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THE STATE OF ARIZONA  
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF VIRTUAL PUBLIC MEETING

Phoenix, Arizona  
September 29, 2022  
9:30 a.m.

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<p>1 VIRTUAL PUBLIC MEETING BEFORE THE CITIZENS  2 CLEAN ELECTIONS COMMISSION convened at 9:30 a.m. on  3 September 29, 2022, at the State of Arizona, Clean  4 Elections Commission, 1110 West Washington, Conference  5 Room, Phoenix, Arizona, in the presence of the  6 following Board Members:  7 Mr. Damien Meyer, Chairman  8 Mr. Mark Kimble  9 Ms. Amy Chan  10 Mr. Galen Paton  11 Mr. Steve Titla</p> <p>12 OTHERS PRESENT:</p> <p>13 Thomas M. Collins, Executive Director  14 Paula Thomas, Executive Officer  15 Mike Becker, Policy Director  16 Gina Roberts, Voter Education Director  17 Kara Karlson, Assistant Attorney General  18 Thom Reilly, ASU  19 Rivko Knox, Member of the Public  20 Cathy Herring, Staff</p>	<p>1 CHAIRMAN MEYER: Good morning, everyone.  2 This is Damien Meyer. I'm Chair of the Citizens Clean  3 Elections Commission this year. It is 9:30 a.m. on  4 September 29th of 2022, and I call this meeting of the  5 Citizens Clean Elections Commission to order.  6 I'd like to ask the audience members to  7 please keep their microphones on mute.  8 And with that, we will take attendance.  9 Commissioners, please identify yourselves for the  10 record.  11 COMMISSIONER PATON: This is Galen Paton.  12 CHAIRMAN MEYER: Good morning,  13 Commissioner Paton.  14 COMMISSIONER KIMBLE: This is Mark Kimble.  15 CHAIRMAN MEYER: Good morning.  16 COMMISSIONER CHAN: This is Amy Chan. Good  17 morning.  18 CHAIRMAN MEYER: And Commissioner Titla, I  19 see you there. Can you just announce your presence,  20 please?  21 (No response.)  22 CHAIRMAN MEYER: Okay. Commissioner Titla, I  23 think, is having some issues with his audio, but for  24 the record, he is present. And it looks like he can  25 hear us, but maybe we just can't hear him.</p>
<p>1 MR. COLLINS: I think his phone is on mute.  2 CHAIRMAN MEYER: But we will --  3 Thank you, Tom.  4 We will go ahead and go to Agenda Item II,  5 which is to -- discussion and possible action on  6 Executive Director's Report, enforcement and regulatory  7 updates, and legislative update. Tom.  8 MR. COLLINS: Yes. Mr. Chairman and  9 Commissioners, thank you very much for being here  10 today -- never ceases.  11 So couple of quick things we wanted to  12 highlight. Obviously, we're going to have -- the voter  13 registration deadline is coming up here in the next two  14 weeks. Our Voter Education Guides have gone out to  15 households around the state. We have mailed 2.3 almost  16 million Guides, and they should be arriving this week  17 as we speak. In the Guide we have 15 statewide  18 candidates and 137 legislative candidates.  19 Just to highlight really quickly, we were --  20 we were happy to see that Gina was named as a Woman  21 Achiever as the Unsung -- as the Unsung Hero award  22 winner from the Arizona Capitol Times this last week.  23 That was, we thought, a wonderful recognition. We do  24 hope we sing Gina's praises enough in our meetings and  25 otherwise, but -- so I'm assuming that's not an</p>	<p>1 implicit criticism of what we're doing. But  2 nevertheless, it was a -- it was a wonderful  3 recognition for Gina and we're very proud of her. And  4 there will be an awards ceremony, I think, I want to  5 say November, but I -- yeah, November 4th. Sorry. So  6 if folks are interested in that, please let us know.  7 CHAIRMAN MEYER: Tom, can you send that  8 around to all of us for when that is?  9 MR. COLLINS: Yes, absolutely.  10 CHAIRMAN MEYER: That would be wonderful.  11 MR. COLLINS: Absolutely.  12 CHAIRMAN MEYER: Thank you.  13 MR. COLLINS: We -- speaking of Gina, voter  14 registration, our debate process is ongoing. We have  15 debates happening both online and on television. As we  16 -- over the last -- over this week we had -- last night  17 we had the Attorney Generals debate, Monday we have the  18 Treasurers debate, and then next week Wednesday -- on  19 the, 6th, rather, we have -- Thursday we have the U.S.  20 Senate debate featuring Senator Kelly, Blake Masters,  21 and a libertarian candidate Marc Victor. We are  22 collecting questions for that right now and we are very  23 excited for that event.  24 I want to thank -- thank Gina, obviously, for  25 her work in working with all these candidate campaigns</p>

<p>1 over the course of the last several months to  2 coordinate their attendance and the logistics of that.  3 The Senate debate is a unique opportunity. We are  4 working with the Broadcasters Association, the  5 Newspapers Association to deliver this debate widely to  6 people around the state live. So it's a unique  7 opportunity for voters to see this debate. We believe  8 it's the only scheduled debate between these candidates  9 that will be happening this election cycle, so that's a  10 really important thing to highlight.</p> <p>11 Gina, I don't know if there's anything you  12 want to add about the senate debate.</p> <p>13 MS. ROBERTS: Sure. Mr. Chairman,  14 Commissioners, Tom, yes. So as Tom mentioned, the U.S.  15 Senate debate is -- is a very unique opportunity that  16 we have been fortunate enough to bring to voters to get  17 all of these candidates together on stage. It will be  18 an hour in length. And we have been working tirelessly  19 with all of our partners. It is quite the production  20 to do this because it's -- you know, for the most part,  21 all of our debates, we work with Arizona PBS and  22 they're broadcast on Arizona PBS, which reaches about  23 80 percent of the state. In this particular U.S.  24 Senate debate, due to the great partnerships that we've  25 been able to build with the Arizona Broadcasters</p>	<p>1 Association and the Arizona Newspapers Association, we  2 will have reach that, you know, we've said this before,  3 we'll say it again, that rivals the Super Bowl in terms  4 of being able to bring it to voters across the state  5 from, you know, whatever corner that they are in.</p> <p>6 So it will be broadcast on television  7 stations, it will be streamed on radio stations, it  8 will be streamed on newspapers' websites. And we are  9 also bringing together closed captioning in English and  10 Spanish, it will be simulcast in Spanish, and we are  11 also having an American Sign Language production of it  12 as well too. So the amount of access that we are  13 bringing to voters for this particular debate really is  14 unprecedented.</p> <p>15 MR. COLLINS: I also wanted to mention,  16 we're -- for the first time, and this is a really  17 important issue given the circumstances that are  18 existing, we will have a meet the candidates event, in  19 conjunction with the Center for Civic Leadership, for  20 the Central Arizona Water Conservation District  21 candidates for Maricopa County. This is the board that  22 manages the Central Arizona Project. And so we are  23 excited to have the opportunity to provide voters an  24 opportunity to hear directly from those candidates, as  25 we all know that water management, both on the delivery</p>
<p>1 end and the financial end, is going to be something  2 that's going to be crucial in the near term for the  3 state.</p> <p>4 I do want to mention briefly, the state  5 Supreme Court did accept, I guess late last month --  6 kind of weird -- it took a little while to get the  7 agenda -- release its agenda from the last -- our last  8 meeting. You may recall last meeting we were waiting  9 to hear if the court would accept the petition  10 (unintelligible) Legacy Foundation Action Fund. That  11 -- that case did get accepted.</p> <p>12 The issue there principally is whether or not  13 the Legacy Foundation Action Fund, which missed the  14 deadline to file an appeal from an enforcement action  15 the Commission took from the 2014 election, was --  16 essentially bars them from relief. They filed a  17 special action -- so they took that missing the  18 deadline all the way up to the state Supreme Court,  19 where they were not successful. Then they filed a  20 special action, essentially bringing the same claims.  21 So we're putting the briefing together on that. Right  22 now the oral argument is scheduled for November 15th.</p> <p>23 This is an issue that, you know, originally  24 arose from an independent expenditure report, but, you  25 know, at this point it's more -- it's more in the</p>	<p>1 nature of an issue about when a person who misses a  2 deadline can challenge, on a broad basis, something  3 that they characterize as jurisdiction of an  4 administrative agency. So it really has to do much  5 more with finality issues. In our view, this doesn't  6 have anything to do with the merits at this point.  7 It's a pure procedural and fault by the -- by the  8 respondent.</p> <p>9 If you want more information about that, we  10 can -- we can provide it. This case, just for  11 perspective, has been on this list here for about, I  12 think -- well, 2014 was when it originally happened.  13 It's -- it's hard to sort of -- for me to characterize  14 necessarily how significant it is or insignificant it  15 is because it's just been hanging out there for a long  16 time. But as I said, the actual underlying issue is  17 not particularly necessarily exciting unless you care  18 about, you know, the real nitty-gritty of  19 administrative law and the restatement of a precedent.</p> <p>20 Couple of quick notes and then we -- I know  21 we don't want to belabor anything. The Secretary of  22 State's publicity pamphlet for ballot measures is also  23 out. They'll be hosting some Zoom town halls over the  24 course of the next -- over the course of the next week.  25 And then I also wanted to mention that the --</p>

