

**Exhibit 1 to Plaintiffs'
Statement of Facts**

Scott Jarrett's Declaration

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DECLARATION OF SCOTT JARRETT

STATE OF ARIZONA)
) ss.
County of Maricopa)

I, Scott Jarrett, for my unsworn declaration under penalty of perjury declare as follows:

1. I am over 21 years of age and competent to offer this testimony.
2. I have personal knowledge of the matters set forth in this Declaration. My personal knowledge is based on my own personal participation in or observation of the matters set forth herein. If called as a witness to testify as to the matters set forth in this Declaration, I could and would testify competently.
3. I am the Director of Election Day and Emergency Voting for the Maricopa County Elections Department.
4. Maricopa County conducted a general election on November 3, 2020, which included an election for presidential electors (the "Election").
5. All of the vote tabulators and ballot printers used by Maricopa County to conduct the Election had been certified by the Arizona secretary of state and also tested and certified by a laboratory that is accredited by the United States Elections Assistance Commission.
6. Prior to the Election, on October 6, 2020, the Arizona secretary of state conducted a pre-election logic and accuracy test of the vote tabulation machines.
7. The logic and accuracy test prescribed by law and conducted by the secretary of state is an audit of the vote tabulation machines' ability to properly read and accurately tabulate ballots. It consists of using the tabulation machines to tabulate pre-marked ballots to ensure that the tabulation totals are correct.
8. The vote tabulation machines received a perfect score (100%) on the pre-election logic and accuracy test conducted by the Arizona secretary of state on October 6, 2020. Stated differently, **the tabulation of the votes by the electronic tabulators was**

1 **one hundred percent (100%) accurate.** See Exhibit A, a true and correct copy of the
2 October 6, 2020, Logic and Accuracy Certificate of Accuracy.

3 9. The vote tabulation machines received a perfect score (100%) on the post-
4 election logic and accuracy test conducted by the Arizona secretary of state on November
5 18, 2020. Stated differently, **the tabulation of the votes by the electronic tabulators was**
6 **one hundred percent (100%) accurate.** See Exhibit B, a true and correct copy of the
7 November 18, 2020, Logic and Accuracy Certificate of Accuracy.

8 10. On November 4, 2020, representatives from the Republican, Democratic,
9 and Libertarian political parties started a post-election, hand count audit of all the ballots
10 cast at two percent (2%) of the vote centers used in Maricopa County, as well as over 5,000
11 early ballots. The vote centers included in the two percent sample were randomly selected
12 by the political party representatives.

13 11. The presidential race was included in the hand count audit and it was
14 completed on November 9, 2020.

15 12. There were **no** discrepancies found between the hand count audit and the
16 results tabulated by the vote tabulation machines. Stated differently, **the tabulation of**
17 **ballots by the tabulators was found to be one hundred percent (100%) accurate.** See
18 **Exhibit C**, a true and correct copy of the Hand Count Audit Report for the November 3,
19 2020, General Election.

20 13. On January 15, 2021, Maricopa County and the Maricopa County Recorder
21 produced 9.5 gigabytes of responsive data to the January 12, 2021 subpoenas, subject to
22 lawfully-required redactions, as follows:

- 23 • Election Log Files for the Tabulators
- 24 • Election Log Files for the Result Files
- 25 • Provisional Votes Files (included in the Election Log Files for the
26 Tabulators)
- 27 • Rejected Ballots Report by Reason Code
- 28 • Windows event log and Access logs
- The Administrator & Audit logs for the EMS Election Event Designer
(EED) and EMS Results Tally & Reporting (RTR) Client Applications.
- Early Ballot Report

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- Provisional Ballot Report
- ImageCast Central Logs
- Ballot Scanning/Tabulation Machine Logs
- The Database of voter rolls
- Name and voter registration address
- Mailing address for voters
- Date of birth for voters
- Voter ID numbers for voters
- The manner that voters voted in the 2020 general election (early by mail, early in person, in person on Election Day)
- The date that voters voted
- The political party affiliation of voters
- The early ballot sent date
- The Voted early ballot return or receipt date
- The image of ballot envelope of pollbook entry
- Final General Election Manual – Poll worker Training (2020)
- Final November 2020 General Election Day and Emergency Voting Plan
- Hands on Activity Outline.
- Tabulator Aid (09/14/2020)
- Certified letter from Secretary of State re pre-election L&A
- Certified letter from Secretary of State re post-election L&A
- Certification letter from Secretary of State, accepting recommendation from the Certification Committee that Dominion tabulators with electronic adjudication capabilities are certified for use in Arizona elections.
- Arizona Secretary of State List of Voting Equipment by County
- Arizona Secretary of State Certified Vote Tabulating Equipment List
- Arizona Secretary of State Certification Advisory Committee Minutes
- Combined correspondence between Attorney General’s Office and Maricopa County pertaining to Sharpie Markers (3 letters) (Nov. 2020)
- Image Cast Evolution Internal Memorandum regarding approved pens dated 06/04/2015
- Maricopa County Adjudication Quick Reference Guide
- Electronic Adjudication Board Procedures
- Maricopa County General Election – November 3, 2020 Hand Count/Audit Report.
- Signature Verification Training Materials.

14. On January 21, 2021, Maricopa County provided an additional 1.82 gigabytes of data comprised of:

- The Cast Vote Record, containing raw data, in JSON format.

1 15. Maricopa County and the Recorder provided 11.32 gigabytes of data, in
2 response to the January 12, 2021 subpoenas.

3 16. Maricopa County, along with the Recorder, also alerted the Senators that
4 none of them possessed some of the data requested by the January 12, 2021 subpoenas
5 including:

- 6 • RTMLogs
- 7 • Result Pair Resolution
- 8 • Data and items related to “Election Systems & Software” (ESS) voting
 systems, which Maricopa County does not use.

9 17. Maricopa County also asked the Senators for clarification regarding some
10 of the data requested by the January 12, 2021 subpoena to the Board of Supervisors. The
11 Supervisors, and I, along with other employees in the Maricopa County Elections
12 Department, did not know what this requested data was, and so we asked the Senators to
13 provide clarification, as follows:

- 14 • The meaning of “Signature Checking & Sorting Machine”
- 15 • The meaning of “FTP Transfer Points Log”
- 16 • The meaning of “Windows software log”
- 17 • The meaning of “Network logs”
- 18 • The domain name “Admin.enr.dominionvoting.com” and
19 “*.dominionvoting.com domains.” With regard to this one, the
 correspondence noted that the Board of Supervisors, their Election
 Department Staff, and their contacts at Dominion Voting Systems are
 not familiar with those URLs.

20 18. As of the date of the filing of this Complaint, I am not aware of the Senators
21 having responded to Maricopa County’s requests for clarification.

22 19. Maricopa County and the Recorder provided all of the above-mentioned
23 data to the House of Representatives as well as to the Senate.

24 20. Maricopa County retained two U.S. Election Assistance Commission
25 (“EAC”) certified laboratories—Pro V&V Laboratory, and SLI Compliance—to conduct
26 an independent audit of the Maricopa County tabulation machines and software. Pro V&V
27 Laboratory and SLI Compliance have a combined 25 years of experience in testing and
28

1 certifying voting equipment.

2 21. Pro V&V and SLI Compliance undergo audits by the EAC and the National
3 Institute of Standards and Technology, the organizations tasked with testing and certifying
4 election equipment.

