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VIA EMAIL ONLY

Senator Fann,

It's no secret that election-related legislation will be a top priority during the upcoming legislative session, and as you know, far too many people seem to believe that the 2020 election has not yet ended. Indeed, it's December 15th, 2021 and media reports indicate that the Cyber Ninjas have still not completed their "audit." It's my fear that our lawmakers will waste time and resources this session trying to pass legislation that accomplishes little more than making it more difficult for election officials to administer elections and more difficult for voters to vote.

Which isn't to say that the legislature shouldn't consider changes to our system. There are important changes available to lawmakers that would strengthen the security and accuracy of our elections, improve voter access while promoting a more inclusive democracy, and increase transparency and accountability in campaign finance reporting. As our State's Chief Election Officer, I offer the following recommendations that the legislature should consider this session. It's my hope that the legislature will focus on these efforts during the upcoming session in order to truly improve our elections and voter confidence, rather than chasing conspiracies and the favor of those who spread them.

1. Strengthening Election Security and Accuracy

Improve Post-Election Audits

Arizona is one of at least 24 states that currently implements post-election audits, but our processes could certainly be improved. To maintain election integrity in Arizona, while also exploring new best practices for post-election audits, there are two important changes that should be made to Arizona law.

First, the hand count audit should be mandatory, rather than contingent on political party participation. In recent years, most counties have completed this audit, but it has never been uniform.¹ The legislature should require this audit to occur in all 15 counties, regardless of political party participation. Last session, legislation that would accomplish this goal was introduced, but was never considered by the Senate Government Committee.²

¹ 2020 General Election Hand Count Results. Arizona Secretary of State. Available at <https://azsos.gov/2020-general-election-hand-count-results>

² SB 1667 (election law revisions) available at <https://www.azleg.gov/legtext/55leg/1R/bills/SB1667P.pdf>

Second, the legislature should authorize and fund new types of post-election audits, particularly risk limiting audits. Last year, I asked national election audit experts to review Arizona's current practices and to recommend improvements. These experts, from the Brennan Center and R Street Institute, recommended that Arizona begin piloting risk-limiting audits.³ These audits help verify that "the hardware, software, and procedures used to tally votes found the real winners."⁴ In February, I distributed these recommendations to each member of the Senate Government Committee and House Government and Elections Committee. Last session, legislation that would accomplish this goal was introduced, but was never considered by the House Government and Elections Committee.⁵

Modify NCOA and ERIC List Maintenance Procedures

The National Change of Address (NCOA) list is "a secure dataset of approximately 160 million permanent change-of-address (COA) records consisting of names and addresses of individuals, families, and businesses who have filed a change-of-address with the Postal Service."⁶ This list could be better utilized by elections officials to maintain the state's voter rolls. For example, in Colorado, elections officials receive a monthly NCOA report, which is used to automatically update a voter's mailing address. When this update is made, a notice is sent to both the voter's prior address and new address to allow the voter to undo the update if it was in error. Arizona's law should be modified to allow election officials to use the NCOA in a similar manner.

Additionally, the State is a member of the Electronic Registration Information Center (ERIC). As part of this membership, election officials could receive notices of voters who have moved within the state, out of the state, and other information. Allowing election officials to use these notices as the first notice that a person has moved under the National Voter Registration Act will lead to a more efficient process for maintaining our voter rolls.

2. Increasing Voter Access and Ensuring an Inclusive Democracy

Implement Same Day Voter Registration

Last year, a federal court ordered the extension of Arizona's voter registration deadline.⁷ Though this was later overturned by an appeals court, it highlighted the fact that Arizona has one of the earliest voter registration deadlines in the country. Given an additional ten days to register for the 2020 election, more than 35,000 Arizonans did so.⁸ The experience made it clear that in every election, some eligible Arizonans are unable to register and participate because of an arbitrary deadline. Though some have advocated for moving the deadline to a new, later date, a better solution exists. There are currently 20 states that allow for same day/election day voter

³ Baker, T., Howard, E., & Rosenzweig, P. (2021, February 1). Risk-limiting audits in Arizona. Brennan Center for Justice. Available at <https://www.brennancenter.org/our-work/research-reports/risk-limiting-audits-arizona>

⁴ Howard, E., Rivest, R., & Stark, P. (2019, November 7). A review of robust post-election audits. Brennan Center for Justice. Available at <https://www.brennancenter.org/our-work/research-reports/review-robust-post-election-audits>

⁵ HB 2797 (election laws; revisions; appropriation). Available at <https://www.azleg.gov/legtext/55leg/1R/bills/HB2797P.pdf>

⁶ United States Postal Service. NCOALink. Available at <https://postalpro.usps.com/mailing-and-shipping-services/NCOALink>

⁷ Oxford, A. (2020, October 6). Federal judge orders Arizona to extend voter registration deadline until Oct. 23. The Arizona Republic. Available at <https://www.azcentral.com/story/news/politics/elections/2020/10/05/arizona-voter-registration-deadline-extended-oct-23-judge-rules/3633974001/>

⁸ Oxford, A. (2020, October 17). Extension of registration deadline nets more than 35,000 new voters in Arizona. The Arizona Republic. Available at <https://www.azcentral.com/story/news/politics/elections/2020/10/17/arizona-voter-registration-deadline-extension-adds-35000/3682316001/>

registration. While there are different ways to implement same day registration, requiring varying levels of technology, Arizona could implement same day voter registration with no new technology by allowing a same-day registrant to vote a provisional ballot that would be approved for tabulation upon verification of the registration application. Such a system would allow Arizonans who failed to meet the 29-day deadline, but would otherwise be eligible, to register and exercise their fundamental right to vote.

