

AMERICAN CONFIDENCE IN ELECTIONS: LOOKING
AHEAD TO THE 2024 GENERAL ELECTION

HEARING
BEFORE THE
COMMITTEE ON HOUSE
ADMINISTRATION
HOUSE OF REPRESENTATIVES
ONE HUNDRED EIGHTEENTH CONGRESS

SECOND SESSION

SEPTEMBER 11, 2024

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September 11, 2024

COMMITTEE ON HOUSE ADMINISTRATION,
HOUSE OF REPRESENTATIVES,
Washington, DC.

The Committee met, pursuant to notice, at 9:34 a.m., in room 1310, Longworth House Office Building, Hon. Bryan Steil [Chairman of the Committee] presiding.

Present: Representatives Steil, Loudermilk, Griffith, Murphy, Bice, Carey, D'Esposito, Lee, Morelle, Torres, and Kilmer.

Staff present: March Bell, Parliamentarian; Jackie Bossman, Counsel; Annemarie Cake, Professional Staff and Deputy Clerk; Alexander Deise, Counsel; Thomas Lane, Elections Counsel and Director of Elections Coalitions; Kristen Monterroso, Director of Operations and Legislative Clerk; MARRISA MULLEN, Deputy Director of Member Services; Michael Platt, Staff Director; Jordan Wilson, Director of Member Services; Khalil Abboud, Minority Deputy Staff Director; Jamie Fleet, Minority Staff Director; Sarah Nasta, Minority Elections Counsel; Matt Schlesinger, Minority Senior Counsel; and Sean Wright, Minority Chief Counsel.

OPENING STATEMENT OF HON. BRYAN STEIL, CHAIRMAN OF THE COMMITTEE ON HOUSE ADMINISTRATION, A U.S. REP- RESENTATIVE FROM WISCONSIN

Chairman STEIL. The Committee on House Administration will come to order. I note that a quorum is present.

Without objection, the chair may declare a recess at any time.

Also, without objection, the hearing record will remain open for 5 legislative days so Members may submit any materials they wish to be included therein.

Thank you, Ranking Member Morelle, Members of the Committee, and witnesses for participating in today's hearing. I do not think it is lost on any of us that we are gathered today on September 11th, a day where, 23 years ago, our country was attacked by terrorists. Countless Americans lost their lives, including first responders. I think, as we look back at that moment, I think almost everybody of age here in the room remembers where they were on 9/11 as that news came in, but it is also maybe a moment to reflect that this country has come together to address some of the biggest challenges we have ever seen. In that case, terrorism. We have also done that throughout the history of this country, and

so we have opportunities to come together and take on the biggest challenges we face.

Today the Committee on House Administration will continue its oversight of our Nation's elections. We are now 55 days away from election day. Voting has begun in some States. Delaware has already mailed out ballots, and absentee ballots in my home State of Wisconsin will be mailed out by next week.

With us today are six Secretaries of State who are here to discuss their preparations for the upcoming election. The purpose of the hearing is to fully review and explore the status of States' election preparedness. We will cover an array of topics. We will hear from Ohio about the recent effort to remove noncitizen voters. Florida has unique challenges with natural disasters. Each State faces unique challenges in their election administration. By ensuring States are properly equipped to administer their elections, more Americans can have confidence in how our elections run and the results.

As we approach November 5th, Americans remain concerned about election integrity. As Chairman, I am committed to working with States to ensure elections run smoothly and without foreign interference. More confidence leads to greater participation, which is a good thing for our country. I am going to continue to work to strengthen election integrity.

This Committee has passed comprehensive election integrity legislation this Congress. We passed the SAVE Act. We worked to stop influence from private and foreign funding in our elections. This week we are rolling out the House Election Observer Program to ensure our elections are run smoothly, fairly, and accurately.

We have invited you here to discuss the upcoming elections and explore your preparations in your respective States. Ensuring our elections are secure is of utmost importance. I will continue to ensure this Committee keeps to work to strengthening our elections.

As mentioned above, and as you know and as each of you know, the Safeguard American Voter Eligibility Act, or SAVE Act, would require proof of U.S. citizenship to vote. I am still working for this bill to be signed into law. We took this action after seeing evidence of noncitizens on voter rolls in many States across the country. While all 50 States allow legal noncitizens to receive driver's licenses, 20 States allow illegal immigrants to receive them also.

Under the MVRA, or the motor voter law, voter registration forms are provided to everyone who receives a driver's license, regardless of whether or not the applicant is a citizen. Because noncitizens can receive driver's licenses in every State, they inevitably will receive voter registration forms, even though they cannot vote in Federal elections. As a result, we have seen States take steps to remove those citizens, those noncitizens from their voter rolls. For example, over 500 noncitizens were removed from the voter rolls in Ohio, and we are thankful that Ohio Secretary of State Frank LaRose is here to testify on that topic today.

Another issue we will discuss today is States' preparedness for the upcoming elections. As we learned in 2020 and 2022, it is crucial for States to have contingency plans in the event of an emergency on or before election day. Americans deserve to have confidence that their State's election officials have a plan in place that

will ensure every vote is counted according to law regardless of outside factors.

The Committee has also provided States with resources through the Uniform State ACE Act. The Uniform State ACE Act is a tool kit providing States with 13 specific election integrity measures to increase voters confidence and promote election integrity. The tool kit was provided to every State and respect State autonomy ensuring that reforms can be tailored and are effective at the local level while still aligning with national objectives to enhance election integrity.

The Committee is here to assist States in ensuring elections are fair and secure through other resources as well. One of those resources is the House Election Observer Program. I am looking forward to discussing the program with each of our Secretaries of State here today and confirming that you will participate and provide unimpeded access to our observers to ensure free, fair, and secure elections.

A big part of keeping elections secure means keeping them free from foreign influence. As Chairman of this Committee, I have launched an investigation into a major fundraising platform after concerns were brought forward about potential funding from foreign sources. I have also introduced the Shield Act, which prevents political fundraising platforms from accepting pre-paid debit and credit cards. It is imperative that this Committee continues to work to protect American elections and do all we can to assist States in doing the same.

I believe secure and fair elections are the backbone of our democracy. As we approach the upcoming Federal election, it is imperative that we take a close look at how each Secretary of State will implement Federal and State election laws to guarantee every legal vote counts. I look forward to having an in-depth and productive conversation with each of you today.

I will now recognize the Ranking Member Mr. Morelle for 5 minutes for the purpose of providing his opening statement.

[The prepared statement of Chairman Steil follows:]

**PREPARED STATEMENT OF CHAIRMAN OF THE COMMITTEE
ON HOUSE ADMINISTRATION BRYAN STEIL**

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**OPENING STATEMENT OF HON. JOSEPH MORELLE, RANKING
MEMBER OF THE COMMITTEE ON HOUSE ADMINISTRATION,
A U.S. REPRESENTATIVE FROM NEW YORK**

Mr. MORELLE. Good morning. Thank you, Chairman Steil.

Let me also begin by offering words of remembrance for both the victims of 9/11 and the first responders who responded and to always thank all of America for its response in defense of New York. I was in New York City on the day of the attacks, and I know—knew firsthand the horror that day brought. I want to thank everyone for keeping all the victims and first responders in their prayers.

Thank you, Mr. Chairman, for calling this hearing and thank you to all the Secretaries for being here. We know you have a tremendous amount of work ahead of you to ensure upcoming election is

secure and fair. We are 55 days from election day. I do not think I probably have to tell the Secretaries that. They know that very well. In 10 days, ballots will be sent to military and overseas voters, and soon States will begin mailing out their absentee mail-in ballots, and as the Secretaries here know better than anyone, preparations are well under way for early and election day in-person voting.

The 2024 election is here. Undoubtedly, there are many challenges ahead. Election officials are operating in an election season that continues to be marred by a steady drumbeat of mis- and disinformation. We have only just begun to see the danger posed by the maligned use of artificial intelligence, and this is not a speculative fair. In Michigan, as Secretary Benson knows all too well, a Republican candidate for Congress used an AI-generated audio of Martin Luther King, Jr., purporting to endorse him in a political campaign. I know, it is shocking to even think of it, but there you go. In New Hampshire, an AI-generated audio of President Biden was used to call voters and discourage them from participating in the Presidential primary in that State.

Our foreign adversaries, as the Chairman has mentioned, are designing influence campaigns that leverage our flawed information environment to spread falsehoods about political candidates and parties, and just last week, the United States Department of Justice unsealed indictments against two Russian employees of the Kremlin-backed media outlet RT, which used to stand for Russia Today, so I do not think there is any question about where they are from, for violating the Foreign Agents Registration Act and money laundering to publish and disseminate content favorable to the Russian government. Separately, the DOJ seized more than 30 web domains that were part of a broader ongoing effort by the Russian Government to interfere in and influence the 2024 election and American public opinion.

On top of this, domestic actors continue to spread lies and disinformation about the voting process and the security and integrity of our elections, and 4 years later continuing questioning the results of the free and fair 2020 election. For months, we have heard the former President and others refuse to say whether they will accept the outcome of the election or condition their acceptance within if they are free and fair, which undermines Americans confidence that our elections are, in fact, fair and secure.

Just last week, former President Trump insisted in a Fox News interview that he had heard—that he had every right—I am quoting him—every right to interfere in the 2020 election saying, quote, “whoever heard you get indicted for interfering with a Presidential election where you have every right to do it.”

Mr. President, there is no such right.

It should go without saying no one has the right to interfere with elections and that includes the President of the United States. I would hope that none of my colleagues on either side of the aisle here today would support those false claims.

Additionally, election officials continue to face an unprecedented number of threats and significant harassment simply for doing their jobs. One Secretary of State tracked a 600-percent increase in threats this year alone. While these challenges are serious, our de-

mocracy is strong. We will overcome the effects and the efforts of our foreign adversaries. Americans will not succumb to the torrent of mis- and disinformation.

Let me speak clearly now for every American here, our elections are secure. There is, however, more work for Congress to do. Election officials take on the essential but often thankless task of running elections and face increased threats with too little and inconsistent funding from Congress. In Fiscal Year 2024, Congress appropriated \$55 million to States and U.S. territories in election security grants, but we must do more to fully fund our elections.

As Ranking Member and a Member of the Appropriations Committee, I will continue pushing for additional consistent election funding. Election officials, their staffs, and poll workers need and deserve our support. Voters deserve truthful information about when, where, and how to register and how to cast their ballots, and they deserve truthful information about the integrity of our elections. Providing support and accurate information will show election workers that administer that we are supporting them.

Today we have the opportunity to hear from our six Secretaries about how they are preparing. Democracy is on the line this November. Each of you is critical to that success. We have to continue fighting to protect our elections and those that run them.

I also want to just take a moment to thank my colleague, Representative Mike Carey, and the Chairman. I am pleased to have worked with them to pass a bipartisan bill Monday that would codify the House's longstanding Congressional Election Observer Program. I am grateful to all the work we have done and look forward to working with the chair over the next 2 months to continue this bipartisan and importantly nonpartisan observer program, which House staff serve in their official capacity as neutral fact-gathering election observers, so I look forward to hearing from our witnesses. Thank you for all the work that you do and let us make sure that every American has free, fair, and secure access to the ballots this November. With that, I yield back, Mr. Chairman.

[The prepared statement of Ranking Member Morelle follows:]

**PREPARED STATEMENT OF RANKING MEMBER OF THE
COMMITTEE ON HOUSE ADMINISTRATION JOSEPH MORELLE**

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Chairman STEIL. Without objection, all of the Members’ opening statements will be made part of the hearing record if they are submitted to the hearing clerk by 5 p.m. Today we have a one-witness panel featuring six Secretaries of State. From the State of Florida, we have Secretary Cord Byrd. From the State of Ohio, we have Secretary Frank LaRose. From West Virginia, we have Secretary Mac Warner. From the State of New Mexico, we have Secretary Maggie Toulouse Oliver. From the State of Michigan, we have Secretary Jocelyn Benson. From the State of Arizona, we have Secretary Adrian Fontes. If I did not say West Virginia properly, I will go back and say we have the Secretary of State of West Virginia

Mac Warner. We appreciate you being with us today. We look forward to your testimony.

Pursuant to paragraph B of Committee rule 6, the witnesses will please stand and raise their right hands.

[Witnesses sworn.]

Chairman STEIL. Let the record show that the witnesses have all answered in the affirmative. You may be seated.

Let me remind the witnesses that we have read your written statements, and they'll appear in full in the hearing record. Under Committee rule 9, you are to limit your oral presentation to a brief summary of your written statement. I will begin by recognizing Secretary Cord Byrd for 5 minutes.

STATEMENTS OF HON. CORD BYRD, FLORIDA SECRETARY OF STATE; THE HONORABLE FRANK LAROSE, OHIO SECRETARY OF STATE; THE HONORABLE MAC WARNER, WEST VIRGINIA SECRETARY OF STATE; THE HONORABLE MAGGIE TOULOUSE OLIVER, NEW MEXICO SECRETARY OF STATE; THE HONORABLE JOCELYN BENSON, MICHIGAN SECRETARY OF STATE; AND THE HONORABLE ADRIAN FONTES, ARIZONA SECRETARY OF STATE

STATEMENT OF HON. CORD BYRD

Mr. BYRD. Good morning, Chairman Steil, Ranking Member Morelle, and Members of the Committee. Thank you for the opportunity to be with you here today. When I was last with you in May, we discussed the impact of Federal law on the State's ability to conduct voter roll maintenance. With the November general election rapidly approaching, today I will discuss Florida's ongoing efforts in the areas of election preparation, election observation, and contingency planning.

Election administration, when done properly, as conducted is a 24/7, 365 days a year job not only during an election year but in off election years as well. Since I testified before you 2 months ago, Florida has taken considerable steps to further ensure the integrity and transparency of our elections.

Clean elections begin with clean voter rolls. Florida has approximately 13.5 million active registered voters. That number changes every minute of every day. A person turns 18, a person passes away, a person moves into the State, they move out of the State, a person becomes a U.S. citizen and registers to vote for the first time, a person becomes a felon or a person has their voting rights restored.

To that end, since 2022, Florida has either removed or moved to inactive status one million voters. The ability to promptly and accurately maintain clean voter rolls is part of the legislative reforms championed by Governor Ron DeSantis. Properly maintained voter rolls are essential to building confidence in the outcome of elections.

Rulemaking allows the department to respond to issues as they arise when the legislature is not in session. For example, one rule increases—one new rule increases reporting requirements for voter registration agencies, specifically any such agency that obtains information that an individual receiving Government services is not

a U.S. citizen must provide that information to the Department of State to be compared against the voter roll.

To ensure ballots are adjudicated uniformly the same across all 67 counties, the department has updated its polling place procedures to provide for uniform statewide operations of polling places. The procedures also include direction to supervisors of elections to ensure that spoiled ballots at polling places cannot be counted.

Finally, the department updated its statewide rule on voter intent, creating a newly formatted mandatory handbook for county canvassing boards to use when making voter intent determinations during vote by mail canvassing and recounts.

Voting system uniformity is another key to Florida's success. Some States allow local election officials to procure voting systems. We believe this is the wrong approach. In Florida, no voting system can be used in any election unless it has first been tested and certified by the State. The rigorous testing we conduct gives us the ability to eliminate problems before ballots are cast.

Chain of custody of voting systems is applied to hardware and software. When voting system issues arise in other States, the department proactively contacts the vendors to determine the root of the issue and then verify that the problem cannot impact Florida's elections.

While we make every effort to minimize human error in elections, mother nature also sometimes has a say. As it happens, the typical election season coincides with hurricane season in Florida and other coastal States. We do not move or delay elections. As such, it is imperative that we maintain robust emergency plans; storms, fires, floods, electrical outages, blocked roads, It all happens. Florida is prepared for all contingencies.

My office works closely with Florida's 67 county supervisors of elections, and if emergencies do arise, we take necessary steps to ensure that voters can vote. For example, during the 2022 election cycle, Florida had two severe hurricanes hit different parts of the State. Counties lost polling places. Voters were displaced from their homes. Infrastructure was severely diminished. The election still went on. I visited the affected counties to survey the damage. We saw firsthand the destruction and worked with supervisors of elections in those counties to determine their needs. Governor DeSantis then issued executive orders to provide flexibility to supervisors to establish additional voting sites, expand vote by mail options, and amend reporting requirements. It is encouraging to see people perform their civic duty to vote despite being displaced and impacted by devastating storms.

Another thing that Florida gets right is election transparency. There are no pizza boxes, and you do not need binoculars to view our elections. Every part of the process is open to the public, campaigns, and candidates. Florida election law grants access to the public to watch equipment testing, the canvassing of ballots, and signature verification, among other things.

Since 2020 candidates and the parties are also entitled to reasonable access to review signatures on vote by mail ballots, observe ballot duplication, and make objections. We want and encourage the public to watch how their ballot becomes a vote. We allow and encourage election observation.

Candidates in the parties can designate observers at each precinct, and we deploy our own team of in-house observers across the State. Our two newest election officers in Palm Beach and Broward Counties are the national model for openness and transparency. Eternal vigilance is the price of liberty. Florida is vigilant because we continue to strengthen and hone our election code year after year. We do not sit idle waiting for bad things to happen in order to correct them. We cannot run the risk of becoming complacent.

As I said in my previous testimony, and it bears repeating, Florida is committed to ensuring that all eligible Floridians who want to vote have the opportunity to do so. However, we are equally committed to preventing election fraud and protecting the integrity of Florida's voter rolls. Thank you.

[The prepared statement of Mr. Byrd follows:]

PREPARED STATEMENT OF HON. CORD BYRD

Written Testimony of
Florida Secretary of State Cord Byrd
Before the United States Committee on House Administration
“American Confidence in Elections: Looking Ahead to the 2024 General Election”

Good morning, Chairman Steil, Ranking Member Morelle, and members of the committee. Thank you for the opportunity to be here with you today. When I was last with you in May, we discussed the impact of federal law on the states’ ability to conduct voter roll list maintenance. With the November general election rapidly approaching, today I will discuss Florida’s ongoing efforts in the areas of election preparation, election observation, and contingency planning.

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Rulemaking allows the Department to respond to issues as they arise when the Legislature is not in session. For example, one new rule increases reporting requirements for voter registration agencies. Specifically, any such agency that obtains information that an individual receiving government services is not a U.S. citizen must provide that information to the Department of State to be compared against the voter roll.

To ensure ballots are adjudicated uniformly the same across all sixty-seven counties, the Department has updated its polling place procedures to provide for uniform statewide operations of polling places. The procedures also include direction to Supervisors of Elections to ensure that spoiled ballots at polling places cannot be counted.

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While we make every effort to minimize human error in elections, Mother Nature also sometimes has a say. As it happens, the typical election season coincides with hurricane season in Florida and other coastal states. We do not move or delay elections. As such, it is imperative that we maintain robust emergency plans. Storms, fires, floods, electrical outages, blocked roads – it all happens; Florida is prepared for all contingencies.

My office works closely with Florida's 67 county Supervisors of Elections, and if emergencies do arise, we take necessary steps to ensure that voters can vote. For example, during the 2022 election cycle, Florida had two severe hurricanes hit different parts of the state. Counties lost polling locations, voters were displaced from their homes, infrastructure was severely diminished—and the election still went on.

I visited the affected counties to survey the damage. We saw first-hand the destruction and worked with the Supervisors of Elections in those counties to determine their needs. Governor DeSantis then issued Executive Orders to provide flexibility to Supervisors to establish additional voting sites, expand vote-by-mail options, and amend reporting requirements. It is encouraging to see people perform their civic duty to vote despite being displaced and impacted by devastating storms.

Another thing that Florida gets right is election transparency. There are no pizza boxes, and you don't need binoculars to view our elections. Every part of the process is open to the public, campaigns, and candidates. Florida election law grants access to the public to watch equipment testing, the canvassing of ballots, and signature verification, among other things. Since 2020, candidates and the parties are also entitled to reasonable access to review signatures on vote-by-mail ballots, observe ballot duplication, and make objections. We want and encourage the public to watch how their ballot becomes a vote. We allow and encourage election observation. Candidates and the parties can designate observers at each precinct, and we deploy our own team of in-house observers across the state. Our two newest elections offices in Palm Beach and Broward Counties are the national model for openness and transparency.

Vigilance is the price of liberty. Florida is vigilant because we continue to strengthen and hone our election code year after year. We do not sit idle waiting for bad things to happen in order to correct them. We cannot run the risk of becoming complacent.

As I said in my previous testimony, and it bears repeating, Florida is committed to ensuring that all eligible Floridians who want to vote have the opportunity to do so. However, we are equally committed to preventing election fraud and protecting the integrity of Florida's voter rolls.

Chairman STEIL. Thank you, Secretary Byrd.
Secretary Frank LaRose, you are now recognized for 5 minutes.

STATEMENT OF HON. FRANK LAROSE

Mr. LAROSE. Well, thank you so much, Chairman Steil and Ranking Member Morelle and Members of the Committee. As we all have reflected since September 11th, 2001, especially those of us that had the opportunity to serve in combat as part of the global war on terrorism, one of the things we have thought about is what kind of deep hatred would lead someone to launch such a terrible attack. What I have been able to come up with as I have thought about this over the years is that it is our way of life, our freedoms. One of those freedoms is of course self-determination through free and fair elections. It is what we are here to talk about today.

There are a lot of groups out there that focus a lot on making elections more convenient. That is great. There are a lot of groups out there that focus on making elections more secure. While as Secretaries of State, we do not have the luxury of choosing one or the other; we know that you can make elections both convenient and secure. We can make it easy to vote and hard to cheat. That is what we have done in Ohio. That is one of the reasons why we are nationally recognized as a gold standard for elections administration. I look forward to talking about that today.

One of the things that we have focused on quite a bit is cybersecurity. During my 5 years in this office, we have done things like put Albert intrusion sensors at every county board of elections, end point detection and response systems, network segmentation protocols, regional cybersecurity liaisons so that every county board of elections has access to cybersecurity experts as well as vulnerability disclosure policies. Yes, we can ask the good guys to try to hack us and then tell us where there are holes in our fence so that we can patch those.

I was the first Secretary of State in America to hire a full-time chief information security officer, and we are proud of that. We have had five different cybersecurity directives that have made Ohio the most cyber secure elections administration in the Nation.

Transparency. Ohio's elections are a completely open book. There is nothing to hide. Everything at a board of elections is visible to the public. One of the ways that we have made that even better is by working with the America First Policy Institute for the development of a thing called the Data Act that we passed in Ohio for the standardization and reporting of election data. Essentially, it lets you look at our checkbook and see if it balances, and that is something that we are also quite proud of and something that we think other States should follow.

One of the other things that we have done is what we call registration readiness. We work to make sure that people know what we are doing as it relates to maintaining the database of our voter registration.

Ready for November is a program that we launched based on a simple idea that I bring from the military that you sweat in training so you do not bleed in battle. This is just making sure that we are prepared long before the action starts for the logistics of election day. Poll worker recruiting and training, making sure that

adequate supplies are on hand, et cetera. Of course, list maintenance is one of our most important responsibilities, and in that sense, we remove deceased voters on a monthly basis. We check IDs, and yes, we remove noncitizens from the voter rolls, and thank you for mentioning that, Chairman. The fact is it is rare, but we keep it rare by enforcing the law.

Ohioans enacted in our State constitution recently a very clear prerogative that people of Ohio are saying that American elections are only for American citizens. It is my duty to make sure that we carry that out. Unfortunately, that duty is not as easy to carry out as it should be. When we have done our analysis of the voter rolls, we have found in just the last year alone nearly 600 noncitizens registered to vote. We have removed them from the voter rolls, and yes, referred them for prosecution because, when an election law, when any law is not enforced, it is not a law; it is a suggestion. In Ohio, that form of voter fraud constitutes a felony, and we believe it should be enforced.

This problem has only been compounded by the lack of border security under the current administration, and so we know that the problem continues to grow. Access to the SAVE database is an imperfect instrument. The Department of Homeland Security has allowed us access to this database, but, as many of you know, they charge us for each query that we do. In order to do it, it is a lot of manual data entry that relies on us getting a thing called the alien verification number. It is a number that is very hard to get. We also have to notify the registrant in question if we are querying the database to search them, but we have been able to do that.

You see, there are also other databases that we have requested access to that the department has not made available to us, at least two other databases that we believe could help our efforts to identify and remove noncitizens from the voter rolls. Of course, we should not have this kind of retroactive look back process that we have right now. Citizenship verification should happen on the front end, and that is why it is so crucial that this Chamber finally pass the SAVE Act and get it over to the Senate and get it to the President's desk so that we can give Ohioans and Americans the confidence that they deserve that only the voices of their fellow American citizens are being heard in our elections and no one else.

Thank you so much, Mr. Chairman.

[The prepared statement of Mr. LaRose follows:]

PREPARED STATEMENT OF HON. FRANK LAROSE



September 11, 2024

The Honorable Bryan Steil, Chairman
Committee on House Administration
1309 Longworth House Office Building
Washington, D.C. 20515-6157

Chairman Steil, Ranking Member Morelle, and members of the US Committee on House Administration, thank you for the opportunity to provide some Ohio perspective on the important work of securing our elections.

I'm sure you've all heard the political proverb that "as Ohio goes, so goes the nation." That adage speaks to my home state's longstanding reputation as a microcosm of the nation. For decades, Ohio has earned the distinction of being a battleground state – where messages are tested, trends are set, and elections are decisive.