<p>1 it was a news report, but nevertheless I thought it was  2 very important to note that Rachel Leingang at -- who  3 writes, among other places, for Votebeat, did a pretty  4 comprehensive report looking at drop box usage in the  5 2022 primary, and indicated that that usage remained  6 consistent and/or went up in some places where that --  7 there had been some controversy, if you will, around  8 whether or not those drop boxes are appropriate.  9       The legislature did not pass significant  10 restrictions on drop boxes this past session  11 ultimately; although, they considered it. What they  12 did do instead was they -- was they created a pilot  13 program to basically try to make them theoretically  14 (unintelligible). But again, I think the usage  15 indicates that whatever is out there that -- in terms  16 of really sort of misleading, at best, rhetoric around  17 the effectiveness of drop boxes or the potential  18 problems with drop boxes, voters are still using them.  19       I also want to highlight, and we can send  20 this to you later, that the Campaign Legal Center  21 issued a report last week looking at efficiency of  22 voter engagement around the state in terms of ease of  23 voting. On a 10-point scale Arizona did get an 8 out  24 of 10, which is good, but the report also sort of  25 highlighted that there are issues. In particular --</p>	<p>1 particularly in -- or, in minority communities and on  2 Native American lands respecting to -- respecting ways  3 in which it might -- some things are more -- some  4 things are problematic in terms of our policies.  5       One of those things, for example, they  6 highlight is the placement of actual voting centers or  7 polling places. So in that respect, the drop box --  8 you know, people are still using the drop box. And the  9 extent that people are still using it is important,  10 because those are tools, again, that are helping voters  11 get their ballots back more effectively. And so, you  12 know, from a practical perspective, if we're trying  13 to -- we believe participation is important, and we do,  14 you know, it's good to see some evidence that, in fact,  15 some of this rhetoric is not cutting into  16 participation.  17       So with that, I believe that concludes my --  18 my report. Mr. Chairman, thanks for letting us take a  19 little time here. And if anyone has any questions for  20 us, go ahead. Thank you.  21       CHAIRMAN MEYER: Absolutely. Thank you, Tom.  22       And Gina, congratulations. Very much  23 deserved. That's great that you're getting the  24 recognition. Everyone on this call knows how hard you  25 work and how -- what a service you do to Arizona voters</p>
<p>1 in educating them. Pulling the debates together is  2 just a, you know, small part of what you do. We all  3 know how much you do and we appreciate it, so thank  4 you. And I encourage everyone to try to go to that  5 awards ceremony. That would be really, really fun.  6       Another question I had. I know, of course,  7 our last meeting was about the gubernatorial debate.  8 Is there any -- I know Hobbs declined to debate. Is  9 there any more we need to know about that, Tom, or is  10 that just behind us at this point?  11       You're on mute, my friend.  12       MR. COLLINS: Mr. Chairman, Commissioners,  13 yes. We will have, on October 12th, the Q and A. That  14 is a result of -- you know, when one -- when we have  15 two candidates, and one candidate declines to  16 participate, we offer Q and A with the moderator.  17 That's what we did in the primary election for the  18 democratic gubernatorial nominee. We will be  19 proceeding with that on October 12th.  20       Other than that, I think that, you know, the  21 debates -- all I can say is that otherwise we have  22 nothing really else to do -- to do there. You know, I  23 think we've kept everyone as informed as possible about  24 any changes in time and stuff like that should the  25 situation change. But at this point, we don't expect</p>	<p>1 to hear anything else about that issue.  2       CHAIRMAN MEYER: Thank you. I watched the AG  3 debate yesterday, and I thought that was, you know,  4 great for voters to see.  5       Any other Commissioners have any questions --  6 COMMISSIONER PATON: I have a question.  7 CHAIRMAN MEYER: -- on the report?  8 Go ahead, Commissioner Paton.  9 COMMISSIONER PATON: I was just wondering  10 about the Clean Elections candidates that we -- that we  11 sponsor. Is that a normal number, higher, lower, Tom?  12 MR. COLLINS: Mr. Chairman, Commissioner  13 Paton, you know, the number this year is pretty roughly  14 consistent with where we have been percentage-wise over  15 the last couple of years. I think our high point in  16 2006 was somewhere around 60 percent. By 2020 we were  17 down to about 20 percent. That's about where we are.  18       Now, there's some different factors around  19 that, one of which is that there's a view -- and I kind  20 of say this a lot to folks when they ask is that  21 there's a view among political consultants that running  22 clean is a somehow massively inefficient way to run a  23 campaign. And a couple of premises that are in that  24 view that are just flat incorrect. One, clean  25 candidates can work with their political party as</p>

