not otherwise, monitor reports filed pursuant to this chapter and financial records of candidates as needed and ensure that money required by this article to be paid to the fund is deposited in the fund.” (emphasis added). A.R.S. § 16-956(B) also states, “[t]he [C]ommission may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records or other items material to the performance of the commission's duties or the exercise of its powers.” (emphasis added). No other statute in A.R.S. Title 16, Chapter 6, Article 2 authorizes the Commission to delegate these duties.

While A.R.S. § 16-979(C) states “[n]otwithstanding any law, the [C]ommission has exclusive and independent authority to select legal counsel to represent the [C]ommission regarding its duties *under this chapter*...”, A.R.S. § 16-979(C) is codified under A.R.S. Title 16,

Chapter 6.1. (emphasis added).¹ As such, any authority to delegate the Commission's duties to legal counsel is limited to those duties outlined by statute in A.R.S. Title 16, Chapter 6.1. As outlined above, the Commission indicates the current rulemaking is being brought pursuant to statutes in A.R.S. Title 16, Chapter 6, not Chapter 6.1. Therefore, the Commission has not cited to, and there does not appear to be any, express statutory authority to delegate the Commission's duties outlined in Title 16, Chapter 6, Article 2.

3. Does *Cudahy Packing Co. v. Holland*, 315 U.S. 357 (1942) prohibit delegation of subpoena power by the Commission?

Short Answer:

No. Given that the *Cudahy* decision involved construction of the Fair Labor Standards Act, a different statute from the Citizens Clean Elections Act at issue here, and the *Cudahy* Court's emphasis on the fact that the legislative history of the Fair Labor Standards Act showed a provision granting the authority to delegate subpoena power was eliminated when the bill was in Congress, though no similar history exists surrounding Proposition 200 which established the Citizens Clean Election Act by ballot initiative in 1998, *Cudahy* is distinguishable from the current circumstances and is not controlling. Furthermore, subsequent case law, discussed in more detail below, supports delegation of the Commission's subpoena power, even in the absence of express statutory authority to delegate.

Full Analysis:

a. *Cudahy Packing Co. v. Holland*

In *Cudahy*, a regional director of the Wage and Hour Division of the Department of Labor issued a subpoena to Cudahy Packing Co. ("Petitioner"), demanding the production of books, papers, and records relating to wages and hours and purchases and shipments. *Cudahy*, 315 U.S. at 358-59. On appeal to the Supreme Court, the question was raised as to whether, under the Fair Labor Standards Act, 52 Stat. 1060, 29 U.S.C. § 201, *et seq.* ("Act"), the Administrator of the Wage and Hour Division of the Department of Labor has authority to delegate his statutory power to sign and issue a subpoena duces tecum to a regional director. *Id.* at 358.

Section 11 of the Act authorized the Administrator and his designated representatives to conduct investigations which he may deem necessary to determine whether any person has violated any provision of the Act, or which may aid in the enforcement of the provisions of the Act. The Act did not define the Administrator's power to issue subpoenas or specifically authorize him to delegate it to others.

¹ Council staff notes that prior to March 28, 2023, the Arizona Revised Statutes (A.R.S.) found at azleg.gov did not include the Chapter 6.1 heading in Title 16. As such, A.R.S. §§ 16-971 through 979 were erroneously codified under A.R.S. Title 16, Chapter 6, Article 2.

However, for the purposes of any hearing or investigation, § 9 of the Act made applicable to the powers and duties of the Administrator, the subpoena provisions of a separate act, §§ 9 and 10 of the Federal Trade Commission Act. 15 U.S.C.S. §§ 49 and 50. The Administrator was thus given all the powers with respect to subpoenas which are conferred upon the Federal Trade Commission, and no more. Specifically, under § 9 of the Federal Trade Commission Act, 15 U.S.C.S. § 49, the Commission may require the attendance and testimony of witnesses, and production of documents by subpoena; and any members of the Commission may *sign* the subpoenas.

Given this statutory structure, the Administrator argued that he was given authority to delegate to regional directors the signing and issuance of subpoenas by § 4(c) of the present Act, and that, in any case, this authority is to be implied from the structure of the Act and the nature of the duties which are imposed upon him. *Id.* at 360. Section 4(c) provided: "The principal office of the Administrator shall be in the District of Columbia, but he or his duly authorized representative may exercise any or all of his powers in any place."