5 22. The selection of only EAC-certified laboratories to conduct this audit was
6 necessary because a forensic audit conducted by a technician that is not certified by the
7 EAC could void the certification and could cause the secretary of state to de-certify the
8 equipment, meaning it could not be used in Arizona. Furthermore, the Department of
9 Homeland Security has designated tabulation equipment as critical election infrastructure
10 (<https://www.dhs.gov/topic/election-security>). Any exposure of the source code to an
11 unqualified and non-vetted third party could jeopardize tabulation systems used by voting
12 jurisdictions nationwide.

13 23. Were the secretary of state to de-certify Maricopa County's election
14 equipment, the ability of Maricopa County to conduct a free and fair, safe and secure
15 election would be substantially undermined if not compromised altogether and thus the
16 County and its voters would suffer irreparable harm.

17 24. Currently, only two laboratories are certified by the EAC as qualified to
18 conduct analysis on election equipment—the two firms that Maricopa County retained.

19 25. An election will take place in Goodyear, Arizona, on March 9, 2021.
20 Maricopa County must have tabulators and other election-related equipment available to
21 conduct that election; otherwise, Maricopa County will violate Arizona law and also
22 compromise its ability to conduct a free and fair election.

23 26. Maricopa County developed a scope of work for these EAC-certified firms
24 that would comprehensively review the tabulators and software, as the Senators
25 represented they wanted, as follows:

- 26
- 27 • Verify that hash values submitted to the Arizona Secretary of State as part
28 of the testing for certification match the components in the location.

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- Verify that no malicious software is running on the components.
- Verify that the components are not connected to the internet.
- Conduct a logic and accuracy test of the 2020 General Election ballot and program to confirm the equipment is accurately tabulating ballots.

27. The analysis of the tabulation equipment began on February 2, 2021 and was completed on February 16, 2021.

28. The paper ballots, which are sought by the subpoenas, remain under the custody and control of the Board of Supervisors in the secure vault in the Maricopa County Tabulation and Election Center (“MCTEC”), because of ongoing litigation concerning them. However, when the litigation concludes they will be deposited in the Treasurer’s vault.

I declare under penalty of perjury that the foregoing is true and correct

Executed on the 22 day of February, 2021.



Scott Jarrett

**Exhibit 2 to Plaintiffs'
Statement of Facts**

Jack Seller's Declaration

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DECLARATION OF JACK SELLERS

STATE OF ARIZONA)
) ss.
County of Maricopa)

I, Jack Sellers, for my unsworn declaration under penalty of perjury declare as follows:

1. I am over 21 years of age and competent to offer this testimony.
2. I have personal knowledge of the matters set forth in this Declaration. My personal knowledge is based on my own personal participation in or observation of the matters set forth herein. If called as a witness to testify as to the matters set forth in this Declaration, I could and would testify competently.
3. I am the Chairman of the Maricopa County Board of Supervisors, having been duly elected by the voters of District 1.
4. On December 14, 2020, the Arizona Senate Judiciary Committee purported to hold a “special meeting” in order to question witnesses about the Election. Notably, it took no evidence from any one claiming to have any evidence of any Election-related irregularities.
5. At the request of the Judiciary Committee, Maricopa County voluntarily made their officers and personnel available at this hearing. The then-Chairman of the Maricopa County Board of Supervisors, Clint Hickman, personally appeared and responded. So did Scott Jarrett, Maricopa County’s Director of Election Day and Emergency Voting. Additionally, Thomas Liddy, the Civil Division Chief for the Maricopa County Attorney’s Office, appeared to answer questions about the various legal challenges to the election that had been litigated.
6. All told, Maricopa County’s officers and personnel voluntarily provided approximately six hours of responding to questions and detailed presentations. They answered every question put to them, before being excused from the hearing.
7. President Fann and the Judiciary Committee served two subpoenas on the

1 Maricopa County Board of Supervisors the next day, on December 15, 2020, at 3:08 p.m.
2 (the “December 15, 2020 subpoenas”).

3 8. Maricopa County could not lawfully comply with producing some of the
4 items requested by the December 15, 2020 subpoenas, such as voted ballots from the
5 November 3, 2020, general election.

6 9. Senate President Fann and the new chairman of the 55th Legislature’s
7 Senate Judiciary Committee, Chairman Petersen, issued new subpoenas on January 12, 2021
8 (the “January 12, 2021 subpoenas”).

9 10. The Senators served their January 12, 2021 subpoenas on the Board of
10 Supervisors at 3:49 p.m. on January 12. The Recorder and the Treasurer were served at
11 approximately the same time. The subpoenas commanded appearance at a Senate hearing
12 to provide testimony the next day, January 13, 2021, at 9:00 a.m.—*only 17 hours from when*
13 *the subpoenas were served*, and commanded bringing the multitudinous volume of items
14 listed in the subpoenas.

15 11. Despite only being given 17 hours’ notice, I, along with Maricopa County
16 Recorder Stephen Richer and Maricopa County Treasurer John Allen appeared at the
17 Senate Building at 9:00 a.m. to provide the requested testimony, and also to inform the
18 Senate that, while I could not possibly transport all the subpoenaed items to the Senate with
19 only 17 hours’ notice, I wanted to discuss how I might begin production of the subpoenaed
20 material that the Board of Supervisors could lawfully produce.

21 12. However, despite issuing the January 12, 2021, subpoenas commanding
22 me, as a representative of the Maricopa Board of Supervisors, to appear to provide
23 testimony, I learned from a Senate staffer that no hearing was scheduled.

24 13. On behalf of the Board of Supervisors, its legal counsel, Civil Division
25 Chief for the Maricopa County Attorneys’ Office Thomas Liddy, provided a letter stating
26 objections to the subpoena. *See* Exhibit A, a true a correct copy of the January 13, 2021
27 correspondence.

28 14. Because the subpoenas demanded my attendance at the Senate at the exact


1 same time as the hearing scheduled in *Maricopa County v. Fann*, Mr. Liddy and I were
2 forced to join the hearing late, listening on a cell phone from the back of a Maricopa
3 County Sheriff's Office vehicle.

4 15. In a good faith effort to cooperate with the Senate, Maricopa County
5 retained two U.S. Election Assistance Commission certified laboratories—Pro V&V
6 Laboratory, and SLI Compliance—to conduct an independent audit of the Maricopa
7 County tabulation machines and software.

8 I declare under penalty of perjury that the foregoing is true and correct

9 Executed on the 22nd day of February, 2021.

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Jack Sellers

**Exhibit 3 to Plaintiffs'
Statement of Facts**

December 15, 2020 Subpoenas

ARIZONA SENATE
Senate Judiciary Committee

SUBPOENA

TO: Maricopa County Board of Supervisors

YOU ARE COMMANDED to produce, and permit inspection, testing or sampling of the items identified in the attached Exhibit 1 on or before 5:00 p.m. on December 18, 2020 to the Chairman of the Senate Judiciary Committee for inspection, testing or sampling thereafter.

YOU ARE HEREBY NOTIFIED THAT ANY FAILURE TO OBEY THIS SUBPOENA WITHOUT ADEQUATE EXCUSE MAY BE DEEMED CONTEMPT OF THE LEGISLATURE.

SIGNED this 15th day of December, 2020.