Part of the reason for this reputation is that Ohio tends to "get it right." Our unique, decentralized, bipartisan system of oversight is one of the few in the nation that's often called "the gold standard" of election administration. Unlike some states that tend to be high drama on election night or in the days after a national vote, Ohio quietly reports its unofficial results with a high degree of confidence, and then, in the weeks after, we carefully audit those results achieving an accuracy rate of 99.9 percent during my administration.

Ohio didn't earn this distinction without careful and collaborative effort. We created the first-ever, fulltime Election Integrity Unit, becoming one of the first states in the nation to deploy a dedicated investigative team solely focused on election law enforcement, and many states have followed our lead.

As an Army Green Beret, I'm acutely aware that no system is perfect or impenetrable. Security demands vigilance – *and accountability*. We've made Ohio a national model for elections cybersecurity, establishing the nation's first vulnerability disclosure policy for a secretary of state's office and requiring compliance with five landmark security directives, each building on the one before to make Ohio's elections offices the most cyber-secure in America.

I'm the first secretary in the nation to deploy Albert sensors (also called Intrusion Detection Systems) in our election infrastructure statewide. We implemented an endpoint detection and response system, adopting a real-time method of threat

detection. We performed network segmentation, preventing boards of elections from a network breach, even as other government systems have fallen victim to cyberattacks. We hired a fulltime team of cyber liaisons to assist our election offices in evaluating and mitigating vulnerabilities. We required boards to draft written contingency plans for emergencies and to work with their respective county Emergency Management Agencies and sheriffs to review those plans. All of this led to our office receiving the SANS Difference Maker Award for cybersecurity, an industry award given to businesses and organizations that make a "measurable and significant" difference in security.

We worked with our state legislature to create one of the nation's first state Cyber Reserves modeled after a bill I introduced as a state senator, which gives the Secretary of State a seat on Ohio's Homeland Security Advisory Council and requires post-election audits by our county election boards to better ensure the accuracy of results. I'm also the first secretary of state in the nation to hire a full-time Chief Information Security Officer.

Beyond infrastructure security, we've required unprecedented transparency in Ohio's elections by publicizing, for the first time ever, the data related to voter list maintenance so private citizens can crowdsource and analyze the data for themselves. During my previous testimony before your subcommittee, I highlighted a legislative priority of my office, a piece of state legislation called the DATA Act. This is landmark legislation designed to address a critical vulnerability in the accountability of our elections.

I'm pleased to inform you that the DATA Act has become law in Ohio, and I'm hopeful other states will follow our lead. Most states currently lack clear requirements for the long-term retention of electronic election data, and federal law requires only the retention of physical ballots for a short period of time after a federal election. This lack of protocol is leading some states to simply erase their electronic data records in the aftermath of a statewide election, creating a crush of requests for public records and making it effectively impossible to conduct long-term audits of results. As you can imagine, this lack of records retention erodes public confidence and leads to corrosive claims of election denial. We can fix this, and Ohio has a solution that works.

The system we've created will publicly platform election data into easy-to-digest digital dashboards. The public can then analyze everything from early voting trends and absentee ballot tallies to Election Day demographic data, right down to the number of ballots cast and counted in a particular precinct. Anyone with concerns about ineligible voters or fraudulent votes can examine the results, and my office will provide

comparative analysis between elections by way of a historic digital archive. This open-book transparency is a best practice other states should emulate.

In the Army we have a saying that you “sweat in training so you don’t bleed in battle,” and our election officials done a lot of sweating lately - doing the hard, necessary work to be prepared. Our team planned and hosted “Ready for November” workshops in each region of our state to prepare our bipartisan election officials for the issues they’re likely to encounter – and even some they hopefully won’t. Of course, every election is a massive logistical undertaking that relies on tens of thousands of trained bipartisan poll workers. Our “Ready for November” training series has helped prepare the county election boards by refining and exercising coordination with other government agencies, tabletop exercises to prepare contingency plans, ensuring necessary supplies are ready and improving public communication to both combat false information and empower voters with trusted accurate information.

We’ve made great strides to implement best practices and prepare for this November’s high-profile presidential election, but our elections are only as strong as the confidence our fellow citizens have in them. A recent Marist Poll¹ shows Ohio voters overwhelmingly trust that our elections are both convenient and honest. We have a duty to continuously earn that trust.

Unfortunately, that trust is sometimes jeopardized because of the current administration’s failure to secure the southern border. As a result, many Ohio voters have concerns that noncitizens have found their way onto our voter rolls. The open border policy is an unmitigated disaster for public safety and national sovereignty, but this incompetence has also decreased the public confidence in our elections. Ohioans spoke loud and clear when we enshrined in our state constitution the commonsense value that our elections are only for United States Citizens.

As Secretary of State, I’ve implemented a mandatory citizenship check requirement on each new registration as it’s submitted to our statewide voter registration database, utilizing the federal SAVE database and other data as it becomes available to us. This is why it’s essential that the Biden-Harris administration grant us access to all federal database records necessary for these investigations, which they have yet to do.

¹ https://maristpoll.marist.edu/wp-content/uploads/2024/06/Marist-Poll_OH-NOS-and-Tables_202406071439.pdf

Where we've found noncitizens on Ohio's voter rolls, we've taken the necessary steps to remove those ineligible registrations and refer them to the state attorney general for potential prosecution. Contrary to partisan talking points, some noncitizens are indeed registered to vote in this country, and, since my time in office, I've referred more than 1,000 potential noncitizen registration and voting violations to the proper authorities.

I'm taking every step currently possible to ensure that Ohio's voter rolls remain clean, but we've done this with little to no help from the federal government. Unfortunately, the Department of Homeland Security has been unresponsive to my office's demand for access to federal citizenship verification records. This is exactly why your leadership to pass the federal SAVE Act in the House earlier this summer is a critical step. Please continue to push for its full passage, along with the ACE Act so states can have access to, and authority to act on, additional federal data that allows us to verify the citizenship status of registered voters and secure our elections. Every moment of every day is critical to ensuring a secure, successful election. We urgently need our federal partners to work with, not against, these efforts.

Let me conclude by saying, I've had the opportunity to observe numerous foreign elections, including during my time in uniform. I've witnessed people courageously face threats of violence to cast a vote. They knew, and all of us should remember, what power and efficacy there is at the ballot box. Free men and women choosing their leaders is a remarkable thing and rare in all of human history. It is now our duty as leaders to safeguard that sacred right for our neighbors in the country we love. I'm proud to report to this committee that because of the steps Ohio has taken to increase voter confidence and secure our elections, we're Ready for November – ready to uphold our hard-earned reputation as the gold standard of election administration, and hoping to say once more that "as Ohio goes, so goes the nation."

Yours in service,



Frank LaRose
Ohio Secretary of State

Chairman STEIL. Thank you very much, Secretary LaRose. Secretary Warner, you are now recognized for 5 minutes.

STATEMENT OF HON. MAC WARNER

Mr. WARNER. Today, September 11th is the anniversary of one of America's worst days.

Chairman STEIL. Secretary Warner, your microphone may not be on. We can hear you, but I know those listening at home might not.

Mr. WARNER. Thank you. Along with many others, I served this country to protect our Constitution and did so expecting to fight foreign enemies; 23 years later, none of us expected to have to protect our own—protect against our own domestic three-lettered agencies. The worst election interference in American history was done in 2020 by 51 so-called intelligence experts who conducted a psychological operation against America to cause us to believe that the Hunter Biden laptop was Russian disinformation. It was a lie, and they knew it was a lie. Former CIA Deputy Director Mike Morell admitted under oath that he organized the letter to help Biden and to hurt Trump. The signers wanted to give Biden a talking point, and Biden cited that letter in his debate with Trump shortly before the 2020 election. Some signers were on CIA payroll as contractors, and a number used their CIA credentials and signature blocks.

Today's hearing is about restoring election confidence, and the first step to solving a problem is to admit there is one. A number of U.S. Government institutions need to publicly admit the enormity of improperly influencing a Presidential election before confidence can be restored. Repeatedly I have asked the FBI, NASS, and CISA officials to publicly acknowledge the insidious actions, but to date they have refused. The 51 should apologize for lying, for illegally conducting a PSYOP inside the United States, and indelibly tarnishing the CIA's reputation. Their security clearance should be pulled, and they should never hold a position in Government again.

Then shame on the FBI for not timely exposing the lie and then telling social media to suppress the story. Mark Zuckerberg now admits that he should not have listened to the FBI, but he also interfered with the election by laundering nearly 400 million Zuck bucks through local entities and using algorithms that favored one side over the other. Until these agencies acknowledge culpability, their actions are purposeful diversions that continue to erode confidence in our elections.

Votes outside the law, that is votes that enter the system through methods not approved by a State legislature, are what Americans should be discussing. Examples include ballots that arrive 3 days after polls close, that arrive via unauthorized harvesting. They are dumped in unauthorized and unsupervised drop boxes that are cured without authorization. Absentee ballots without addresses, dates, or signatures. Election officials who misuse their authority and allow votes outside the law should be held accountable and removed from office.

We should develop remedies to votes outside the law. First, who should be punished? The voter by not counting their vote or election officials and canvassers who allow and count the votes? Then,

second, what should be the remedy? A civil fine or a criminal indictment? Rather than tackling these tough issues, these agencies divert attention by holding worthless briefings, out-of-date table top exercises, advocating voting by mail, hyping domestic terrorism, and overplaying threats to election officials.

National election confidence can be improved by doing what West Virginia has done. Clean voter registration lists. We removed 400,000 names and then put on 350,000 live voters. Implement voter ID. Cross-reference citizenship data with DMV. Require approved reasons for voting absentee. Look for and pursue election fraud. West Virginia has pioneered See Something, Text Something, making every citizen with an iPhone an extension of our investigation team.

We do not vote by mail. We do not use drop boxes, and we do not accept votes outside the law, and we do not harvest ballots illegally. Simply put, we obey election law. When one State does not obey its own laws, other States should have standing to bring suit and require only legal ballots by legal voters be counted. What happens in one State affects all States when electors are sent to the electoral college.

Meanwhile, West Virginia has called on President Biden to rescind EO 14019, and I have repeatedly called for repeal of the MVRA. More common sense. Disallow election-related ephemeral messaging by social media, and when their algorithms favor one candidate over another, that should trigger reporting of a contribution in kind. Do not let consent decrees override State election law. Require proof of citizenship and pass the SAVE Act.

Just as we have restored voter confidence in West Virginia, we can do so nationally by injecting common sense into election integrity. Thank you for letting me testify on West Virginia successes. I stand ready for your questions.

[The prepared statement of Mr. Warner follows:]

PREPARED STATEMENT OF HON. MAC WARNER



Mac Warner, West Virginia Secretary of State

Written Testimony

Committee on House Administration Hearing

American Confidence in Elections: Looking Ahead to the 2024 General Election

Wednesday, September 11, 2024 | 9:30 a.m.

Longworth House Office Building, Rm. 1310

Chairman Steil,
Ranking Member Morelle, and
Members of the House Administration Committee:

Statutory compliance begets voter confidence. Accountability begets voter confidence. But inconsistency and selective enforcement ruin voter confidence.

In West Virginia, thanks to our exceptional local election officials and implementing common-sense legislation, confidence in elections has steadily risen over the past several years. I'm sure the same is true in many of my colleagues' states.

Across the nation, we have seen efforts to balance ballot access with election security. Election officials who follow state laws without deviating from lawmakers' enacted policies are key to ensuring voter confidence.

However, all the work done by lawmakers and election officials to administer secure and convenient elections are at serious risk from bad actors who attempt to use our own government to tip the scales in favor of a candidate or political party.

As this Committee knows, in 2020, the Biden campaign teamed up with former members and contractors of our own intelligence community to deceive the American people by claiming that

the Hunter Biden laptop story appeared to be Russian disinformation. The most recent report by the House Judiciary Subcommittee on the Weaponization of the Federal Government¹ sheds even more light than before² on the intelligence community's awareness and involvement in that election interference.

Those efforts and the federal government's involvement may represent the worst election interference in American history. Until we address those grievous acts and hold individuals accountable, Americans' confidence in elections will suffer, regardless of their state officials' preparations for and administration of otherwise secure, fair, and accurate elections.

We must also address executive branch decisions that deviate from legislative policies under the guise of expanding access, without due consideration of authority or security. For example, President Biden's Executive Order 14019, which, without Congressional approval, unconstitutionally designates federal agencies as quasi-voter registration agencies. That Executive Order, along with states' executives that have altered election laws or procedures mid-stream, result in votes being cast outside the law.

Past executive branch actions without legislative approval, such as allowing ballots to be counted after statutory deadlines and implementing drop boxes, do not increase confidence in elections; they tip the scales in favor of one candidate or party. Only by holding bad actors accountable, preventing such nefarious acts from occurring again, and following the laws as written can we truly ensure voter confidence in elections.

With the 2024 General Election less than two months away, despite certain actors' political motives and unconstitutional acts, I am honored to report to this Committee on the efforts of West Virginia officials to provide voters with another secure, fair, and accurate election.

¹ *The Intelligence Community 51: How CIA Contractors Colluded with the Biden Campaign to Mislead American Voters*, Committee on the Judiciary, Select Subcommittee on the Weaponization of the Federal Government, and Permanent Select Committee on Intelligence, June 25, 2024 (<https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2024-06-25%20The%20Intelligence%20Community%2051%20-%20How%20CIA%20Contractors%20Colluded%20with%20the%20Biden%20Campaign%20to%20Mislead%20American%20Voters.pdf>).

² See, e.g., *The Hunter Biden Statement: How Senior Intelligence Community Officials and the Biden Campaign Worked to Mislead American Voter, Id.*, May 10, 2023 (https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/2023-05-10_the_hunter_biden_statement_how_senior_intelligence_community_officials_and_the_biden_campaign_worked_to_mislead_american_voters-sm.pdf).

1. 2024 Election Preparedness: Legislation, Access, List Maintenance, and Security

Paying careful attention to the critical balance between election security and convenience in voting, the West Virginia legislature has worked with my office to enact common-sense policies that build voter confidence and hold bad actors accountable.

Together, we have closed loopholes to punish illegal voting, clarified crimes related to electioneering and undue voter influence, prohibited non-citizen and non-public funding of candidates and election administration, implemented data-sharing requirements and programs to ensure accurate voter rolls and vote counts, and worked with security experts to fortify cyber and physical security protections of our critical infrastructure.

One critical component of accurate results and voter confidence is maintaining the voter registration list. Just shy of 1.2 million registered voters are on West Virginia's voter rolls. Over the past 8 years, our list maintenance efforts have resulted in more than 400,000 cancellations of duplicate, abandoned, and deceased voters' records, while at the same time adding over 350,000 new and updated registrations.

Part of that success is due to our partnership with the state vital statistics office, to ensure timely removal of deceased voters, and with our Department of Motor Vehicles, for identifying outdated records. Regarding non-citizens, while state agencies have the ability to identify illegal registrations, the process is cumbersome and often requires extra research to verify eligibility. More needs to be done by the federal government to provide states with real-time, reliable data to ensure only eligible voters are on the rolls and that illegal registrations are cancelled before non-citizens have the opportunity to dilute the voter pool. Federal agencies that possess this data have yet to offer states meaningful access, which undermines voter confidence.

West Virginia voters now have multiple ways to participate regardless of where they are in the world. In-person voting remains the primary mode of participation. Absentee-by-mail is available to voters with a valid excuse and who cannot vote during the ten-day early in-person voting period or on election day. For those who cannot reliably participate by mail, such as our deployed military personnel, overseas voters, individuals with disabilities who cannot vote absentee without assistance, and first responders called away on the eve of an election, all have the option of using an electronic ballot delivery system secured with end-to-end security principles. This system is responsibly made available with security protections in place to ensure timely transmission of ballots.

Beyond legislation and the various ways to participate, West Virginia has worked tirelessly to safeguard private voter information and public-facing web services from nefarious actors attempting to sow doubt and introduce chaos in our elections. Currently, my office is partnering

with Marshall University's Institute for Cyber Security, which is nationally renowned, to conduct security assessments of the cyber infrastructure in all 55 counties before the General Election. These assessments, among other efforts, will allow for vulnerabilities to be addressed before the election.

Finally, no election can be truly secure without proper emergency planning. For the last several years, West Virginia has updated its continuity of operations plan to ensure that every county has all the necessary emergency response contacts for election day incidents. Power companies, the National Guard, emergency services, local law enforcement, and other essential state agencies will be on standby, ready to respond to election day disasters or unexpected incidents. Emergency planning is critical for reducing the risk of disenfranchisement, thwarting potential threats to voters and officials, and promoting election integrity, all of which bolster voter confidence.

2. Ignoring Mistakes Decreases Confidence; Accountability is Imperative

We must address past mistakes and take corrective measures to ensure voter confidence. The U.S. House's willingness to investigate and uncover the serious malfeasance committed by the Biden campaign during the 2020 election is a good start. Any attempt to persuade voters to ignore the evidence of this damning information is unacceptable, regardless of the speaker or their political affiliations. Yet, no one has been held accountable.

Those involved in this farce, including Tony Blinken and Mike Morrell, still hold their public positions or contracts with federal agencies despite their roles in one of the most egregious lies in our country's history.

Even worse, our own federal government allowed this to happen. The FBI had Hunter Biden's laptop in its possession. The CIA expedited approval of the letter. Then-candidate Biden used the fabricated letter, created by his team, to mislead the American public during the last 2020 debate. And, only after being threatened with contempt of Congress, Mark Zuckerberg confirmed that his company acquiesced to White House pressure to censor the Hunter Biden laptop story.³

Why have laws and punishments if they do not apply to everyone? These exceptions and activities do not provide voters with confidence. Until bad actors are held accountable and corrective measures are implemented, voters will continue to lose trust in elections and in the officials who are declared elected.

³ See, e.g., *Zuckerberg admits Facebook wrongly censored Hunter Biden laptop stories*, Fox News, August 30, 2024 (<https://www.foxnews.com/video/6361256115112>); see also *Zuckerberg says Biden officials 'pressured' Meta to 'censor' content: What to know*, The Hill, August 27, 2024 (<https://thehill.com/policy/technology/4849741-mark-zuckerberg-joe-biden-administration-officials-censorship-meta-covid-2021/>); *Zuckerberg says he regrets caving to White House pressure on content*, Politico, August 26, 2024, (<https://www.politico.com/news/2024/08/26/zuckerberg-meta-white-house-pressure-00176399>).

3. Strengthen Security by Better Designing Access

In-person voting is the gold standard in West Virginia. With trained officials of opposing parties facilitating the process, assisting and guiding voters in teams, and troubleshooting issues together, we can best assure voters that their ballots will be secure and accurately counted.

For those who can vote in person, mail-in voting should not be an option. The more in-person votes cast, the higher the degree of confidence voters will have in the election. Because we are a mobile society, there should be opportunities for everyone to vote no matter where they are in the world. However, when officials succumb to the temptation of extreme “access,” such as all-vote-by-mail, states lose the ability to truly guarantee that every ballot cast is done so by the voter for whom it was intended.

For example, the Uniformed and Overseas Citizens Absentee Voting Act ensures access for certain military and overseas voters as necessary. However, this should be the extent of the exception to the gold standard. Allowing individuals who reside overseas to register to vote and receive a ballot without any proof of citizenship or eligibility must be reconsidered.

Furthermore, it should be undisputed that the U.S. Constitution grants states, not executive agencies, the authority to provide access opportunities. Yet President Biden’s Executive Order 14019, issued in 2021, remains in effect. This Executive Order represents clear federal overreach and is unconstitutional. My colleagues and I have been engaged in litigation efforts to overturn this Executive Order, but the wheels of justice turn slowly. In the meantime, it is not lost on the voters that the President has used his pen to spend taxpayer dollars and direct federal agencies to duplicate voter registration efforts and activities that are the responsibility of the states. This duplication complicates the work of county clerks, who are already overworked and understaffed. This does not give voters confidence, and I commend the House for its efforts in H.R. 6493 to abrogate the Chief Executive’s unlawful action.

4. Consistent Compliance

Inconsistent application of law creates doubt. Whether it’s the disparate treatment of challenged ballots by a local board of canvassers or the intelligence community’s selective actions against politically motivated bad actors, non-uniform application of the law undermines voter confidence.

Make no mistake, states will conduct exceptionally well-run and professionally administered elections. However, inconsistent actions by federal officials that deviate from the law can overshadow and undermine these otherwise outstanding efforts by state officials to secure our elections.

It makes little difference that state and local officials do all within their power to ensure every ballot cast by eligible voters will count. If the public believes someone has not played by the rules—whether or not an ultra vires action affects a ballot that is cast—the public will lose confidence in elections.

The solution is simple: we must consistently comply with the law. Regardless of stark differences in policies and procedures, we must all ensure strict statutory adherence. We will do that in West Virginia, and our voters will have confidence in state-level results. It is my hope that every state will do the same, and perhaps our decentralized yet unified and consistent actions will stifle those of bad actors who seek to undermine election integrity, thereby giving American voters the confidence they expect and deserve.

Chairman STEIL. Thank you, Secretary Warner.
Secretary Toulouse Oliver, you are now recognized for 5 minutes.

STATEMENT OF HON. MAGGIE TOULOUSE OLIVER

Ms. TOULOUSE OLIVER. All right. Can you hear me? Thank you very much, Chairman Steil, Ranking Member Morelle, and Members of the Committee. Special shout out to our former colleague—no?

Chairman STEIL. Your mic may need to be pulled closer if it is on.

Ms. TOULOUSE OLIVER. This is what happens when you have a vertically challenged witness, Mr. Chairman, Special shout out to Congresswoman Lee, our former colleague.

It is so nice to see you again, Laurel.

Thank you again for having us here today and for organizing this hearing. My name is Maggie Toulouse Oliver, and I proudly serve as New Mexico's 26th Secretary of State. I am also proud to say that the 2024 general election will be my fifth Presidential election that I have either managed at the county level or overseen as the Secretary of State.

You know, the alarming decline in public confidence about the administration and outcomes of elections in our country is of great concern to me both as an election administrator and as a citizen of our great Nation. The administration of elections used to be a relatively quiet affair. We used to say, "If we are in the news, we are not doing a good job." Now election administration has a much higher profile among the American public. More people are now aware of elections and more awareness can bring more participation, understanding, and innovation.

However, because of what has now been years of false election claims and ideological attempts to discredit our voting systems and processes, much of the heightened awareness of elections is now colored by conspiracies, misinformation, and, frankly, outright lies. This false information has led to increased threats and harassment to election workers. Many of the people at this table have personally experienced that. You know, political violence, frivolous and burdensome public information requests, mounting legal costs, and decreased overall confidence, this is a vicious cycle that must be mitigated for the good of our country.

Providing easy access to factual information about voting and elections is a key strategy we use to increase trust about elections

in my State of New Mexico. When voters are misinformed about how voting and elections work, they lose trust in the system itself. Through a multiyear research partnership with the University of New Mexico that tracks voter attitudes and knowledge across election cycles, we found there are knowledge gaps, big surprise, about the fundamental aspects of the democratic process.

Misinformation about who votes in our elections is another key factor that diminishes overall voter confidence. The issue of noncitizen voting is a prominent example of this. Noncitizen voting does not happen in any systemic way in New Mexico or in the Nation more broadly. In fact, a Heritage Foundation study, for instance, reported only 24 instances of noncitizen voting nationwide over a 24-year period between 2003 and 2023.

However, voters believe noncitizen voting does occur, and this impacts their overall confidence in elections. This knowledge gap provides election administrators, such as us here today, and other leaders an opportunity to better educate voters about the requirements and procedures for registering and voting and the legal penalties importantly for violating the law. We have a zero tolerance policy for any type of election fraud in my State, and we will pursue it to the fullest extent of the law.

Connecting the public with their local election administrators is another strategy to promote trust. Over the past two election cycles, my office partnered with a coalition of nonpartisan nonprofit organizations on a statewide media campaign highlighting the work of county election officials of both political parties on a statewide media campaign to talk about the integrity of New Mexico's elections, and we found that this has been a really great way to connect our local election officials with folks across the State and put a face on the people who are running our elections. They are running on TV, radio, online in English, Spanish and Dine', the Navajo language. All the videos were recorded to expand the reach of this effort across New Mexico's diverse communities.

I am proud to say, this year, New Mexico's election administration was ranked No. 1 in the Nation, and we have the same exact score as our neighboring State of Michigan by MIT's prestigious Elections Performance Index. Some of the reason for our rankings include our transparency, things you have already heard today. Our transparency around voting and elections, our wide variety of voter access tools, the extent of the security measures we have in place to ensure both accuracy and fairness, post-election audits, air gap tabulators, 100 percent paper ballots, year-round voter list maintenance, and a variety of other security measures.

Let me just end by saying, Mr. Chair and Ranking Member, obviously funding for elections is really important. When we are combating nation-states, when we are trying to fight the mis- and disinformation that is coming from other places beyond the borders of this country, we need that assistance and that consistent Federal funding. With that, thank you again very much for giving me this opportunity, and I look forward to answering any questions.

[The prepared statement of Maggie Toulouse Oliver follows:]

PREPARED STATEMENT OF HON. MAGGIE TOULOUSE OLIVER



STATE OF NEW MEXICO
MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE

Hon. Maggie Toulouse Oliver, New Mexico Secretary of State
Statement Before the U.S. House of Representatives
Committee on House Administration
“American Confidence in Elections: Looking Ahead to the 2024 General Election.”
September 11, 2024

Chairman Steil, Ranking Member Morelle, and members of the committee,

Thank you for having me here today and for organizing this hearing ahead of the 2024 General Election to discuss the crucial issue of public confidence in our elections. My name is Maggie Toulouse Oliver and I proudly serve as New Mexico’s twenty-sixth Secretary of State, where I am my state’s chief elections officer.