<p>1 nominees to the same extent that traditional candidates 2 can. So there is -- and the way that you now see 3 political candidates in the nominee phase on a 4 statewide basis is essentially merging their campaigns 5 with the state party provided that the barrier to -- 6 you know, the funding barrier is there in the sense -- 7 in effect that the candidate themselves is not out 8 there soliciting the donations and those kinds of 9 things.</p> <p>10 You know, there's a -- but that -- you know, 11 but when the legislature expanded the ability to 12 coordinate with the party, it did so on a basis that 13 had no -- drew no distinction. But financially 14 speaking, you know, that candidate still has an arm's 15 reach relationship with the funding, but the party has 16 some ability to step in there. And I think that was a 17 significant change.</p> <p>18 I also think that if you look at the amount 19 of money that's involved in these -- in these 20 legislative races, the reality is that most candidates 21 still don't get much more money brought in than the 22 clean funding. So there's some real -- and again, the 23 purpose of the clean funding is to -- is to break the 24 link between direct contributions and political favors 25 that gives rise to the appearance of corruption.</p>	<p>1 So, I mean -- so, you know -- so it's still 2 one of those things where I think that there are real 3 efficiencies that are consistent with the underlying 4 policy premise of clean funding program that political 5 consultants and lawyers just seem to not want to look 6 past. And, you know -- and part of that is 7 ideological.</p> <p>8 Both parties are hostile to the notion of 9 public financing for different reasons, and part of 10 that is -- I think part of it is that if you're a 11 political consultant, you're looking for places to 12 value add or, to be less generous, you're looking for 13 places to add margin, right. So when your budget is 14 set forth by a -- by the Clean Elections Act, that 15 margin is going to be static and not going to be -- you 16 know, because a lot of times -- you know, the reality 17 is that a candidate may be raising money for ads and a 18 candidate may be raising money for some form of 19 grassroots outreach; although, a lot of grassroots 20 outreach isn't even a campaign expenditure. The 21 reality is that in some cases candidates are merely 22 working for consultants, you know.</p> <p>23 I mean, this sort of game of politics in a 24 sense is to recruit somebody who can raise money, and 25 then they pay you for the pleasure of having raised</p>
<p>1 money that you're going to spend. So there's some real 2 perverse incentives in the candidate-consultant 3 relationship that -- actually, I think that the program 4 kind of makes apparent.</p> <p>5 The long answer to your question, probably 6 not -- so the short answer was, it's about where it's 7 been. The long answer is, I think it's illogical for 8 it to be so low based on all the other circumstances 9 that are involved in financing political campaigns, 10 especially at the legislative level and at the lower 11 statewide level, treasurer, Corporation Commission. We 12 still have all the Corporation Commissioners. We have 13 one of the superintendent of public instruction 14 candidates.</p> <p>15 I believe that, you know, if you look at -- 16 and I think we'll see this, that how goes the state is 17 how goes those lower level candidacies. So the issue 18 there is, again, what's the most efficient use of 19 resources. Putting aside the policy issues and the 20 decision making of candidates in consultation with 21 their consultants, seems to be pretty illogical for a 22 race like treasurer, for example, those kinds of 23 elections. So long as we're going to have those as 24 elected officials, it seems to me that there's very 25 little logic towards that candidate sort of saying,</p>	<p>1 yes, I'm going to go out and raise a bunch of money. 2 And it's particularly important, I think, 3 that we have, for example, the Corporation Commission, 4 because, you know, in those kind of regulatory roles, 5 where the potential for corruption becomes particularly 6 acute -- you know, I think -- obviously, we used to 7 have the governor's race. I wish we still had that 8 because obviously there, with the governor's vast 9 authority, there is a particularly -- again, an acute 10 issue of (unintelligible) corruption. But those are 11 kind of my thoughts on that, sort of a rationalization 12 of why we are where we are.</p> <p>13 CHAIRMAN MEYER: Okay. 14 COMMISSIONER KIMBLE: Mr. Chairman. 15 CHAIRMAN MEYER: Yes. Go ahead, 16 Commissioner Kimble. 17 COMMISSIONER KIMBLE: I appreciate 18 Commissioner Paton bringing this matter up, and I don't 19 want to get into a lengthy discussion about it now, but 20 I think it's something that we need to discuss probably 21 early next year, depending on what happens with the -- 22 with the ballot proposition that Terry Goddard has 23 worked on. But it is concerning to people, and I think 24 it's something we've got to address, but I think we 25 should wait to see what the ballot proposition does.</p>

<p>1 CHAIRMAN MEYER: Thank you.                  2 Anyone else have any other questions?                  3 (No response.)                  4 CHAIRMAN MEYER: All right. Thank you, Tom.                  5 And again, congrats to Gina.                  6 Let's see. Item No. III on the agenda,                  7 discussion and possible action on meeting minutes for                  8 August 25th, 2022 and September 8, 2022. Anyone have                  9 any comments on the minutes for either of those two                  10 meetings?                  11 (No response.)                  12 CHAIRMAN MEYER: If not, can I get a motion?                  13 I think we can approve both of them in one motion. Can                  14 I get a motion to approve the meeting minutes?                  15 COMMISSIONER CHAN: Mr. Chairman.                  16 COMMISSIONER TITLA: I'll make that motion.                  17 CHAIRMAN MEYER: Hold on one second. I'm                  18 hearing something from --                  19 COMMISSIONER CHAN: I heard --                  20 COMMISSIONER TITLA: Commissioner Titla makes                  21 a motion to approve.                  22 CHAIRMAN MEYER: Commissioner Titla, hold on                  23 one second, okay? I think I'm hearing from tech or                  24 support.                  25 COMMISSIONER CHAN: I was speaking,</p>	<p>1 Mr. Chairman. I heard --                  2 CHAIRMAN MEYER: Oh, I'm sorry.                  3 COMMISSIONER CHAN: -- Commissioner Titla                  4 make the motion, and I will second the motion.                  5 CHAIRMAN MEYER: Oh, I'm sorry. I'm sorry.                  6 Thank you. Okay. So we have a motion from                  7 Commissioner Titla, and that motion has been seconded                  8 by Commissioner Chan, to approve the meeting minutes                  9 for August 25th, 2022 and September 8th, 2022.                  10 We'll go ahead and call the roll.                  11 Commissioner Chan.                  12 COMMISSIONER CHAN: I vote aye.                  13 CHAIRMAN MEYER: Commissioner Kimble.                  14 COMMISSIONER KIMBLE: Aye.                  15 CHAIRMAN MEYER: Commissioner Paton.                  16 COMMISSIONER PATON: Aye.                  17 CHAIRMAN MEYER: Commissioner Titla.                  18 COMMISSIONER TITLA: Aye.                  19 CHAIRMAN MEYER: And I vote aye as well.                  20 So that motion passes unanimously and the                  21 minutes are approved.                  22 Item No. IV on our agenda, discussion and                  23 possible action on presentation by Thom Reilly,                  24 Director, Center for an Independent and Sustainable                  25 Democracy, regarding the Center, election</p>
<p>1 administration, and independent voters.                  2 So for this item, as part of our ongoing                  3 discussion on election policy issues facing Arizona                  4 voters, we will hear from Dr. Thom Reilly of ASU Center                  5 for an Independent and Sustainable Democracy. And I'm                  6 really excited about this presentation.                  7 Dr. Thom Reilly is currently a professor in                  8 the School of Public Affairs and co-director for the                  9 Center for an Independent and Sustainable Democracy at                  10 ASU. He's the former chancellor of the Nevada System                  11 of Higher Education, where he served as chief executive                  12 officer and oversaw a complex system that includes                  13 research universities, four-year undergraduate                  14 institutions, a research institute, and community                  15 colleges. Prior to this appointment, he served as a                  16 director of the Morrison Institute for Public Policy                  17 here at Arizona State University.                  18 He previously served as County Manager for                  19 Clark County, which is in the Las Vegas Valley, where                  20 he provided both regional and municipal-type services.                  21 As CEO, he was responsible for the fiscal management of                  22 the County's \$5.8 billion budget and administrative                  23 oversight of close to 12,000 employees.                  24 Thom is going to discuss the Center's role                  25 and its recent research on election administration and</p>	<p>1 independent voters. We did receive some materials; I                  2 hope you all had a chance to review those. They were                  3 very illuminating and interesting.                  4 And with that, I'm going to turn it over to                  5 you, Thom. Thanks so much for joining us.                  6 MR. REILLY: Mr. Chairman and Commissioners                  7 and Tom Collins, it's good to see you again. I                  8 appreciate the invite, and thank you for the                  9 opportunity to briefly talk about the mission of the                  10 Center and then just touch upon some of the work that                  11 we're doing that can illuminate some of the work of the                  12 Center.                  13 So we recently started the Center for the                  14 Independent and Sustainable Democracy, and it basically                  15 has two primary missions. One is to explore                  16 nonpartisan reforms at the local, state, and federal                  17 level, and two is to do a deep dive into who the                  18 independent voter is. And to our knowledge, there is                  19 no other university in the United States that actually                  20 has a focus on understanding who the independent voter                  21 is.                  22 On October 19th in Washington, D.C. we're                  23 launching the Center, and we're also launching our                  24 book, put out by Routledge, called The Independent                  25 Voter, with my colleagues Jackie Salit, and Jackie is</p>