Eddie Farnsworth /s/
Eddie Farnsworth, Chairman
Senate Judiciary Committee

President Karen Fann
Karen Fann, President
Arizona State Senate

2020 DEC 15 PM 3:08

CLERK
BOARD OF SUPERVISOR'S
MARICOPA COUNTY

FME

Hand Delivered
Sgt. at Arms

EXHIBIT 1 - Full Forensic Audit

For the November 2020 general election in Maricopa County, Arizona, access to the following equipment or materiel for forensic analysis:

1. The ballot tabulation equipment from the vote centers and the central counting center used in the 2020 general election.
2. The software for the equipment described above and the election management system used in the 2020 general election.
3. Hardware Forensic Images of Election Servers, Desktops, Removable Media (such as thumb drives, USB, memory cards, PCMCIA cards, Compact Flash, CD/DVD etc.) used to transfer ballots to central counting from voting locations and to load software/programming.
4. Election Log Files XML, EML, JSON, DVD and XSLT other election files and logs for the:
 - Tabulators
 - Result Pair Resolution
 - Result Files
 - Provisional Votes
 - RTM Logs
 - SQL Database Files
 - Signature Checking & Sorting Machine
5. Election Settings
 - Ranked Profiles and entire change history Audit Trail logs
 - Ranked Contests and entire change history Audit Trail logs
 - Rejected Ballots Report by Reason Code
6. Accounts and Tokens
 - Username & Passwords (Applications, Operation Systems)
 - Encryption Passwords (Bitlocker, Veracrypt, Etc)
 - Security Tokens (iButton, Yubikey, SmartCard, Etc)
7. Windows Server & Desktop
 - Windows software log
 - Windows event log and Access logs
 - Network logs
 - FTP Transfer Points Log
 - Username & Password
 - Application specific username and password (Election Software, Database Access)
8. Dominion Specific
The Administrator & Audit logs for the EMS Election Event Designer (EED) and EMS Results Tally & Reporting (RTR) Client Applications.

9. Dominion Network

- Identity of everyone accessing the domain name Admin.enr.dominionvoting.com and *.dominionvoting.com domains.
- Windows security log of the server itself that is hosted at Admin.enr.dominionvoting.com.
- Internal admin.enr.dominionvoting.com logs

10. Election Systems & Software (ESS) Specific

The Administrator & Audit logs for the Electionware election management system, Ballot on Demand – BOD printing system, DS200 scanner and tabulator, DS450 scanner and tabulator, DS850 scanner and tabulator, and Voting Systems (ExpressPoll, ExpressVote, ExpressVote XL).

11. Voter Rolls

- Database of Voter Rolls
- Forensic Image of Computer/Device used to work with voter rolls
- Copy of media device used to transfer voter rolls

12. The following records shall be required from the voting system.

Daily and Cumulative Voter Records for those who voted with sufficient definition to determine:

- Voters name and Registered Voting address
- Address to for correspondence
- D.O.B.
- Voter ID number
- How Voted (mail, in-person early, in person Election Day)
- Where Voted (if applicable)
- Date voted (if applicable)
- Party affiliation (if recorded)
- Ballot by mail Request Date
- Ballot by mail sent date
- Ballot by mail voted date (if applicable)
- Ballot cancelled date (if applicable)
- .RAW, HTML, XHTML and SVG files (Ballot Images)

13. Access or control of ALL routers, tabulators or combinations thereof (some routers are inside the tabulator case) in order to garner the system logs. At the same time, the public IP of the router should be obtained.

14. Access to physically and forensically examine date and time-stamped all stored paper ballots as required. Voter Tally Paper Rolls, Test Ballots, Ballot Test Matrix.

15. Access to full detailed absentee votes, provisional votes, mail-in, and election day votes.

ARIZONA SENATE
Senate Judiciary Committee

SUBPOENA

TO: Maricopa County Board of Supervisors

YOU ARE COMMANDED to produce and permit inspection, copying, testing or sampling of the items identified in the attached Exhibit 1 on or before 5:00 p.m. on December 18, 2020 to the Chairman of the Senate Judiciary Committee for inspection, copying, testing or sampling thereafter.

YOU ARE HEREBY NOTIFIED THAT ANY FAILURE TO OBEY THIS SUBPOENA WITHOUT ADEQUATE EXCUSE MAY BE DEEMED CONTEMPT OF THE LEGISLATURE.

SIGNED this 15th day of December, 2020.

Eddie Farnsworth /s/
Eddie Farnsworth, Chairman
Senate Judiciary Committee

President Karen Fann
Karen Fann, President
Arizona State Senate

2020 DEC 15 PM 3:08

CLERK
BOARD OF SUPERVISOR'S
MARICOPA COUNTY

Hand delivered - at 3:08

EXHIBIT 1 – Scanned Ballot Audit

The following electronically stored election information shall be electronically produced from the November 2020 general election as follows:

(1) separately and distinctively each original unique native electronic ballot image cast for all mail-in and absentee ballots which were counted in the November 2020 general election in Maricopa County, Arizona containing the original metadata of the original electronic ballot image with:

- (a) a resolution of at least 300 DPI in TIFF image, and also
- (b) a resolution of at least 300 DPI in PDF image, and also
- (c) a resolution of at least 300 DPI in JPG image.
- (2) from the Dominion electronic election management system, the:
 - a) Dominion Electronic Cast Vote Record
 - b) Ballot Images - Raw Images
 - c) Ballot Images - Ballot Audit and Review
 - d) Vote-by-Mail Ballot Report
 - e) Provisional Ballot Report
 - f) Conditional Voter Registration Ballot Report
 - g) Cast Vote Record (Raw data) - JSON
 - h) ImageCast Central Logs
 - i) Ballot Scanning/Tabulation Machine Logs
 - j) Ballot Scanning/Tabulation Machine Tape
 - k) Ranked-Choice Voting: Board of Supervisors, Final Detailed Report

-These system generated reports should be provided as (a) an XML file, and (b) a JSON file, and also (c) a TXT file.

(3) The native electronic ballot images cast for all mail-in and absentee ballots shall be produced as native original separate electronic ballots and shall not combine ballots into a single file or change the metadata of the original electronic ballot.

(4) The electronically stored information required to be produced herein shall be electronically uploaded to a computer drive supplied by the Senate Judiciary Committee or its agents.

**Exhibit 4 to Plaintiffs'
Statement of Facts**

January 12, 2021 Subpoenas

ARIZONA SENATE

*Fifty-Fifth Arizona Legislature
First Regular Session*

Senate Judiciary Committee

SUBPOENA *DUCES TECUM*

TO: The Maricopa County Board of Supervisors

YOU ARE COMMANDED TO APPEAR at the time, date and place set forth below to provide testimony concerning the items set forth in Exhibit A attached hereto. You must designate one or more of your officers, agents or representatives who consent to testify on your behalf about the same.

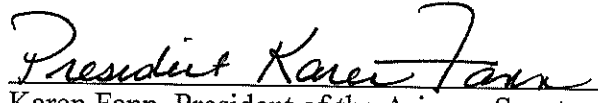
Date & Time: January 13, 2021 at 9:00 a.m.

Place: Arizona Senate
Arizona State Capitol
1700 West Washington Street
Phoenix, Arizona 85007

You or your representative must also produce, and permit inspection, testing or sampling of the items set forth in Exhibit A at the date, time and location set forth above.

**FAILURE TO COMPLY WITH THIS SUBPOENA MAY CONSTITUTE CONTEMPT OF THE
LEGISLATURE, PURSUANT TO A.R.S. § 41-1153**

Executed this 12th day of January, 2021.