The alarming decline in public confidence about the administration and outcomes of elections in our country is of great concern to me both as an election administrator and as a citizen of our great nation. The administration of elections used to be a relatively quiet affair where the votes were cast and counted, both the winners and losers accepted the outcome, and the names of election workers were relatively unknown. Now, election administration has a much higher profile among the American public. This comes with positives and negatives. An optimistic way of looking at the heightened role election administration now plays in the public consciousness is that more people are now aware of elections, and more awareness can bring more participation, understanding, and innovation. However, because of



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what has now been years of false election claims and ideological attempts to discredit our voting systems and processes, much of the heightened awareness of elections is now colored by conspiracies, misinformation, and outright lies. The heightened profile of elections has also, unfortunately, led to the proliferation of false information. This false information, then, has led in turn to increased threats and harassment to election workers, political violence, frivolous and burdensome public information requests to election offices, mounting legal costs, and decreased overall confidence in our elections. This is a vicious cycle that must be mitigated for the good of our country.

In my testimony here today I want to do three things that I hope will be helpful to the Committee and to the American public in contextualizing the recent decline in trust in our elections and in charting a way forward: Explain and address some of the most frequently misunderstood parts of election administration that I see contributing to decreased confidence as New Mexico's chief elections officer; Detail some of the practices to improve trust in elections that we employ in my state; And discuss wider strategies for improving voter confidence.

The reasons for the decline in trust in American elections are multifaceted and though I have here drawn attention to the recent proliferation of misinformation, arguments can be made that mistrust in American elections goes back much further – for example, to the controversial 2000 *Bush v. Gore* decision, to the discriminatory days of Jim Crow, or even all the way back to the ballot-stuffing schemes of late Nineteenth



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Century political machines. In reality, though, all that matters now is that trust *has* declined and we all have a stake in seeing it improve.

Providing easy access to factual information about voting and elections is a cornerstone of our strategy to increase trust about elections in New Mexico. When voters are misinformed about certain aspects of how voting and elections work, they lose trust in the system itself. Through a [multi-year research partnership](#) with the University of New Mexico that tracks voter attitudes and knowledge across election cycles, we've found there are knowledge gaps about some very fundamental aspects of the democratic process. For example, in the latest study, over 70% of New Mexico voters reported that they thought it was possible to learn someone's vote choices without their consent.¹ Though ballot privacy is fundamental to our democracy, many voters do not understand that no one can find out how you cast your ballot. This fact sheds light on one reason voters may have to distrust elections, but it also presents an opportunity to educate those voters and increase that trust. The report also found that when voters feel their ballot privacy is protected, confidence increases:

Individual experiences matter to voter confidence. Feelings that ballot privacy was protected increases confidence. 21% of voters who thought their ballot privacy was not well protected were very or somewhat confident, compared to 72% of voters who thought their ballot privacy was protected.²

¹ Lonna Rae Atkeson and Wendy L. Hansen, "2022 Election Administration, Voter Security, and Election Reform Report," Accessed on 7 September 2024, <https://polisci.unm.edu/people/faculty/profile/2022-nm-election-administration-report.pdf>, Page 8

² Lonna Rae Atkeson and Wendy L. Hansen, "2022 Election Administration, Voter Security, and Election Reform Report," Accessed on 7 September 2024, <https://polisci.unm.edu/people/faculty/profile/2022-nm-election-administration-report.pdf>, Page 7



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Other strategies for improving voter confidence identified in the latest report include ensuring privacy sleeves for ballots are available for all voters, having helpful poll workers, and having a positive interaction with staff members of the county clerk or the Secretary of State's Office.

Misinformation about who votes in our elections is another key factor that diminishes overall voter confidence. The issue of noncitizen voting is a prominent example of this. Noncitizen voting simply does not happen in any systematic way in New Mexico or in the nation more broadly.³ A Heritage Foundation study, for instance, reported only 24 instances of noncitizens voting nationwide over a twenty-year period between 2003 and 2023.⁴ However, voters believe noncitizen voting does occur and this impacts their overall confidence in elections. About 36% of New Mexico voters, for example, believe noncitizens vote at least some of the time.⁵ This knowledge gap provides election administrators and leaders of all kinds an opportunity to better educate voters about the requirements and procedures for registering and voting, and the legal penalties for violating the law.

³ Alex Nowrasteh, "Noncitizens Don't Illegally Vote in Detectable Numbers," Cato Institute, Accessed on 7 September 2024, <https://www.cato.org/blog/noncitizens-dont-illegally-vote-detectable-numbers>; Also see Sean Morales-Doyle, "Noncitizens Are Not Voting in Federal or State Elections — Here's Why," Brennan Center for Justice, Accessed on 7 September 2024, <https://www.brennancenter.org/our-work/analysis-opinion/noncitizens-are-not-voting-federal-or-state-elections-heres-why>

⁴ "Voter Fraud Map: Election Fraud Database," The Heritage Foundation, Accessed on 7 September 2024, https://www.heritage.org/voterfraud/search?combine=citizenship&state=All&year=&case_type=All&fraud_type=All&page=0

⁵ Lonna Rae Atkeson and Wendy L. Hansen, "2022 Election Administration, Voter Security, and Election Reform Report," Accessed on 7 September 2024, <https://polisci.unm.edu/people/faculty/profile/2022-nm-election-administration-report.pdf>, Page 8



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Proactively addressing some of the most common misunderstandings about our voting and elections is a key strategy we employ in New Mexico to improve overall voter confidence. Voters are smart, but elections are complex and misinformation is rife, so we created a central location on our website where New Mexicans can receive up-to-date, factual information from a trusted source. Our [Rumor vs. Reality](#) page, modeled on the Cybersecurity and Infrastructure Security Agency's [Rumor Control](#) program, addresses some of the most common misinformation narratives related to New Mexico elections.

Connecting the public with their local election administrators is another critical strategy we use in New Mexico to promote trust in our elections. Over the past two election cycles my Office partnered with a coalition of non-partisan, non-profit organizations on a statewide media campaign highlighting the work of county election officials and educating voters about the integrity of New Mexico's elections. The campaign – entitled [Your Vote Counts, New Mexico!](#) – is composed of a series of videos recorded by county clerks, county clerk staff, members of the Secretary of State's Office, and other election administrators that are distributed on TV, radio, and online as public service announcements. The videos were recorded by a bi-partisan group of county clerks and other New Mexico election officials. English, Spanish, and Navajo (Diné) language videos were all recorded to expand the reach of this effort across New Mexico's diverse communities. This effort puts local election



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administrators, whom voters are more likely to trust,⁶ out front to talk directly to voters about why they can have confidence in our elections.

I am extremely proud to say that this year, New Mexico's election administration was ranked number one in the nation by the Massachusetts Institute of Technologies' prestigious [Elections Performance Index](#). Some of the reasons for our ranking include New Mexico's transparency around voting and elections, our wide variety of voter access tools, and the extensive security measures we have in place to ensure accuracy and fairness in every election. We have multiple ways to cast a ballot in New Mexico and many layers of security that instill confidence in our voters. Post-election audits, air-gapped vote tabulators, 100% paper ballots, year-round voter list maintenance, and a variety of other security measures show our voters that we protect the integrity of their votes. Online and same day voter registration, extensive early voting, no-excuse absentee balloting, secure ballot dropboxes, voting convenience centers, consolidated local elections, and other policies make it easy and accessible for all eligible voters to make their voices heard. In New Mexico, we pride ourselves on balancing voter access with election security and I hope we provide a model that other election administrators find useful as they look for strategies and policies to increase voter confidence.

⁶ Grace Olson, "Rebuilding Trust in Elections Starts at the Local Level," National Conference of State Legislatures, Accessed on 7 September 2024, <https://www.ncsl.org/state-legislatures-news/details/rebuilding-trust-in-elections-starts-at-the-local-level>



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I hope my testimony is helpful for the Committee and your future work. I thank you again for giving me this opportunity to testify on this crucial matter of election confidence. I look forward to answering any questions you may have for me.

Chairman STEIL. Thank you, Secretary Toulouse Oliver. Secretary Benson, you are now recognized for 5 minutes.

STATEMENT OF HON. JOCELYN BENSON

Ms. BENSON. Thank you, Chairperson Steil, Ranking Member Morelle, and Members of the Committee. Really grateful for you all hosting today's meeting and today's hearing. As Michigan's chief election officer, my responsibility is to ensure our elections are accessible, safe, secure, and that the results are accurate. It is not a partisan role, and despite it being an elected position, it is not a political role. It is a role that increasingly does force many of us, however, whether we consider ourselves Republicans, Democrats, or Independents, to endure threats, harassment, false and malicious attacks on our character, and integrity.

In today's hearing, you have already heard we are all going to be talking about the work we do to ensure it is easy to vote and hard to cheat in our respective States. Indeed, election security is top of mind for every professional election administrator in this country. I want to begin my remarks emphasizing that we cannot have a secure democracy if we do not protect the security of the people who administer our elections. Right now we are enduring unrelenting harassment and threats. People have come to my home. They have threatened me, my staff, and many of the hundreds of clerks and local election officials in our State. As a result, we have an omnipresent feeling of anxiety and hypervigilance that permeates our daily lives, our staff's lives, and our family's lives.

These threats are a direct result of the spread of false information about the security and accuracy of our elections. I need you to be on notice that unsubstantiated allegations and rhetoric without evidence makes our elections less secure because they erode the public's confidence in our elections and harm those charged with protecting our election systems.

The second thing I want to emphasize is that, now more than ever, the Federal Government's role as a trusted partner in securing our elections is crucial. Recent years have brought unprecedented threats to our election system, including some from highly sophisticated foreign-government-aligned entities. It is essential that we marshal bipartisan support and cooperative actions in response. Part of that response must be a commitment to providing a predictable, sustainable, and reliable stream of funding for our elections. We know what we must do to ensure our elections are secure in our States but oftentimes must scrape together funding from multiple sources to meet our needs. Federal resources are essential for supporting personnel, purchasing or upgrading voting machines, or maintaining statewide voter registration databases.

Now I am going to talk about what we are doing in Michigan to ensure our elections continue to be secure, accessible, and fair. First, we are working with our clerks to support a secure and transparent election infrastructure. Other resources like funding, training, personnel that we provide help us ensure we can work with local officials to meet the needs of their communities.

Second, we are building robust partnerships with a broad and diverse collection and coalition of faith leaders, business leaders, veterans organizations, colleges and universities, senior centers, and

community leaders in every part of Michigan to ensure every eligible citizen is able to register and cast a ballot in every election. I am proud this includes working with our Detroit Lions and Detroit Pistons as well as NASCAR to meet people where they are and bring voting opportunities, voter registration opportunities, and nonpartisan election information to citizens throughout our State.

Finally, we are taking steps to ensure the accuracy and security of our voter registration database and provide for the secure, efficient tabulation of paper ballots and post-election audits. According to Federal data, Michigan is one of the most active States in the country for identifying and canceling the registration of ineligible citizens or voters. In 2020 and in 2022, the Election Assistance Commission reported that Michigan, the tenth largest State, in the country, ranked fifth nationwide in removing ineligible voters from our registration database. As of March, we have canceled more than 800,000 voter registrations in the last 5 years.

All Michigan voters cast paper ballots, another key element of election security. Post-election risk-limiting audits also verify the election results as for accuracy and look across the entire election. Post-election audits in the 2020 general election were the most extensive in our State's history. Each of the 250 local and statewide audits confirmed and reaffirmed the accuracy and security of that election.

Despite this politically charged environment that we are in, in Michigan, we are working together to make data-driven decisions that preserve the integrity of our voting system. I and my colleagues at the State and local level in our State will continue to lead on this as the number second ranked in the country, behind New Mexico, with the same score, and we hope that you and your colleagues will do the same. Thank you again for inviting me to testify today.

[The prepared statement of Ms. Benson follows:]

PREPARED STATEMENT OF HON. JOCELYN BENSON

STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

Testimony of Jocelyn Benson, Michigan Secretary of State**Before the U.S. Committee on House Administration****September 11, 2024**

Chairperson Steil, Ranking Member Morelle, and Members of the Committee, thank you for hosting today's hearing.

As Michigan's chief election officer my responsibility is to ensure our elections are accessible, safe, secure, and that the results are an accurate reflection of the will of the people. It is not a partisan role and despite being an elected position, it is not a political role. But it is a role that increasingly forces us – whether we consider ourselves Republicans, Democrats, or independents – to endure threats, harassment, false and malicious attacks on our character and integrity.

Why? Because of lies – about our work, about the security of our elections and our own integrity.

In today's hearing we will talk about all the work we are doing to ensure it is easy to vote and hard to cheat in our respective states. Indeed, election security is top of mind for every professional election administrator in this country.

But I want to begin my remarks emphasizing we cannot have a secure democracy if we do not protect the security of the people who administer our elections. And right now, we are enduring unrelenting harassment and threats. People have come to my home or threatened me, my staff, and many of the hundreds of clerks and local election officials in our state. As a result, there is an omnipresent feeling of anxiety and hypervigilance that permeates our daily lives, and our families' lives.

I want you to know these threats are a direct result of the spread of false information about the security and accuracy of our elections. I need you to be on notice that unsubstantiated allegations and rhetoric without evidence makes our elections less secure because they erode the public's confidence in our elections and harm those charged with protecting our election systems.

The second thing I want to emphasize is that, now more than ever, the federal government's role as a trusted partner in securing our elections is crucial. As you know recent years have brought unprecedented threats to our election system, including some from highly sophisticated, foreign-government aligned entities. It is essential that from the very highest level of government there is acknowledgement of the past, present, and future active threats posed by foreign state actors, and that we marshal bipartisan support and cooperative actions in response. Only through a unified approach, long-term commitment and regular investment can we adequately support our election infrastructure. This upholds and sustains and provide a voting system in which

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Americans will rightly place their trust.

Part of that unified approach must be a commitment to providing a predictable, sustainable, and reliable stream of funding and additional resources for election security. Election officials know what they need to do to ensure our elections are secure but often must scrape together funding from multiple sources to meet their needs. The federal government has taken positive steps – such as significantly improving federal, state, and local coordination and making more funding and tools available – but you need to do much more.

Federal resources are essential for election infrastructure today, whether it's allocated towards supporting personnel, purchasing or upgrading new voting machines or maintaining statewide voter registration databases.

For example, after 2018 Michigan upgraded voting machines across the state. We were able to do so because we still had federal HAVA funds available from prior years; only with those resources was our state able to make necessary improvements in voting technology. In Michigan and elsewhere, however, we need additional and reliable support to make necessary improvements at the state and local level in the years ahead.

Secure Elections in Michigan in 2024

Michigan's election system is unique to the extent that our election administration is highly decentralized, run primarily by more than 1,520 city and township clerks, with 83 county clerks also carrying significant responsibilities. From a statewide standpoint, with so many links in our chain, it is important to recognize that local election officials are the front line in the defense against threats.

At the statewide level in Michigan, as in 2020 and in 2022, we have a proactive plan to ensure our elections continue to be secure, accessible, fair, and that the results are an accurate reflection of the will of the people.

First, we are working with our 1,520 local clerks and 83 county clerks to support a secure and transparent election infrastructure. This includes providing funding, trainings, and other resources as these professional local officials meet the needs of their constituents in every community. As recent amendments to the Michigan Constitution and statutory enactments resulted in many new election-related rights and requirements, including the creation of a nine-day early voting period, we also have a responsibility to assist clerks as they work to meet these mandates.

Secondly, we are building robust partnerships with a broad and diverse coalition, including faith leaders, business leaders, veteran's organizations, colleges and universities, senior centers, and community leaders in every part of Michigan to ensure every eligible Michigan citizen is registered and able to cast a ballot in every election. This includes working with sports teams, including the Detroit Lions, the Detroit Pistons, and NASCAR, where our collaborations help us meet people where they are and bring voter registration opportunities and nonpartisan election information to citizens throughout our state.

This spring, together with the Detroit Regional Chamber of Commerce, we launched the Michigan Business United for Elections initiative. This nonpartisan, pro-democracy coalition

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commits to supporting and educating employees about their voting options and empowering them to serve as election workers in their communities. Diverse companies across the state including Delta Airlines and Blue Cross Blue Shield of Michigan, companies from retail, healthcare, advertising and finance industries have joined to make sure all Michigan voters know their options to vote, where to go with questions about the process, and how to serve as an election worker.

Finally, we are also working to ensure the accuracy and security of our voter registration database and provide for the secure tabulation of paper ballots and post-election audits in our state.

Voter Registration Database Accuracy and Security

Michigan's list of registered voters is maintained on the Qualified Voter File, a database developed by the state of Michigan and maintained by municipal and county clerks and the Bureau of Elections. The Qualified Voter File contains the names of all individuals registered to vote in Michigan. It also contains the names of individuals with cancelled registrations, who are no longer eligible to vote in Michigan, and 16- and 17-year-olds who have "pre-registered" and will be able to vote when they turn 18. The Qualified Voter File is constantly updated whenever a new voter registers, a voter updates his or her registration information (such as an address), or a voter's registration is cancelled.

As part of Michigan's automatic voter registration law, when a registered voter updates his or her driver's license or state ID address, the voter's registration is also updated. If a voter moves within his or her city or township, the registration moves to the voter's new address. If a voter moves to a different city or township in Michigan, the voter's previous registration is cancelled, and the voter is automatically re-registered at his or her new address.

When a voter surrenders his or her Michigan Driver's license in a different state, the Michigan Department of State receives this information, typically through our membership in the Electronic Registration Information Center (ERIC). The Michigan Bureau of Elections uses this as initial information that the voter may have moved. The Bureau sends a notice of cancellation to the voter's address in Michigan. If the voter does not respond and does not have any voting activity by the second even-year November federal election following the notice, the voter's registration is cancelled. After the notice is sent, the voter is marked inactive and can still vote until the cancellation occurs.

State and local election officials were able to identify a significant number of registered voters who appeared to have changed address through the statewide mailing of absent voter ballot applications in 2020, the first statewide election mailing in at least a decade. State and local officials used applications that were returned as undeliverable to mark voters as inactive and send notices of cancellation in 2021. If these voters do not vote or otherwise verify their eligibility, their registrations will be cancelled after the two-federal-election waiting period expires in 2024. [Because of this, many more voter registrations were identified and will be cancelled after 2024 than after 2022.](#)

According to federal data, Michigan is one of the most active states in identifying and cancelling the registrations of deceased voters. The Election Assistance Commission reported that

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Michigan, which is the tenth largest state in the nation, removed the fifth most in the [2020 cycle](#); and the fifth most in the [2022 cycle](#).

When someone dies and their death record is processed, this information is sent to the Social Security Administration and added to the Master Death Index. The Michigan Department of State receives this information from the Social Security Administration. On a weekly basis, the Bureau of Elections cancels the voter registrations of all registered voters who appear on the Master Death Index report.

County clerks also inform a city or township clerks when they process death records for an individual registered to vote in that city or township. Although the vast majority of these deceased individuals are also identified through the Master Death Index, county clerks may be able to provide this information to municipal clerks most quickly. This is useful in the days leading up to elections, to allow the registrations of voters who become deceased to be cancelled more quickly. City or Township clerks can also cancel registrations when they have personal knowledge that a registered voter has become deceased. For example, the city or township clerk may have an obituary, local death notice, or a written notification from next of kin.

As of March 2024, the Bureau of Elections and clerks across the state have canceled more than 800,000 voter registrations since 2019. This includes 532,513 voter registrations of people who have died, 273,609 registrations belonging to those who have received a cancellation notice based on a change of residency and did not respond to the notice or engage in voter activity in the two-federal-cycle period, and 16,716 registrations for people who requested to have their own records cancelled.

Voting Technology and Post Election Audits

In Michigan our localities all use one of three types of voting machine vendor systems, selected at the county level. All are version of optical scan machines that use paper ballots which are scanned through electronic tabulators (with the paper ballot retained and stored). There is no evidence that voting machines in Michigan have been compromised or that votes can be changed, but in the event that a bad actor were able to alter an electronic tabulator program, using and retaining paper ballots (which can be reviewed and recounted) is an important safeguard. It is encouraging that a significant majority of voters nationwide cast votes on paper ballots, with the number approaching 98 percent in 2024 (the only remaining jurisdictions are in Louisiana and some parts of Texas).

While our voting machines are relatively new and function well, we need to ensure they remain secure and effective with continued use over multiple elections and through the lifecycle of each machine. With the pace of technology, ensuring we have adequate voting technology is an ongoing process, rather than a one-time task to be completed. Voting technology can quickly and unexpectedly become obsolete as circumstances change, and it is not possible to ensure that all jurisdictions have the most recent and state of the art equipment with the limited funding we have available. We need to stay ahead of this curve and continue the focus on security and potential vulnerabilities of these systems.

Paper ballots assist with another key element of election security infrastructure: auditing of election results. In Michigan, reviewing the accuracy of vote counts is mandated in our state constitution. Risk-limiting audits are a useful tool for verifying the accuracy of election results

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across an entire election (as opposed to a single precinct), because they allow us to utilize statistically proven methods to sample and scale the number of ballots we count and confirm election results overall, which in turn will tell us the probability that errors, manipulation, or problems have occurred with vote tabulation. This is a particularly helpful feature in a state like Michigan, with our decentralized structure and where voting equipment varies across counties.

Post election audits of the 2020 general election were the most extensive in Michigan's history. You can obtain more details about those audits and their results – all of which affirmed the security and accuracy of our elections – in our department's [2020 Post Election audit report](#).

Conclusion

Despite the politically charged environment, I am encouraged by the bipartisanship and spirit of cooperation that exists among election officials in our state, particularly when it comes to election security. That cooperation across partisan lines, which involves making data-driven decisions not subject to the whims of politicians and wishes of Presidential candidates, is essential when it comes to preserving the integrity of our voting systems. I and my colleagues in Michigan will continue to lead on this but we hope that you and your colleagues will join us in this regard.

Thank you again for the opportunity to testify today. I hope in sharing information about Michigan's election infrastructure I can help this Committee build a strong record as it examines our nation's election preparedness for 2024.

Chairman STEIL. Thank you very much, Secretary Benson.
Secretary Fontes, you are now recognized for 5 minutes.

STATEMENT OF HON. ADRIAN FONTES

Mr. FONTES. Thank you, Mr. Chair, Ranking, and Members of the Committee.

Ladies and gentlemen, before I begin, I certainly, as an individual and an American, would, along with all of you I am sure, reflect today's date, and may we never forget.

My name is Adrian Fontes. The last time I testified before this Committee I was a candidate for this office. I now come before you as Arizona's 21st Secretary of State, and it is indeed an honor to be back.

You will find the details of the achievements and our preparations in my year-and-a-half-long administration in this office in my written testimony, but to summarize, let me begin by discussing the tabletop exercise that we have hosted for elections officials, law enforcement officials, and Members of the media, who all play critical roles in preparing for 2024 using and employing generative artificial intelligence deep fakes and creating the Nation's first AI Advisory Committee with partners from Open AI, Meta, Microsoft, and other national and international experts in the field to prepare not just for 2024 but for the future.

We have statewide deployed a ballot tracking system where Arizona's voters can get automatic notifications of the ballot of their status from the moment it gets mailed to them to the moment it returns back to the election department. That sort of transparency and accountability includes as well a voter registration notification

system where any change in a voter's registration will be immediately transmitted to them as well.

We have extended information technology services to rural and Native communities to increase access and to decrease the sometimes prolific use of provisional balloting in our Native lands. We have upgraded systems for our uniformed and overseas citizens so that those serving us in foreign lands who are eligible citizens can continue to vote in Arizona's elections.

We created a fellowship program to assist our local county election officials in their efforts and to train a new generation of certified election officials across the Grand Canyon State given the threats and the losses that we have seen because of those threats. In the profession, we must move toward a future. We have prepared for and conducted four statewide elections—four elections in Arizona, including a Presidential preference election, primary election, and several jurisdictional elections just in 2024 alone. This is not our first rodeo even this year. We have significantly improved our training for new elections officials in Arizona, deploying innovative assessment and tiger teams of technologists and resources to shore up operations in every one of our county levels—county level election administration offices, but none of this is free, and none of it is cheap.

Our operations administration and security depend on intermittent, rare, and never enough funding from the Help America Vote Act grants that we are occasionally given by Congress. In 2017, elections administration was declared critical infrastructure by the Department of Homeland Security, and we still, as Secretary Benson has mentioned, have zero sustained and dependable Federal funding for this critical infrastructure. Do the same for highways and dams and railroads, and see what happens. We implore you, please consider, if this is such a big deal and if it is so important that we continue to have free, fair, and secure elections, fund them.

Now, Arizona is in a unique place. The voters in 2004 passed what is called Proposition 200. While I would challenge our election systems against any of them in the country to be the best in the Nation in access to the ballot, I take no pride in the idea that we have denied eligible citizens the right to vote in far greater numbers than we would have prevented the vanishingly rare noncitizen voting that is alleged to be happening across the United States of America.

When I took the office of county recorder, we found 94,000 rejected voter registration forms, many, many thousands of them duplicate forms where voters tried and tried and tried again to register. After thorough research, 47,000 eligible American citizens were found to have been denied the right to vote because of that law. One voter was denied 17 different opportunities to cast a ballot in elections they were eligible for because of the paranoia around a fake problem.