The Court held that the words of § 4(c), read in their statutory setting, make it reasonably plain that its only function is to provide that the Administrator and his representatives may exercise either within or without the District of Columbia such powers as each possesses. *Id.* at 361-62. The Court stated that, under the language in the Act, the power of the Administrator to delegate his power to sign and issue subpoenas could not be inferred, either from the extensive nature of the Administrator's duties, or from the fact that, under Section 11 of the Act, he is empowered, through designated representatives, to gather data and make investigations authorized by the Act. *Id.* at 363-64. The Court held that subpoena power shall be delegable only when an authority to delegate is expressly granted. *Id.* at 366. Furthermore, the Court noted that the legislative history of the Act showed that the authority to delegate the subpoena power was eliminated by the Conference Committee from the bills which each House had adopted. *Id.* Such authority expressly granted in the bill which passed the Senate, was rejected by the Conference Committee. *Id.*

The *Cudahy* case involved construction of an entirely different statutory framework from the Citizens Clean Election Act. Here, unlike in *Cudahy*, the plain language of A.R.S. § 16-956(B) defines the Commission's power to issue subpoenas, though the statutes in A.R.S. Title 16, Chapter 6, Article 2 are silent as to the Commission's authority to delegate it to others. Additionally, unlike in *Cudahy*, there is no evidence in the history of the Citizens Clean Elections Act, established by ballot initiative in 1998, showing that a provision granting authority to delegate the subpoena power was eliminated or restricted. Therefore, the facts at issue in *Cudahy* are different from those surrounding the Commission's rules and its holding does not apply.

b. *Fleming v. Mohawk Wrecking & Lumber Co*

While *Cudahy* was cited at the March 7, 2023 Council Meeting, the authority of agencies to delegate subpoena power, specifically the Court's holding in *Cudahy*, was considered in a subsequent Supreme Court case, *Fleming v. Mohawk Wrecking & Lumber Co.*, 331 U.S. 111

(1947), decided five years later. In *Fleming*, the Court found that the Price Administrator of the Office of Price Administration *could* delegate to district directors authority to sign and issue subpoenas. *Id.* at 122.

Fleming dealt with Section 201(a) of the Emergency Price Control Act which provided, in part, "[t]he Administrator may, subject to the civil-service laws, appoint such employees as he deems necessary in order to carry out his functions and duties under this Act, and shall fix their compensation in accordance with the Classification Act of 1923, as amended." Furthermore, Section 201(b) of the Emergency Price Control Act provided, "[t]he principal office of the Administrator shall be in the District of Columbia, but he or any duly authorized representative may exercise any or all of his powers in any place."

While these provisions were practically identical to those considered in *Cudahy*, the Court in *Fleming* determined the decision in *Cudahy* did not control. *Id.* at 120 Specifically, the Court in *Fleming* found that the legislative history of the Act involved in the *Cudahy* case showed that a provision granting authority to delegate the subpoena power had been eliminated when the bill was in Conference. *Id.* On the other hand, the Court noted the Senate Committee in reporting the bill that became the Emergency Price Control Act described § 201(a) as authorizing the Administrator to "perform his duties through such employees or agencies by delegating to them any of the powers given to him by the bill." *Id.* Furthermore, the Court noted that § 201(b) authorized him or "any representative or other agency to whom he may delegate any or all of his powers, to exercise such powers in any place." *Id.* at 120-21 (*citing* S. Rep. No. 931, 77th Cong., 2d Sess., pp. 20-21.). The Court in *Fleming* also noted in *Cudahy*, the Act made expressly delegable the power to gather data and make investigations, thus lending support to the view that when Congress desired to give authority to delegate, it said so explicitly. *Id.* at 121. In the Emergency Price Control Act, the Court noted there was no provision which specifically authorizes delegation as to a particular function. *Id.* In *Cudahy*, the Act made applicable to the powers and duties of the Administrator the subpoena provisions of the Federal Trade Commission Act, §§ 9 and 10, 38 Stat. 722, 723, 15 U. S. C. §§ 49 and 50, which only authorized either the Commission or its individual members to sign subpoenas. *Id.* The Court in *Fleming* noted the subpoena power under the Emergency Price Control Act was found in § 202(b) which states, "[t]he Administrator may administer oaths and affirmations and may, whenever necessary, by subpoena require any such person to appear and testify or to appear and produce documents, or both, at any designated place" and was not dependent on the provisions of another Act having a history of its own. *Id.*