Karen Fann, President of the Arizona Senate



Warren Petersen, Chairman
Senate Judiciary Committee

EXHIBIT A

For the November 2020 general election in Maricopa County, Arizona:

1. The ballot tabulation and processing equipment from each polling place and tabulation center.
2. The software for the equipment described above and the election management system used.
3. Hardware and Forensic Images of Election Servers, Desktops, Removable Media (such as thumb drives, USB, memory cards, PCMCIA cards, Compact Flash, CD/DVD etc.) used to transfer ballots to tabulation centers from voting locations and to load software/programming.
4. Election Log Files, in XML, EML, JSON, DVD and XSLT formats, and any other election files and logs for the:
 - Tabulators
 - Result Pair Resolution
 - Result Files
 - Provisional Votes
 - RTMLogs
 - SQL Database Files
 - Signature Checking & Sorting Machine
5. Election Settings
 - Rejected Ballots Report by Reason Code
6. Accounts and Tokens
 - Username & Passwords (Applications, Operation Systems)
 - Encryption Passwords (Bitlocker, Veracrypt, Etc)
 - Security Tokens (iButton, Yubikey, SmartCard, Etc)
7. Windows Server & Desktop
 - Windows software log
 - Windows event log and Access logs
 - Network logs
 - FTP Transfer Points Log
 - Usernames & Passwords
 - Application specific usernames and passwords (Election Software, Database Access)
8. Dominion Equipment
 - The Administrator & Audit logs for the EMS Election Event Designer (EED) and EMS Results Tally & Reporting (RTR) Client Applications.
9. Dominion Network

- Identity of each person accessing the domain name Admin.enr.dominionvoting.com and *. dominionvoting.com domains.
 - Windows security log of the server that is hosted at Admin.enr.dominionvoting.com
 - Internal admin.enr.dominionvoting.com logs
10. Election Systems & Software (ESS) Specific
- The Administrator & Audit logs for the Electionware election management system, Ballot on Demand - BOD printing system, DS200 scanner and tabulator, DS450 scanner and tabulator, DS850 scanner and tabulator, and Voting Systems (ExpressPoll, ExpressVote, ExpressVote XL).
11. Voter rolls
- Database of voter rolls
 - Forensic image of computers/devices used to work with voter rolls
 - Copy of media device used to transfer voter rolls
12. Daily and cumulative voter records for those who voted, with sufficient information to determine for each voter:
- Name and voter registration address;
 - Mailing address
 - Date of birth;
 - Voter ID number;
 - Manner of voting (*e.g.*, early by mail, early in-person, in-person on Election Day)
 - Voting location (if applicable)
 - Date voted
 - Political party affiliation (if applicable);
 - Early ballot request date (if applicable)
 - Early ballot sent date (if applicable)
 - Voted early ballot return or receipt date (if applicable)
 - Ballot canceled date (if applicable)
 - Image of ballot envelope or pollbook entry in .RAW, HTML, XHTML, SVG, or other format
13. Access or control of ALL routers, tabulators or combinations thereof, used in connection with the administration of the 2020 election, and the public IP of the router.
14. Voter Rally Paper Rolls, Test Ballots, Ballot Test Matrix.
15. Access to all original, paper ballots (including but not limited to early ballots, Election Day ballots, and provisional ballots).
16. Each original, unique native electronic image of each early ballot cast, with the original associated metadata (multiple ballot images **may not** be combined into a single file and no metadata associated the original electronic ballot image shall be deleted, removed or altered).

17. Each image of each early ballot cast in (a) TIFF format, (b) PDF format, and (c) JPG format (multiple ballot images **may not** be combined into a single file).

18. From the Dominion electronic election management system, each of the following must be provided as (a) an XML file, (b) a JSON file, and (c) a TXT file:

- Dominion Electronic Cast Vote Record
- Ballot Images – Raw Images
- Ballot Images – Ballot Audit and Review
- Early Ballot Report
- Provisional Ballot Report
- Conditional Voter Registration Ballot Report
- Cast Vote Record (raw data) – JSON
- ImageCast Central Logs
- Ballot Scanning/Tabulation Machine Logs
- Ballot Scanning/Tabulating Machine Tape

Any electronically stored information contained in this Exhibit A shall be electronically uploaded to one or more computer drives supplied by the Senate Judiciary Committee or its agents.

ARIZONA SENATE

*Fifty-Fifth Arizona Legislature
First Regular Session*

Senate Judiciary Committee

SUBPOENA *DUCES TECUM*

TO: Stephen Richer, Maricopa County Recorder

YOU ARE COMMANDED TO APPEAR at the time, date and place set forth below to provide testimony concerning the items set forth in Exhibit A attached hereto. You must designate one or more of your officers, agents or representatives who consent to testify on your behalf about the same.

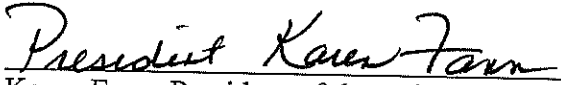
Date & Time: January 13, 2021 at 9:00 a.m.

Place: Arizona Senate
Arizona State Capitol
1700 West Washington Street
Phoenix, Arizona 85007

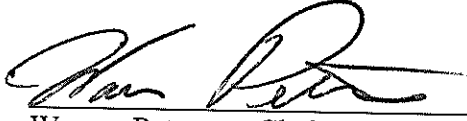
You or your representative must also produce, and permit inspection, testing or sampling of the items set forth in Exhibit A at the date, time and location set forth above.

**FAILURE TO COMPLY WITH THIS SUBPOENA MAY CONSTITUTE CONTEMPT OF THE
LEGISLATURE, PURSUANT TO A.R.S. § 41-1153**

Executed this 12th day of January, 2021.



Karen Fann, President of the Arizona Senate



Warren Petersen, Chairman
Senate Judiciary Committee

EXHIBIT A

For the November 2020 general election in Maricopa County, Arizona:

1. The ballot tabulation and processing equipment from each polling place and tabulation center.
2. The software for the equipment described above and the election management system used.
3. Hardware and Forensic Images of Election Servers, Desktops, Removable Media (such as thumb drives, USB, memory cards, PCMCIA cards, Compact Flash, CD/DVD etc.) used to transfer ballots to tabulation centers from voting locations and to load software/programming.
4. Election Log Files, in XML, EML, JSON, DVD and XSLT formats, and any other election files and logs for the:
 - Tabulators
 - Result Pair Resolution
 - Result Files
 - Provisional Votes
 - RTMLogs
 - SQL Database Files
 - Signature Checking & Sorting Machine
5. Election Settings
 - Rejected Ballots Report by Reason Code
6. Accounts and Tokens
 - Username & Passwords (Applications, Operation Systems)
 - Encryption Passwords (Bitlocker, Veracrypt, Etc)
 - Security Tokens (iButton, Yubikey, SmartCard, Etc)
7. Windows Server & Desktop
 - Windows software log
 - Windows event log and Access logs
 - Network logs
 - FTP Transfer Points Log
 - Usernames & Passwords
 - Application specific usernames and passwords (Election Software, Database Access)
8. Dominion Equipment
 - The Administrator & Audit logs for the EMS Election Event Designer (EED) and EMS Results Tally & Reporting (RTR) Client Applications.
9. Dominion Network