Voter suppression is unfortunately alive and well. Where Arizona's voters bear the unusually high and unique burden not shouldered by any person in this room outside of Arizona's voters to provide documented proof of citizenship. Most embarrassingly at this time, right now, 13 to 17 percent of Arizona's Fed-only voters have

ancestry on their Tribal lands that extends beyond western expansion and before the American Revolution.

Thank you for the opportunity. I am happy to answer any other questions.

[The prepared statement of Mr. Fontes follows:]

PREPARED STATEMENT OF HON. ADRIAN FONTES

Statement of Adrian Fontes
Arizona Secretary of State
U.S. House of Representatives Committee on House Administration
Hearing on “Looking Ahead to the 2024 General Election”
September 11, 2024

Chairman Steil, Ranking Member Morelle, and members of the committee,

My name is Adrian Fontes and I am the Secretary of State from the Grand Canyon State of Arizona, home to 15 vibrant counties and one thousand, seven hundred and thirty-five precincts. Thank you for inviting me back to testify before this esteemed body. The last time I was here, shortly after the 2020 presidential election, I was testifying as a candidate for the office I now hold and the former elected Recorder of Maricopa County, about the threats of violence against Elections officials. I have since testified before the Senate Rules Committee on that issue and the ensuing impact it had, creating an atmosphere where so many officials and staff have left the field of election administration. So much so that, as I shared at the time, 80 percent of our counties had one or both of their two top elections leaders, the County Recorder or Elections Director leave between 2020 and 2023. I am happy to be here today to update you on the progress we have made in fortifying our ranks, preparing them for the very busy election that is upon us, and all of the things that we are doing in Arizona to ensure that this Presidential election will be the most secure and accessible election, or as many of you like to say, Easy to Vote, Hard to Cheat; no less than what our citizens demand and deserve.

Training, Assessments and Tiger Teams

When I was elected Secretary of State in 2022, it was at a time of turmoil in the field of election administration. Between the natural graying of our field leading to a number of retirements, and threats against many of our election administrators, we had a host of new administrators that had little, if any, experience in the field of elections. Indeed, since 2020, across the western states, 40 percent of our counties, which account for half of Americans living in the West, have a new local election official, meaning that more than 1,800 years of experience has left our field. And this number is only looking at the leaders in those counties, not accounting for the number of diligent middle management and line staff members who have also left the field¹. Understanding this, my office quickly undertook a number of initiatives to train, support and assist our offices. First, I directed our State Elections Director as she worked with stakeholders to update the state's Elections Procedures Manual as required by state law, reorganizing it to make it a simplified guide on how to conduct an election, from voter registration to canvass, based on state and federal statutes². I then directed staff to upgrade and transform our state Election Officer Certification using sound adult learning principles and with subject matter experts to give all our almost 600 elections administrators comprehensive certification training, ensuring they were well-versed in the principles and practices that uphold the integrity and security of our elections processes. Importantly, this certification is not a one-time event—each official is required to renew their

¹ [Issue One, The High Cost of High Turnover: How the Departure of Election Officials will Impact 2024 \(youtube.com\)](#)

² [AZ EPM 20231231 Final.pdf \(azsos.gov\)](#)

certification every two years. Ongoing education ensures that our personnel remain at the forefront of best practices and compliance. This enhances the skill set of our election workers and reinforces public trust in our elections system. As part of this certification, we required all election officials to sign a Code of Conduct, promising they would observe the highest standards of ethical behavior, guard the integrity of the democratic process, prevent fraud, refrain from activities that undermine the public trust and confidence in the electoral process. Additionally, these standards include not tampering with or allowing unauthorized access to any equipment, ensuring every eligible vote is accepted and correctly reflecting the voter's intent when adjudicating or duplicating a voter's ballot.

We followed this certification training up with multiple in-person and on-line classes on issues like signature verification, audits, and chain-of-custody, as well as on-site trainings and support meetings to shore up any additional needs of individual counties. Under the direction of our Chief Information Security Officer, we deployed Tiger Teams of subject matter experts to meet with county officials, especially in the areas of cyber and physical security and process development. Their goals were to ensure that systems were utilizing the most up-to-date defenses against any cyber attacks, that workers understand proper procedures, and that offices have contingency and continuity of operations plans, such as those suggested by the Election Assistance Commission³.

Table top Exercises (TTXs)

Understanding that it isn't enough to train and have plans, but it is vital that we test, practice and communicate said knowledge and plans, my office, with the assistance of a number of partners (including CISA, the FBI and the EAC), organized six interactive, multi-media tabletop exercises throughout various regions in the state. These were great opportunities to get *everyone* impacting elections together in rooms to act out possible scenarios and discuss best practices and responses to potential problems. These events were not just for Election Directors, but for all the different individuals that have involvement in elections. This included voter registration staff, Boards of Supervisors, IT directors and staff, finance and logistics personnel, and even vendors.

Because law enforcement does not deal with elections on a daily basis, and since their intent is to avoid acting in ways that are perceived as political, it is often difficult for on-the-ground officers to know specifically when and how to mitigate sometimes tricky scenarios. Therefore, we did more than include law enforcement at every TTX: we created a series of TTXs just for them. Law enforcement personnel with experience handling election related issues and other law enforcement experts dealing with political situations could talk official to official about best practices and address concerns. In addition to these training exercises, we also supplied our departments across the state with a pocket guide to Arizona state election laws developed with the assistance of the Committee on Safe and Secure Elections, to help them know exactly what our laws say in a format that they can easily take with them out on patrol⁴.

We also did a TTX specifically for members of the media. The office collaborated with nationally recognized experts from the Brennan Center and the Elections Group to offer members of the media an insider's perspective on how election officials prepare for and respond to threats across three critical

³ [Contingency Planning | U.S. Election Assistance Commission \(eac.gov\)](https://www.eac.gov/contingency-planning)

⁴ (Committee for Safe and Secure elections: <https://safeelections.org/> and Arizona's specific guide: <https://safeelections.org/wp-content/uploads/2024/03/CSSE-AZ-Pocket-Guide-2024.pdf>)

areas: cyber, physical, and logistical. The event uniquely positioned each participant to experience the intense pressures and responsibilities shouldered by election officials and workers, emphasizing the integrity of our elections processes. During this exercise, participants engaged in simulated scenarios and interactive discussions, working together to conduct a successful, safe, and secure election despite these challenges. The exercises simulated budget constraints and decision-making under crisis, mirroring the actual challenges faced in the field. We stressed the importance of advanced security measures such as multi-factor authentication and secure communication practices to prepare for potential threats.

A significant focus was placed on strengthening partnerships with local media to effectively combat misinformation and ensure the dissemination of accurate information. Participants were encouraged to critically evaluate the sources of information, recognizing the potential for misinformation in today's digital age. Local election officials attended as advisors, guiding reporters through the election process.

All the exercises included injects that addressed the growing threat of artificial intelligence where deep fakes and/or audio manipulations developed by foreign and/or other bad actors could impersonate one of our elections administrations and give election workers or voters intentionally wrong information about the time, place or manner of our elections. Understanding that social media has the reach to spread these deepfakes far and wide with alarming speed, and that foreign actors from hostile states such as Iran, China, and Russia are ready to take advantage of this possible security gap, the injects included messages purporting to be from election administrators, and at one point, an AI-Fontes was near impossible to discern it wasn't really me, until AI-me spoke French and Chinese, languages I don't speak.

Prior to each election, my office also hosts a media mock election specifically designed to train national media outlets on handling and reporting election results. This initiative serves as a practical workshop, providing the media with insights into the complexities of election night operations and the nuances of vote tallying.

The simulation aims to enhance the accuracy and responsibility of media reporting by simulating real-time election scenarios, allowing our partners to experience the pace and pressure of election night. This proactive approach prepares the media for the intricacies of reporting as results unfold but also reinforces the importance of coordinating with my office in an environment ripe with misinformation. Media mocks are crucial in ensuring that the public receives clear, accurate information from trusted sources during critical voting periods.

Artificial Intelligence and Election Security Advisory Committee

Understanding that Artificial Intelligence has potential benefits in addition to inherent risks to election security, I have created an Artificial Intelligence and Election Security Advisory Committee⁵. This group of subject-matter experts will guide my office on the deployment of AI technologies in safeguarding Arizona's elections, as well as aim to prepare for and mitigate AI-related disruptions to ensure the integrity of the elections process. While only 7% of election officials nationally currently use AI for tasks such as social media content and voter material translation, there is a growing demand for clear guidance on the responsible use of AI technologies in government. This Committee is tasked with

⁵[Arizona Secretary of State Adrian Fontes Convenes New Artificial Intelligence and Election Security Advisory Committee | Arizona Secretary of State \(azsos.gov\)](#)

forecasting how technology can impact election integrity, and stimulating innovation and competition within Arizona's dynamic technology sector. One key area of focus will be the development of standards for labeling synthetic content, such as implementing certified digital signature technologies to verify the authenticity of AI-generated outputs. This is part of a broader effort to ensure the safe and responsible development of AI models by a diverse ecosystem of developers, deployers, and end-users. The committee currently meets monthly and they are expected to have a report out early next year.

BallotTrax, Text2Cure and Voter Registration Modification Notification

In a move to enhance voter confidence and promote transparency in the elections process, my office expanded the BallotTrax system from our two most urbanized counties, statewide into our 13 rural counties, ensuring that voters throughout the state have equal access to this service. Prior to this implementation, voters had no way of knowing where in the process their ballot was. This voter-friendly system is designed to provide voters with real-time updates on the status of their mail-in ballots. It allows voters to voluntarily sign up to receive notifications when their ballot is mailed out to them so they can look out for it in their mailbox; and then when the voter mails their ballot back, the system notifies them when the County Recorder receives the ballot, and again when their signature has been verified and the ballot has been sent to be counted. This initiative also supports a process called Text2Cure for verifying the signature on any early ballot affidavit where that signature is questioned and ensures voters are promptly informed of any necessary actions to secure their vote. This can all be done using their personal devices, while including security mechanisms including the voters photo identification and signature. We are also implementing a new process that will notify voters whenever their voter registration record is modified, giving the voter more control over their personal information.

Extending the Internet to Rural Voting Locations

Speaking of bringing additional services into rural Arizona, we have been working on the same issue for elections that people in rural America struggle with daily, having strong, dependable internet service. One of the things that we realized in 2018 when I was Maricopa County Recorder, is that if you are using a precinct-based polling location model, voters going to the wrong polling location, especially in rural areas where voting locations are sometimes hours apart from each other, can often lead to large numbers of provisional ballots and the disenfranchisement of voters. Therefore, we developing a model where voters can always receive the correct ballot regardless of which county voting location they appear while ensuring voters can only vote once is the best practice. And while ballot tabulators are *not* connected to the internet in Arizona, vote centers require that ePollbooks which determine the correct ballot style and tell other locations that the voter has voted, must be connected. In some of our most rural areas of Arizona, particularly on parts of our Native American tribal lands, this was previously impossible. Voters in these areas therefore had to vote differently and had less access to voting than voters in urban areas. Through a grant from our Governor's office using federal funds we were able to change that. Working with the counties and a number of partners, including CISA's FirstNet program, we were able to deploy a number of different solutions, including Starlink systems, FirstNet internet trucks and traditional internet systems. I am happy to report that during the Primary at the end of July, voters on the Navajo Nation as well as voter from the Havasupai Nation at the bottom of the Grand Canyon finally had access to this technology. The entire state of Arizona is now capable of going to this vote center model, ensuring that all voters will get to vote their correct ballot, decreasing the number of provisional ballots, and guaranteeing that our elections will still be able to ensure one voter, one vote.

Upgrading our Systems for UOCAVA Voters

We are also working to ensure that those voters that are fighting to protect our democracy have easier access to register and vote. Through a grant from the Department of Defense through their Federal Voting Assistance Program (FVAP), we are upgrading the process by which our military and overseas voters may register and vote. While the national average voter turnout in the United States is 67%, the military turnout is only 52%. The impediments to our men and women serving away from home are significant. One of those is that they may not have easy access to computer equipment, including printers and scanners needed when required to print out a ballot, mark it, wet-sign affidavits and scan to send the items back in time. We will be deploying tomorrow an upgraded system for registering for the General Election that allows these UOCAVA voters to use their personal device, even a smart phone, to fill out and sign the FPCA to register and request a ballot. After this election, we will continue to upgrade the process by which these voters may vote and have their ballot processed to ensure the anonymity of their vote, just like voters at home. As a Marine, I cannot think of any category of voter more deserving of our efforts.

Fellowships

And finally, to ensure that we have a pipeline of future elections administrators, we created a county fellowship program that recruits college students and recent graduates to be embedded in county elections offices, giving them real world experiences in the field, spark the joy of elections administration, hopefully leading them to seek a career in the field. Our first cohort of 18 fellows are currently working in 12 county offices in addition to two in my office, providing substantive assistance with verifying petition signatures, processing voter registration forms, assisting voters with early voting, assembling election supplies, testing election equipment and more, just as our full time county election officials are doing. We are now in the process of working with two of our state universities to create a certificate and/or emphasis in public administration degrees, to further professionalize this career choice and ensure that we have an educated workforce in the future.

Preparing and Conducting a Secure Accessible Election

These are just a few of the innovative projects that my office has been working on. In the meantime, we continue to effectively work with the counties to do the functional work required to stand up and conduct any state-wide election, an election that is already under way. As I testify here today, we are just 55 days from the General Election; and 10 days away from the first ballots going out.

New Political Parties, Candidate Filing and Initiatives

Before we have candidate file for office or put any names on any ballots, Arizona has a process to establish the recognized political parties. Three parties qualified by the number of registered voters that cast ballots in previous elections for continued recognition status: the Democratic, Libertarian and Republican Parties. We then received petitions from three additional new parties, which required them to file petitions to be recognized on a state level. This required the processing of 19,381 pages and verification of 157,674 signatures. Two of those parties, the Green and No Labels Party qualified for statewide recognition as a political party.

At the same time, we had 262 candidates file for state and federal offices, which are filed in my office; approximately 1,000 county, school district, precinct and special district candidates that filed through the counties; on top of a number of candidates for cities and towns that filed in those jurisdictions, totaling almost 1,700 citizens that are standing for election. Each one of those candidates is required to gather signatures of fellow citizens in their jurisdiction to be placed on the ballot, which in turn requires election administrators to validate those signatures.

Additionally, Arizona is one of only 20 states that allow its citizens to bring forward citizen Initiatives to directly add, alter and change the laws of Arizona. This election cycle, there were three state-wide ballot initiatives that were brought to my office for processing to find their place on the general election ballot. After 85 workers burnt the midnight oil for a collective 5,297 hours, 186,620 pages were processed and 2,702,409 signatures were verified, leading to two of those three being certified and sent to the ballot. Initiatives can also be brought at the county and city levels, each also requiring signatures to be processed and verified. There will also be several dozen more initiatives on the local level.

To educate the public about these initiatives and the 11 other initiatives referred by our State Legislature, we are required to publish a publicity pamphlet, which these days is more of a phone book, coming in at 356 pages, barely under the USPS requirement for non-profit rate. This not only summarizes the ballot initiatives, it also gives voters an opportunity to submit statements in support or opposition to the initiative. This edition will contain 639 statements from voters. This is published in English, Spanish and large print, and is made available online for our voters with disabilities that need a readable format, as well as in audio in English, Spanish, Navajo and Hopi. Copies are mailed directly to voters, and a copy of the book is available for download on the Secretary of State's website.

Voting System Certification and Testing

To ensure that all ballot tabulators are secure and can effectively and properly comply with all state laws, it is required that voting systems be certified by the Election Assistance Commission (EAC) and then additionally certified by our State Certification committee, both of which do testing, before they are allowed to be purchased by any county. Then before every election, state law requires all tabulation equipment that will be used in the election be tested in what is called a logic and accuracy test (L&A), which under the direction of the State Election Director, increased the testing threshold by adding real-world condition of ballots as part of the testing. After the counties conduct testing on all their tabulators, the state then also does a round of testing in each county. We did this for the Presidential Preference Election in March requiring state staff to mark 12,892 test ballots, our statewide Primary in July where we marked 11,454 test ballots and we will be conducting this testing again later this month for the General. We also test the equipment again before any recount, such as our Congressional District 3 race during the Primary.

Voter Registration

To know which individuals are eligible to vote and in what races, as well as which ballot a voter should receive in any election, Arizona maintains a statewide voter registration system called the Arizona Voter Information Database (AVID). It is a hybrid system, by which the 13 smaller counties work directly within the system and the two larger counties feed into the database using their own voter registration systems. Arizona voter registration staff under the County Recorders work continually to validate and add new voter registrations, update registrations for those that have moved or changed their name or

party; and deactivate or clear off individuals that are no longer eligible to be registered. We do this in accordance with the National Voter Registration Act (NVRA) and state laws. Because Arizona is a very fast growing and transitory state where people move frequently, since 2020, we have deactivated approximately 1 million unique active records and cancelled the registration of approximately 724,000 records, accounting for over one quarter of our voter file⁶. Arizona uses more than a dozen statewide or national database resources to maintain our voter registration rolls, looking for voters that have moved, passed away, or are no longer eligible to be registered. These include Arizona and US Court and Jury Summons Records, checks with our Motor Vehicles Division, reports from the Social Security administration and USCIS' SAVE System, National Change of Address, as well as good old-fashioned correspondence from voters or their families reporting moves and deaths, and checks of local paper obituaries. We are also proud members of the Electronic Registration Information Center(ERIC), which provides valuable reports regarding death records and cross-state movers and voters. While we are frustrated that some states have chosen to withdraw from this state-member controlled organization, making the data received less than complete, these are the only reports currently available that inform us of cross-state movers and possible cases where voters have voted twice.

In addition to the maintenance practices described above, several processes keep ineligible voters from registering to vote in Arizona. Residents can register to vote in person, online, or via mail. In-person and mail registrations require documentary proof of address, or an affirmation that the voter does not have an address, and online registration requires a state driver's license or state-issued Identification card⁷.

All Arizona voters must sign an attestation that they are a U.S. citizen in order to register to vote, the same as what is required in all other states in the country. Voters are also required to provide documentary proof of citizenship. And here is where it gets complicated and burdensome for the voter: depending on whether the voter applies using a state voter registration form or a federal voter registration form will determine what happens if the voter does not provide this documentation. If the applicant uses the federal form without providing documentary proof of citizenship and voter registration staff is not able to find that this documentation has been provided to the state, but signs the attestation of citizenship, they will be registered to vote in federal elections per the National Voter Registration Act but cannot vote in state elections⁸. If proof of non-citizenship is found, their registration form is rejected and they will be unable to vote in any election. However, the process is different if a resident registers using a state form. If the resident does not provide proof of citizenship and staff does not find documentation has previously been provided to the state, even if the attestation of citizenship is signed, their form is rejected and they will be unable to register to vote for any election. There are also criminal penalties for government officials who knowingly process registration applications with unverified eligibility. So, the voter who does not know the difference between a state or federal form is treated differently depending on which piece of paper they happen to fill out.

Changing Laws & Judicial Action Close to Elections Complicates the Process

As you can see from all the activities I have outlined above, elections begin well before Election Day, or even when ballots go out to military and overseas voters 45 days before Election Day. Planning for any election cycle begins at least a year out, and in Arizona, it officially begins 150 days before. So changes

⁶ A recent report by Protect Democracy

⁷ <https://azsos.gov/elections/voters/registering-vote>

⁸ <https://azsos.gov/elections/about-elections/elections-procedures/vr-procedures>

such as an Arizona law that increases the number of recounts which necessitated we move our Primary up a week and the federal Electoral Reform Act, which required that we curtail some timelines for voters to cure questioned signatures or show identification in order to ensure that we had adequate time in the General to have all of the recounts and judicial actions completed before the deadline to ensure our state is represented at the electoral college -these changes all make elections more complicated.

The August 22nd Supreme Court action changing the manner in which we register voters depending on what form the voter uses has created a chaos where voters are treated not only differently depending on what form they use, but also depending on where they register, as different counties have currently interpreted the ruling differently. We are attempting to seek clarity on the issues right before the voter registration deadline, which is coming up on Oct 6th. The Purcell Principle Doctrine, enshrined in the name of my predecessor Maricopa County Recorder Helen Purcell, wisely advises courts against taking actions too close to an election, lest it create voter confusion. Changing legislation and court actions make the administration of elections more complicated, especially if done within the time of a called election.

Instead, there are things at the federal level that are being done that support the state and local elections officials that conduct elections. I am deeply grateful to Congressman Morelle for introducing H.R.8668, the AI Transparency in Elections Act. This provides for transparency in political campaigns by requiring political advertisements to include a statement within the contents of the advertisements if generative AI was used to generate any image, audio, or video footage in the advertisements. I urge Congress to move forward with this important legislation without delay.

Federal agencies have also been crucial partners to our efforts to address the threats to election administration and prepare for the 2024 Presidential election cycle. In addition to assisting with the distribution of crucial Help America Vote Act funds and certification of voting equipment, the Election Assistance Commission's (EAC) best practice guides, training videos and the new Continuity of Operations Plan (COOP) templates have been exceptionally helpful to my office and to Arizona counties—especially, as I mentioned for those with new election administrators.

We appreciate the efforts of the USPS to prioritize and protect election mail, and partner with us on best practices for ensuring every ballot is received in time to be counted, even in the most rural and remote areas of my state.

CISA, the Department of Homeland Security and other security partners have been vital, not only on the cyber security front but also with physical security. Physical security assessments help state and county election officials identify possible vulnerabilities and protect critical election facilities.

But there is still more that we could do on the federal level to support the hardworking Americans who run our elections. HAVA funds continue to be intermittent and insufficient to support the local jurisdictions that run federal elections. It is concerning that currently there does not appear to be any HAVA funding in the next federal budget on the House side.

One of the things that we use HAVA funds for in Arizona is to continually upgrade our statewide voter registration system. Some of the counties are currently saving up their portion of their HAVA funds, knowing that they will need to replace aging ballot tabulation equipment in the near future.

We need your continued support: not just with HAVA dollars but through continued support of our federal partners. With this Congressional assistance, we will support and help prepare current and future generations of Election Heroes.

Chairman STEIL. Gentleman yields back. I will begin our questions today followed by the Ranking Member. We will then alternate between sides. I recognize myself for 5 minutes for the purposes of asking questions.

We need to strengthen American's confidence in our elections. I think there are some real common sense reforms that can be done to make sure Americans have that confidence in our elections.

Secretary Toulouse Oliver, you referenced how do we increase that. Would photo ID increase American's confidence in their elections? Yes or no?

Ms. TOULOUSE OLIVER. Mr. Ranking Member, I do not believe so.

Chairman STEIL. You do not believe that having an individual show their photo ID saying they are who they say they are increases confidence in our elections?

Ms. TOULOUSE OLIVER. Mr. Ranking—Mr. Chairman, you asked me a yes-or-no question. I do not think that is a magic bullet.

Chairman STEIL. I am not asking if it is magic. I will come to you, Secretary LaRose. Do you think photo ID increases American's confidence in our elections?

Mr. LAROSE. 100 hundred percent, Mr. Chairman, and it is vastly popular among both Republicans and Democrats.

Chairman STEIL. It makes total sense, right?

Mr. LAROSE. 100 percent.

Chairman STEIL. That you should go in and show your photo ID. If you board an airplane, you have got to show your photo ID. You want to buy a six-pack of beer, you have got to show a photo ID. If you go in to vote, it makes total sense that you should have to show your photo ID just to simply say you are who you say you are, right?

Mr. LAROSE. Absolutely.

Chairman STEIL. Makes total sense. As we think about other States, I know New Mexico does not have a photo ID law, something maybe the State of New Mexico should look at is, per your comment, we are all working together to increase Americans confidence in our elections. There are some real common-sense reforms we would like to see made in States like New Mexico that does not have a photo ID law.

Mr. LaRose, you removed 500 noncitizens from the voting rolls. In reading your remarks and in conversations with you, you went through and took your State motor vehicle database. You cross-referenced that from the DHS SAVE database and were able to determine that there were 500 noncitizens on your voter rolls. Is that accurate?

Mr. LAROSE. That is accurate, Mr. Chairman.

Chairman STEIL. As we look to other States, Mr. Fontes, you said you removed a number of ineligible voters. Ms. Benson, you referenced that you removed I think 800,000 ineligible voters over the course of the past 5 years. Did you do the same work that Mr. LaRose did where you checked your vehicle database and cross-ref-

erenced the DHS SAVE database? I will start with you, Secretary Benson.

Ms. BENSON. Thank you. We actually do a number of things to ensure and review the eligibility of our citizens.

Chairman STEIL. Do you utilize—

Ms. BENSON. We do a number of audits, actually. We use the SAVE system when people are actually registering and getting their license, but we cannot use it to actually go back and look at people who are already registered.

Chairman STEIL. Why not?

Ms. BENSON. Because the way that the system is set up, but what we do do—

Chairman STEIL. We could.

Ms. BENSON. If I could answer.

Chairman STEIL. We could. Would you utilize it if we set it up and—

Ms. BENSON. May I respond to the auditing we are already doing which makes that unnecessary? We actually go back and every single person—

Chairman STEIL. How do you confirm whether or not an individual is a citizen without doing a back check to the SAVE database?

Ms. BENSON. Everyone who goes into our system when they get a license or ID has to show some sort of documentation. In that documentation, their citizenship is essentially verified, whether it is—

Chairman STEIL. It is essentially verified, but why not check it against the SAVE database?

Ms. BENSON. We do at that time.

Chairman STEIL. You do not retroactively do it in—

Ms. BENSON. We are unable to do it retroactively based on the database.