<p>1 president of voter -- independentvoter.org, she's kind  2 of a grassroots individual, and Omar Ali, who's a  3 well-known historian from University of North Carolina  4 Greensboro. So we'll be launching that event on the  5 19th. If anyone is in D.C., you're more than welcome  6 to come. I can get that information to you.</p> <p>7           You know, a lot of the narrative too about  8 concerns has been about talking about voter supression,  9 but many individuals now are saying that our partisan  10 election administration is really the greater worry  11 than even voter supression. So part of that is a  12 partial study that we did that looked at administration  13 of our elections, particularly the partisan. And we  14 did a review of the 30 states that have a partisan  15 registration system, and we're finishing up the  16 analysis of the remaining 20 with nonpartisan.</p> <p>17           But, you know, this partisanship is baked  18 into every aspect of our American electoral system. I  19 think as I noted before, you know, the U.S. is the only  20 democracy in the world with a partisan system of  21 election administration, and that's done by design.  22 And this can leave -- obviously, to -- the Commission  23 well knows that elections can be open to partisan  24 politics and political interference. So party parity  25 has been kind of the fundamental principle of the</p>	<p>1 American electoral process, and this has kind of been  2 baked in the system, and the concern between the parity  3 of the Ds and the Rs as the defining function. And so,  4 in essence, each party is tasked by law with checking  5 the other party's ability to tinker with the balance of  6 the election outcomes.</p> <p>7           And we see this even at the top level, at the  8 federal level. The Federal Elections Commission, which  9 is designed as the protectorate, at the federal level,  10 of election integrity, is the only federal commission  11 in the United States that has an even number of six  12 members, three Democrats and three Republicans. So  13 it's designed to not be able to make a decision if both  14 major parties disagree.</p> <p>15           Now, as long as most Americans were actually  16 from each of the parties and that there was some  17 semblance of competition geographically throughout the  18 United States, you know, this seemed to work, well, you  19 know, although imperfectly. But now, the largest group  20 of voters are those that are unaffiliated and  21 independent.</p> <p>22           In fact, this is one area we deal with quite  23 extensively in our book about why are so many people  24 leaving the two-party system. You know, if we look at  25 millennials, 52 percent of millennials, 52 percent of</p>
<p>1 Gen X, Gen Z are now not identifying themselves as part  2 of a party. So when you have the largest number of  3 voters that aren't part of the party, this parity --  4 party parity can be called into question.</p> <p>5           On top of that, when you have -- you know,  6 true competition has diminished in our country with --  7 many states are run, at all levels, by one major party.</p> <p>8           So with that, you know, you have a system  9 that there can be quite a bit of concerns, and that's  10 one of the areas that we looked at in this election  11 report. You know, instead of requiring that each  12 state's chief election officer be nonpartisan or  13 neutral, we elect them in these very highly polarized  14 campaigns, and then expect that they be viewed the next  15 day as these trusted arbiters of election information  16 and the electoral process.</p> <p>17           And it's not only the case of individuals  18 that are running as partisans now and endorsing  19 candidates when they're running as secretary of states,  20 or even as election deniers that we see in several  21 states, but now that -- we have people tinkering or  22 being reported as tinkering with this partisan process  23 that we have by looking at getting poll workers, for  24 example, that are election deniers and populating the  25 poll centers.</p>	<p>1           So when we looked at something as dry and  2 mundane as election codes, what we found is, of the 30  3 states, that 27 really gave preferential treatment to  4 partisans wanting to serve, you know, on election  5 boards or as poll workers, and nearly half privileged  6 partisans wanting to serve as election judges. Almost  7 every state code we studied privileged partisans'  8 access to basic tools of election machinery and  9 engineering, including voter data and public campaign  10 expenditures.</p> <p>11           As I mentioned, this is kind of the first  12 iteration of the report. We're finishing up the  13 analysis and come up with a set of recommendations.  14 But basically, you know, at this point we've been  15 really calling for a larger conversation and attention  16 to the concerns that we have in the United States about  17 a partisan election system and that this may very well  18 be the most worrisome issue moving forward when we  19 start talking about the integrity of our democracy.</p> <p>20           I'll jump on to the second one. Then if  21 there's any questions, just please interrupt me or we  22 can finish up.</p> <p>23           So the first report that we did looked at  24 election administration, which is going to our mission  25 of looking at new nonpartisan governance systems. The</p>

<p>1 most recent study we just finished, and it's under  2 review now with an academic journal, is to look at this  3 notion of independent voting over time. So, you know,  4 most political scientists, political strategists really  5 have been somewhat dismissive, as you well know, of who  6 the independent voter is. The assumption is that most  7 independents profess this independence, but they're  8 really leaners.</p> <p>9         And this really kind of dates back to some of  10 the seminal work in 1960 by Agnus Campbell of the  11 American voter. And that basically looked at surveys  12 of the American National Election System, ANES,  13 particularly around the issues of presidents, governor,  14 and Congress. And they began asking individuals in  15 1960 to identify yourself, whether you're Republican,  16 Democrat, or independent. So they came up with this,  17 you know, this data based upon this breakdown of the  18 three different classifications.</p> <p>19         Shortly thereafter, they began asking a  20 follow-up question to independents. We trust you if  21 you say you're Republican; we trust you if you say  22 you're Democrat; but if you're independent, we're going  23 to ask you a follow-up question. And the follow-up  24 question is: Do you lean Republican or Democrat? And  25 so they came up with this seven-point scale of whether</p>	<p>1 you're a strong Democrat, Democrat, whether you're a  2 leaner, whether you're truly independent, whether you  3 lean Republican, whether you're a Republican, or a  4 strong Republican. So they developed this kind of  5 seven-point scale to kind of measure people's  6 identification.</p> <p>7         But due to the work of a gentleman by the  8 name of Keith and his book that he put out called The  9 Myth of the Independent Voter, in 2008 the American  10 National Election Studies were convinced they could  11 collapse that seven-point scale down to three points,  12 okay. And this is kind of important, because they've  13 reclassified those that were leaners to -- as  14 partisans. So it became Republicans -- if you leaned,  15 you were considered a Republican; if you leaned  16 Democrat, you were considered a Democrat; and then you  17 left just that middle category of independents. And so  18 from that, political scientists began to label leaners  19 and argue that the true number of independents is  20 really quite small, it's only about 10 percent.</p> <p>21         Our colleague from University of Arizona,  22 Samara Klar, came out with a great book called  23 Independent Politics, and she really proposed that  24 people were embarrassed by their parties. So what they  25 do is that they don't want to admit that they're party</p>
<p>1 affiliated, although they may truly vote that way. And  2 she said basically that they don't want to be  3 associated with either party, so they say independent;  4 but when you look at their voting patterns, they tend  5 to be leaners and partisans.</p> <p>6         Now, the issue with that, in most of the  7 studies, has been that when you ask someone whether you  8 lean Republican or Democrat and ask how they vote at  9 the next election, most of them follow where they lean.  10 And what wasn't taken into consideration is maybe they  11 were voting for positions, maybe they were voting for  12 individuals, but there hasn't been a lot of studies of  13 looking at voting patterns over time.</p> <p>14         One of the lead persons advocating for this  15 was actually -- he's a professor at Stanford, was  16 actually the president of the board of ANES, says that  17 you really have to look at voting over time and you  18 need to look at down ballot. You can't just look at  19 the top positions. Look at down ballot and start  20 tracking independent voters over time.</p> <p>21         Okay. So what we did is we took data from  22 1972 to 2020 and looked at that very issue. Let's  23 study independent voting over time and see, you know,  24 if there is -- if they are truly sticking to one party  25 or another. And now it's wrapped up, but what we found</p>	<p>1 was that when tracking independent voting behavior over  2 more than one election, we saw a significant volatility  3 in voting loyalty.</p> <p>4         Our analysis on how independent voters and  5 nonvoters, which is really important to get at what  6 triggers them to vote, we found, from one cycle to the  7 other, that there was significant fluidity with voters  8 and nonvoters and they were incredibly unpredictable,  9 which is really kind of the central theme of our book,  10 that if you really think you know independents, you  11 have another thing coming. They are so unpredictable  12 and volatile in their voting and really do deserve a  13 deeper dive.</p> <p>14         And if I was a partisan running a campaign, I  15 would really want to get more insight into how this  16 group of voters that supported Obama by 8 percentage  17 points, flipped to Trump in 2016 by 4 percentage  18 points, and then flipped back to Biden by 13 percentage  19 points in the last election.</p> <p>20         But what we did is that we looked at all  21 three voting scales. So we looked at that original  22 scale, tell us how you are, Republican, Democrat, or  23 independent, the seven-point scale, and then the  24 collapsed three-point scale. And in every one of those  25 scales we saw an incredible amount of volatility and</p>