- Identity of each person accessing the domain name Admin.enr.dominionvoting.com and *. dominionvoting.com domains.
 - Windows security log of the server that is hosted at Admin.enr.dominionvoting.com
 - Internal admin.enr.dominionvoting.com logs
10. Election Systems & Software (ESS) Specific
- The Administrator & Audit logs for the Electionware election management system, Ballot on Demand - BOD printing system, DS200 scanner and tabulator, DS450 scanner and tabulator, DS850 scanner and tabulator, and Voting Systems (ExpressPoll, ExpressVote, ExpressVote XL).
11. Voter rolls
- Database of voter rolls
 - Forensic image of computers/devices used to work with voter rolls
 - Copy of media device used to transfer voter rolls
12. Daily and cumulative voter records for those who voted, with sufficient information to determine for each voter:
- Name and voter registration address;
 - Mailing address
 - Date of birth;
 - Voter ID number;
 - Manner of voting (*e.g.*, early by mail, early in-person, in-person on Election Day)
 - Voting location (if applicable)
 - Date voted
 - Political party affiliation (if applicable);
 - Early ballot request date (if applicable)
 - Early ballot sent date (if applicable)
 - Voted early ballot return or receipt date (if applicable)
 - Ballot canceled date (if applicable)
 - Image of ballot envelope or pollbook entry in .RAW, HTML, XHTML, SVG, or other format
13. Access or control of ALL routers, tabulators or combinations thereof, used in connection with the administration of the 2020 election, and the public IP of the router.
14. Voter Rally Paper Rolls, Test Ballots, Ballot Test Matrix.
15. Access to all original, paper ballots (including but not limited to early ballots, Election Day ballots, and provisional ballots).
16. Each original, unique native electronic image of each early ballot cast, with the original associated metadata (multiple ballot images **may not** be combined into a single file and no metadata associated the original electronic ballot image shall be deleted, removed or altered).

17. Each image of each early ballot cast in (a) TIFF format, (b) PDF format, and (c) JPG format (multiple ballot images **may not** be combined into a single file).

18. From the Dominion electronic election management system, each of the following must be provided as (a) an XML file, (b) a JSON file, and (c) a TXT file:

- Dominion Electronic Cast Vote Record
- Ballot Images – Raw Images
- Ballot Images – Ballot Audit and Review
- Early Ballot Report
- Provisional Ballot Report
- Conditional Voter Registration Ballot Report
- Cast Vote Record (raw data) – JSON
- ImageCast Central Logs
- Ballot Scanning/Tabulation Machine Logs
- Ballot Scanning/Tabulating Machine Tape

Any electronically stored information contained in this Exhibit A shall be electronically uploaded to one or more computer drives supplied by the Senate Judiciary Committee or its agents.

ARIZONA SENATE

*Fifty-Fifth Arizona Legislature
First Regular Session*

Senate Judiciary Committee

SUBPOENA DUCES TECUM

TO: John M. Allen, Maricopa County Treasurer

YOU ARE COMMANDED TO APPEAR at the time, date and place set forth below to provide testimony concerning the items set forth in Exhibit A attached hereto. You must designate one or more of your officers, agents or representatives who consent to testify on your behalf about the same.

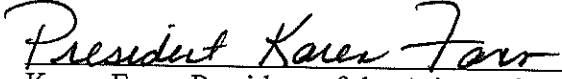
Date & Time: January 13, 2021 at 9:00 a.m.

Place: Arizona Senate
Arizona State Capitol
1700 West Washington Street
Phoenix, Arizona 85007

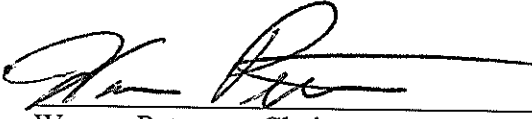
You or your representative must also produce, and permit inspection, testing or sampling of the items set forth in Exhibit A at the date, time and location set forth above.

**FAILURE TO COMPLY WITH THIS SUBPOENA MAY CONSTITUTE CONTEMPT OF THE
LEGISLATURE, PURSUANT TO A.R.S. § 41-1153**

Executed this 12th day of January, 2021.



Karen Fann, President of the Arizona Senate



Warren Petersen, Chairman
Senate Judiciary Committee

EXHIBIT A

For the November 2020 general election in Maricopa County, Arizona:

1. All ballots (including but not limited to early ballots, Election Day ballots, and provisional ballots).
2. Each original, unique native electronic image of each early ballot cast, with the original associated metadata (multiple ballot images **may not** be combined into a single file and no metadata associated the original electronic ballot image shall be deleted, removed or altered).
3. Each image of each early ballot cast in (a) TIFF format, (b) PDF format, and (c) JPG format (multiple ballot images **may not** be combined into a single file).

Any electronically stored information contained in this Exhibit A shall be electronically uploaded to one or more computer drives supplied by the Senate Judiciary Committee or its agents.

Exhibit 5 to Plaintiffs’ Statement of Facts

**Jen Fifield, Arizona Republic, “Maricopa County
is preparing for a new audit of election results.
Here’s how it might go”**

ELECTIONS

Maricopa County is preparing for a new audit of election results. Here's how it might go

Jen Fifield Arizona Republic

Published 11:58 a.m. MT Jan. 20, 2021 | Updated 6:09 p.m. MT Jan. 20, 2021

The Maricopa County Board of Supervisors is preparing to release election material to the Arizona Senate in response to its subpoenas, so that the Senate can perform an audit.

The supervisors said in a statement on Wednesday that they continue to negotiate with the Senate on how to respond to the subpoenas, while Senate President Karen Fann put out a statement on Wednesday that said the Senate and supervisors had come to an agreement.

The announcement of a potential agreement comes the day President Joe Biden was inaugurated and as a legal battle between the supervisors and Senate has lasted more than a month.

A list provided by Senate Republicans shows what could be included in the agreement, including, but not limited to:

The county will provide images of ballots.

An audit will be performed including a logic and accuracy test on a random sample of tabulation machines and a review of the source code on a random sample of tabulation machines.

The audit will only examine material related to the "2020 election."

The auditor will be certified by the U.S. Election Assistance Commission and will have access to a "random sample of desktops, servers, and routers" in a way that wouldn't disrupt county operations.

Only authorized parties would have access to data or materials provided by the county. The parties will "work together in good faith" to resolve issues arising during the audit.

The supervisors declined to confirm the terms of the potential agreement.

The Senate first issued two subpoenas to the supervisors on Dec. 15 after repeatedly calling on them to complete an additional independent audit of general election results, even though the routine audit the county conducted went flawlessly and challenges to the outcome alleging irregularities and fraud failed in court.

The subpoenas gave the supervisors three days to respond and produce a voluminous amount of material from the general election, including images of all mail-in ballots, detailed voter information and machines used to count votes.

Instead of responding, the supervisors sued to stop the subpoenas, saying, in part, that state law prohibits the county from turning over copies of ballots and arguing the Senate was overreaching its powers. The supervisors asked the court to decide whether they had to respond.

Potential agreement reached regarding subpoenas

More recently, though, Supervisors Chairman Jack Sellers authorized attorneys to negotiate with the Senate, according to county spokesperson Fields Moseley.

Once there is a final plan, the board will vote on it, Moseley said.

In a letter to state Sen. Paul Boyer, Supervisor Bill Gates said that the supervisors, "stand ready to work with the Arizona Senate to provide additional documents and material responsive to the January subpoena."

"In these challenging times, we believe that we can best represent our shared constituents by working together to determine how our state's election system can be further improved to ensure that every valid vote is counted," Gates wrote.

Senate Republicans consider the negotiations complete.

"I am pleased to announce that after a hard-fought battle to seek information on behalf of Arizona voters regarding the integrity of the 2020 election, we have reached a favorable agreement with the Maricopa County Board of Supervisors," Fann wrote in her statement on Wednesday. "Not only has the Board agreed to turn over all the relevant information we sought in our subpoenas so that we may perform an audit, but they also acknowledge that the Legislature is a sovereign power of the state and that the county is a political subdivision, and as such, the Legislature has the constitutional and statutory authority to issue subpoenas."