Chairman STEIL. In my legislation, we actually give States back the access to be able to utilize that.

Mr. LaRose, you were able to do that. How were you able to do that?

Mr. LAROSE. We were able to do that based on the agreement that we have reached with DHS to use the SAVE database, but there is a hole in using motor vehicle data exclusively, because there are some people that do not get a motor vehicle operator's license.

Chairman STEIL. Without a doubt.

Mr. LAROSE. Or do not get a State ID. That is where we are able to fill that hole by also querying the SAVE database, which is foolishly—they charge us a dollar something a query to do that.

Chairman STEIL. I will note our legislation and in the SAVE Act gives States free access to the database, and per Mr.—Secretary Fontes' comment with funding, what we are working on is making sure that States have that access unimpeded by cost and giving States access to the U.S. information as to whether or not an individual is a citizen. I would encourage all of you to continue to work with the Federal Government to get access as Secretary LaRose did, and I would encourage the House and the Senate to pass and

ultimately be signed into law the SAVE Act, which would give States full access into that database.

I want to shift gears briefly, if I can, to you, Secretary Benson. President Biden put forward executive order 14019—it was referenced earlier—directing agencies to create strategic plans relating to voting. It has been criticized for directing Federal taxpayer dollars to what many consider partisan Get Out The Vote efforts. Are you aware that each executive branch agency, including the Small Business Administration, was active—was asked to produce a strategic plan under the executive order?

Ms. BENSON. Yes.

Chairman STEIL. Are you aware the SBA has been subpoenaed twice to provide their strategic plan?

Ms. BENSON. Yes.

Chairman STEIL. Have you seen the Small Business Administration strategic plan?

Ms. BENSON. I have seen the MOU between the SBA and our office.

Chairman STEIL. You and your State conducted an MOU with the Small Business Administration. Did you see the Small Business Administration strategic plan?

Ms. BENSON. We did one thing.

Chairman STEIL. Did you just—did you see the strategic plan? Have you reviewed it? Have you read it? Did you provide input into it?

Ms. BENSON. We provided, under the boundaries of the MOU, a URL to the SBA so they could register voters through their website.

Chairman STEIL. Did you provide input into the Small Business Administration's strategic plan?

Ms. BENSON. No.

Chairman STEIL. Have you seen the Small Business Administration's strategic plan?

Ms. BENSON. We under the context—

Chairman STEIL. Just have you seen the Small Business Administration's strategic plan?

Ms. BENSON. I said no. I have said under the context—

Chairman STEIL. You have not seen the strategic plan.

Ms. BENSON. I am really not sure why you are barraging me with these questions. We provided the SBA with a URL—

Chairman STEIL. Secretary Benson—

Ms. BENSON. That they could register voters through their website.

Chairman STEIL. I am asking specific questions.

Ms. BENSON. That is it.

Chairman STEIL. Let me give you a background as to why I am asking you this question. It is actually—it is actually worthy of it.

Ms. BENSON. I just answered your question.

Chairman STEIL. That is great. The reason—you asked why I am asking you, so I am going to answer your question to me. The reason I am asking you is the Small Business Administration, under executive order 14019, put forward a strategic plan and entered into an MOU in a contract with the State of Michigan.

Has any other Secretary of State here entered into a contract with the Small Business Administration?

Mr. WARNER. No.

Mr. LAROSE. No.

Chairman STEIL. None. The record will reflect only Michigan. It is quite interesting the Small Business Administration entered into an MOU with the State of Michigan and they are doing that under the direction and under the strategy of a strategic plan. They have put forward a strategic plan, and all agencies have done this, and we have subpoenaed to get the strategic plan from every single Federal agency. These agencies are using our taxpayer dollars to put forward a partisan Get Out The Vote effort and they will not provide the strategic plan.

This administration, the Biden administration continues to hide the strategic plan from every taxpayer in this country, and I think that does not encourage people to have more confidence in their elections. This administration should show the American people what is in the strategic plan they have put forward. They have uniquely contracted only with the State of Michigan from the Small Business Administration.

We have seen the Department of Education engage in using taxpayer dollars for work study. We have seen other Federal agencies engage in our elections, and what we are asking is to be able to see this strategic plan as drafted by every Federal agency. You have not seen it. I have not seen it. I believe the American people deserve to see the strategic plans as drafted by this administration as to what they are doing as it relates to this upcoming election.

Recognizing the time, I will yield back. I will recognize the Ranking Member, Mr. Morelle, for 5 minutes for the purpose of asking his questions.

Mr. MORELLE. Thank you, Mr. Chairman. You know, God forbid the Government actually help people exercise their rights under the Constitution to vote, but—excuse me? I have heard a lot of comments from this side of the aisle today in the mic, and there has been some comments that I wish people would just be mindful both of decorum and when you call people liars who are testifying before Congress. That is a Federal offense. If you have evidence of it, you ought to bring it. Otherwise, people ought to be mindful and allow difference of opinion to be exercised, Mr. Chairman.

I want to—Secretary Benson, since you were asked the question, you were cutoff both about the audit and any other comments you want to make about the work you are doing to register voters. Please use the time to do that.

Ms. BENSON. Thank you, Ranking Member. I will never apologize for doing everything I can to ensure every eligible citizen is registered to vote. That involves partnerships. It involves partnerships with the Detroit Pistons. It involves partnerships with the Detroit Lions, with NASCAR, and yes, Federal agencies who, if they ask us to provide them a unique URL so that someone can register to vote through their website into ours, we will do that, because it is my responsibility and duty as the chief election officer for the State of Michigan, and it is one of the reasons we are ranked so high in the Nation for being one of the best States in the country for voting.

Mr. MORELLE. Thank you for that. I want to come back to something else that was talked about. Michigan and other States, California, Arizona, became the target of mis- and disinformation around ballot counting procedures and how long it takes to count ballots and certify election results. Explain to me, if you can, why counting ballots can extend beyond election night. It seems to mystify people that, if you are postmarked before the time voting ends that somehow that ballot should not be counted, but is it false to imply any wrongdoing simply because results are not final on election night? That was to Secretary Benson.

Ms. BENSON. Oh, sorry. About auditing on election night? Sorry.

Mr. MORELLE. Yes. Just explain why counting ballots beyond—could extend beyond election night.

Ms. BENSON. I am sorry.

Mr. MORELLE. Everyone wants results the night of. Are there legitimate reasons why—

Ms. BENSON. Sure. I apologize. I misunderstood. We count every valid vote in our State and only valid votes. Under our law, there are three options to vote in our State whether people vote from home and return their ballots through the mail, vote early, and vote in person on election day. However someone chooses to vote, we have a responsibility to count that vote, and it does take time to do so. We will never sacrifice accuracy and security in tabulating our votes over efficiency, although we understand the urgency of the moment and the fact that the eyes of the Nation will often be on our State to deliver results, but our priority will always issue ensuring their accuracy.

I am proud that, even in the 2020 election when some States did take several days, we had the unofficial results for our State prepared and public within 24 hours of the polls closing. Within that time period, we worked transparently to ensure that people understood we were securely and accurately counting every vote and trying to do so and working with our clerks to do so as efficiently as possible.

Mr. MORELLE. Thank you.

I want to ask you, Secretary Oliver, last year, you mentioned, I think, New Mexico enacted the New Mexico Voting Rights Act, included provision to expand voter access to the ballot. How were you able to expand rather than restrict voters access to things like mail-in voting, drop boxes, same-day voter registration while maintaining security and integrity? I know you have got about a minute, but if you might just give us high level.

Ms. TOULOUSE OLIVER. Sure, Ranking Member. Thank you. You know, as has been discussed here today, you know, my colleague from Ohio said we do not—we can do both at the same time, both make sure elections are secure and accessible. Importantly, one of the areas we focused on in New Mexico was access for our Native voters. With 12 percent Native voting population in our State, we have the highest Native voting population and it is very rural, and so not just for our Native voters but for our rural voters as well, we wanted to make sure that they had better access to getting a ballot through the mail if that is how they choose to vote for our Tribal communities. If their Tribal communities were closed due to a public health emergency or some other type of emergency that

they were not able—not only able to ensure that folks got ballots, but were able to return them securely.

Our secure drop containers throughout the State are 24/7 video monitored. They are tamper proof. They need to be checked regularly by bipartisan staff from the county clerk's office in that county and transported securely and accounted for with chain of custody in every case. Those are a few of the highlights, Mr. Ranking Member.

Mr. MORELLE. Very good.

Thank you, Mr. Chair. I yield back.

Chairman STEIL. The gentleman yields back.

Dr. Murphy is recognized for 5 minutes.

Dr. MURPHY. Thank you, Mr. Chairman, and thank you all for coming today. I have to say I am sorry if people have threatened individuals. We get threats. Our threats are up 300, 400 percent. It is sadly enough the world we live in, and I blame social media primarily for it, for all of us, for all of us.

Ms. Toulouse Oliver, you made a statement that kind of bothered me a little bit. You said frivolous FOIA requests. That is the whole purpose of transparent Government. We have had FOIA requests that go out to the FBI, to some of these other institutions that never get returned. That is the whole purpose of transparent Government. I believe this is really the basis of where the voter angst and anger is coming from, because we are not seeing transparent Government.

You look at the SBA, and I will ask Ms. Benson really at this point in time, you know, you want every eligible voter to do something. You are aware that the VA by executive order is enrolling people, correct? In your State?

Ms. BENSON. We meet people where they are, and if they are veterans or servicemembers, I welcome every opportunity.

Dr. MURPHY. Are you aware that the two places in the VA in the State of Michigan are both in Democratic districts? No Republican districts.

Ms. BENSON. No, it is actually—that is not accurate.

Dr. MURPHY. Well, that was accurate yesterday in our VA meeting.

Ms. BENSON. No.

Dr. MURPHY. This is where we—

Ms. BENSON. It is a website. It is available to everybody.

Dr. MURPHY. This is where the angst comes from, because it is do for thee as we tell you to do, and this is where the—you know, the Chairman was talking about yes, we are doing voter registration, but it is only for Democrats. It is not across the board. This is where the angst and the anger comes from, because this administration has said, "Oh, yes, we are doing transparent things," but we are not doing transparent things. It is absolutely for Democrats. It is absolutely to try to change elections.

You know, when I got through 2020, I am a surgeon. I am very objective. I—cancer does not know Republican or Democrat. I look at things absolutely objective. Why the hell are deceased people still on your voter rolls and why does it take a lawsuit by the Public Interest Legal Foundation to sue you to get those people off the voter rolls? Tell me.

Ms. BENSON. Which one of those three questions did you want me to answer first?

Dr. MURPHY. Please, endure me.

Ms. BENSON. OK. I will take the last first. That lawsuit was dismissed because we actually are ranked fourth in the country, as the Federal judge noticed—

Dr. MURPHY. Do you have deceased people on your voter rolls, yes or no?

Ms. BENSON. We vigorously—

Dr. MURPHY. Yes or no?

Ms. BENSON. We do everything we can, and just like every other State, to remove it. We actually—

Dr. MURPHY. Should a deceased person be on your voter roll?

Ms. BENSON. No, and that is why we remove them once we receive information—

Dr. MURPHY. Great. Should an illegal person, who is in this country illegally, vote in any election?

Ms. BENSON. No.

Dr. MURPHY. OK. What if somebody is unknowingly registered to vote in an election, they are illegal in this country, should their vote be counted?

Ms. BENSON. No.

Dr. MURPHY. OK. Great. I would love to hear that and love everybody to embrace that.

Ms. BENSON. We do.

Dr. MURPHY. That is great.

You know, guys, this is—why would you not—Ms. Toulouse Oliver, why would you not embrace voter ID?

Ms. TOULOUSE OLIVER. We do have voter ID in New Mexico. We just have a variety of different ways that voters can confirm their identity.

Dr. MURPHY. Yes. This is where the folks in Georgia screamed about voter ID, voter ID is going to suppress the vote, when they had the greatest turnout in history.

If you do not want voter ID, why would the reason for not? It is BS to think it is suppressing the vote, BS, BS. The only other reason that people would want that is so that people could vote who are not eligible to vote.

This is where the angst comes from. It comes from lack of transparency; it comes from smugness; it comes from the fact this administration is doing everything it can to push one particular narrative into a one-party State.

I say that objectively, after looking at things objectively and trying to scrub the data, scrub what is going on. It is absolutely horrible that we are doing this here in the United States.

We did not find out about it years ago because it was not being done. Whoever has been running the White House for the last 3-and-a-half years has been pushing a narrative to try to get one-party rule. Period.

Thank you, Mr. Chairman. I will yield back.

Chairman STEIL. The gentleman yields back.

Congressman Kilmer is recognized for 5 minutes.

Mr. KILMER. Thank you, Chairman.

Now for something completely different.

First, I just want to thank you all for what you do. I think it really matters. I think the Federal Government should be ensuring that you have predictable funding and the resources you need to make sure that people can vote. Thank you.

I want to touch on a topic that has not come up yet today, and that is our preparedness to ensure the continuity of this institution in the face of the unthinkable happening, if there is a mass casualty event, and the role that you all play in that.

We have, sadly, seen a dramatic increase in the amount of threats against Members of Congress. This Committee is looking into whether States are appropriately positioned to act and to ensure the continuity of Government and operations in the event of something horrific happening.

I know you all have enough to worry about, but this is a topic that the Select Committee on the Modernization of Congress looked at, and I think it is one that demands more attention.

Thankfully—and I thank the chair for this and Chairwoman Bice—a bipartisan group of us sent a letter to the Government Accountability Office and to all of you and to your fellow Secretaries of State asking you to participate in a report that the Government Accountability Office is doing just to see whether we are prepared.

It is designed to inform Congress about your ability to comply with existing Federal requirements for filling mass vacancies in States' representation following a mass casualty event.

Current law is that a special election needs to be held within 49 days in the event of a mass casualty if there are more than a hundred vacancies in the House.

We sent you a letter just asking you to work with the Government Accountability Office and answer their questions.

Can I just ask quickly, yes or no, will you all work with the GAO and just respond to their questions? Can I just have an affirmative “yes” from everybody?

[All witnesses responded affirmatively.]

Mr. KILMER. Yes? OK. Thank you for that. We will only be able to solve problems insofar as we understand the problems.

For you, Secretary Toulouse Oliver, given your State's leadership of the National Association of State Election Directors and the National Association of Secretaries of State, both of whom we have spoken to about this before, could you just speak about the time and resources needed to effectively hold a special election from your perspective? Do you think the current law of 49 days is doable?

Ms. TOULOUSE OLIVER. Thank you very much, Representative, for asking that question.

We actually recently modified our special election law in New Mexico. We have a hundred-day timeframe that is codified between when the vacancy occurs and when the election has to happen, and that was really compacting the timeframe we felt as short as we could possibly do it, with also having a well-prepared, accurate election that the voters were ready for as well as election administrators.

Forty-nine days would be really pushing it, I mean. By Federal law we have to mail out ballots 45 days before an election. That gives you 4 days between a vacancy being created, candidacies

being nominated and declared. I mean, I just do not think that is realistic.

I obviously understand the urgency of filling those seats, obviously, but it would be a huge challenge.

Mr. KILMER. The steps in the process, I mean, military voters, all of those sorts of things need to be accounted for as well, right?

Ms. TOULOUSE OLIVER. Absolutely. Again, 49 days, OK, and then on day 4 of that period you are already mailing out ballots to your uniformed military voters and overseas voters. I think that is just incredibly unrealistic.

Mr. KILMER. One of the things we are trying to figure out is, I mean, I hear 49 days and I think, man, that is a long time for Congress to be missing a hundred Members—

Ms. TOULOUSE OLIVER. I know.

Mr. KILMER [continuing]. or more, right? Or in a mass casualty event, I mean, every time I go to the State of the Union I think like, but for the grace of God, go we.

49 days is a long time, and what I hear you saying is like that would be really hard to achieve.

Ms. TOULOUSE OLIVER. Again, I think, as election administrators, I think we can all say we are very used to making things work. We will make things work, whatever we have to do.

You are not going to have as accurate an election, and it is going to be really hard for those election administrators to make that kind of timeframe work in a way that ensures that those overseas voters are getting their ballots, not to mention being ready for things like early voting and absentee voting in all the States.

Very challenging timeframe, Representative.

Mr. KILMER. I thank you for your response. Thank you for—each of you—for being willing to work with the GAO. We are trying to figure out whether there is a better way to do this. Thank you.

I yield back.

Chairman STEIL. The gentleman yields back.

Congressman Loudermilk is recognized for 5 minutes.

Mr. LOUDERMILK. Thank you, Mr. Chairman.

Thank all of you for being here. I appreciate the work that you guys do.

Look, whether we like it or not, election integrity is a huge issue, bipartisan issue, in this country. Whether it is perception or reality, people have to have confidence in their elections.

The questioning of elections is on both sides of the aisle. It is not just one side of the aisle. In 2018, Georgia's gubernatorial election, Stacey Abrams refused to acknowledge her defeat by Brian Kemp, citing integrity of the Georgia election.

We see it on both sides. This is an issue that has to be addressed. At least in Georgia the largest concern is over mail-in ballots. Through studies over years and years, when there is fraud—and there is fraud in every election. I mean, we have to acknowledge that. It is an issue that is in our country. It is in every State.

It is minimizing that fraud as best as we can to make sure that it does not affect the outcome of the election. Then we have to do it in such a way that it gives the populace confidence that we are at least trying our best to have an election that is full of integrity.

With that, Secretary Fontes, just to simplify things, I will just address questions to you.

In Arizona, like Arizona, many voters choose to vote by mail. Can you tell the Committee what protections Arizona has in place to ensure mail-in ballots are actually going to voters at their correct mailing address and that the signatures on the ballots match the signature Arizona has on file for each voter?

Mr. FONTES. Mr. Chair, Mr. Loudermilk, first and foremost, I have to take umbrage with the notion that—the conclusory statement that you made, there is fraud in every election. That is just not true. It has never been proven. I will start there.

Mr. LOUDERMILK. Now, you can—so let me just—let me ask you this. You can verify—

Mr. FONTES. As for the address verification—

Mr. LOUDERMILK. It is my time. You can verify to this Committee that there is no fraud in any Arizona election, a hundred percent?

Mr. FONTES. It is an entirely different question than stating that there is fraud in every election. It is a very different—

Mr. LOUDERMILK. I do not—OK.

Mr. FONTES. That is exactly what you said, sir.

Mr. LOUDERMILK. Oh, I did say that.

Mr. FONTES. To answer your question—but to answer your question—

Mr. LOUDERMILK. I just do not see the differences if I say—

Mr. FONTES. If you'd like me to answer your question.

Mr. LOUDERMILK. Sir, the time belongs to me.

Mr. FONTES. Yes, sir.

Mr. LOUDERMILK. We can have an interaction, but you have to allow me to continue on with something you brought up.

I do not see how there is a difference by saying that there is fraud in every election, and then you cannot guarantee that you have never had an election without fraud.

This is—I think we have to be intellectually honest going forward. We deal with a constituency, one where not everyone abides by a common moral code that we respect the rights of each other and we follow the rule of law. There are cheaters out there in every State. We cannot fix a problem unless we are intellectually honest.

With that, if you could please now address the issue of how do you ensure mail-in ballots are actually going to voters at their correct mailing address, and how do you ensure that the signatures match those that you have on file?

Mr. FONTES. Mr. Chair, Mr. Loudermilk, as to the address verification system that we employ in Arizona, which has been in place for a very, very long time, continuously updated, we use the National Change of Address database by the United States Postal Service. We use a first and second notice system to our county registrars, which will send a second piece of mail if we have returned election mail, and that second piece of mail is a second notice to the registrar. That back-and-forth communication via election mail, which is a little different than first class mail, it cannot be forwarded, by the way.

Those are some of the techniques that we use, among others. I would like to touch on the signature verification system that, again, we have been using for a very long time in Arizona, a couple

of decades as a matter of fact, that uses three layers of human eyeballs on these signatures.

These folks, by the way, I would argue, are better than the signature checking folks in some law enforcement agencies, because they do not just do ballots on election day.

As I indicated in my opening, we have already had four elections in Arizona. Guess what? Over 80 percent of our ballots on average now are by mail, and that means every single one of those ballots has to be signature verified. These are the same people trained by the trainers who train the FBI in their signature verification process.

Mr. LOUDERMILK. Let me follow up on that.

Are the signatures verified against the signature on the application or on the registration?

Mr. FONTES. They are—well, that is essentially one and the same. We keep a lot of those signatures in place to have a total voter record. We will hopefully be able to, although there has been efforts against this, utilize the entire record of a voter's signature, because it changes. It adjusts over time. We get a little older. Sometimes you have something like Parkinson's or a physical injury that gets in the way.

Because that does happen, if we have a mismatched signature, we make every effort to contact those voters either by phone or email or even employ some of the political parties to go chase down ballots where there are mismatches before the end of the cure period.

Mr. LOUDERMILK. All right. Thank you.

I yield back.

Chairman STEIL. The gentleman yields back.

Representative Torres is recognized for 5 minutes.

Mrs. TORRES. Thank you, Chairman.

Once again, I also want to thank each and every one of you for being here today and for your bravery that you exercise every day. I hope you are doing everything that you can to take care of the people that are employed under you, that you manage, because, truly, it is a scary time for all of you.

Here we are 55 days before election and just days away from ballots—mail ballots going out across the U.S. and across the world to Americans abroad and military personnel. Election day is pretty much on top of us.

Unfortunately, election officials and workers have seen a rise, again, in dangerous threats, harassment, and unprecedented attacks across the country.

In fact, several witnesses here, if not all, have been direct victims of intimidation, violence, at the hands of MAGA extremists who have been inspired by big lie conspiracies about election security.

Let us be clear about where the responsibility lies here. The former President Trump, and now their Republican nominee for President, took to social media just this past weekend threatening to jail election officials and casting doubt once again about the integrity of the 2024 elections in the event that he loses, because the loser cannot lose.

Let us also be clear, it is not just elected officials who face threats and intimidation. Last year, a jury ordered Rudy Giuliani,

former President Trump's lawyer, to pay \$148 million for defaming Georgia election workers who were forced to go into hiding because of the violent threats against them.

In July, a man was sentenced to 14 months in prison for sending a death threat to a Michigan election worker after the November 2020 election.

In Florida, the Governor's election police are going door to door harassing petition signers.

Secretary Benson, in your testimony you mentioned that you, yourself, have been threatened, as has your staff and election officials across Michigan.

How has this constant mis- and disinformation impacted your office and election workers that you employ?

Ms. BENSON. Thank you, Congresswoman, for that question.

Thank you all for your questions today.

I really want to emphasize the power of evidence, first and foremost, when it comes to election administration or any alleged irregularities. That is really what I think has to be at the heart of any type of concerns that are expressed, evidence of wrongdoing, evidence of irregularities.

When it comes to evidence in these most recent years, there has been none, despite multiple investigations and audits by committees in our State and in many others.

In the absence of that evidence, that is why—although I understand, and people do and should have rightly placed faith in our elections, and I understand the concerns that people have as a result of allegations that are thrown around, quite flippantly, I think, by a lot of leaders today.

The results of meritless requests and meritless accusations and false rhetoric is that people show up on my doorstep, when I am inside trying to hang Christmas decorations with my 4-year-old son, screaming into a megaphone, "You are a murderer," and "You should be arrested and tried for treason."

That is the reality of all this. That is actually who it impacts, those of us who are just trying to do our jobs with integrity, because we love our jobs.

Every single one of us is professionals who signed up for this work because we believe in making sure every voice is heard, not just one party's voice, every voice, every vote being counted that is valid.

The fact that now all of us, including election workers, who also sign up to do this work with pride for very little pay, are now, as the result of lies and misinformation on the other side, of threats and rhetoric that make us afraid to go to work, afraid to go grocery shopping, afraid to take our kid to school, afraid to go into our backyard because we do not know what might be lurking in the bushes, and that is real.

That is what we are experiencing, not just this last week but these last 4 years. I hope that that story or those stories can be in the minds of everyone as you go into this election season.

Mrs. TORRES. Thank you for your testimony.

I yield back.

Chairman STEIL. The gentlewoman yields back.

Congresswoman Bice is recognized for 5 minutes.

Mrs. BICE. Thank you, Mr. Chairman, thank you, Ranking Member, for bringing us together today.

Ms. Benson, I want to start out by saying, I need you to be on notice that 10 million noncitizens have entered this country illegally, and municipalities across the country are allowing them to vote in local elections. If States cannot keep one voter roll registration clean, imagine keeping two separated.

Let me start by addressing Secretary Byrd, LaRose, and Warner. Clearly, the Democrat Secretaries here have engaged in “get out the vote” efforts that the Biden administration is spearheading. Certainly, I do not know if you have been contacted and asked to participate in any of these programs, but in my opinion, voter registration is incredibly important.

However, I think the SBA should be focused on their sole mission, which is helping small businesses across this country be successful. I think the Department of Education should be focused on fixing their failed FAFSA rollout and not focused on registering voters. It is absurd that the administration has defied two subpoenas regarding that “get out the vote” effort.

Have either of you, Mr. Byrd, Mr. LaRose, or Mr. Warner, been contacted about these “get out the vote” efforts?

Mr. BYRD. We have not, and we have not had any evidence or reports of Federal agencies in Florida doing that, and if they were to request, we would not allow them.

We have gone even further in our State of public assistance agencies that serve as VRAs under the NVRA. We have now instructed them that they are not—if someone reports as being a noncitizen that they will report that to us so we can compare it against the voter rolls, and we specifically prohibit them from offering them voter registration forms if they report as a noncitizen.