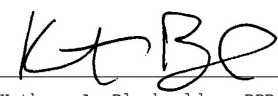
<p>1 that the identification really depended upon specific  2 candidates on an issue on the ballot, short-term  3 interest versus -- you know, that they had much more  4 short-term interest than this long-standing loyalty to  5 a party. And then the research also confirmed that a  6 sizable number of independents moved in and out of  7 independent status from one election to another.</p> <p>8           So I think this study, I think, will add to  9 the limited number of research that has actually looked  10 at independents over time and not just looked at them  11 in one election. And this is coupled with some really  12 interesting emerging research that is coming out down  13 ballot. There was a great study that was done just in  14 North Carolina that when you look down ballot and you  15 get away from the president or celebrity candidates and  16 look down ballot, you see, again, this incredible  17 amount of volatility.</p> <p>18           And then the last thing I'll just mention  19 too, I think Tom, Mr. Collins, put this in your  20 package, was a study that we did that looked at media  21 consumption and where -- who people talk about their  22 voting patterns. And this was just actually published  23 a couple months ago. And what we did is we asked, you  24 know -- we based upon the research that Pew had come  25 out with that, you know, people tend to choose their</p>	<p>1 media sources to fit their reality, right, that we have  2 this cafeteria style and we're able to choose media  3 stuff that reflects our world view. And then, when we  4 do that, we end up talking about it with people who  5 think and act like us. So liberals, conservatives, and  6 moderates kind of live in these bubbles.</p> <p>7           And so what we used in Arizona is that,  8 because Arizona is kind of more or less a third, a  9 third, and a third between Republicans, Democrats, and  10 independents, to ask them where they get their media  11 sources and then who they talk about -- who do they  12 talk to. And so we looked at all these media sources.  13 We didn't do a content analysis of the media sources,  14 but we based it upon their perception of whether it was  15 liberal or Republican. And this kind of mirrored some  16 of the research that Pew came out with, but our study  17 looked at independents equally with partisans as  18 Republicans and Democrats.</p> <p>19           Sure enough, Republicans tend to get their  20 news sources -- the more conservative you are, you can  21 move towards Fox and others and you have Republican  22 friends. Democrats have Democrats as friends and they  23 have a different set of news sources. Independents are  24 a bit distinct from the two, but Republicans and  25 Democrats were more likely to have independents as part</p>
<p>1 of their circle of friends they talk about. And when  2 they did, which is, I think, the big takeaway from the  3 study and was most significant, is that they tend to  4 moderate it -- moderate their news sources, right. So  5 when you had more independents in your circle of  6 friends, the media sources moderated particularly for  7 those that are Republican.</p> <p>8           And so where previous research shows that  9 individuals with highly polarized views are less likely  10 to discuss politics with those with opposing views, our  11 research really shows that partisans, when they  12 continue to discuss stuff with -- politics with  13 independents, they perhaps were a little more open to  14 considering different points of view.</p> <p>15           The last thing I'll say about that study is  16 that Twitter picked up on it, and the big outcome that  17 came on the Twitter study was not what we felt was the  18 most significant part of that study, it was that young  19 Democrats were most likely to unfriend you on Facebook.  20 Independents are less likely to knock you off of  21 Facebook if they disagree with you. Young Democrats  22 were most likely to kick you off.</p> <p>23           Well, with that -- sorry I was going through  24 that at such rapid speed, but I do think that the  25 Center that we have will add some incredible value.</p>	<p>1 Our book that comes out there, which is -- I think it's  2 probably one of the more comprehensive views and  3 deep-dive look at -- of who this very unpredictable,  4 volatile group of voters are, but we also tied in this  5 notion about how do we explore, as a country, more  6 nonpartisan alternatives from everywhere from the  7 Secretary of State in elections, but just how we do  8 business in the United States. So thank you again for  9 the opportunity to kind of share what we're doing at  10 the Center.</p> <p>11           CHAIRMAN MEYER: No, thank you. I appreciate  12 you being here. I did have a couple questions. That  13 was a lot of information. I mean, could you -- could  14 you share with us maybe one or two things that you were  15 most surprised by when you reviewed the data from your  16 study?</p> <p>17           MR. REILLY: From the election study or from  18 the -- from the independent voter?</p> <p>19           CHAIRMAN MEYER: From both. From both.</p> <p>20           MR. REILLY: Yeah. I think from the -- you  21 know, we really, until this election, really haven't  22 focused enough on how partisan our election system is.  23 I think what many people are finding that's pretty  24 shocking is that, you know, almost in all these voter  25 registration systems, you know, if you're not part of a</p>