Furthermore, the Court noted the Act involved in *Cudahy* granted no broad rulemaking power. *Id.* However Section 201(d) of the present Act provided, "[t]he Administrator may, from time to time, issue such regulations and orders as he may deem necessary or proper in order to carry out the purposes and provisions of this Act." The Court stated, such a rulemaking power may itself be an adequate source of authority to delegate a particular function, unless by express provision of the Act or by implication it has been withheld. *Id.* (*citing* *Plapao Laboratories v. Farley*, 92 F.2d 228 (D.C. Cir. 1937)). The Court found there was no provision in the Emergency Price Control Act negating the existence of such authority, so far as the subpoena power is concerned, nor can the absence of such authority be fairly inferred from the history and

content of the Act. *Id.* at 121-22. Thus, the Court held that the presence of the rulemaking power, together with the other factors differentiating this case from *Cudahy*, indicates that the authority granted by § 201(a) and (b) should not be read restrictively. *Id.* at 122.

c. *NLRB v. John S. Barnes Corp.*

In another case decided by the Seventh Circuit Court of Appeals two years later, *NLRB v. John S. Barnes Corp.*, 178 F.2d 156 (7th Cir. 1949), the Court also held that a Regional Director of the National Labor Relations Board (Board) could issue subpoenas. *Id.* at 162. The Regional Director of the Thirteenth Region of the Board issued subpoenas to John S. Barnes Corporation and Ernest J. Svenson (Respondents), one of its officers, to appear and testify and to produce certain documents and data before a hearing officer of the Board at a designated time and place. *Id.* at 157. The respondents contended that since the National Labor Relations Act, as amended, gave no express delegation authority to the Regional Directors of the Board to issue subpoenas, the subpoenas were invalid. *Id.* at 158.

Section 11(1) of the Labor-Management Relations Act of 1947 provided that, “the Board, or any member thereof, shall upon application of any party to such proceedings, forthwith issue to such party subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in such proceeding or investigation requested in such application.” *Id.* Section 11(1) also provided additional powers which the Board was expressly authorized to delegate to “any agent or agency designated by the Board for such purposes”, including administering oaths and affirmations. *Id.* Respondents contended that the express authorizations to delegate certain powers and the failure to expressly authorize the delegation of the subpoena power indicated that Congress did not intend that the Board should have the right to delegate the subpoena power to any agent. *Id.* at 158-59. However, the Court in *Barnes* found that, the mere fact that certain sections of the Labor-Management Relations Act of 1947 authorized the delegation of certain powers by the Board, had not been generally construed as depriving the Board of the power to delegate certain other powers, the delegation of which was not expressly authorized, citing several examples. *Id.* at 159.

The Court in *Barnes* also noted Section 6 of the Act gives the Board power to make, amend, and rescind such rules and regulations as may be necessary to carry out the provisions of the Act. *Id.* at 159. The Court in *Barnes* noted that the Board adopted Rule 203.58(c) National Labor Relations Board Rules and Regulations, Series 5, 12 Fed.Reg. 5656, which provided that subpoenas should be issued by the regional director or a hearing officer. *Id.* The Court in *Barnes* found that the rule was “necessary to carry out the provisions of the Act.” *Id.* The Court also noted that while it agreed that the Board could not, by its own rule, enlarge its powers beyond the scope intended by Congress, “[s]uch rule-making power may itself be an adequate source of authority to delegate a particular function, unless by express provision of the Act or by implication it has been withheld.” *Id.* (quoting *Fleming*, 331 U.S. at 121).

Furthermore, the Court in *Barnes* noted that, given the broad purpose and policy of the Act, the administration of the Act must be flexible and construed as to make its various provisions workable. *Id.* at 160. Ultimately, the Court found, from its consideration of the

National Labor Relations Act as a whole, its various provisions, its purpose, its legislative history, and the magnitude of the program involve, it was convinced that Congress intended to grant the Board the authority to delegate the power to issue subpoenas even though the power was not expressly granted. *Id.* at 162. The Court held that the subpoenas issued by the Regional Director pursuant to the Rules and established practice of the Board, were valid. *Id.*

d. *NLRB v. Lewis*

In another case regarding the same provision of the National Labor Relations Act, decided by the Ninth Circuit Court of Appeals, *NLRB v. Lewis*, 249 F.2d 832 (9th Cir. 1957), the Court again held that a Regional Director of the National Labor Relations Board (Board) could issue subpoenas under the facsimile signature of a Board member. *Id.* at 835. The General Counsel, by the Regional Director in Los Angeles, California, filed a consolidated complaint against the Lewis Food Company and the Association of Independent Workers of America, alleging that the company and the union were engaging in various unfair labor practices in violation of the Labor-Management Relations Act of 1947. *Id.* at 833. Pursuant to the written request of counsel for the General Counsel, the Regional Director, acting under Section 11(1) of the Act, 29 U.S.C.A. 161(1); issued the subpoenas in question under the seal of the Board and the facsimile signature of Abe Murdock, a member of the Board. *Id.*