Mrs. BICE. Quickly, Mr. LaRose and Mr. Warner.

Mr. LAROSE. I helped lead an effort to sue the Biden administration to stop this foolish executive order, so I think they know better than to ask me.

Mrs. BICE. Mr. Warner?

Mr. WARNER. We have specifically written the White House to ask them to rescind that order because it is unconstitutional, that executive order.

Mrs. BICE. Thank you.

I want to start with you, Secretary Fontes.

Following the Supreme Court’s infamous 2013 decision in the Arizona v. Tribal, Arizona had to move to a system where it requires proof of citizenship for those registering to vote in State elections but no proof for those using the Federal form to register to vote in a Federal election.

Can you tell the Committee how the Federal-only voter—how many, I am sorry, how many Federal-only voters there are in Arizona?

Mr. FONTES. Mr. Chair, Congresswoman, as we have heard, those rolls change every day. We are at approximately 44,000 at this time. Two-thirds of them are under 24 years of age. As I indicated earlier, 13 to 17 percent of them are members of Native American Tribes or have addresses on Tribal lands.

Mrs. BICE. How many voters are there that can vote in all elections?

Mr. FONTES. We are over 4 million.

Mrs. BICE. What is the effect on Arizona's elections following the Supreme Court late August order of the Republican National Committee v. Mi Familia Vota?

Are you providing individuals who are denied registration for failing to provide documentary proof of citizenship with the State voter registration form with the Federal form to encourage individuals to circumvent the DPOC requirement that was just upheld by the Supreme Court?

Mr. FONTES. We have issued guidance under—we have issued guidance to all of our voter registrars across the State with legal counsel at our side from the Attorney General's Office to comply with the U.S. Supreme Court ruling.

I think it is very important for folks to understand that the information gathered on each of those forms is exactly the same.

While we will follow the law as indicated by the U.S. Supreme Court, again, these efforts will result in the reduction of the capacity of some U.S. citizens from being able to vote.

Mrs. BICE. My time is limited.

I would like to request unanimous consent to submit a letter from Kevin Cline (ph) and Gina Swoboda to Secretary Fontes for the record.

Chairman STEIL. Without objection.

[The Cline and Swoboda letter referred to follows:]



Adrian Fontes, Arizona Secretary of State
 Attn: Amy Chan, Esq., General Counsel
 1700 West Washington Street, 7th Floor
 Phoenix, Arizona 85007
 achan@azsos.gov
 VIA EMAIL

Re: Implementation of Juror Questionnaire List Maintenance Requirements

Dear Secretary Fontes:

As you know, the Legislature in 2022 enacted comprehensive reforms designed to enhance the accuracy and integrity of Arizona's voter registration rolls. *See* 2022 Ariz. Laws ch. 370 (H.B. 2243). Among other provisions, H.B. 2243 codified and standardized the use of juror questionnaire responses to identify, contact, and (if warranted) cancel the registrations of voters who represented that they are not U.S. citizens or Arizona residents. *See* A.R.S. § 16-165(A)(9)(b), (A)(10). To facilitate this process, the jury commissioner or jury manager of each county must periodically transmit juror questionnaire response data to both you and the relevant county recorder. *See* A.R.S. § 21-314(F). The U.S. District Court for the District of Arizona rejected a challenge to this component of H.B. 2243, finding "no evidence indicating that the jury summary reports would erroneously report jurors' self-attestation of non-citizenship." *Mi Familia Vota v. Fontes*, -- F. Supp. 3d --, 2024 WL 862406, at *8 (D. Ariz. Feb. 29, 2024).

It is unclear whether these statutory mandates are being fully and comprehensively enforced. Many of the quarterly reports you have submitted to the Legislature's presiding officers pursuant to A.R.S. § 16-165(M) have represented merely that an implementation "process is in development." While the most recent available report (for the second quarter of 2024) omitted that qualifier, it nevertheless confirmed that follow-up notices had been issued to none of the 723 voters who attested on juror questionnaires that they are not U.S. citizens, and that fewer than 10% of those who reported non-residency had been contacted. While Arizona law generally assigns list maintenance duties to the county recorders, you have repeatedly claimed authority to issue "guidance" to the county recorders directing the enforcement—and, in some instances, non-enforcement—of various provisions of H.B. 2243 and other voter registration laws.

Accordingly, please confirm that juror questionnaire data is being consistently and systematically collected and made available to all fifteen county recorders, and that processes for the statutorily required follow-up with these voters have been put in place. To the extent this has not occurred, please explain why, and detail the specific steps your office will take to ensure the full and complete implementation of these critical statutory safeguards.

Best Regards,

A black and white image of a handwritten signature, appearing to be "Kevin J. Cline".

Kevin J. Cline
 Election Integrity Counsel
 Republican National Committee

A black and white image of a handwritten signature, appearing to be "Gina Swoboda".

Gina Swoboda
 Chairwoman
 Republican Party of Arizona

Mrs. BICE. It is the case that a voter that registers in Arizona, on the Arizona form, their application will not be processed unless they provide proof of citizenship. Is that correct?

Mr. FONTES. It is the State of the law, and that is what we have advised our voter registrars, that is correct.

Mrs. BICE. Voters can still register with the Federal form to vote in a Federal election, provide no proof of citizenship, and be allowed to vote in November?

Mr. FONTES. That is exactly how you vote in your district, ma'am.

Mrs. BICE. Actually, I have voter authorization and voter ID in my State.

With that, Mr. Chairman, I appreciate the time, and I yield back.

Chairman STEIL. The gentlewoman yields back.

Representative Carey from the State of Ohio is recognized for 5 minutes.

Mr. CAREY. I want to thank the Chairman.

I also want to thank the witnesses for being here today, two of whom I have known for many years. It is good to see you both. I really appreciate you all traveling this way. Obviously, having Ohio's own Secretary of State here is quite an honor.

As my colleagues have already mentioned today, this presents us a critical opportunity to ensure the safeguarding—I think all of you have said this—of America's elections.

In fact, earlier this week, my dear friend Mr. Morelle, from across the aisle, we did a bill together, the COCOA Act, or the Confirmation of Congressional Observers Act. Bipartisan bill.

This bill was another example of just the common-sense bipartisan legislation that we do on this Committee that ensures confidence with Americans.

I am going to turn a little bit to Secretary LaRose, if you do not mind.

If you recall, I believe it was in June of this year, our Governor, Mike DeWine, signed into law a new campaign finance provision to prevent foreign nationals from engaging in Ohio's elections.

Now, for those of you who you do not know, we have an Issue 1 ballot that is actually going to be up in November. If my—the numbers that I am seeing are correct, over \$26 million has been spent on the "yes" vote, of which a large portion of that came from foreign entities, and only about \$200,000—\$200,000—from \$26 million—think about this—\$26 million raised, only \$200,000 actually came from the State of Ohio. A lot of people outside of Ohio had a lot of interest in what Ohio was doing in its election.

Can you talk about why this change was needed? I kind of pretty much laid it out there for you, Mr. Secretary, but if you would, please.

Mr. LAROSE. Yes. Well, thank you, Congressman.

Unfortunately, it is needed because there are foreigners who think that they have a role in Ohio's elections, including, by the way, a Swiss billionaire who, the day the Governor called the special session to pass the bill barring foreign people from contributing, made a contribution, because he was trying to get in under the wire. \$6 million Hansjörg Wyss gave to an issue in Ohio.

Mr. CAREY. What was his name again? I just want to make sure we are clear on that.

Mr. LAROSE. Hansjörg Wyss, the same guy that funds a fake news operation in Ohio, that, of course, supports the issue that he is funding as well.

Mr. CAREY. He is from Switzerland, just so we are clear.

Mr. LAROSE. The country of Switzerland. Fondue. Swiss cheese. All of that, yes.

Mr. CAREY. Yes. OK. All right.

How does the law that the Governor signed prevent foreign nationals from engaging? I know that he kind of tried to circumvent the system given the timeframe. How has it changed than now?

Mr. LAROSE. Well, unfortunately, it is currently not in effect because of a ruling by a Federal judge. We are appealing that because, again, Ohioans want us to keep foreign actors out of our elections. Unfortunately, that law is on hold right now.

Mr. CAREY. It is something that Ohioans wanted, but we have a judge that is trying to say that—can you give me a little more details about the court case?

Mr. LAROSE. Yes. It was based on the inclusion of permanent legal residents in the legislation. We kind of warned the legislature they may not want to include permanent legal residents, and that is the part that has caused this to be held up by the Federal court.

Mr. CAREY. Can you give me the number that our friend from Switzerland, again, donated to this cause?

Mr. LAROSE. \$6 million, the day the Governor called the special election to outlaw foreign donations.

Mr. CAREY. Unbelievable.

Look, I do not have much time left, but quickly, in Ohio, like Florida, many voters choose to vote by mail. Can you tell the Committee what protections Ohio has in place to prevent mail-in ballot fraud?

Mr. LAROSE. Yes. It starts with maintaining accurate voter rolls. We remove deceased voters on a monthly basis.

Of course, we check the identification of someone when they request an absentee ballot. We do not mail out unsolicited absentee ballots, which would be a foolish idea, in my opinion.

We also allow people to track their ballots. You go to our website, you can track your ballot and make sure that it is received.

These are just a few of the safeguards that we have in place.

Mr. CAREY. Again, I want to thank all the witnesses for being here, and appreciate your time. Unfortunately, we do have two Committees that are running simultaneously. I would like to hear the rest of the questions, but I am going to have to go. It is good to see you both, my friends, and look forward to seeing you again.

With that, I yield back.

Chairman STEIL. The gentleman yields back.

We now recognize the gentleman from New York, Mr. D'Esposito, for 5 minutes for the purpose of asking his questions.

Mr. D'ESPOSITO. Well, thank you, Mr. Chairman.

Thank you all for being here this morning, this afternoon.

Obviously, the most important—one of the most important things we face is to make sure that our elections are fair and that our

elections are secure, and I think it is one of the biggest concerns of the American people.

I want to thank our Chairman for his leadership over the 118th Congress in really focusing and honing in on how to make these elections more secure, to make sure that they are fair, to make sure that American citizens are the ones voting in the American process.

I have heard, not only today but throughout conversations, that people are saying, well, the amount of noncitizens voting is not really significant.

I have to—really, this is a question for everybody, because it is one that really should keep people up at night.

What is the red line? Democrats say that there is not a significant number of noncitizens registered to vote, but yet there is still evidence of noncitizens on voter rolls. We are being told by Democrats that it is not a significant number, but yet they are still on the voter rolls.

I am going to start, I guess, from right to left, left to right, and just, I guess, tell us, what is the red line? What is the number that we think makes it significant? What is the number that would require the Federal Government to implement policies to prevent noncitizens from voting in our elections, one of our most sacred rights?

Mr. BYRD. Congressman, it should be a zero-tolerance policy. In Florida, in 2000, 537 votes separated President Bush from Senator Gore. Small numbers matter in elections. Our current Speaker of the House lost his first race by two votes. If there were three illegal votes, that is overwhelming to his race. There should be a zero-tolerance policy when it comes to noncitizens.

Mr. LAROSE. Agree, zero tolerance. Every year, dozens of elections in Ohio come down to a single vote. Those are usually local elections, but those matter. We say every vote matters, we mean that, and we should not allow any noncitizens to be on our voter rolls.

Mr. WARNER. I agree a hundred percent with the previous two comments, zero tolerance.

Ms. TOULOUSE OLIVER. Agreed, and it is already illegal for noncitizens to register and vote. I completely agree with that.

Ms. BENSON. I agree, as well. We are doing everything we can to ensure that noncitizens are not able to vote and that only U.S. citizens vote in our elections.

It is working. There is no evidence that noncitizens are voting. If they were, it would be easy to prove since voting records are public. Despite numerous organizations spending a lot of money to try to convince people that noncitizens are voting, none of these groups have actually been able to provide any evidence of it.

Mr. FONTES. I will save you time and just say I agree, sir.

Mr. D'ESPOSITO. OK.

Well, Mr. LaRose, I am going to let you follow up on the statement from Ms. Benson.

Mr. LAROSE. We found 135 this year that had voted. We found another 400 that were registered but hadn't yet voted. This idea that it is already illegal, it is illegal to hijack airplanes, but we do not get rid of the TSA.

Mr. D'ESPOSITO. It is also illegal to use fentanyl and smuggle fentanyl into the country. It is also illegal to come across our southern border and not face asylum. It is also illegal for many things. It is illegal to carry guns in some of our bluest cities and States, but yet every day there is more and more gun violence.

I think what we are seeing here is that perhaps we need a better definition of the term "significant," because I think if one person that is not an American citizen has the ability to vote in our election there is a serious problem.

As was mentioned by many of our witnesses, our elections are coming down to just dozens or hundreds of votes. We had a State assembly race in my congressional district just 2 years ago where it came down to 138 votes.

Yes, every vote does count. As we continue to sit here and try to deny the fact that there are noncitizens not only registering but actually voting in our elections, it is clear that that is not a fact, because there are people casting ballots throughout this country that are noncitizens.

I believe, after the last 3-and-a-half years where we saw 3-and-a-half—or I should say, close to 15 million people come across our southern border, we would be lying to ourselves to think that some of them are not going to take the opportunity to vote.

With that, I think that this Committee continues to do the work that we do to secure our elections. I want to thank you all for your work.

Mr. Chairman, I yield back.

Chairman STEIL. The gentleman yields back.

We now recognize Ms. Lee, the former Secretary of State of the State of Florida, for 5 minutes for asking her questions.

Ms. LEE. Thank you, Mr. Chairman, for convening this important hearing.

To all of our witnesses who are here today, it is indeed a pleasure to see you. As Florida's former Secretary of State, I appreciate how important your jobs are and how critical your jobs are to American confidence in elections and ensuring that we have free and fair elections in the United States. Thank you to all of you for being here today.

Secretary Byrd, I would like to go back to you. You mentioned in your opening a couple of concepts that I think are very important as it relates to public confidence and really an example of some of the best practices that we could see in elections in our country.

I would like to start with voting systems and transparency. Is it correct, Secretary Byrd, that the Florida Department of State tests and certifies every voting system before it is used in an election?

Mr. BYRD. That is correct.

Ms. LEE. Is it also true, Secretary Byrd, that before an election local election officials perform testing and auditing of those systems again before they are used?

Mr. BYRD. Yes.

Ms. LEE. That testing and auditing of the election systems prior to every election is open to the public, is it not?

Mr. BYRD. Absolutely open to the public.

Ms. LEE. Would you tell us this? While voting is going on during elections, are those voting systems ever connected to the internet?

Mr. BYRD. They are not connected to the internet.

Ms. LEE. In other words, Secretary Byrd, is it possible to hack a voting system during an election?

Mr. BYRD. It is not.

Ms. LEE. Would you tell us, Secretary, why it is you think that these measures you have just described are important and how they relate to public confidence in elections?

Mr. BYRD. Well, everything we do in Florida is to build voter confidence. While we have 67 counties and 67 supervisors of elections who are independently elected constitutional officers, we have a uniform election code.

It is my job and your former job as the chief elections officer of the State to make sure that we accommodate the needs of our largest county in Miami-Dade and our smallest county in Liberty County, that they can all operate with different resources and funding at the county level but they also follow the State law.

Ms. LEE. I would like to go back to something else that was mentioned earlier in this hearing. There was reference made to what was described as Governor DeSantis' election police.

In fact, Secretary Byrd, is that not the Florida Department of State's Office of Election Crimes and Security?

Mr. BYRD. It is. It was one of the Governor's top election integrity priorities, to create the Office of Election Crimes and Security.

That office, which is housed in the Department of State, we investigate allegations of election fraud and crimes.

I think it is really important to note that people think—when they think election fraud they think of the Presidential race. Election fraud includes campaign finance violations, voter registration fraud, initiative petition fraud, candidate qualifying fraud. We investigate all of those.

For all of the people who say there is no evidence of noncitizens voting in all of these, come to Florida. We have the evidence, because I am required, my office is required to report it to the Governor and the legislature every year.

Ms. LEE. If you would, touch on the petition gatherers, what that is, and explain for us why that is harmful to both the public and the elections process if there is fraud occurring during the petition gathering process.

Mr. BYRD. Those initiative petitions change or have the potential to change our State constitution. They enshrine—if they pass, they enshrine it in State law.

There are organizations and businesses that send people from out of State into the States, pay them to gather signatures. We have victims of felony identity theft. They have come and reported that to us, that their signature has been put—that their identity has been stolen, their signature has been placed on a signature petition. We have a duty and obligation to investigate and provide relief to those victims.

Also, most of the reports of election fraud in Florida are reported by the county elections officials. It is happening, and it is our duty under the law to investigate.

Ms. LEE. Then one of the things—this question I will direct to all of our Secretaries who are here with us today—one of the things that we have heard discussed during this hearing is the Election Observer Program, which Congress administers across the country, and this Committee runs that program, and we deploy trained congressional staff and send them around as those observers in elections offices around America.

I would like to hear from each of you on, really just a yes or no, if your office is prepared and ready to welcome these election observers during this election cycle.

We will start with you, Secretary Byrd.

Mr. BYRD. Yes, we welcome them.

Mr. LAROSE. Proudly.

Mr. WARNER. Yes.

Ms. TOULOUSE OLIVER. Of course.

Ms. BENSON. Yes.

Mr. FONTES. Happy to have them.

Ms. LEE. All right. Thank you all.

With that, Mr. Chairman, I yield back.

Chairman STEIL. The gentlewoman yields back.

I would like to thank all of our witnesses for appearing before us. It has been helpful. Members of the Committee may have some additional questions for you, and we ask that you please respond to these questions in writing.

Without objection, each Member will have 5 legislative days to insert additional materials into the record or to revise and extend their remarks.

I will note for our Members, we will be moving into a markup about 2 minutes after. We will allow the witnesses to depart, and we will move into a markup.

If there is no further business, I thank the Members for their participation.

Without objection, the Committee stands adjourned.

[Whereupon, at 11:13 a.m., the Committee was adjourned.]

QUESTIONS FOR THE RECORD



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

<p>ATTORNEY GENERAL OPINION</p> <p>By</p> <p>KRIS MAYES ATTORNEY GENERAL</p> <p>September 20, 2024</p>	<p>No. I24-015 (R24-015)</p> <p>Re: Treatment of State Forms not accompanied by DPOC</p>
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To: Adrian Fontes
Arizona Secretary of State

Questions Presented

In light of the U.S. Supreme Court’s recent ruling in *Republican National Committee, et al. v. Mi Familia Vota, et al.*, No. 24A164 (Aug. 22, 2024), which stayed the district court’s injunction of A.R.S. § 16-121.01(C), you asked the following questions:

1. If an applicant submits a state voter registration form without Documentary Proof of Citizenship (“DPOC”), should the County Recorder perform the standard Help America Vote Act (“HAVA”) check to query the Arizona Motor Vehicle Department (“MVD”) database for DPOC prior to rejecting the form? If the applicant is otherwise eligible to register to vote and DPOC is obtained via the HAVA check, is the County Recorder required to register the applicant as a “full-ballot” voter?
2. If a County Recorder rejects a state voter registration form pursuant to A.R.S. § 16-121.01(C) and notifies the applicant that DPOC is missing pursuant to A.R.S. § 16-134(B),

and if the applicant then provides DPOC, will the date of registration relate back to the original voter registration date?

3. Pursuant to A.R.S. § 16-134(B), County Recorders must give applicants until 7:00 pm on Election Day to provide DPOC to cure and complete their voter registration. But the LULAC Consent Decree, a federal consent decree regarding how election forms should be processed, provided that DPOC must be provided no later than 5:00 p.m. on the Thursday before the election. What is the deadline by which the County Recorders must allow the applicant to supply DPOC for an incomplete voter registration?

Summary Answer

1. County recorders should perform the standard HAVA check to query the MVD database for DPOC to determine whether a state voter registration form is accompanied by DPOC or, alternatively, to determine if missing DPOC is “supplied” by the database. If an applicant is otherwise eligible to register to vote and DPOC is supplied via the HAVA check, the county recorder must register the applicant as a full ballot voter because that individual has complied with all statutory registration requirements.
2. If a county recorder issues a notice regarding missing DPOC under A.R.S. § 16-134(B) and DPOC is later supplied prior to 7:00 p.m. on election day, the applicant “is deemed to have been registered on the date the registration was first received.” A.R.S. § 16-134(B).
3. If a state registration form is not accompanied by DPOC, DPOC may be supplied by 7:00 p.m. on election day under A.R.S. § 16-134(B).

Background

Only U.S. citizens may vote in Arizona. Ariz. Const. art. VII, § 2(A); A.R.S. § 16-101(A)(1). To that end, Arizona, like other states, has long required every voter registration

applicant to sign a statement on the voter registration form swearing that the applicant is a U.S. citizen. *See, e.g., Arizona Voter Registration Form, ¶ 22, available at https://azsos.gov/sites/default/files/docs/az_voter_registration_form_standard_20240613.pdf* (containing affirmation of citizenship).

In 2004, Arizona voters went further and passed Proposition 200, requiring county recorders to reject voter registration forms that did not include “satisfactory evidence of United States citizenship.” *See* Proposition 200, *available at <https://apps.azsos.gov/election/2004/info/PubPamphlet/english/prop200.htm>*; *see also* A.R.S. § 16-166(F) (listing acceptable forms of satisfactory evidence of U.S. citizenship). This requirement is commonly referred to as the documentary proof of citizenship requirement, or “DPOC.”

When enacted, this requirement purported to apply to both the National Mail Voter Registration Form produced by the U.S. Election Assistance Commission (the “Federal Form”) and the Arizona Voter Registration Form created by the Arizona Secretary of State (the “State Form”). Litigation followed, however, and in 2013, the U.S. Supreme Court held that the DPOC requirement could not be enforced for Federal Form applicants in federal elections, because the National Voter Registration Act (“NVRA”) “precludes Arizona from requiring a Federal Form applicant to submit information beyond that required by the form itself.” *Arizona v. Inter Tribal Council of Arizona, Inc.*, 570 U.S. 1, 20 (2013). With respect to the State Form though, the U.S. Supreme Court held that the NVRA did not preclude Arizona’s DPOC requirement. *Id.* at 12.

Following this ruling, Arizona developed “two distinct voter registration rolls”—one for applicants who provided DPOC and one for applicants who did not. *See* *Ariz. Op. Att’y Gen. No.*

I13-011 (Oct. 7, 2013) at 6, 14–16; *see also* 2014 Elections Procedures Manual, Ch. 2, *available at* https://azsos.gov/sites/default/files/docs/2014_Election_Procedures_Manual.pdf.

Under this system, if a State Form application was not accompanied by DPOC, that applicant was not registered for any elections. *See* 2014 Elections Procedures Manual, Ch. 2 at 15, 17. Conversely, if a Federal Form application was not accompanied by DPOC, that applicant *was* registered for federal elections and known as a “federal only” voter. *See id.* at 14, 24–26. And Federal Form applicants whose forms lacked DPOC could potentially be registered for *all* elections, also known as “full ballot” voters, if, upon comparison to Arizona’s Motor Vehicle Division (“MVD”) database, the applicant’s license indicated that the applicant was a U.S. citizen. *Id.*; A.R.S. § 16-166(F)(1) (specifying that satisfactory evidence of citizenship includes the “number of the applicant’s driver license or nonoperating identification license issued after October 1, 1996 by the department of transportation or the equivalent governmental agency of another state within the United States if the agency indicates on the applicant’s driver license or nonoperating identification license that the person has provided satisfactory proof of United States citizenship”).

More litigation followed. Two organizations sued the Secretary of State and Maricopa County Recorder, alleging that Arizona’s different treatment of State Forms lacking DPOC and Federal Forms lacking DPOC violated the NVRA, the First Amendment, and the Fourteenth Amendment’s Equal Protection Clause. *See League of United American Citizens of Arizona (LULAC) v. Reagan*, 2:17-cv-04102-DGC, Doc. 37 at *1 (D. Ariz. June 18, 2018) (the “LULAC Consent Decree”).

Although the Secretary of State denied that Arizona’s dual registration system violated the U.S. Constitution or any state or federal law, the Secretary of State and Maricopa County Recorder

entered into a consent decree whereby they agreed that State Form and Federal Form applicants should be treated in the same manner with respect to DPOC requirements. *Id.* at *2–3. Following the LULAC Consent Decree, both State Form and Federal Form applicants were compared against the MVD database through an automated process that had previously been used only for Federal Forms. *See* 2019 Elections Procedures Manual, Ch. 1 at 3–4, 6–8, *available at* https://apps.azsos.gov/election/files/epm/2019_elections_procedures_manual_approved.pdf.

Thus, as of 2019, any applicant who provided DPOC with their application or for whom the MVD database supplied proof of citizenship was registered as a full ballot voter, regardless of their choice of voter registration form. *Id.* at 6. Similarly, an applicant who did not provide DPOC with their application and for whom the MVD database supplied affirmative evidence of *non*-citizenship was not registered for any election, regardless of their choice of voter registration form. *Id.* Finally, if an applicant did not provide DPOC and the MVD database did not indicate anything about citizenship, that applicant would still be registered as a federal only voter based on the applicant’s sworn statement on the registration form that the applicant was a U.S. citizen—again, regardless of which registration form was used. *Id.* at 8.