<p>1 major party, you can't participate in issues as poll 2 workers or judges. And so the amount, how partisan 3 this is, and how it's just not working as -- you know, 4 not when we have a growing number of people that are 5 independent.</p> <p>6         And when you want people in the poll places, 7 that probably will add to, as nonpartisans -- the fact 8 that they're excluded was somewhat astonishing, I 9 think. And then when you start looking at, you know, 10 just how it's kind of baked into our whole system, that 11 it really just deals with two parties and, you know -- 12 and if they can't come to agreement, they just 13 deadlock. And it's not only at the federal level; that 14 trickles down at the state and local level. So I think 15 that was pretty astonishing.</p> <p>16         I think when we talked with individuals, we 17 did -- one of the co-authors and I, Jeremy Groomer, did 18 an op ed in The Hill. I think we got a lot of 19 really -- comments on that saying like, wow. You know, 20 no one looks at those details. But it is those -- it 21 is that partisan system now that I think makes us most 22 vulnerable and is allowing for this exploitation of it, 23 right. So, you know, let's not only run people that 24 are deniers, but let's throw them in the poll places 25 and really muck things up. So I think -- I think this</p>	<p>1 is an area, from the media perspective and one from the 2 academic perspective that has not been looked at, that 3 I think is ripe.</p> <p>4         The Independent Voter I think is interesting 5 because it kind of dispels and puts us at odds with 6 most of our colleagues in political science. You know, 7 political sciences are basically dismissive of 8 independents. You know, people profess it, but they're 9 leaners. And what we found was that there were so few 10 studies that went beyond a single election to make that 11 analysis. And now we're looking at data from ANES, the 12 national database, the gold standard, and I think what 13 we found was that there is a great amount of 14 volatility. And I'll tell you, people think they can 15 tell you how independents vote, they're not being 16 truthful, because I think they are an incredibly 17 volatile group of voters. And I think, you know, what 18 happens with partisans is that when -- one election, 19 when independents perhaps vote for them in one 20 election, they begin treating them as partisans instead 21 of independents that, you know, don't have these firm 22 loyalties that people think they have.</p> <p>23         CHAIRMAN MEYER: That's interesting. I mean, 24 to me it makes sense that an independent voter would be 25 more volatile because, by the very nature they're</p>
<p>1 independents, they're not, you know, leaning one way or 2 the other. So that -- but that is interesting that 3 your research kind of confirmed that.</p> <p>4         And then one other question I had, and maybe 5 this is a little off the wall. But, I mean, you're 6 taking about hyperpartisanship and sort of the issues 7 it's creating within our election process. I have read 8 studies or seen talk about rank choice voting as a way 9 to help sort of eliminate some of that 10 hyperpartisanship. Have you guys looked at that or do 11 you have any thoughts on that? I know they use it in 12 Alaska. I'm just curious if that's something --</p> <p>13         MR. REILLY: Yeah, we did, actually. We 14 covered the -- we have actually a section -- one of the 15 chapters I wrote actually dealt with, you know, the 16 prevalence of rank choice voting worldwide. You know, 17 Ireland endorses it. There's a lot of counties and 18 municipalities in Utah, surprisingly, that have adopted 19 rank choice voting. And I think we kind of viewed it 20 as, you know, one of many ways to look at perhaps this 21 hyperpolarized system in that -- you know, some of the 22 criticisms of rank choice voting was that it's more 23 complex, people may have a hard time understanding it.</p> <p>24         But we also address, you know, other ways for 25 individual communities or states to consider in</p>	<p>1 addition to rank choice. You know, I mean, there's all 2 talk why we even -- why do we even have primaries. You 3 know, I mean, why do we have, you know, primaries in 4 majority of states that exclude independents or 5 unaffiliated from voting. And parties will argue, 6 well, it's our party. We should nominate our own 7 individuals. Yeah, maybe you should, but taxpayers 8 shouldn't pay for it if you're going to exclude a large 9 portion of voters. So, you know, there is this kind of 10 body of research and thought coming out there, why not 11 just eliminate primaries and go to the top two, top 12 four, top five vote getters.</p> <p>13         So I think the message we kind of put out 14 there is, instead of just -- you know, there's a lot of 15 different models that are out there, including rank 16 choice, including top two, top four, top five, and that 17 communities will probably best look at what might work 18 in their community.</p> <p>19         You know, I know I'm from Nevada, just came 20 back from Nevada again, and they have on their ballot 21 the rank choice voting this time. Both parties have 22 come out pretty strongly against it. The process in 23 Nevada is a little more complicated to change the 24 constitution because you have to have two votes of the 25 people, and they meet every two years. So even if it</p>

<p>1 passes now and it's polling slightly ahead, it will 2 require another two years.</p> <p>3 But the challenge individuals have is 4 explaining it to voters, right. So, you know, we've 5 been kind of baked into the system of the primary and 6 the top two between -- I mean, the top vote getters 7 from each party. So putting another layer of it, for 8 some, is confusing.</p> <p>9 (Simultaneous speaking.)</p> <p>10 MR. REILLY: It's very prominent in Utah at 11 the local level.</p> <p>12 CHAIRMAN MEYER: So when you hear both 13 parties are against it, what's your reaction to that? 14 Because my initial reaction is, well, maybe that's a 15 good thing --</p> <p>16 (Simultaneous speaking.)</p> <p>17 MR. REILLY: And I don't know, Tom Collins, 18 if you were at this, but, you know, when I was at 19 Morrison we had kind of put out a report on the 20 independent voter, and it was right after Trump was 21 elected and it was like two weeks after the election. 22 And, you know, I mean, so there was a lot of just high 23 emotions, if you will. But when we start talking about 24 open primaries, I'll tell you, I never saw the parties 25 unite against a common enemy. You would think that</p>	<p>1 there wasn't this partisan election that just happened 2 in 2016. It was this -- this notion is, how dare do we 3 consider opening it up. Yeah.</p> <p>4 CHAIRMAN MEYER: All right. Any other 5 Commissioners have questions?</p> <p>6 COMMISSIONER CHAN: Mr. Chairman.</p> <p>7 CHAIRMAN MEYER: Commissioner Chan.</p> <p>8 COMMISSIONER CHAN: I just wanted to thank 9 Thom for coming and spending this time talking to us. 10 You know, I've often thought, over the years, that, 11 despite knowing that all of our independent voters are 12 not in a party, that is the independent party, that 13 there should be an opportunity for them to have their 14 own primary, which may sound crazy, again, just because 15 they are so disparate and they're all not members of a 16 recognized party for a reason and those reasons may 17 differ. But I really think that even though Arizona 18 has open primaries, I think aside from the libertarian 19 party, which did, I think, sue successfully to keep 20 theirs closed at their discretion, that a lot of 21 independent voters, even high-efficacy voters who are 22 well educated and have every advantage, still don't 23 really realize that they can vote and participate in 24 the recognized party primaries, so -- and we've had 25 those open primaries for, I think, decades now. It's</p>
<p>1 hard to remember. I'm getting so old that it seems 2 like it's been forever, but it may be a little more 3 recent than it -- than I think.</p> <p>4 But the other thing that I find interesting, 5 you know, when I started getting involved with 6 elections, is that we do have these partisan elections 7 at the statewide and legislative level, and maybe at 8 other levels -- well, board of supervisors, for 9 example -- but then at the city level, at the school 10 board level, those are non-partisan primaries.</p> <p>11 MR. REILLY: For the most part.</p> <p>12 COMMISSIONER CHAN: And I've never understood 13 the rationale for maintaining partisan elections at 14 these other levels when I just -- I guess there's got 15 to be a rationale somewhere for how these policies 16 began, and I would really love to learn more about the 17 reasons for those.</p> <p>18 I will say that in recent years, maybe longer 19 than recent, for city primaries -- or, for city 20 elections, for example, I see the folks running, 21 putting their party on even in these nonpartisan 22 elections. It's, you know, I guess an indication like, 23 hey, it's a nonpartisan election, but these are my 24 values. That's how I kind of interpret it.</p> <p>25 So, you know, it's -- I think partisan</p>	<p>1 elections can be kind of a shortcut for people to try 2 -- who think they understand the values of those 3 particular parties, but I also think that -- I think I 4 agree with you, I don't want to mischaracterize what 5 you said, but that it's just leading to this super 6 hyperpartisanship that isn't productive or good for 7 anyone in our society. So I really appreciate what you 8 had to say --</p> <p>9 (Simultaneous speaking.)</p> <p>10 MR. REILLY: In our book, actually, I do 11 cover kind of the history of partisan elections and, 12 you know, one of -- one of the things that we throw out 13 there is this notion of how we perhaps move the 14 non ballot up, right, and not -- it more populates, for 15 the most part, local governments and school boards and 16 judicial races after the progressive era but perhaps 17 looking at moving it up to other offices too as 18 something to ponder.</p> <p>19 COMMISSIONER CHAN: Thank you. I'll have to 20 check out your book.</p> <p>21 MR. REILLY: Thanks.</p> <p>22 CHAIRMAN MEYER: Thank you. 23 Any other Commissioners have any questions?</p> <p>24 COMMISSIONER KIMBLE: Mr. Chairman.</p> <p>25 CHAIRMAN MEYER: Go ahead, Commissioner</p>