On Jan. 19, Sellers wrote a letter to Fann acknowledging that the county "holds none of the sovereign power in the state," and that each legislative body "has power to issue legislative subpoenas by statute and as provided by the Constitution."

His letter seems to adhere to another one of the terms of the potential agreement with the county that states, "The County will acknowledge the legislature's authority to issue investigatory subpoenas."

Judge had asked county, Senate to come to agreement

The supervisors, four Republicans and one Democrat, help oversee general elections in the county and are responsible for certifying election results. The supervisors voted on Nov. 20 to certify the results of November's elections, after spending hours asking county officials questions about the integrity of the election results.

Since the subpoenas were issued, Maricopa County Superior Court judges have considered the intent of the subpoenas, in part to determine whether the Senate had power to issue them.

County attorneys have argued that the subpoenas were a last-ditch attempt to try to overturn the results of the election, in which Arizona voted to elect President Joe Biden, to which Superior Court Judge Timothy Thomason said last week, "that ship has clearly sailed."

Senate attorneys argued that the subpoenas were intended to give the lawmakers access to election materials that will be important as they consider whether to pass new election-related laws.

Attorney General Mark Brnovich weighed in, telling the court in a brief that the Senate had the authority to issue the subpoenas.

Brnovich wrote that the supervisors misunderstood the scope of the Legislature's sweeping authority to issue and enforce subpoenas. The brief contends the county's position is "inconsistent with constitutional structure, governmental tradition and practice, the plain meaning of an Arizona statute, and binding Arizona Supreme Court case law."

At a court hearing last week, though, Thomason said that the subpoenas were now moot, because the Legislature that issued the subpoenas adjourned and a new Legislature has convened.

Perhaps understanding that this could become an issue, the Senate issued a new subpoena a day before that court hearing, with the same demands.

A county attorney urged Thomason to wait to see how the county responded to the new request, saying that he was “fully confident” that the county could work with the Legislature on the request.

Thomason did not make a decision on the case and instead told the lawyers that the county and the Legislature should come to a solution outside of court.

“I do wonder why the senators and county officials can’t sit down and work this out,” he said. “It just seems, as responsible government officials, it is incumbent upon them to sit down and work this out.”

A court hearing scheduled for Wednesday morning was vacated.

Arizona Republic reporters Andrew Oxford and Maria Polletta contributed to this article.

Reach the reporter at jen.fifield@azcentral.com or at 602-444-8763. Follow her on Twitter @JenAFifield.

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**Exhibit 6 to Plaintiffs'
Statement of Facts**

SR 1005

REFERENCE TITLE: Maricopa county; supervisors; contempt declaration

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SR 1005

Introduced by

Senators Fann: Barto, Borrelli, Boyer, Gowan, Gray, Kerr, Leach,
Livingston, Mesnard, Pace, Petersen, Rogers, Shope, Townsend, Ugenti-Rita
(with permission of Committee on Rules)

A RESOLUTION

DECLARING THE MEMBERS OF THE MARICOPA COUNTY BOARD OF SUPERVISORS IN
CONTEMPT OF THE ARIZONA SENATE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the Senate of the State of Arizona:

2 1. That Jack Sellers, Steve Chucri, Bill Gates, Clint Hickman and
3 Steve Gallardo, members of the Maricopa County Board of Supervisors, are
4 in contempt of the Arizona Senate for failing to comply with a subpoena
5 executed by the President of the Arizona Senate and the chairman of the
6 Senate Judiciary Committee relating to the November 2020 general election
7 in Maricopa County.

8 2. That the members of the Maricopa County Board of Supervisors
9 have not complied with the subpoenas issued on December 1, 2020 and
10 January 12, 2021 and have repeatedly and wilfully delayed and obstructed a
11 vital and duly authorized investigation by the Arizona Senate.

12 3. That the President of the Arizona Senate take all legal action
13 pursuant to section 41-1153, Arizona Revised Statutes, to enforce the
14 subpoena.

15 4. That a copy of this Resolution, signed by the President of the
16 Senate and countersigned by the Secretary of the Senate, be forwarded to
17 the Senate Sergeant-at-arms.

**Exhibit 7 to Plaintiffs'
Statement of Facts**

Floor Vote Tr. (Feb. 8, 2021)

In The Matter Of:

*ARIZONA STATE SENATE - FIFTY-FIFTH LEGISLATURE
FIRST REGULAR SESSION - COMMITTEE ON RULES*

REPORTER'S TRANSCRIPT OF PROCEEDINGS

February 8, 2021

(Transcribed from Audio Recording)



**G R I F F I N G R O U P
I N T E R N A T I O N A L**

3200 East Camelback Road, Suite 177
Phoenix, Arizona 85018

Original File SS020821.txt

Min-U-Script® with Word Index

(Transcribed from Audio Recording)

ARIZONA STATE SENATE
FIFTY-FIFTH LEGISLATURE - FIRST REGULAR SESSION
COMMITTEE ON RULES

REPORTER'S TRANSCRIPT OF PROCEEDINGS

(Transcribed from Audio Recording)

February 8, 2021

PREPARED BY:
Debra Riggs Torres, RPR
Certified Reporter
Certificate No. 50647

PREPARED FOR:
Ms. Christine B. Stutz

(Certified Copy)

1 (Beginning of audio.)

2 CHAIRMAN FANN: Okay. The Senate will
3 please come to order. If you all please stand for prayer
4 by Senator Gabaldon. Remain standing for the Pledge of
5 Allegiance to the flag, which will be led by Senator
6 Navarette. Senator Gabaldon will be doing this via Zoom.

7 SEN. GABALDON: Let us pray. Only you, my
8 God, know the time I have left. Perhaps this breath is my
9 last. Maybe I've shared with him a final kiss. For the
10 last time I may have spoken with my children. Perhaps
11 never again will I watch the sun turn red or feel the
12 touch of love or breathe the scent of evergreen.

13 Can I fear death, Lord. Can I hold regrets?
14 Is there something more I can ask in life? Everything,
15 no, more than everything has been mine. This man, these
16 children who call me mother, and those who have taught me,
17 those who have learned from me and always and ever your
18 love. If I knew I only had one more day, what would I
19 choose to do? How would I fill that 24 hours? Would I go
20 to them and tell them of my love? Would I come to you to
21 beg for forgiveness? Would I curse the moments lost or
22 protest the work undone?

23 Dear Lord, if I have lived, really lived the
24 days you've given me, they know of my love. And if I've
25 answered your call, your forgiveness is always with me.

1 No moments will have been lost, no work left undone.
2 Guide my hands, Jesus. Fill my moments with you. Then it
3 makes no difference, a year, a day, a moment, I'll be
4 ready with everything completed. No last-minute
5 preparations and no regrets.

6 Dear Lord, I pray that we live with no
7 regrets. Dear Lord, I pray that we achieve acceptance and
8 detach with love. Dear Lord, I pray you embrace us with
9 your everlasting warmth. I ask this in your beautiful
10 name. Amen.

11 CHAIRMAN FANN: Senator Otondo, can you
12 please do the pledge for us?

13 SEN. OTONDO: Yes, Madam President. Please
14 join me in the pledge to our great flag.

15 I pledge allegiance ...

16 CHAIRMAN FANN: Thank you.

17 Attendance will now be recorded by
18 electronic roll call.

19 For those on Zoom, Senator Gabaldon, are you
20 here?

21 SEN. GABALDON: Present.

22 CHAIRMAN FANN: Senator Otondo, are you
23 here?

24 SEN. OTONDO: Present, Madam President.

25 CHAIRMAN FANN: Thank you.

1 Senator Townsend, are you here?

2 SEN. TOWNSEND: Present.

3 CHAIRMAN FANN: Thank you, ma'am.

4 Okay. We have 30 present, zero absent, zero
5 excused. Without objection, the reading of the journal of
6 Thursday, February 4, 2021, is dispensed with and approved
7 as recorded by the secretary.