The MVD database comparison conducted by county recorders used in this process occurs automatically as part of what election officials in Arizona call a “HAVA check.”¹ To conduct a HAVA check, a county recorder enters the applicant’s information as provided on their registration form and clicks a button to compare that information with Arizona’s statewide voter database, AVID. AVID then queries MVD through an automatic connection to search for MVD records that

¹ “HAVA” refers to the federal Help America Vote Act of 2002. Among other things, HAVA requires the chief State election official and the official responsible for the State’s motor vehicle authority to enter into an agreement to match information in their respective databases, to verify accuracy of certain information provided on voter registration forms. *See* 52 U.S.C. § 21083(a)(5)(B)(i).

match the applicant. *See Mi Familia Vota et al. v. Fontes et al.*, CV-22-00509-PHX-SRB, Dkt. 709 at 15–16.

This automatic database check serves two purposes. First, HAVA checks are used to help verify the applicant’s identity by confirming that certain identifying information on the registration form matches information in the MVD or Social Security databases.² Second, when a HAVA check is run, the MVD database automatically transmits back to the county recorder information on whether the applicant’s citizenship has been previously verified by MVD. *Id.* at 15–18. If a HAVA check confirms that an applicant’s citizenship has already been verified, that individual will then be registered as a full ballot voter. *Id.* at 17; *see also* 2023 Elections Procedures Manual, Ch. 1 at 6, *available at* https://apps.azsos.gov/election/files/epm/2023/20231230_EPM_Final_Edits_406_PM.pdf.³

² If MVD does not return a match, the HAVA check will compare the applicant’s information with the Social Security Administration database to try to verify the applicant’s identity. *See Mi Familia Vota et al. v. Fontes et al.*, CV-22-00509-PHX-SRB, Dkt. 709 at 13; *see also* 52 U.S.C. § 21083(a)(5)(B)(ii) (requiring the State motor vehicle authority to enter into an agreement with the Social Security Commissioner).

³ Recently, the Maricopa County Recorder discovered a coding error in the HAVA check. Throughout the last two decades, the HAVA check inadvertently showed approximately 98,000 registered voters as having a post-October 1, 1996 license issuance date, thereby indicating that the individual had provided proof of citizenship to the MVD, when in actuality the individual had a pre-October 1, 1996 license issuance date and may or may not have provided proof of citizenship to the MVD. Because of this coding error, these individuals were improperly registered as full ballot voters even though MVD did not record whether they proved citizenship.

The Maricopa County Recorder and Secretary of State are currently in proceedings before the Arizona Supreme Court regarding how to treat the affected voters in the 2024 election. *See* Emergency Pet. for Special Action, *Richer v. Fontes*, No. CV-24-0221-SA (filed Sept. 17, 2024). MVD has corrected the coding discrepancy that led to this error and it will not reoccur going forward. Because this coding error will not affect future registrations, it does not impact the analysis of this Opinion. Likewise, the outcome of the proceedings before the Arizona Supreme Court for specific voters in the 2024 election has no bearing on the analysis and interpretation in this Opinion for future registrations.

In 2022, the Arizona Legislature passed House Bill 2492 to enact A.R.S. § 16-121.01(C), requiring that State Forms “shall be accompanied by satisfactory evidence of citizenship as prescribed in section 16-166, subsection F, and the county recorder or other officer in charge of elections shall reject any application for registration that is not accompanied by satisfactory evidence of citizenship.” See H.B. 2492 § 4, 55th Leg., 2nd Reg. Sess. (Ariz. 2022). Section 16-121.01(C) further provides that “[t]he county recorder or other officer in charge of elections shall send a notice to the applicant as prescribed in section 16-134, subsection B.”

In the same bill, the Legislature amended A.R.S. § 16-134(B), a preexisting notice and cure provision, to apply to situations in which the State Form lacks the DPOC required by § 16-121.01(C). Under this provision, if missing DPOC “is supplied before 7:00 p.m. on election day, that person is deemed to have been registered on the date the registration was first received.” A.R.S. § 16-134(B). The statute does not require that missing DPOC be “supplied” by the applicant directly; rather, it may be “supplied” by any source.

Several organizations sued in response to the enactment of H.B. 2492, arguing that § 16-121.01(C) violated the NVRA and the First and Fourteenth Amendment. *E.g., Mi Familia Vota et al. v. Fontes et al.*, CV-22-00509-PHX-SRB, Dkt. 67. A federal district court initially enjoined the law. *See id.*, Dkt. 534 at 21–22; Dkt. 720 at 2 ¶ 2. Supporters of the statute filed an emergency stay request in the Ninth Circuit Court of Appeals and then an emergency application to the U.S. Supreme Court seeking to stay this injunction.⁴ On August 22, 2024, the U.S. Supreme Court

⁴ In response to the emergency application before the U.S. Supreme Court, the State of Arizona and Attorney General offered a possible reading of § 16-121.01(C) in which county recorders would be precluded from querying MVD records. This Opinion supersedes the tentative statements in that briefing. *See Resp. to Application No. 24A164 from Arizona, et al., Republican National Committee, et al. v. Mi Familia Vota, et al.* at *6 n.3 (qualifying the positions taken in emergency briefing as non-definitive).

issued an order staying the injunction of § 16-121.01(C) until the disposition of the appeal in the Ninth Circuit and the disposition of any writ of certiorari following from that appeal. Your opinion request followed.

Analysis

I. County recorders should continue to query the Arizona Motor Vehicle Division database for DPOC to determine if a State Form is “accompanied by” DPOC or, alternatively, to determine if missing DPOC is “supplied” by the database.

Under A.R.S. § 16-121.01(C), all State Form applications “shall be accompanied by satisfactory evidence of citizenship as prescribed in section 16-166, subsection F.” When information on an application is missing, it may be subsequently “supplied” to cure the omission. A.R.S. § 16-134(B). A voter can provide DPOC by including on the voter registration form their Arizona driver license or nonoperating identification license number, if the license was issued after October 1, 1996; the county recorder then queries the MVD database to determine whether the license number shows the applicant is a citizen. *See* 2023 Elections Procedures Manual, Ch. 1 at 3–4.

The issue here is: When an applicant does not include their license number on the State Form, should county recorders query the MVD database for citizenship information before rejecting the application for lack of DPOC? This issue turns on two questions of statutory interpretation: (1) whether MVD citizenship information “accompanies” the State Form for purposes of § 16-121.01(C), or alternatively, (2) whether MVD citizenship information “supplies”

missing DPOC for purposes of § 16-134(B). If the answer to either question is yes, county recorders should query the MVD database. In our view, the answer to both questions is yes.

A. MVD citizenship information “accompanies” the State Form for purposes of A.R.S. § 16-121.01(C).

1. The meaning of “accompanied” under A.R.S. § 16-121.01(C) is not limited to information on or attached to the State Form.

When a statute’s plain language is clear and unambiguous, that meaning should be applied. *See State v. Luviano*, 255 Ariz. 225, 530 P.3d 388, 391 ¶ 10 (2023). Only when ambiguity exists should secondary methods of statutory interpretation, “such as the statute’s subject matter, historical background, effects and consequences, and spirit and purpose,” be consulted. *Id.* (citation omitted).

When a statutory term is undefined—as “accompanied” is here—we give the term its “ordinary meaning unless it appears from the context or otherwise that a different meaning is intended.” *Id.* (citation omitted); *see also* A.R.S. § 1-213 (“Words and phrases shall be construed according to the common and approved use of the language.”). The meaning of statutory text is also assessed “in view of the entire text, considering the context and related statutes on the same subject.” *Molera v. Hobbs*, 250 Ariz. 13, 24 ¶ 34 (2020) (citation omitted). The plain meaning of statutory text controls unless it leads to an absurd result or constitutional violation. *State v. Green*, 248 Ariz. 133, 135 ¶ 8 (2020).

“Accompany,” the present tense of “accompanied,” has been defined as “to go along with (another).” *Accompany*, Black’s Law Dictionary (12th ed. 2024). Another dictionary defines accompany as “to be in association with.” *Accompany*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/accompany> (last visited Sept. 18, 2024). Neither of these dictionary definitions indicate that for an item to accompany another it must be directly attached or simultaneously provided.

Case law provides similar guidance. For example, in *Fullen v. Industrial Commission*, the Arizona Supreme Court addressed a statute that required a physician statement supporting an employee's worker's compensation claim to "accompany" the worker's petition to reopen their claim. 122 Ariz. 425, 428 (1979). In that case, the physician's statement was submitted after the claim petition. *Id.* at 426-27. Still the Court concluded that the statement had "accompanied" the claim petition, explaining a physician's statement "may follow at a reasonable length of time and still be logically considered to have accompanied the petition." *Id.* at 428. The Court noted that such an interpretation particularly made sense in the context of the worker's compensation act, liberally construed in favor of the worker. *See id.* at 429.

The Arizona Court of Appeals followed the same approach in *St. Vincent De Paul Thrift Store v. Industrial Commission of Arizona*, another worker's compensation matter. 163 Ariz. 221 (App. 1990). State law allowed for a memorandum to "accompany" a request for review. A.R.S. § 23-943(A). An administrative law judge held that this meant that the memorandum had to be filed simultaneously with the request for review. *Id.* at 222. The Court of Appeals rejected this interpretation, holding that it was "too restrictive." *Id.*

One Arizona court has embraced a more limited interpretation of the term "accompanied" in the context of petitions for involuntary treatment. *In re Maricopa Cnty. Superior Ct. No. MN 2001-001139*, 203 Ariz. 351, 353 ¶ 9 (App. 2002). There, the court held that physician affidavits must "be served as part of" a petition for involuntary treatment to be considered to have "accompanied" the petition and the affidavits cannot simply be in the court file. *Id.* ¶ 11. The court explained that because the affidavits required to accompany a petition were necessary to give notice to the person whose liberty was at issue, it would be inappropriate to adopt a more liberal reading in that statutory context. *Id.* ¶ 10-11. However, there are no similar liberty or notice

concerns at issue here and thus, we do not find this case to be persuasive in this context. Indeed, in the voting context, the State should endeavor to facilitate the registration and suffrage of all eligible citizens. *See* Ariz. Const. art. II, § 21 (“All elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.”).

Federal courts have also offered liberal constructions of the term “accompany.” For example, in *Kordel v. United States*, 335 U.S. 345 (1948), the U.S. Supreme Court analyzed a provision under the Federal Food, Drug, and Cosmetics Act that prohibited false or misleading labeling from “accompanying” any article. *Id.* at 347–48. The Court explained that “[o]ne article or thing is accompanied by another when it supplements or explains it, in the manner that a committee report of the Congress accompanies a bill. No physical attachment one to the other is necessary.” *Id.* at 350; *see also United States v. Lee*, 131 F.2d 464, 466 (7th Cir. 1942) (addressing the same statutory provision and explaining that materials “accompanied each other, regardless of whether, physically, they were together or apart during their journey”).

Based solely on the term’s common meaning, § 16-121.01(C)’s requirement that a State Form be “accompanied” by DPOC appears to require only that DPOC go along with or be in association with a State Form—not that DPOC must be physically attached to or simultaneously submitted with the form. Under that reading, an applicant’s record of DPOC provided to the county recorder through the HAVA check “accompanies” a State Form because it goes along with or is associated with that State Form.

Despite the plain meaning of the word “accompany,” the meaning of statutory text should also be assessed “considering the context and related statutes on the same subject,” *Molera*, 250 Ariz. at 24 ¶ 34, and so, we must examine the neighboring subsection governing the treatment of Federal Forms, A.R.S. § 16-121.01(D).

Subsection D provides that for Federal Forms “not accompanied by” DPOC,

the county recorder or other officer in charge of elections shall use all available resources to verify the citizenship status of the applicant and at a minimum shall compare the information available on the application for registration with the following, provided the county has access:

1. The department of transportation databases of Arizona driver licenses or nonoperating identification licenses.
2. The social security administration databases.
3. The United States citizenship and immigration services systematic alien verification for entitlements program, if practicable.
4. A national association for public health statistics and information systems electronic verification of vital events system.
5. Any other state, city, town, county or federal database and any other database relating to voter registration to which the county recorder or officer in charge of elections has access, including an electronic registration information center database.

A.R.S. § 16-121.01(D).

Subsection D suggests that MVD citizenship information does not “accompany” a registration form, because the text explicitly directs county recorders to review the MVD database when a Federal Form is “not accompanied by” DPOC.

Because we presume that the Legislature intended for the same word to have the same meaning within the same statute, subsection D therefore also suggests that MVD citizenship information obtained through a HAVA check does not “accompany” a State Form— notwithstanding the term’s ordinary meaning. *See Mussi v. Hobbs*, 255 Ariz. 395, 532 P.3d 1131, 1138 ¶ 34 (2023) (“It is a basic principle that courts will not read into a statute something which is not within the manifest intention of the legislature as indicated by the statute itself.”). In other

words, context raises doubt as to whether the plain meaning of “accompany” applies to § 16-121.01(C).

2. Section 16-121.01(C) should be read to avoid constitutional difficulties.

In addition to surrounding statutory text, we must also consider the constitutional provisions protecting voting when construing § 16-121.01(C). *Cf.*, *Luviano*, 530 P.3d at 393 ¶ 16 (construing statutory text against the backdrop of relevant constitutional provisions); *AZ Petition Partners LLC v. Thompson*, 255 Ariz. 254, 530 P.3d 1144, 1148 ¶ 17 (2023) (citing “our practice of construing ambiguous statutes, when possible, in a way that preserves the statute’s constitutionality”).

The Arizona Constitution provides that “[a]ll elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.” Ariz. Const. art. II, § 21. And our State recognizes the fundamental premise that voting is “the most basic civil right” and that “[t]o deny the right to vote, where one is legally entitled to do so, is to do violence to the principles of freedom and equality.” *Harrison v. Laveen*, 67 Ariz. 337, 196 P.2d 456, 459 (1948); *see also* Andrew D. Hurwitz, *The Arizona Constitution and the Right to Vote*, 53 Ariz. St. L. J. 821, 829 (2021) (explaining that Arizona’s framers believed “the potential electorate should be as broad as possible” and “presumptively confer[ed] eligibility to vote on all citizens who meet certain age, residency, and other requirements”).

In addition to state constitutional concerns, the right to vote is also a fundamental federal constitutional right. *Harper v. Va. State Bd. of Elections*, 383 U.S. 663, 667–68 (1966). This fundamental right is protected by both the First Amendment and the Equal Protection Clause of the Fourteenth Amendment. *See Burdick v. Takushi*, 504 U.S. 428, 433–44 (1992); *Anderson v. Celebrezze*, 460 U.S. 780, 789 (1983). Whenever a state enacts a restriction related to voting, courts assess the character and magnitude of injury to the First and Fourteenth Amendment rights

against the justifications put forward by the state for the burdens imposed by the restriction. *Id.* This review, known as an *Anderson-Burdick* analysis, works as follows: “At one end of the spectrum, severe restrictions must be narrowly drawn to advance a state interest of compelling importance. At the other end of the spectrum, important state regulatory interests are generally sufficient to justify reasonable, nondiscriminatory restrictions. Thus, the burdening of the right to vote always triggers a higher level of scrutiny than rational basis review, but does not always trigger strict scrutiny.” *Tedards v. Ducey*, 951 F.3d 1041, 1066 (9th Cir. 2020) (cleaned up).

In addition to claims involving burdens on the right to vote, this framework also applies to claims under the Equal Protection Clause that similarly situated persons are being treated differently with respect to voting. *See, e.g., Dudum v. Arntz*, 640 F.3d 1098, 1106 n.15 (9th Cir. 2011) (explaining equal protection concerns regarding elections laws are properly evaluated under the *Anderson-Burdick* framework).

Interpreting § 16-121.01(C) to prohibit county recorders from considering MVD’s citizenship data would raise serious questions under both the Arizona and U.S. Constitutions. Such an interpretation would deny some Arizona citizens the right to vote on the basis that the applicant is not a citizen, even though the State possesses information confirming the applicant’s citizenship and county recorders can easily access that information through an electronic database that they regularly check. It is not clear what rationale could be proffered to justify such a result, even under rational basis review. Under both Constitutions, statutes should not be interpreted to disenfranchise citizens who the State knows are lawfully entitled to vote.

Additionally, the NVRA requires that Federal Form applications lacking DPOC, but containing the applicant’s affirmation of U.S. citizenship, be registered for federal elections. *See Inter Tribal*, 570 U.S. at 20. Accordingly, the statute expressly instructs county recorders to review

databases (including the MVD database) for evidence of DPOC for Federal Form applicants and, if found, register Federal Form applicants for all elections. A.R.S. § 16-121.01(D), (E). Because of this, interpreting § 16-121.01(C) to prohibit county recorders from considering DPOC available in MVD records through the HAVA check would result in distinct treatment for State Form and Federal Form users. In the LULAC and *Mi Familia Vota* litigation, plaintiffs argued that differing treatment based on the type of form used is arbitrary and violates the Equal Protection Clause. The Defendants in the LULAC litigation chose to enter into a Consent Decree rather than counter that argument and the *Mi Familia Vota* litigation is ongoing. The ultimate merits of those arguments are beyond the scope of this opinion, but they clearly raise serious constitutional concerns, particularly given that *Anderson-Burdick* challenges are assessed with a higher level of scrutiny than rational basis review.

As a matter of statutory interpretation, we avoid constructions that raise serious constitutional concerns when a reasonable alternative interpretation exists. *See Garcia v. Butler in & for Cnty. of Pima*, 251 Ariz. 191, 195–96 ¶ 18 (2021) (explaining the policy of adopting constructions that avoid constitutional difficulties and interpreting statutes to comply with the Constitution when the relevant text allows); *see also Merrill v. Merrill*, 230 Ariz. 369, 376 ¶ 27 n.5 (App. 2012) (declining to adopt a broad statutory construction “consistent with the principle that [courts] avoid a construction of a statute that might raise constitutional concerns”). Therefore, we conclude that the ordinary meaning of “accompanied” applies under § 16-121.01(C) for State Forms, *see* Analysis § I.A.1, notwithstanding § 16-121.01(D)’s differing meaning of “accompanied” for Federal Forms. County recorders should query the MVD database for citizenship information to determine if the State Form is “accompanied” by DPOC.

B. MVD citizenship information “supplies” missing DPOC for purposes of A.R.S. § 16-134(B).

Section 16-121.01(C) directs that applicants whose forms lack DPOC be provided a notice as prescribed in § 16-134(B). Specifically, when DPOC required under § 16-121.01(C) is missing, “the county recorder shall notify the applicant within ten business days of receipt of registration form ... that the registration cannot be completed until the information is supplied.” A.R.S. § 16-134(B). And “[i]f the missing ... information is supplied before 7:00 p.m. on election day, that person is deemed to have been registered on the date the registration was first received.” *Id.*

The statutory term “supplied” is in the passive voice and does not specify that missing DPOC may be provided only by the voter directly. *See United States v. McDuffy*, 890 F.3d 796, 800 (9th Cir. 2018) (explaining that use of the passive voice in statutory language indicates that “[i]t is whether something happened—not how or why it happened—that matters”). Section 16-134(B) simply requires that the missing DPOC be “supplied.” *Supply*, Black’s Law Dictionary (12th ed. 2024) (“The act, an instance, or the process of fulfilling a requirement, need, or desire.”).

MVD citizenship data is in the State’s custody and control and is readily available to county recorders via the HAVA check process described above. It is just as accessible to a county recorder as a birth certificate or passport page in a voter’s paper file would have been in an era of physical files for each voter. *See Ariz. Op. Att’y Gen. No. I17-006* (Nov. 13, 2017) at 8–9 (explaining voter registration information in the statewide database is in the Secretary’s custody). For a county recorder to reject an application for lack of citizenship, when readily available MVD data proves citizenship, would be to ignore information that has been “supplied” to her and would undermine the purpose of a cure process.

Thus, as part of the notice and cure process, if a county recorder has not already checked the MVD database for citizenship, she should do so. In such cases, the applicant has already “supplied” DPOC to the State for purposes of § 16-134(B).

As with § 16-121.01(C), this conclusion is further supported by the rule that statutes should be interpreted to avoid unconstitutional results. *See Green*, 248 Ariz. at 135 ¶ 8. Construing § 16-134(B) to require county recorders to reject a State Form for lack of DPOC when it is readily available to them would prevent eligible citizens from registering to vote and thereby raise serious Arizona and federal constitutional concerns. *See, e.g.,* Ariz. Const. art. II, § 21 (“[N]o power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.”); *City of Cleburne, Tex. v. Cleburne Living Ctr.*, 473 U.S. 432, 439 (1985) (explaining that the Fourteenth Amendment requires that “all persons similarly situated should be treated alike”).

Similarly, although § 16-134(B) directs county recorders to notify a State Form applicant when DPOC is missing, we decline to construe the statute to require such a notice in situations when the applicant has already supplied citizenship data to MVD, which is readily available to county recorders. In such situations, a notice to the applicant would be an exercise in futility because of our conclusion that a county recorder should query MVD for DPOC as part of the notice and cure process and thus, we decline to adopt that absurd construction. *See State ex rel. Montgomery v. Harris*, 237 Ariz. 98, 102 ¶ 14 (2014) (“[A] result is absurd if it is so irrational, unnatural, or inconvenient that it cannot be supposed to have been within the intention of persons with ordinary intelligence and discretion.”) (cleaned up).

As such, we conclude that if a State Form lacks DPOC, county recorders should query the MVD database for citizenship information because such information has been “supplied” for purposes of § 16-134(B). *See* Analysis § I.B, above.

If MVD citizenship information confirms that the applicant is a citizen, and the applicant is otherwise eligible to register to vote, the county recorder must register the applicant as a full ballot voter because that individual has complied with § 16-121.01 and is thus presumed to be properly registered to vote. *See* A.R.S. § 16-121.01(A), (C).

II. If missing DPOC is supplied pursuant to A.R.S. § 16-134(B), the date of registration relates back to the date the registration was first received.

If a State Form is not accompanied by DPOC (including via MVD records), the county recorder must reject the form and provide the applicant with a notice as prescribed by § 16-134(B). If, in response to the § 16-134(B) notice, the applicant (or any other source) supplies the missing DPOC prior to 7:00 p.m. on election day, the applicant “is deemed to have been registered on the date the registration was first received.” § 16-134(B). Thus, the date of registration relates back to the date the voter registration form was received by the county recorder’s office.

III. If a State Form is not accompanied by DPOC, county recorders should allow DPOC to be submitted up to 7:00 p.m. on election day pursuant to A.R.S. § 16-134(B).

As noted above, § 16-134(B) allows applicants who timely submitted voter registration forms, but failed to include DPOC or other information, to be properly registered to vote in the election if the missing information is supplied before 7:00 p.m. on election day. The LULAC Consent Decree, however, states that when an applicant receives a notice that their State Form lacked DPOC, that individual may submit DPOC up to “5 p.m. local time on the Thursday before the election.” *See* LULAC Consent Decree, 2:17-cv-04102-DGC, Doc. 37 at *11–12 ¶ 3. Your last question asks which of these deadlines controls.

At the time of the LULAC litigation, there was no statutory notice and cure deadline regarding missing DPOC. The Consent Decree’s deadline filled that statutory silence and required the defendants to give voters a cure period for DPOC. Several years later came § 16-134(B).

Generally, a consent decree does not prevent a legislature from *enacting* new laws, even those related to the subject of the decree, but those laws may not be able to be *enforced* in light of the decree. *See Hollingsworth v. Perry*, 570 U.S. 693, 705–06 (2013). For example, a state may not attempt to override a federal court consent decree by reimplementing a statute that has been enjoined by a consent decree. *See Cooper v. Aaron*, 358 U.S. 1, 18 (1958) (“If the legislatures of the several states may, at will, annul the judgments of the courts of the United States, and destroy the rights acquired under those judgments, the constitution itself becomes a solemn mockery.”) (cleaned up). Nor may a state act in a way that interferes with a consent decree. *See United States v. Bd. of Cnty. Commissioners of Hamilton Cnty., Ohio*, 937 F.3d 679, 691 (6th Cir. 2019) (explaining that courts have broad power to prevent interference with consent decrees including by suspending municipal rules or limiting contracting authority); *United States v. Gov’t of Virgin Islands*, 363 F.3d 276, 281 (3d Cir. 2004) (preventing government from entering a contract that would have frustrated compliance with a consent decree); *see also White v. Roughton*, 689 F.2d 118, 119 (7th Cir.1982) (“[T]he relevant purposes in interpreting a consent decree (like any other contract) are the purposes embodied in the instrument.”).

Here, the LULAC Consent Decree did not enjoin any deadline to cure and thus, § 16-134(B) is not an attempt to annul the Consent Decree. And the longer cure period in § 16-134(B) does not interfere with the remedy that the Plaintiffs obtained, and that the federal court ordered, in the LULAC Consent Decree. Likewise, § 16-134(B) does not interfere with or impede the State’s ability to comply with the purpose of the Consent Decree, which is to ensure the State “treat[s] State Form applications exactly as ... Federal Form applications” are treated with respect to DPOC. *See LULAC Consent Decree*, 2:17-cv-04102-DGC, Doc. 37 at *3. Simply put, there are no concerns here that this statute infringes on the LULAC Consent Decree.

Accordingly, the Legislature’s decision to provide voters with additional time to cure missing DPOC under § 16-134(B), extending the DPOC cure period to 7:00 p.m. on election day, now controls.