<p>1 Kimble.</p> <p>2 COMMISSIONER KIMBLE: Dr. Reilly, as the</p> <p>3 token independent on the Commission, I want to</p> <p>4 piggyback on some things that Commissioner Chan said.</p> <p>5 Is it -- it seems prevailing thought that independents</p> <p>6 became independents because they kind of wanted to</p> <p>7 withdraw from the political system, they don't want to</p> <p>8 be as active; is that accurate?</p> <p>9 And also, as Commissioner Chan pointed out,</p> <p>10 we have continuing problems on the Commission trying to</p> <p>11 reach independents to let them know that they can vote</p> <p>12 in primaries. And the numbers show that we're not</p> <p>13 getting there, that independents don't understand that.</p> <p>14 And factually I get it, it's hard to process that you</p> <p>15 can go and pick a party to vote in and you've got to</p> <p>16 explain it every time. But is there something more</p> <p>17 that we ought to be doing to try to get independents</p> <p>18 more engaged certainly at the primary -- in the</p> <p>19 primaries, but also in the general?</p> <p>20 MR. REILLY: I think that's the -- that's the</p> <p>21 big question is how you have them more engage. And to</p> <p>22 your point is that Arizona does have an ability for</p> <p>23 independents to vote in primaries, which doesn't exist</p> <p>24 in a lot of states. So, I mean, in many states, and</p> <p>25 these are Rs and Ds that are dominated, don't allow</p>	<p>1 independents at any juncture, or if they do it's a very</p> <p>2 lengthy process. So Arizona is, you know, in some ways</p> <p>3 light-years ahead of other states in trying to do it</p> <p>4 for the primary, not the presidential election, that's</p> <p>5 a little different, which makes it all the more</p> <p>6 confusing.</p> <p>7 But, you know, I think that's kind of what we</p> <p>8 underscored in the book is that, you know, they're not</p> <p>9 monolithic. There's a lot of reasons why they don't</p> <p>10 want to be part of the two-party system, including</p> <p>11 that, even if they could vote, out of principle they</p> <p>12 don't want to be -- they don't like the two-party</p> <p>13 system and cite reasons from, you know, from our</p> <p>14 Founding Fathers that intentionally left out the</p> <p>15 two-party system because they feared it.</p> <p>16 So I think there's a lot of different ways,</p> <p>17 but I think, you know, what Clean Elections has done,</p> <p>18 others with the media, is, you know, so much -- so many</p> <p>19 times we look at things from this two-party lens, from</p> <p>20 the media, from academia, from everywhere, without</p> <p>21 understanding that there's this whole distinct group of</p> <p>22 voters that, you know, aren't part of the two-party</p> <p>23 system. So I think, you know, the more we can reach</p> <p>24 out to independents and allow them avenues to vote --</p> <p>25 you know, it's kind of the same reasons why young</p>
<p>1 people don't vote, particularly the first couple times,</p> <p>2 is that we think it's very simple and that they should</p> <p>3 just figure it out, but for many young people they cite</p> <p>4 it is a bit confusing. And then trying to educate</p> <p>5 yourself about who the candidates are and know where to</p> <p>6 go to do that.</p> <p>7 Again, I think Arizona is a leader in some</p> <p>8 respect, because Clean Elections puts out information</p> <p>9 that isn't just from the two parties that dominates</p> <p>10 most states. But I think it is a group of voters</p> <p>11 that -- you know, that's one thing we're looking at is</p> <p>12 that what seems to motivate them to engage, and I don't</p> <p>13 think that's really understood, you know, from a</p> <p>14 research perspective.</p> <p>15 COMMISSIONER KIMBLE: Thank you.</p> <p>16 CHAIRMAN MEYER: Thank you.</p> <p>17 Any other questions for Dr. Reilly?</p> <p>18 (No response.)</p> <p>19 CHAIRMAN MEYER: All right. Thank you so</p> <p>20 much for coming here, sharing information with us. It</p> <p>21 was -- it really -- I found it very helpful, very</p> <p>22 interesting. Thank you.</p> <p>23 MR. REILLY: Thank you for having me. I</p> <p>24 appreciate it.</p> <p>25 CHAIRMAN MEYER: You bet. You bet.</p>	<p>1 Okay. So now we will move on to Agenda Item</p> <p>2 No. V, which is discussion and possible action on rule</p> <p>3 amendments to AAC R2-20-211, -220, and -223 relating to</p> <p>4 compliance and enforcement procedures.</p> <p>5 Staff is asking for approval to publish these</p> <p>6 rules for public comment. These rule amendments seek</p> <p>7 to clarify the procedures for enforcement proceedings.</p> <p>8 Tom, do you want to go ahead and give us an</p> <p>9 overview? I've reviewed these and didn't see anything</p> <p>10 too -- that I had too many questions about. But</p> <p>11 anyway, go ahead.</p> <p>12 MR. COLLINS: Sure. Mr. Chairman, thank you.</p> <p>13 Commissioners, in your packet is a set of</p> <p>14 amendments to three rules. There wasn't really a cover</p> <p>15 memo with it. I think they're fairly self-explanatory,</p> <p>16 and we've had some notes on them in the past in the</p> <p>17 Executive Director's Report.</p> <p>18 In effect, what we're trying to do is make</p> <p>19 sure that the lines are clear enough in our -- in</p> <p>20 updating our compliance and enforcement procedures so</p> <p>21 that it's clear how the responsibilities for certain</p> <p>22 administrative actions flow and how that -- and how</p> <p>23 that is set forth.</p> <p>24 In other words, the way that our rules are</p> <p>25 set up, at the time those rules were drafted</p>