The Court in *Lewis* noted, just as the Court in *Barnes*, that, while Section 11(1) explicitly empowers only the Board, or a member thereof, to issue subpoenas, nowhere in the Labor-Management Relations Act of 1947 does it make that power delegable nor expressly prohibit delegation. *Id.* at 835. Furthermore, the Court in *Lewis* noted all courts that had considered the delegability of the Board's subpoena issuing power to a Regional Director had interpreted Section 11(1) of the Labor-Management Relations Act of 1947 as empowering the Board to delegate the subpoena power. *Id.* (citing *National Labor Relations Board v. John S. Barnes Corp.*, 190 F.2d 127 (7th Cir. 1951) and *Jackson Packing Co. v. National Labor Relations Board*, 204 F.2d 842 (5th Cir. 1953)). As such, the Court held that subpoenas may validly be issued by a Regional Director under the facsimile signature of a Board member. *Id.*

Interestingly, the Court in *Lewis* also stated that neither *Cudahy* nor *Fleming* were controlling. *Id.* The Court noted the *Cudahy* decision merely held that the Fair Labor Standards Act, 29 U.S.C.A. 201 *et seq.* did not grant the Administrator the power to delegate his subpoena power to subordinates, while on the other hand, the *Fleming* case held that the Administrator of the Emergency Price Control Act, 50 U.S.C.A. Appendix, 901 *et seq.* was authorized to delegate the authority to issue subpoenas. *Id.* The Court found each of those cases involved the construction of a statute different from Section 11(1) of the Labor-Management Relations Act of 1947 at issue in *Lewis*. *Id.* Accordingly, the Court held those decisions, one upholding the delegability of this power and the other denying it, did not govern the instant case. *Id.* Therefore, the Court held that subpoenas could be issued by a Regional Director under the facsimile signature of a Board member.

Finally, the Court in *Lewis* addressed the fact that counsel for the General Counsel, not the General Counsel himself, sought the subpoenas. *Id.* at 838. To that point, the Court stated,

“[n]o citation of cases is necessary to restate the rule that in legal contemplation counsel representing counsel occupies the identical legal status of the person he represents.” *Id.* As such, the Court found, if the General Counsel could apply for the issuance of subpoenas, as the Court had held, counsel representing him could also do so validly. *Id.*

e. *Applicability of case law to Commission’s authority to delegate subpoena power.*

In the current circumstance, as noted in *Lewis*, the applicability of the holdings in *Cudahy*, *Fleming*, *Barnes*, and even *Lewis* itself are limited as they involved construction of different statutes from those at issue here. For that reason alone, *Cudahy* is not controlling as related to whether the Commission’s subpoena power is delegable under its statutes. However, in the absence of a Court’s interpretation of the present statutory provisions, we can look to the above cases for guidance. In that regard, the circumstances here are more similar to those found in *Fleming*, *Barnes*, and *Lewis* than *Cudahy*.

Here, while there is no express statutory authority to delegate the Commission’s subpoena power, like in *Barnes* and *Lewis*, there is no statutory prohibition either. Furthermore, unlike in *Cudahy*, there is no evidence in the history of the Citizens Clean Elections Act that the ability to delegate the Commission’s subpoena power was eliminated or restricted. Ultimately, as in *Fleming*, there is no provision restricting delegating authority, so far as the subpoena power is concerned, “[n]or can the absence of such authority be fairly inferred from the history and content” of the Citizens Clean Elections Act.

Additionally, like Section 201(d) of the Emergency Price Control Act in *Fleming*, which granted the Administrator the authority to “issue such regulations and orders as he may deem necessary or proper in order to carry out the purposes and provisions of this Act,” or Section 6 of the Labor-Management Relations Act of 1947 in *Barnes* and *Lewis*, which granted the Board power to make, amend, and rescind such rules and regulations as may be necessary to carry out the provisions of the Act, the Commission “may adopt rules to carry out the purposes of this article and to govern procedures of the [C]ommission”, pursuant to A.R.S. § 16-956(C). As outlined in *Fleming* and reiterated in *Barnes*, such a grant of power “may itself be an adequate source of authority to delegate a particular function, unless by express provision of the Act or by implication it has been withheld.” *Fleming*, 331 U.S. at 121. Therefore, just like the NLRB adopted Rule 203.58(c) outlined in *Barnes*, which provided that subpoenas should be issued by the regional director or a hearing officer, and that the *Barnes* Court indicated was “necessary to carry out the provisions of the Act,” here the Commission’s proposed amendments to allow delegation of subpoena power to any person authorized to provide legal services may also “carry out the purposes of” A.R.S. Title 16, Chapter 6, Article 2 and “govern procedures of the Commission.”