Conclusion

If a State Form lacks DPOC, county recorders should query the MVD database for citizenship information because such information “accompanies” the State Form for purposes of § 16-121.01(C), and even if voter registration applications are not “accompanied” by the applicant’s MVD citizenship data, county recorders should query that data because it has been “supplied” for purposes of § 16-134(B), which leads to the same result. If the applicant is otherwise eligible to register and the county recorder obtains DPOC from the MVD database, the county recorder must register the applicant as a full ballot voter because that individual has complied with all statutory registration requirements.

Pursuant to § 16-134(B), if missing DPOC is supplied by the statutory deadline, the date of registration relates back to the date the voter registration form was received by the county recorder’s office. County recorders should follow the deadline provided in § 16-134(B) and allow State Form DPOC to be supplied up to 7:00 p.m. on election day.

* * *

Kris Mayes
Attorney General



Via Email

Honorable Bryan Steil, Chairman
 Committee on House Administration
 1309 Longworth House Office Building
 Washington DC 20515-6157
 c/o Ms. Kristen Monterroso (Kristen.Monterroso@mail.house.gov)

Re: Additional Responses for the September 11, 2024, Committee on House Administration Hearing titled, "American Confidence in Elections: Looking Ahead to the 2024 General Election" Official Public Hearing Record

Dear Congressman Steil:

Thank you for the opportunity to provide the additional information you requested. It was an honor and privilege to appear and provide testimony to the Committee on House Administration. For ease of reference, my response will address each question separately, below. It is important to note that Arizona is unique with regard to its proof of citizenship requirement in order to register to vote, as well as its bifurcated system. As our State Legislature continues to add to our patchwork of existing requirements, the process of verifying, validating, and registering those who are valid registrants has become onerous for both registrars and the public alike. This is unique in the nation, and not what I expect most Americans desire for themselves when simple attestation has proven to be effective in every single other state, when coupled with additional layers of common sense requirements.

Arizona's Voter Registration Form

Congress has expressly authorized States to determine whether a driver license or the last four of a registrant's Social Security Number meet Help America Vote Act ("HAVA") requirements. *See 52 U.S.C. § 21083(a)(5)(iii)*. In furtherance of HAVA requirements, Arizona law provides that the State Voter Registration form include a field for the Social Security Number *or* Arizona driver license number. *See A.R.S. § 16-121.01(A)*.

Arizona's Bifurcated Voter Registration System

In Arizona, after the Supreme Court's 2013 decision in *Arizona v. Inter Tribal Council of Arizona, Inc.*, the state maintained the more onerous requirement that Documentary Proof of Citizenship ("DPOC") be provided in order to be eligible to vote a full state ballot. Registrants

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 Toll-free in Arizona 1-877-THE VOTE

that use a state form are required to provide DPOC, pursuant to *A.R.S. §§16-121 or that form is rejected*. For registrants using a Federal Form, the standard established by Congress in the National Voting Rights Act (“NVRA”) remain in place, but these registrants are severely restricted to only federal election races (in this year’s General Election, federal-only voters will receive a ballot with only three races on it: President, United State Senate, and Congress. Full-ballot voters will vote hundreds of races for federal, statewide, legislative, local, and ballot measure elections at every jurisdictional level.). If DPOC can be confirmed through checks with our motor vehicles division or the registrant provides DPOC, the voter is then confirmed as a full ballot voter.

Pursuant to a recent federal court ruling in *Mi Familia Vota v. Fontes II*, a voter who fails to comply with the new requirement of Documentary Proof of Residency (“DPOR”) is likewise given the status of a federal-only voter. As with Arizona’s DPOC requirement, because NVRA preempts state law, these registrants remain eligible to vote in federal elections for President, United State Senate, and Congress.

As of October 15, 2024, Arizona currently has 28,928 active and 18,365 inactive federal-only voters and 4,313,963 active and 701,363 inactive full-ballot voters. In an effort to serve all citizens, our website provides links to both the State Voter Registration Form as well as the Federal Form.

President Biden’s Executive Order Promoting Access to Voting

I have no knowledge of what federal agencies in Arizona are doing in order to comply with President Biden’s Executive Order. The only work my office has undertaken is that we were very happy for the opportunity to designate Native Health, which operates three locations within Maricopa County that serve Native Americans from the entire state of Arizona, as a NVRA agency. This is the only agency I have designated as such to date. I have authority to designate voter registration agencies pursuant to NVRA and Arizona law. *See 52 U.S.C. § 20506 and A.R.S. §§ 16-134, 16-140, and 16-141.*

Election Observers

My office supports election observers. Such participation is key to public trust and confidence in election administration. Although the Arizona Legislature does not require it, my office encourages, and to my knowledge all counties engage with and allow, political party observers for all aspects of our election processes. My Election Procedures Manual, promulgated by my office with input from the counties every odd numbered year, specifically permits these observers to be present at voting locations. *See 2023 Arizona Election Procedures Manual at 138.*

July Crowdstrike Outage

Due to our preparedness posture, my office was one of the first in the nation to learn of and notify security agencies such as the Department of Homeland Security about the outage. We stood up the entire IT team late at night to begin addressing it and ensure continuity of

operations. I cannot speak to the details of the impact to Maricopa County on that date, but it was during early voting, when in-person election traffic is not at its pinnacle.

Although there may be no absolute way to prepare for every eventuality, the Crowdstrike incident demonstrated that my office *is* ready for these types of unanticipated events. It is precisely because Arizona has always taken security with the gravity it merits and, even with the standard funding issues we face at all levels of government, we use those resources wisely to prioritize these critical systems.

Mi Familia Vota v. Fontes II

Because of the varying ways counties viewed the ruling, and the fact that they each have independently elected County Attorneys advising them, my office requested an official opinion from our Attorney General. I attach the formal Opinion here for your reference, as you requested. It is also available on the Attorney General's website [here](#).¹ This gives all counties and my office the certainty we need to proceed uniformly across the state and ensure all Arizonans can expect their registrations to be processed the same way, regardless of whether they live in Maricopa County, Apache County, or Greenlee County.

I thank you for your time and interest in Arizona elections and upholding our democracy.

Sincerely,



ADRIAN P. FONTES
Secretary of State

¹ <https://www.azag.gov/sites/default/files/2024-09/124-015.pdf> (last visited October 12, 2024).



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

October 7, 2024

The Honorable Bryan Steil, Chairman
Committee on House Administration
U. S. House of Representatives
1309 Longworth House Office Building
Washington, DC 20515-6157

Dear Chairman Steil:

I am writing in response to your September 25, 2024, letter requesting responses to additional questions that will be made part of the official public hearing record for the September 11, 2024, Committee on House Administration Hearing titled, "American Confidence in Elections: Looking Ahead to the 2024 General Election."

With respect to the questions you raised and the information you have requested, please see the following responses:

1. **QUESTION:** When a Michigander registers to vote with their driver's license number, does Michigan require the Clerk processing the application to look at the applicant's citizenship status in their driver's profile? How is citizenship displayed in that profile? If the databases do not confirm that the newly registered voter is a citizen, what happens next? What would be the process for removing that individual? Where are these rules laid out? How does the process work for individuals registering who do not yet have a driver's license or who are registering to vote the same day of an election?

Response: In Michigan, as in every state, only U.S. citizens are eligible to register to vote or cast a ballot in any state or federal election. Eighty-five percent (85%) of Michigan citizens register to vote when they get their driver's license or state ID. In order to get a driver's license or state ID, individuals are required to provide documentation that affirms their citizenship or, alternatively, their legal status as non-citizens. Either way, there has to be legal documentation provided. Since the Michigan Secretary of State is responsible for both issuing driver's licenses and state ID's and for maintaining the state's centralized voter registration database (the "Qualified Voter File"), the systems for each were built together to ensure connectivity and ease of administration. When an applicant for a driver's license or state ID presents documents that show the applicant is not a citizen, the applicant and their documents are entered into our centralized state driver database as a non-citizen thereby preventing them from being able to register to vote through the driver transaction. Michigan's computerized central state database for driver's license or state ID applications does not allow an applicant to be registered to vote if they provide noncitizen documents – it's not even an option. Secretary of State

employees cannot override the system or add them to the voter registration list another way.

Clerks do not have direct access to the driver file – instead, they have access to QVF. Because as explained above, the driver file does not allow voter registration from a driver transaction to proceed if a non-citizen document is presented, clerks would not encounter any new voter registrations from the driver file where the voter did not already show citizenship.

Voters can also register through paper forms, which require the applicant to both check a box indicating that the applicant is a U.S. citizen and affirm their eligibility, including U.S. citizenship. If affirmation of U.S. citizenship is left blank, the clerk is instructed to enter the registration into the Qualified Voter File with the status “Challenge – Citizenship.”¹ The voter may remedy a blank affirmation of citizenship by signing an Application to Vote at an in-person polling place on Election Day or by signing an Absent Voter Ballot Application, because both documents include an affirmation of citizenship.² The “Challenge – Citizenship” status code is removed once the applicant is issued a ballot after signing the Application to Vote or an Absent Voter Ballot Application. If the applicant answered “No” to the affirmation of citizenship, the applicant’s QVF status must be changed to “Reject – Citizenship” and the registration application must be rejected.³ The clerk must send the applicant a Notice of Rejection, which can be generated in the QVF.

The rules surrounding voter registration are laid out in the Michigan Election Law and in the Bureau of Elections’ guidance to clerks. To ensure compliance, these rules are also built directly into the infrastructure of our centralized state databases.

For individuals who do not yet have a driver’s license or state ID, the voter registration form prompts them to provide the last four digits of their social security number. For individuals registering to vote the same day of an election, they must go to the clerk’s office and register in person, and must provide a document showing residency.

It is illegal to lie on Michigan voter registration forms, and applicants must certify that the information is true under penalty of perjury. These are public documents and are saved after each election, creating a preserved record. Penalties for false statements may include prison time, fines, and deportation.

2. QUESTION: During our hearing, you testified that your office uses the Department of Homeland Security SAVE database when a person applies for a driver’s license or identification. However, after issuance, Michigan does not use the SAVE database due to challenges with access, whereas Ohio Secretary of State LaRose testified that his office has developed a process to do so. Other than when an individual receives a driver license or identification, what are the “other methods” Michigan uses to determine whether a voter

¹ [Election Officials Manual](#), Ch. 2 Voter Registration at p. 20 and 23.

² *Id.*

³ *Id.*

registration belongs to a U.S. citizen? What are the databases or other sources Michigan relies on? Are these verification steps done at the front end or the back end of the voter registration process? To date, how many non-citizen voter registrations have been removed in calendar year 2024? What was the total for calendar year 2023? What happens when a voter registration cannot be definitively confirmed as belonging to a U.S. citizen?

Response: The Michigan Department of State uses the SAVE online service as required under state and federal law when we issue an original credential at a Secretary of State branch office for someone who is receiving an official Michigan credential for the first time. We are required to verify all immigration documents electronically through SAVE. The truth is, SAVE does not identify noncitizens on the voter rolls. It's a tool that can only be used if you already have information showing someone is not a citizen. In order to query someone's record in SAVE, you have to know their "alien number", meaning you have already seen documentation that they are not eligible to vote. SAVE could show that someone who was a non-citizen has naturalized and become a citizen, but it is not a list of non-citizens you can use to check the rolls. Any person who presents documentation indicating they are not a citizen is not eligible to register to vote in Michigan. This has always been the case, and there are many layers of checks and balances to ensure compliance – from Secretary of States offices to clerks' offices to poll workers in local communities, who all work together to protect our elections from ineligible people participating.

When an election official becomes aware of a non-citizen on the voter rolls, the registration is cancelled. To date in 2024, 71 registrations have been cancelled on the basis of citizenship. In 2023, 80 registrations were cancelled on the basis of citizenship.

3. QUESTION: Detroit just enacted a program to allow residents, regardless of immigration status, access to a city identification card to enable them to utilize city services. How will Michigan ensure that people who receive this identification will not receive voter registration forms and will not be registered to vote through automatic voter registration?

Response: The Detroit ID card is not a new program; Detroit Mayor Mike Duggan and the Detroit City Council began making ID cards available for Detroit residents as early as December 2016.⁴ Regardless, the Detroit ID program is not affiliated with the Michigan Department of State and does not have access to any Michigan Department of State systems used for automatic voter registration. As such, it is not possible for individuals to be registered to vote through automatic voter registration when obtaining a Detroit ID.

4. QUESTION: The primary safeguard in Michigan for ensuring that a mail ballot is voted by the intended voter is signature verification. However, you have not clarified your position on whether poll challengers or poll watchers are permitted to observe the signature verification process in the same way they are allowed to observe other aspects of the electoral process. On September 16, 2024, the Committee sent you a letter asking that you clarify for election clerks that election observers called "challengers" can indeed perform their lawful duties [sic] the signature verification process. Did you provide clerks this guidance? Did you

⁴ https://www.mlive.com/news/detroit/2016/12/detroit_launches_municipal_id.html

instruct clerks to not allow challengers to perform their lawful duties during the signature verification process? If you provided guidance stating that challengers cannot perform their lawful duties during the signature verification process, how can we have confidence the process is occurring correctly? What other safeguards exist to ensure the signature verification process runs as it should?

Response: Please see our September 23, 2024, letter which provides information and clarification about Michigan Election Law and the respective roles and rights of “poll watchers” and “challengers,” in response to your September 16, 2024, letter. It is attached here again for your ease of reference.

The answers and analysis provided previously in the attached are consistent with the Michigan Bureau of Elections’ longstanding guidance on “[The Appointment, Rights, and Duties of Election Challengers and Poll Watchers](#)”, which is shared with clerks and included in their training.⁵ The Michigan Supreme Court has upheld the Bureau of Elections’ challenger guidance as consistent with and supported by Michigan Election Law. It is a resource for election officials, poll workers, challengers, and voters alike so that everyone understands what is allowed.⁶

Absentee voting is a time-tested secure system in Michigan. Clerks check signatures on both absentee ballot requests and ballot envelopes against the signatures they have on file to verify the identity of every voter.

5. QUESTION: Michigan’s inflated voter rolls have been the target of multiple lawsuits, including one from the well-respected Public Interest Legal Foundation, which found over 25,000 deceased individuals still registered to vote. How often does your office conduct voter list maintenance? What does that process entail? How often is the process carried out? What resources does Michigan have to confirm a voter has died or moved? How many deceased voters were removed from the rolls in calendar year 2024? How many were removed in calendar year 2023?

Response: The truth is we've done more in the last five years to improve the accuracy of our voter rolls than in the previous two decades. Since Secretary Benson took office in 2019, we have cancelled more than 800,000 out of date voter registrations and identified an additional 610,000 slated for cancellation in 2025 and 2027 once the NVRA required two-federal election cycle period has passed. Earlier this year, a federal judge dismissed the frivolous lawsuit referenced in your question that was filed by the Public Interest Legal Foundation against us for our voter list maintenance. In the Court’s dismissal of that case, the judge cited federal data that shows Michigan is one of the most active states in removing the registrations of voters who have died – ranking fifth in the nation in 2022 and fifth in the nation in 2020 (Michigan is the tenth largest state in the country).⁷

⁵ See MCL 168.730-734. See also “[The Appointment, Rights, and Duties of Election Challengers and Poll Watchers](#)” (“Challenger Guidelines”) at 7.

⁶ See *O’Halloran v. Sec’y of State*, ___ Mich. ___, ___ NW2d ___ (2024)(Docket No. 166424); *De Visser v Sec’y of State*, ___ Mich. ___, ___ NW2d ___ (2024)(Docket No. 166425).

⁷ *PILF v Benson*, No. 1:21-cv-929, 2024 WL 1128565, at *12, (W.D. Mich. Mar. 1, 2024) (Beckerling, J.).

The Qualified Voter File is constantly updated whenever a new voter registers, a voter updates his or her registration information (such as an address), or a voter's registration is cancelled. As noted above, since 2019, more than 800,000 inactive voter registrations have been cancelled. This includes 532,513 voter registrations of people who have died, 273,609 registrations belonging to those who have received a cancellation notice based on a change of residency and did not respond to the notice or engage in voter activity in the two-federal-cycle period required by federal and state law, and 16,716 registrations for people who requested to have their own records cancelled.

When someone dies and their death record is processed, this information is sent to the Social Security Administration and added to the Master Death Index. The Michigan Department of State receives this information from the Social Security Administration. On a weekly basis, the Bureau of Elections cancels the voter registrations of all registered voters who appear on the Master Death Index report. County clerks also inform a city or township clerks when they process death records for an individual registered to vote in that city or township. Although the vast majority of these deceased individuals are also identified through the Master Death Index, county clerks may be able to provide this information to municipal clerks more rapidly. This is useful in the days leading up to elections, to allow the registrations of voters who become deceased to be cancelled more quickly. City or Township clerks can also cancel registrations when they have personal knowledge that a registered voter has become deceased. For example, the city or township clerk may have an obituary, local death notice, or a written notification from next of kin. Michigan also receives information from the ERIC program about Michigan voters who have died.

6. **QUESTION:** In mid-March, your office entered a Memorandum of Understanding with the U.S. Small Business Administration (“SBA”). What is required of the SBA under the agreement? Roughly how many voters has the SBA helped Michigan register to vote? What is the partisan affiliation of these voters? Roughly how many Democrats? Republicans? Independents? How many SBA events have occurred since the agreement where the Michigan Department of State has tabled and registered people to vote? Where were those events held? Are they taking place mainly in Democratic-leaning areas? What percentage occur in Republican-leaning areas? What trainings, if any, did SBA employees go through to ensure they are not in violation of the Hatch Act at these events?

Response: The Department entered into a Memorandum of Agreement (“MOA”) with the U.S. Small Business Administration, dated March 18, 2024. This MOA was entered into under longstanding authority, dating back to 1993 when the National Voter Registration Act (NVRA), 52 U.S.C. § 20501 et seq., put into federal law that a state “may request that Federal agencies or non-governmental agencies accept the designation” as a voter registration agency.

Michigan is proud to work with the U.S. Small Business Administration on this long overdue, first-in-the-nation effort to connect Michigan’s small business community with the tools and information they need to play an active role in our democracy. This aligns

with a proud tradition in our state of supporting all American citizens in exercising their fundamental right to vote. Former Michigan Secretary of State Richard Austin's innovative "Motor Voter" law nearly 50 years ago was the nation's first.

Since execution of the MOA, the only action taken by the Department in furtherance of the purpose of the MOA has been the creation of a short link (unique) URL, Michigan.gov/USSBA. This unique URL directs individuals to the existing Michigan Voter Information Center, not a newly created platform specific to the U.S. Small Business Administration. The Department has confirmed that as of Friday, October 4, 2024, no visits to the Michigan Voter Information Center, by way of the unique URL, have resulted in voter registration submissions or voter registration updates.

The Department has not yet begun implementation and outreach efforts related to the MOA and, as such, the Department has not registered individuals to vote at any SBA events, nor has the Department conducted any training related to the MOA.

7. **QUESTION:** Your website features a link to a document titled "Election misinformation." However, it does not define what constitutes "Election misinformation." As it pertains to this document, what is election misinformation as you understand it? Does it reach only objective information like who can vote, ways to vote, and when Election Day is? Does it go further and reach opinions that voters have about the issues? The document provides an email address for voters to send misinformation they see, too. What will your office do with that information? Are the names of people who are allegedly spreading misinformation also reported? Their addresses? Will your office suggest to the Michigan Attorney General that these individuals be prosecuted?

Response: The act of spreading misinformation about the election process, voter rights, or even an issue on the ballot is a serious threat to election security. These efforts – be they foreign, domestic, partisan, or simply malicious – are designed to sow mistrust in our elections process and are damaging to a healthy democracy.

As indicated on our website, the Department categorizes false information into three categories.⁸ Misinformation is information that is false, but not created or shared with the intention of causing harm. Malinformation is information that is based on fact, but used out of context to mislead, harm, or manipulate a person, organization, or country. Disinformation is false information that is deliberately created to mislead, harm, or manipulate a person, social group, organization, or country.

Using the email address to report misinformation, individuals can forward information to the Department that they believe falls under the category of misinformation. These reports are not to be used to report candidate information, rather to report misinformation related to elections generally and the process of voting, for instance information regarding election locations, deadlines, and timelines. The Department

⁸ <https://www.michigan.gov/sos/-/media/Project/Websites/sos/31lawens/election-disinformation-toolkit.pdf?rev=b47b40fb94a84765b18f692a83e1ed52>.

Communications team uses this information to update public facing materials such as social media graphics and flyers. If information reported rises to the level of voter suppression or intimidation, it may be forwarded to the Michigan Attorney General's office for further investigation.

8. **QUESTION:** Meta CEO Mark Zuckerberg a few weeks ago wrote a letter to the House Judiciary Committee apologizing for giving into government pressure surrounding how Meta platforms censored discussions around COVID and the Hunter Biden laptop story, among other topics. Are you in contact with social media companies in attempts to get them to remove or censor content? If yes, what social media companies, specifically? Are you in contact with government agencies like the Federal Bureau of Investigation or Cybersecurity and Infrastructure Security Agency regarding so-called misinformation on the internet? If yes, what do those discussions entail?

Response: The Department's contact with social media companies is to seek their assistance in ensuring the Department's information is feeding properly into the platform's Voting Information Center, attending presentations given by social media companies at large gatherings like the National Association of Secretaries of State, and attending meetings with social media companies that have reached out to us to talk through their publicly available election policies

The Department's contact with government agencies like the FBI and CISA concerns potential threats and potential crimes. Discussions with these agencies include items such as intelligence briefings and tabletop exercises to prepare for different potential scenarios.

9. **QUESTION:** Governor Whitmer signed Senate Bill 603 earlier this year, which contained a multitude of changes to state election law. Will you confirm that no portion of that law will be active and in effect for the November election? Has your office attempted to enact portions of SB 603 via rules that would be in effect for November's election? Will any proposed rules be outgrowths of SB 603? If so, how would the rules not violate current law?

Response: Yes, Senate Bill 603 was signed into law earlier this year and does not take effect until 2025. No, our office has not attempted to enact portions of SB 603 via rules that would take effect prior to SB 603's effective date. Lastly, no, there are no proposed rules that are outgrowths of SB 603.

10. **QUESTION:** In a March 2024 interview with the MeidasTouch Network, you said your office was working with Secretaries of State in Arizona, Georgia, Pennsylvania, Nevada, and Wisconsin to battle a "common adversary." Who or what is that "common adversary"? You also said your office with these six Secretaries "are all talking, all working together" to develop "common strategies" on combatting lawsuits and other methods that promote election integrity. What are those common strategies? Are these meetings with these six Secretaries still occurring? If yes, what are some of the recent topics these meetings have focused on? Have any of these meetings discussed President Biden's Executive Order on Promoting Access to Voting? Have the other Secretaries asked you how they can work with the Biden Administration to implement the Executive Order?

Response: Secretary Benson remains committed to ensuring that every eligible American citizen is able to exercise their fundamental right to vote, even as we witness unprecedented efforts to intimidate and threaten election workers, confuse voters, and undermine public confidence in the integrity of elections, which are the bedrock of our democracy. We are proud of our work across the aisle with secretaries and officials from both parties, including but not limited to the states you mention. As Secretary Benson reminds us often, democracy is a team sport, and our system relies on everyone knowing the facts about our elections. Being able to share and coordinate information with other states facing similar challenges and issues helps ensure that we can provide citizens accurate, nonpartisan information, squash misinformation before it spreads, and strengthen everyone's trust and faith in our secure elections.

11. QUESTION: Does Michigan law require election officials to hire an “equal number, as nearly as possible,” of poll workers from each major political party? If yes, how did Detroit nominate only 52 of the Republican National Committee’s 675 nominated election inspectors whereas it hired over 2,300 Democrat election inspectors? How did that happen? How is it that 200 of the 335 precincts in Wayne County did not have a single Republican election inspector?

Response: Michigan's elections are decentralized, meaning they are carried out by local Republican, Democratic, and nonpartisan clerks in each of the state's 1,521 cities and townships. Due to of the decentralized nature of elections in Michigan, the Department does not have knowledge or information regarding the actual numbers of election inspectors, nor the individual political affiliations of each election inspector hired by the City of Detroit, nor the individual political affiliations of each election inspector who applied to be hired, nor the specific factors involved in each of their hiring decisions.

12. QUESTION: Signature verification is a crucial election integrity safeguard for mail ballots, but the process requires having a handwritten signature on file for each voter to be effective. Can you confirm that Michigan clerks should reject as invalid any and all voter registration forms, including Federal Post Card Applications, submitted with a digital signature that was not made by the voter's own hand?

Response: Under Michigan law, an individual registering to vote in Michigan for the first time must provide their original signature, regardless of which voter registration form they are using, including use of the Federal Post Card Application to register to vote.⁹ Voters who register online or through automatic voter registration are registered using the digital version of the handwritten signature they provided during a driver or state ID transaction. Eligible Michigan voters serving overseas and living abroad, who register to vote using Federal Post Card Applications, are subject to the same signature verification requirements as Michigan voters in the United States. A voter with a disability may provide a signature using a signature stamp or mark; the signature stamp or mark must be accepted by the clerk. If an original signature is not provided, the clerk changes the

⁹ [Election Officials Manual](#), Ch. 2 Voter Registration at p. 20 and 23.

voter's qualified voter file (QVF) status to "Reject – Signature" and send the voter a Notice of Rejection.¹⁰

The Secretary, along with the 1,600 bipartisan professional clerks across our state, continue to work to make it easier to vote and harder to cheat in Michigan. The Department takes its duty seriously, because we know that the votes our citizens will cast in the next 29 days will define the future of our country.

Sincerely,

/s/ Michael Brady

Michael Brady
Chief Legal Director
Michigan Department of State

¹⁰ *Id.*