8 Introduction of guests or announcements.

9 Okay. Thank you very much. I see no one on
10 the board. Moving on.

11 Business on the President's desk,
12 communications -- thank you. Senator Rios.

13 SEN. RIOS: Madam President, I move to
14 suspend Senate Rule 15(A) for the purpose of debating
15 Senate Resolution 1005 during voting on third read, and I
16 request a roll call vote.

17 CHAIRMAN FANN: Senator --

18 UNIDENTIFIED SPEAKER: And I second that
19 motion.

20 CHAIRMAN FANN: Thank you.

21 Senator Petersen?

22 Wait a minute. I need him to be on.

23 SEN. PETERSEN: I make it -- Madam
24 President, I make a substitute motion to lay that motion
25 on the table.

1 CHAIRMAN FANN: Okay. Suspension of rules
2 is not debatable, and it is -- and a roll call vote has
3 been ordered. So we will do a roll call vote, and the
4 roll call vote...

5 All right. Thank you. Rule 15(A) states
6 that -- that that motion is out of order, so therefore it
7 will not be heard.

8 SEN. RIOS: Madam President, I appeal the
9 ruling of the Chair and request a roll call vote.

10 CHAIRMAN FANN: Right. So -- right.

11 So -- so the motion is now on the Chair's
12 ruling that she is out of order on the appeal. So the
13 question is, is shall the ruling of the President stand
14 and the judgment of -- and -- of the judgment of the
15 Senate, and it is a roll call vote.

16 She recalled a roll call -- she did request
17 a roll call vote.

18 UNIDENTIFIED SPEAKER: And I second the -- I
19 second the --

20 CHAIRMAN FANN: Thank --

21 UNIDENTIFIED SPEAKER: -- Ms. Rios's motion.

22 CHAIRMAN FANN: Thank you very much.

23 So we have a roll call vote on whether the
24 Chairman's ruling stands. Get the board open.

25 Clear about that. So the -- an aye vote

1 would back up the Chair's ruling, that you support the
2 Chair's ruling. A no vote is that you would overrule the
3 Chair on this one.

4 The board is now open. The Senate will now
5 proceed to vote.

6 Now it's open.

7 I'm going to go to those on Zoom. Senator
8 Gabaldon, how do you vote?

9 SEN. GABALDON: This is Senator Gabaldon. I
10 vote no on the ruling of the President.

11 CHAIRMAN FANN: Thank you.

12 The secretary will now record a no vote for
13 Senator Gabaldon on -- we're going to call it MIS005.

14 Senator Otondo, how do you vote?

15 SEN. OTONDO: Senator Otondo votes no.

16 CHAIRMAN FANN: Senator Otondo, the
17 secretary will record her vote as a no on MIS005.

18 Senator Townsend, how do you vote?

19 SEN. TOWNSEND: Senator Kelly Townsend
20 voting aye on MIS005.

21 CHAIRMAN FANN: Thank you.

22 Secretary will record an aye vote for
23 Senator Townsend on MIS005.

24 Senator Rios?

25 SEN. RIOS: Thank you, Madam President.

1 Permission to explain my vote.

2 CHAIRMAN FANN: Please proceed.

3 SEN. RIOS: Just for clarification, the
4 reason that I have requested to suspend Senate Rule 15(A)
5 is simply because by waiving the rules last week with
6 regard to Senate Bill Resolution 1005, we essentially
7 bypassed our usual process. We provided no opportunity
8 for folks to have a meaningful discussion or debate. It
9 never went to committee.

10 And so we truly don't know all the
11 ramifications of the resolution should it go into effect.
12 I think there's -- it calls into question the integrity of
13 the subpoena.

14 And so for those reasons, that is why I -- I
15 move to suspend and oppose the Chair's ruling. Thank you.

16 CHAIRMAN FANN: Thank you.

17 By a vote of 16 ayes and 14 nays, you have
18 passed to support the Chairman's ruling on MIS005.

19 Now, let's now move on to business on the
20 President's desk. Communications from the Governor.
21 Without objection, communications from the Governor, as
22 listed on the calendar, will not be read and entered into
23 the journal. The secretary will record the action.

24 Messages from the House. Will the reader
25 please read the message.

1 THE READER: Dear President Fann, today the
2 House of Representatives passed HB2027 and conveyed the
3 bill to the Senate. Representative Athena Salman wished
4 to change her vote, and she made a motion to reconsider
5 the bill. Her motion passed.

6 I've been directed to ask for the return of
7 the measure so that the House can vote it one more time.
8 Thank you for considering this request.

9 Signed, Jim Drake.

10 CHAIRMAN FANN: Thank you. Without
11 objection, at the request of the House of the
12 Representatives, House Bill 2027 is returned to the House
13 of Representatives for the purpose of reconsideration.

14 Secretary, please record that action and
15 notify the House.

16 Messages from the House without objection.
17 Messages from the House, as listed on the calendar, will
18 not be read. The messages will be entered into the
19 journal, and the Senate Bills 1013, 1015, 1054, 1141,
20 1149, 1274, and 1462 are hereby transmitted to the
21 Governor.

22 Messages from the House without objection.
23 Messages from the House, as listed on the calendar, will
24 not be read. The messages will be entered into the
25 journal and the bills placed under introduction and first

1 reading of bills.

2 Second reading of bills.

3 THE READER: SB1307 water; wastewater
4 system; county operation.

5 SB1623 students; unpaid school meal fees.

6 SB1624 repeal; results-based funding;
7 schools; appropriation.

8 SB1625 special education; cost studies.

9 CHAIRMAN FANN: Thank you.

10 Reports of standing committees. Without
11 objections, reports of standing committees, as listed on
12 the calendar, will not be read. The reports will be
13 entered into the journal, and the secretary will record
14 the action.

15 Senate will revert to the order of business.
16 Introduction and first reading of bills. Introduction and
17 first reading of bills.

18 THE READER: HB2012 unauthorized racing
19 meetings; penalties; racketeering.

20 HB2028 treasurer; investment of trust funds.

21 HB2402 schools; test results; letter for
22 clarification.

23 CHAIRMAN FANN: Thank you.

24 Senator Gray, please make the motion to
25 substitute.

1 SEN. GRAY: Madam President, I move that
2 House Bills 12 -- 2012, 2028, and 2402, which were first
3 read, be substituted for Senate Bills 1239, 1216, and
4 1178, which are identical, and be placed under the order
5 of business, third reading of bills.

6 CHAIRMAN FANN: Thank you.

7 Members, you have all heard that motion.
8 All those in favor indicate by saying aye.

9 MULTIPLE SPEAKERS: Aye.

10 CHAIRMAN FANN: Any opposed, nay.

11 Appears the ayes have it, do have it, so
12 ordered. Placed under third reading of bills.

13 Third reading of bills.

14 THE READER: Senate Bill 1011, an act to
15 establish a maternal mental health advisory committee.

16 CHAIRMAN FANN: Thank you.

17 Members, you have all heard the third
18 reading of Senate Bill 11 -- I'm sorry -- 1011. Those in
19 favor of the measure please vote by saying aye or vote --
20 aye and those opposed vote no.