Ultimately, given the presence of the rulemaking power in A.R.S. § 16-956(C), together with the other factors differentiating the present circumstances from *Cudahy* and making them similar to *Fleming*, *Barnes*, and *Lewis*, as well as a consideration of the purpose and intent of the Citizens Clean Elections Act as a whole as outlined in A.R.S. § 16-940 and the Commission’s role to enforce and administer the system, Council staff believes the Commission has authority to

delegate its subpoena power to persons authorized to provide legal services, and subdelegate to any person authorized to provide legal services to the delegee as discussed in *Lewis*.

4. Is the term “legal services,” included in the proposed amended language in Commission rules R2-20-211 and R2-20-223, defined in the Commission’s rules or statutes?

Short Answer:

No. The term “legal services” is not defined in either the Commission’s rules or statutes.

Full Analysis:

The proposed amendments to rule R2-20-211(A) and (B) state the Executive Director of the Commission may delegate the authority to issue subpoenas and take depositions “to any person authorized to provide legal services.” Likewise, the proposed amendments to rule R2-20-223 states “any person authorized to provide legal services on behalf of the Commission” shall draft and serve notice of appealable agency action.

The term “legal services” is not defined in the Commission’s rules or statutes. However, the Rules of the Supreme Court of Arizona defines “practice of law” to mean, “*providing legal advice or services* to or for another by: (1) preparing or expressing legal opinions to or for another person or entity; (2) representing a person or entity in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process such as arbitration or mediation; (3) preparing a document, in any medium, on behalf of a specific person or entity for filing in any court, administrative agency, or tribunal; (4) negotiating legal rights or responsibilities on behalf of a specific person or entity; or (5) preparing a document, in any medium, intended to affect or secure a specific person's or entity's legal rights.” *See* A.R.S. Sup.Ct.Rules 75(b) (emphasis added).

Additionally, the Rules of the Supreme Court of Arizona and Rules of Professional Conduct state, “[a] lawyer in a firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the conduct of nonlawyers engaged in activities assisting lawyers in providing legal services...is compatible with the professional obligations of the lawyer.” *See* A.R.S. Sup.Ct.Rules, Rule 42(a); Rules of Prof.Conduct, ER 5.3(a). Specifically, lawyers shall “ensure that nonlawyers assisting in the delivery of legal services or working under the supervision of a lawyer comport themselves in accordance with the lawyer's ethical obligations, including, but not limited to, avoiding conflicts of interest and maintaining the confidentiality of all lawyer client information protected by ER 1.6.” *Id.*

As such, it appears the scope of the term “legal services” would include lawyers issuing subpoenas, taking depositions, or drafting and serving appealable agency actions. However, the Rules of the Supreme Court of Arizona and Rules of Professional Conduct also contemplate nonlawyers “assisting lawyers in providing legal services.”

Council staff believes the rules are sufficiently clear, concise, and understandable as written pursuant to A.R.S. § 41-1052(D)(4) as related to the term “legal services” as it is generally understood in the legal profession.

IV. CONCLUSION

The Commission’s rulemaking is properly before the Council as there is no statutory exemption from Council review located in A.R.S. Title 16, Chapter 6, Article 2, out of which this rulemaking arises.

While there is no express statutory authority for the Commission to delegate its duties, including the issuance of subpoenas, the Court’s holding in *Cudahy* is not controlling and does not prohibit the Commission’s delegation of subpoena power. In fact, subsequent case law from the Supreme Court, Seventh Circuit, and Ninth Circuit have all held that agencies may delegate subpoena power in the absence of express authority to do so, particularly when the agency is given a broad grant of rulemaking authority and no evidence of restriction exists either in express provisions or history. As such, given the Commission’s broad grant of rulemaking power in A.R.S. § 16-956(C), together with the other factors differentiating the present circumstances from *Cudahy* and making them similar to *Fleming*, *Barnes*, and *Lewis*, Council staff believes the Commission has authority to delegate its subpoena power to persons authorized to provide legal services, and subdelegate to any person authorized to provide legal services to the delegee as discussed in *Lewis*.

Finally, while the term “legal services” is not defined in the Commission’s rules or statutes, Council staff believes the rules are sufficiently clear, concise, and understandable as written pursuant to A.R.S. § 41-1052(D)(4) as related to the term “legal services” as it is generally understood in the legal profession.