Extend Early Voting

Current Arizona law ends early voting the Friday before election day but allows for “emergency voting” for three days after the end of early voting. Emergency voting is available to any voter who experiences “unforeseen circumstances that would prevent the elector from voting at the polls.”⁹ Recently, the use of emergency voting has come under increased scrutiny, with the legislature adding additional requirements for those who vote this way. There have also been allegations that campaigns and/or county election officials have misused emergency voting centers. Rather than continuing to tinker with emergency voting and its requirements, the legislature should simply allow early voting to continue through the weekend before election day. This change has been repeatedly proposed over the past several years and shares widespread support among county officials. Let’s continue Arizona’s leadership on early voting by expanding and simplifying the early voting window.

Automatically Restore Voting Rights

In Arizona, it’s estimated that more than 200,000 people are unable to vote due to prior felony convictions.¹⁰ This accounts for roughly four percent of our state’s voting age population and is larger than the total population of nine of the State’s fifteen counties.

Ultimately, when a person has paid their debt to society for mistakes of the past, there’s little reason to prevent that person from fully participating in society, including the political process. That’s why Arizona law currently allows for automatic restoration for first-time offenders after completing their sentence. The automatic restoration of voting rights should be extended to all individuals who have committed felony offenses and completed their sentence, rather than requiring a petition a judge for civil rights restoration. This is a commonsense reform that will reduce the burden on courts, improve government efficiency, and save tax dollars by cutting bureaucracy.

Modernize the Online Voter Registration System

Arizona was a true pioneer of online voter registration, becoming the first state to implement it. And while our system has made voter registration easy and efficient for so many Arizonans, it remains inaccessible to some. Arizonans without state-issued identification, which tend to disproportionately be low-income Arizonans or Arizonans who live on tribal land, are unable to register using this system. Other states, like Pennsylvania, have implemented online voter registration in a way that doesn’t require state-issued identification. Our State should invest time and resources into improving our system in order to make it accessible to all eligible voters in Arizona.

3. Improving Campaign Finance Rules

Ban Foreign Contributions to Initiative Campaigns

Federal law prohibits foreign nationals from making campaign contributions to federal, state, or local candidates. But the law is silent regarding ballot initiatives, and a recent decision by the

⁹ Ariz. Rev. Stat. § 16-542(H)

¹⁰ Uggen, C., & Porter, N. D. (2021, August 13). Locked out 2020: Estimates of people denied voting rights due to a felony conviction. The Sentencing Project. Available at <https://www.sentencingproject.org/publications/locked-out-2020-estimates-of-people-denied-voting-rights-due-to-a-felony-conviction/#VII.%20State%20Estimates%20of%20Disenfranchisement>

Federal Election Commission makes it clear that such bans do not apply to ballot initiatives.¹¹ To address this loophole in federal law, Arizona law should be updated to explicitly ban foreign nationals from contributing to initiative campaigns.

Make Candidacy More Accessible

As anybody who has run for office can tell you, the process can be a full-time job. This can be a barrier that prevents many people, particularly working people and parents, from entering public service. While campaign funds should never be used to personally enrich a candidate, Arizona law should be updated to expressly allow candidates to use campaign funds for things like childcare when attending campaign events.

Expand PAC Reporting and Disclosure During Month Before Election

Arizona law currently requires political action committees (PACs) to register within ten days of qualifying as a committee. If timed correctly, this ten-day period could allow a PAC to spend significant money in an election without ever disclosing its existence prior to election day. Additionally, PACs currently file a pre-election report that covers activity up to 17 days prior to an election. Any money raised or spent in the 17 days prior to an election will not be reported until after the election is complete. Arizona law should be updated with thresholds that would trigger additional PAC reporting in the period between the pre-election report and election day.

To be clear, this list of reforms is not intended to be exhaustive. But if implemented, they will make elections in Arizona more secure, inclusive, and transparent. I'd like to believe those are goals we can all support moving forward. With the 2022 elections quickly approaching, I hope that our legislature can focus on these positive, commonsense reforms that benefit all Arizona voters. As always, my Office is available to discuss these and other proposed election reforms.

Sincerely,



Katie Hobbs
Arizona Secretary of State

¹¹ Stanley-Becker, I. (2021, November 6). Foreign nationals can finance ballot initiatives, FEC affirms. The Washington Post. Available at <https://www.washingtonpost.com/politics/2021/11/02/foreign-money-ballot-initiatives/>