<p>1 20-something years ago the Commission had a position  2 called admin counsel that was filled by an attorney,  3 and the Attorney General's Office was structured in  4 kind of a different way than it is now. And so it kind  5 of created this -- I think almost by default, quite  6 honestly, they sort of put in this sort of potentially  7 limiting language. I'm not sure it's that limiting,  8 but nevertheless it's certainly -- it clearly bears  9 sort of a consistency to say, look, when the Commission  10 authorizes an investigation, it's essentially  11 authorizing the staff to proceed, and then the staff  12 may need to use a person authorized to do certain legal  13 operations that may or may not be an Assistant Attorney  14 General by nature. Obviously, in most cases that's  15 been the case.</p> <p>16 But, you know, the reality is, we're coming  17 up on a period of time where the reason we want to  18 start this now is we're in a period of time where we  19 don't know what the next Attorney General would be or  20 who they will be, so it's not something that I feel  21 like will be wrapped up in some of the, I think, sort  22 of --</p> <p>23 It's pretty hard to not just be honest about  24 this. Everything gets politicized, even if it's not  25 legitimate to politicize it, so we want to try to start</p>	<p>1 this ball rolling while there's -- while we don't know  2 what party will be in power and we want to make sure,  3 essentially, that that will be efficient.</p> <p>4 There are some worst-case scenarios that  5 could come out of leaving the rules as they are. One  6 of those worst-case scenarios would be the  7 Commission -- that the Executive Director and the  8 Assistant Attorney General disagree on the direction  9 for a case. The rules don't actually explain what  10 happens in that situation, and actually there's an  11 argument that says that the Assistant Attorney General  12 could force that decision in front of the Commission  13 or -- and that's just not -- I mean, again, not a thing  14 that has happened, but, I'll be honest with you, again,  15 we've seen over the course of the last decade, you  16 know, too many places in which anything -- any word  17 that can be used to maximize conflict gets used to  18 maximize conflict, and so I think it's a foreseeable  19 thing.</p> <p>20 Also, you know, these are essentially  21 procedural changes, but we don't want to end up in a  22 position where, again, for potentially partisan  23 reasons, a respondent -- and, you know, we don't have a  24 ton of complaints, we don't have a ton of  25 enforcement -- but were to say, I'm entitled to an</p>
<p>1 Assistant Attorney General to serve me with process,  2 for example. Because, I mean, again, I don't think  3 that's a substantive right, I don't think that's -- but  4 why leave it there when we know that, in effect, we --  5 we know that that's not really something that the  6 Commission intends.</p> <p>7 So, you know, I've been able to talk to Kara  8 about this over the course of the last, you know, few  9 months. I think it's -- I think it's -- those have  10 always been helpful discussions. And we are --</p> <p>11 You know, and so that's really it. Basically  12 to update these rules to be consistent with our  13 practice, avoid any potential for future conflict, and  14 do it in a -- and get the process underway. Although,  15 it won't be completed by January because of  16 (unintelligible) and all that -- but to get the process  17 underway when we are sort of neutral as to how we --  18 how the -- a veil of ignorance, if you will, as to who  19 will be the Attorney General when the rules finally get  20 approved, assuming they do. So any questions?</p> <p>21 CHAIRMAN MEYER: Any Commissioners have any  22 questions on these proposed rule changes or putting  23 them out for public comment?</p> <p>24 COMMISSIONER CHAN: Mr. Chairman.</p> <p>25 CHAIRMAN MEYER: Go ahead, Commissioner Chan.</p>	<p>1 COMMISSIONER CHAN: I don't have any  2 questions. In reviewing the proposed changes, I think  3 they're common sense updates to our rules, so I support  4 the changes as they're drafted.</p> <p>5 CHAIRMAN MEYER: Anyone else have any  6 questions?</p> <p>7 (No response.)</p> <p>8 CHAIRMAN MEYER: If not, can I hear a motion  9 to publish these amendments for public comment?</p> <p>10 COMMISSIONER CHAN: Mr. Chairman, I move that  11 we publish -- how should I say this? Let me look at  12 the agenda. Sorry. Mr. Chairman, I move that we  13 publish the rule amendments.</p> <p>14 Tom, is that sufficient, or do I have to name  15 the rules?</p> <p>16 MR. COLLINS: I think that's -- that's  17 sufficient.</p> <p>18 And then, Mr. Chairman, I have a quick note I  19 want to make at the end about this just to close out  20 the record.</p> <p>21 Commissioner Chan, I think if you want to  22 just -- the rule says that the amendments that are  23 proposed in the packet is fine.</p> <p>24 COMMISSIONER CHAN: Is that what I said?</p> <p>25 CHAIRMAN MEYER: Just for clarification, we</p>

<p>1 have a motion from Commissioner Chan that we publish  2 the rules identified in Agenda Item V in today's agenda  3 for public comment. Is there a second to that motion?  4 COMMISSIONER PATON: Second. Commissioner  5 Paton.  6 CHAIRMAN MEYER: All right. We have a motion  7 and a second. We'll vote. I'll call the roll.  8 Commissioner Chan.  9 COMMISSIONER CHAN: I vote aye.  10 CHAIRMAN MEYER: Commissioner Kimble.  11 COMMISSIONER KIMBLE: Aye.  12 CHAIRMAN MEYER: Commissioner Paton.  13 COMMISSIONER PATON: Aye.  14 CHAIRMAN MEYER: And Commissioner Titla.  15 COMMISSIONER TITLA: Aye.  16 CHAIRMAN MEYER: Aye. Okay. Thank you.  17 And this is Commissioner Meyer. I vote aye.  18 Motion carries 5-0.  19 Tom, did you have another -- something to  20 button up here or did you already do that?  21 MR. COLLINS: I just needed to --  22 Mr. Chairman, if I may just really quickly, I do want  23 to say, you know, this is a Commission-initiated rule,  24 you know, obviously, for obvious reasons. I mentioned  25 that we discussed these things with Kara, but we</p>	<p>1 discuss things with Kara all the time. But this is  2 a -- Commission driven and not Attorney General's  3 Office driven. And, you know, again, for all the  4 reasons we've discussed, I think it's important not to  5 make (unintelligible).  6 CHAIRMAN MEYER: Thank you for that  7 clarification.  8 We'll now move on to Agenda Item No. VI,  9 which is public comment. This is the time for  10 consideration of comments and suggestions from the  11 public. Action taken as a result of public comment  12 will be limited to directing staff to study the matter  13 or rescheduling the matter for further consideration  14 and decision at a later date or responding to  15 criticism. Please limit your comments to no more than  16 two minutes.  17 Does any member of the public wish to make  18 comments at this time?  19 You may also send comments to the Commission  20 by e-mail -- excuse me -- by mail or e-mail at  21 ccec@azcleelections.gov.  22 Is there anyone who would like to make public  23 comment at this time?  24 (No response.)  25 CHAIRMAN MEYER: All right. It doesn't look</p>
<p>1 like we have anyone there, so we will go on to Agenda  2 Item No. VII, which is adjournment. Do I have a motion  3 to adjourn?  4 COMMISSIONER CHAN: Mr. Chairman, I move that  5 we adjourn the meeting.  6 CHAIRMAN MEYER: Thank you.  7 Is there a second?  8 COMMISSIONER KIMBLE: Commissioner Kimble,  9 second.  10 CHAIRMAN MEYER: All right. We will call the  11 roll. Commissioner Chan.  12 COMMISSIONER CHAN: I vote aye.  13 CHAIRMAN MEYER: Commissioner Kimble.  14 COMMISSIONER KIMBLE: Aye.  15 CHAIRMAN MEYER: Commissioner Paton.  16 COMMISSIONER PATON: Aye.  17 CHAIRMAN MEYER: Commissioner Titla.  18 COMMISSIONER TITLA: Aye.  19 CHAIRMAN MEYER: And this is Commissioner  20 Meyer. I vote aye as well.  21 The motion carries. We are adjourned.  22 Thank you all. We'll see you next month.  23 (The proceedings concluded at 10:37 a.m.)  24  25</p>	<p>1 STATE OF ARIZONA )  ) ss.  2 COUNTY OF MARICOPA )  3  4 BE IT KNOWN that the foregoing proceedings  5 were taken by me; that I was then and there a Certified  6 Reporter of the State of Arizona; that the proceedings  7 were taken down by me in shorthand and thereafter  8 transcribed into typewriting under my direction; that  9 the foregoing pages are a full, true, and accurate  10 transcript of all proceedings had and adduced upon the  11 taking of said proceedings, all to the best of my skill  12 and ability.  13  14 I FURTHER CERTIFY that I am in no way related  15 to nor employed by any of the parties hereto nor am I  16 in any way interested in the outcome hereof.  17  18 DATED at Tempe, Arizona, this 30th day of  19 September, 2022.  20  21  22  23  24  25</p> <p style="text-align: right;">   Kathryn A. Blackwelder, RPR  Certified Reporter #50666 </p>

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