Memorandum

To: Governor's Regulatory Review Council

From: Kara Karlson & Kyle Cummings, Assistant Attorneys General

RE: Clean Elections Commission Rule Amendments to A.A.C. R2-20-211, R2-20-220, and R2-20-223.

Date: March 31, 2023

Introduction

At the Council's Study Session on March 28, Chair Nicole Sornsin requested the Citizens Clean Elections Commission ("Commission") provide a brief on the amendments to rules Ariz. Admin. Code R2-20-211, -220, and -223 ("Rule Amendments") pending before the Governor's Regulatory Review Council ("GRRC").

The proposed amendments are "not illegal, inconsistent with legislative intent or beyond the agency's statutory authority" and meet all other statutory requirements imposed by Title 41. *See* A.R.S. § 41-1052. GRRC should approve the Rule Amendments at its next available meeting.

I. The Commission Submitted the Rule Amendments Pursuant to the Statutes Requiring GRRC Approval of Rules

In November 2018, Arizona voters approved Proposition 306 and removed an exemption from GRRC review for rules proposed under the Clean Elections Act. The Commission has submitted amendments to GRRC since that referendum became effective.

The Voter's Right to Know Act was approved by voters in November 2022. That law, codified at Chapter 6.1 of Title 16, provides an exemption from GRRC review for rules promulgated under that chapter. A.R.S. § 16-974(D). The Rule Amendments here

were first adopted by the Commission prior to the enactment of the Voter's Right to Know Act ("VRKA").¹ Consequently, the Clean Elections Act, not the Voter's Right to Know Act, governs the review of the Rule Amendments.

II. The Commission's Procedures Are Proper and the Rule Amendments Are Lawful.

A. The Statute and Rules Provide a Legal Process for the Issuance of Subpoenas.

The Rule Amendments pertain to rules that have existed since the initial rules created after the 1998 passage of the Clean Elections Act ("CEA"), A.R.S. §§ 16-940 through -961.² The Commission has express authority to issue subpoenas and delegate that authority to staff. First, the Act specifically empowers the Commission to subpoena witnesses:

The commission may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records or other items material to the performance of the commission's duties or the exercise of its powers.

A.R.S. § 16-956(B). The very next sub-section authorizes the Commission to "adopt rules to carry out the purposes of this article and to govern procedures of the commission."

A.R.S. § 16-956(C). In sum, the Commission is statutorily authorized to "adopt rules" that govern the authority of the Commission to "subpoena witnesses." A.R.S. § 16-956 (B),

¹ Ariz. Clean Elections Comm'n Meeting Packet (Sept. 29, 2022), *available at* <https://storage.googleapis.com/core.usgovcloudapi.net/public/docs/828-9-29-22-Meeting-Packet.pdf>.

² As recently as September 1, 2020, GRRC considered and accepted the Commission's Five-Year Report that included the baseline rules authorizing the delegation process at issue here. Governor's Regulatory Review Council, September 1, 2020 Council Meeting, Internet Archive (Sept. 1, 2020), <https://archive.org/details/9.1.2020-cm>.

(C). This includes a procedure, when properly promulgated by the Commission, to delegate that subpoena authority.

It is axiomatic that procedural rules can include the delegation of authority to issue a subpoena. *See, e.g.* A.R.S. § 12-2212 (providing a valid subpoena may be issued by any public officer authorized by law). For example, the Arizona Rules of Civil Procedure authorizes the issuance of subpoenas in civil proceedings. This includes a subpoena requiring the attendance of a witness at a deposition, hearing, or trial, as well as a subpoena *duces tecum* to produce documents. Ariz. R. Civ. P. 45. Indeed, it is a *rule* and not a statute that delegates authority to the “State Bar of Arizona to issue signed subpoenas on behalf of the clerk through an online subpoena issuance service approved by the Supreme Court.” Ariz. R. Civ. P. 45(a)(2). This is not surprising. Rulemaking pursuant to statute provides the authority for a number of necessary government functions. *See* A.R.S. § 41-1030 (authorizing rule-making and proscribing restrictions to ensure compliance with statutes).

There is a long line of cases that recognizes just the same type of statutory-regulatory framework employed by the Commission here authorizing the delegation of subpoena power. For example, in *Nat’l Labor Relations Bd. v. Duval Jewelry Co. of Miami*, parties moved to quash subpoenas issued pursuant to an NLRB complaint. 357 U.S. 1 (1958). The NLRB refused to hear the request to quash because the NLRB rules required review by a hearing officer before the Board would consider them. *Id.* at 4. The Court held that “[w]hile there is delegation here, the ultimate decision on a motion to revoke is reserved to the Board, not to a subordinate.” *Id.* at 7. Likewise, in *General Engineering, Inc. v. Nat’l Labor Relations Bd.*, 341 F.2d 367 (9th Cir. 1965), the court

explained that while the relevant statute “by its terms, relates only to subpoenas duces tecum, . . . the Board is authorized to make such rules and regulations as may be necessary to carry out the provisions of the Act.” *Id.* at 372. The Ninth Circuit held the language authorizing the board to “make such rules and regulations,” and then engaging in the act of rulemaking, provided appropriate authorization to apply the statute to subpoenas in other contexts. *Id.*

Indeed, such delegation in enforcement matters by boards and commissions may be *required* as a matter of due process. *See, e.g. Burns v. Ariz. Public Srv’c Co.*, 517 P.3d 624, 632, ¶34 (2022) (recognizing that the Corporation Commission’s subpoena power was not “without constraint,” limited by its “own limited constitutional authority, as well as the overarching requirements of due process.”). For instance, *Horne v. Polk*, holds that an agency may “investigate, prosecute, and adjudicate cases,” so long as the final decision-maker does not make the “initial determination of a legal violation, participates materially in prosecuting the case, and makes the final agency decision.” *Horne*, 242 Ariz. 226, 230, ¶ 14 (2017).³

While *Horne* was the first case to squarely address the procedure for administrative enforcement of campaign finance law in Arizona, it was not the first state or federal case to address due process in the context of administrative proceedings. For that reason, the

³ While there was discussion of *Legacy Found. Action Fund v. Clean Elections Comm’n*, CV-22-0041-PR (Mar. 2, 2023), during the Study Session on March 28, 2023, the Commission’s Motion for Reconsideration in that case remains pending and the Attorney General has filed an amicus in support of that motion. In view of the pending motion, this memorandum does not discuss that case.

rules at issue in the Rule Amendments pre-date *Horne*, and had been promulgated based on the long-standing recognition that due process requires that “no man can be a judge in his own case and no man is permitted to try cases where he has an interest in the outcome.” *In re Murchison*, 349 U.S. 133, 136 (1955). For this reason, not only is the ability to delegate subpoena authority proper given the plain language of the Clean Elections Act, it is an important due process protection as propounded by the state and federal Supreme Courts.

B. *Cudahy Packing* Is Inapplicable

As the GRRC Staff Attorney memo detailed in its extensive analysis, *Cudahy Packing, Co. v. Holland*, 315 U.S. 357 (1942), is inapplicable. There are a few points that the Commission wants to highlight to explain why the Commission agrees *Cudahy* does not apply here.

First, *Cudahy* is a case of statutory construction; a different statute necessitates a different result. In *Cudahy*, the administrator argued that delegation was authorized by a statute that provided “ ‘the principal office of the Administrator shall be in the District of Columbia, but he or his duly authorized representative may exercise any or all of his powers in any place.’ ” *Id.* at 360. This is not a delegation of authority. It is, as the majority held, a section designating the principal place of business and geographic constraints for the Administration. *Id.* at 361-62. (“We think that the words of the section, read in their statutory setting, make it reasonably plain that its only function is to provide that the Administrator and his representatives may exercise either within or without the District of Columbia such powers as each possesses.”).

The generally-applicable principle that can be derived from *Cudahy* is that there must be a legal process that authorizes delegation of investigative authority. The section relied upon by the agency in *Cudahy* was insufficient because it was not a *delegation* of authority, but an authorization to exercise its *extant authority* from the District of Columbia throughout the United States.

Second, federal laws enacted contemporaneously with the legislation at issue, providing agencies with authority to regulate in similar ways, expressly provided authority to delegate subpoena power when it was the will of Congress to include it. The majority opinion names a number of legislative acts, including the Federal Trade Commission Act “whose subpoena provisions were adopted by the present Act,” which did not include delegation authority. *Id.* at 364. And those agencies, in absence of an authorization of delegation authority, had never “construed the authority of its head to include the power to delegate the signing and issuance of subpoenas.” *Id.* at 365. In contrast, “Congress, in numerous cases, has specifically authorized delegation of the subpoena power” to subordinates. *Id.* Given this context, in *Cudahy* it was consistent with federal agency practice to find that there was *not* authority to delegate subpoena authority.

Third, Congressional intent *not* to delegate authority in *Cudahy* was apparent due to the fact that the authority to delegate subpoena power was included in a prior version of the statute, but removed and never re-inserted. *Id.* at 366. In fact, the case discusses a number of ways the statute was changed to eliminate or restrict the ability to delegate authority. *Id.* at 366-67.

Finally, other courts agree on the limited utility of *Cudahy*. The Federal Circuit Court of Appeals has also examined *Cudahy*, specifically the argument that because Congress explicitly gave a director a specific power, but not the authority to delegate, the intent was that there could be no delegation. *Ethicon Endo-Surgery, Inc. v. Covidien LP*, 812 F.3d 1023, 1031 (Fed. Cir. 2016). The court disagreed, noting “[t]he implicit power to delegate to subordinates by the head of an agency was firmly entrenched in *Fleming v. Mohawk Wrecking & Lumber Co.*” *Ethicon Endo-Surgery, Inc.*, 812 F.3d at 1031. Furthermore, “[t]he Supreme Court has not cited *Cudahy* since 1958 and the lower courts no longer follow it,” *id.* at 1032 (citation and internal quotations omitted), with “*Cudahy* simply stand[ing] for the unremarkable proposition that congressional intent to preclude delegation can sometimes be found in the legislative history.” *Id.* Much like *N.L.R.B. v. Lewis*, 249 F.2d 832 (9th Cir. 1957), cited to by the Staff Attorney Memo, *Ethicon* provides persuasive guidance that *Cudahy* does not impose a requirement of explicit provision of delegation authority.

Given the points above, *Cudahy* must be read in its proper context. It is a case that relies upon the plain language of a federal statute that did not authorize the delegation of authority, and further statutory context indicated that delegation authorization was considered and rejected by Congress and had not been exercised by similar agencies. Furthermore, *Cudahy* has been critiqued or ignored “since 1958.” *Ethicon Endo-Surgery, Inc.*, 812 F.3d at 1031. *Cudahy* is inapposite to the Rule Amendments before GRRC, and provides no basis to return the Rule Amendments.

C. The Commission’s Statutory-Regulatory Framework Properly Delegates Authority to Issue Subpoenas.

The statutory-regulatory framework provided by the Clean Elections Act is “consistent with the statute [and] reasonably necessary to carry out the purpose of the statute.” A.R.S. § 41-1030(A). The Clean Elections Act directs the Commission to “enforce this article” and to “adopt rules to carry out the purposes of this article and to govern procedures of the commission.” A.R.S. § 16-956(B), (C). To protect the rights of respondents before the Commission, the Commission has, by rule, separated the prosecutorial and decision-making functions as required by due process. This is consistent with Arizona law and procedure, as well as a long line of court cases approving limited delegation of authority in similar circumstances.

The commission has not delegated the unfettered authority to subpoena at will, as was the concern in *Cudahy*. Instead, the Executive Director must be authorized by the Commission to issue the subpoena. *See* Proposed Amend. R2-20-211(A). The Commission will continue to adjudicate in its neutral capacity the scope and extent of a subpoena on a motion by the respondent. Ariz. Admin. Code R2-20-213. Because the Rule Amendments are lawful exercises of the rulemaking power and *Cudahy* is inapposite, GRRC may not reject the rules on these grounds and should approved them at its next meeting.

D. The Term “Legal Services” is clear, concise and understandable to the general public.

While the term “legal services” is not defined in the Clean Elections Act, it is a clear, reasonable, and understandable term. The term “legal services” is neither vague

nor confusing. The plain meaning of the term is “work done by a lawyer for a client.” See “legal services,” *Cambridge Dictionary*, <https://dictionary.cambridge.org/us/dictionary/english/legal-services> (accessed March 31, 2023). Because A.R.S. § 16-979 does not apply to the Clean Elections Act, a mere editorial suggestion is not sufficient to return the rule. Consequently, GRRC should approve the Rule Amendments.

III. Conclusion

The Commission submitted the Rule Amendments to GRRC pursuant to A.R.S. §§ 41-1024, -1052. The Rule Amendments meet all of the requirements set forth in A.R.S. § 41-1052(D). The applicable case law and statutes demonstrate clearly and convincingly that the Rule Amendment are lawful and there is no good faith basis to return them. Respectfully, GRRC should approve them at its earliest convenience.

NOTICE OF TERMINATION OF RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION

1. The *Register* citation and the date of the Notice of Rulemaking Docket Opening:

Notice of Rulemaking Docket Opening: 28 A.A.R. 3489 (October 28, 2022)

2. The *Register* citation and the date of the Notice of Proposed Rulemaking:

Notice of Proposed Rulemaking: 28 A.A.R. 3409 (October 28, 2022)

3. Article, Part, or Section Affected (as applicable) Rulemaking Action

R2-20-211

Terminate