21 The system is now open and the Senate will
22 now proceed to vote.

23 Okay. Senator Gabaldon, how do you vote on
24 Senate Bill 1011?

25 SEN. GABALDON: This is Senator Gabaldon. I

1 vote aye on SB1011.

2 CHAIRMAN FANN: Thank you.

3 The secretary will record an aye vote for
4 Senator Gabaldon on Senate Bill 1011.

5 Senator Otondo?

6 SEN. OTONDO: Senator Otondo votes aye on
7 SB1011.

8 CHAIRMAN FANN: Thank you.

9 Secretary will record an aye vote for
10 Senator Otondo on Senate Bill 1011.

11 Senator Townsend, how do you vote?

12 SEN. TOWNSEND: Senator Kelly Townsend
13 voting aye on Senate Bill 1011.

14 CHAIRMAN FANN: Thank you.

15 Secretary will record an aye vote for
16 Senator Townsend on Senate Bill 1011.

17 Okay. System is now closed. Secretary will
18 now record the vote.

19 By a vote of 30 ayes, zero nays, zero not
20 voting, you have passed Senate Bill 1011, signed in open
21 session. Secretary is instructed to record the action,
22 transmit the House -- the bill to the House.

23 Third reading of bills.

24 THE READER: Senate Bill 1022, an act
25 omitting Sections 36-301, 36-326, 36-329, and 36-2152,

1 Arizona Revised Statutes, relating to public health.

2 CHAIRMAN FANN: Thank you.

3 Members, you've heard the third reading of
4 Senate Bill 1022. Those in favor of the measure vote aye.
5 Those opposed vote no.

6 System is now open. Senate will now proceed
7 to vote.

8 Okay. Senator Gabaldon, how do you vote on
9 Senate Bill 1022?

10 SEN. GABALDON: I'm sorry. Madam President,
11 may I explain my vote?

12 CHAIRMAN FANN: Proceed.

13 Members, can -- can you all be quiet? I
14 have somebody that wants to explain their vote, and I
15 can't hear.

16 Go ahead, Senator Gabaldon.

17 SEN. GABALDON: Thank you very much.

18 You know, this -- when this bill was heard
19 in -- in Health and Human Services, I -- I had to say that
20 it was -- it was very disheartening, and I felt very sad.

21 I believe that this bill is unnecessary, and
22 that a woman -- she can make her own medical decisions.
23 And -- and I hope one day I can see Arizona allow her to
24 make those decisions, along with her family and her
25 doctor.

1 This is Senator Gabaldon. I vote no on
2 SB -- is it -- oh, 1022. My apologies.

3 CHAIRMAN FANN: Thank you, ma'am. Got you
4 covered.

5 The secretary will record a no vote for
6 Senator Gabaldon on Senate Bill 1022.

7 Senator Otondo, how do you vote?

8 SEN. OTONDO: Senator Otondo votes no on
9 SB1022.

10 CHAIRMAN FANN: Thank you.

11 Secretary will record a no vote for Senator
12 Otondo on Senate Bill 1022.

13 Senator Townsend?

14 SEN. TOWNSEND: Madam President, permission
15 to explain my vote?

16 CHAIRMAN FANN: Proceed.

17 SEN. TOWNSEND: Thank you.

18 Yes, I -- I'm happy that this bill has made
19 it this far. And I have testified in committee and
20 in -- in COW, that we are trying to restore the dignity of
21 how we refer to an unborn human being in our statute.

22 I had a message from someone, who I won't
23 name, but she had had a miscarriage, and she was thanking
24 me because she didn't like the fact that her child that
25 she lost was referred to as a product of conception.

1 And, honestly, I hadn't thought of it. And
2 she's right. I didn't realize that referring to a child
3 in that way might be painful to a mother who has lost
4 their child.

5 And then, finally, I -- I did some research
6 since we were talking about whether this is scientific
7 language or not. And I just went to our PubMed, which is
8 a database that the public can reach, government database
9 of scientific studies having to do with medicine. And I
10 just typed in unborn child. And I got study after study
11 after study referring to -- referring to the child as an
12 unborn child.

13 So it is absolutely scientific language. So
14 I don't think that I was persuaded that this is somehow
15 not scientific language and somehow political. So I'm
16 happy it's gotten this far. I thank everyone who has
17 supported it along the way. And I would encourage those
18 who disagree to really think about this is not about
19 hurting anybody. This is not about trying to be
20 political. This is just restoring a little dignity to the
21 human race.

22 And with that this is Senator Kelly Townsend
23 voting aye on Senate Bill 1022.

24 CHAIRMAN FANN: Thank you.

25 Secretary will record an aye vote for

1 Senator Townsend on Senate Bill 1022.

2 Senator Navarrete, you are on the board.

3 SEN. NAVARRETE: Thank you, Madam President.

4 I rise to explain my vote.

5 CHAIRMAN FANN: Proceed.

6 SEN. NAVARRETE: Madam President, I rise in
7 strong opposition, and I will be voting no on this bill.
8 What this bill does is real -- is provide shaming language
9 to providers and individuals that are seeking abortion
10 care.

11 And, again, as I mentioned during committee,
12 and also during Committee of the Whole here with this
13 body, was the fact that this language is not medical
14 language that is used under this statute -- under the
15 statute. And I think it's important for us, especially
16 when we're talking about medical issues and -- that we
17 keep it medically appropriate and accurate. And that is
18 why I am rising in -- in strong opposition and will be
19 voting no today on SB1022.

20 CHAIRMAN FANN: Thank you, sir.

21 Members, have you all voted?

22 Members, have you all voted?

23 Thank you.

24 System is now closed. Secretary will now
25 record the vote. By a vote of 16 ayes, 14 nays, and zero

1 not voting, you have passed Senate Bill 1022, signed in
2 open session.

3 Secretary is instructed to record the
4 action, transmit the bill to the House.

5 Third reading of bills.

6 THE READER: Senate Resolution 1005, a
7 resolution declaring the members of the Maricopa County
8 Board of Supervisors in contempt of the Arizona Senate.

9 CHAIRMAN FANN: Thank you.

10 Members, you've all heard the third reading
11 of Senate Resolution 1005. Those in favor of the measure
12 vote aye. Those opposed will vote no. The system is now
13 open and the Senate will now proceed to vote.

14 Senator Gabaldon, how do you vote on SR1005?

15 SEN. GABALDON: This is Senator Gabaldon. I
16 vote no on SR1005.

17 CHAIRMAN FANN: Thank you, ma'am.

18 Secretary will record a no vote for Senator
19 Gabaldon on SR1005.

20 Senator Otondo, how do you vote?

21 SEN. OTONDO: Senator Otondo votes no on
22 SR1005.

23 CHAIRMAN FANN: Thank you.

24 Secretary will record a no vote for Senator
25 Otondo on SR1005.

1 Senator Townsend, how do you vote?

2 SEN. TOWNSEND: Madam President, is it
3 possible for me to pass momentarily and come back to me?

4 CHAIRMAN FANN: You're going to pass on your
5 vote? Did I hear that correctly, Senator?

6 SEN. TOWNSEND: Yes --

7 CHAIRMAN FANN: All right.

8 SEN. TOWNSEND: -- Madam President.

9 CHAIRMAN FANN: We will pass on Townsend and
10 come back to her. Thank you very much.

11 Senator Boyer, you're on the board.

12 SEN. BOYER: Thank you, Madam President.
13 Permission to explain my vote.

14 CHAIRMAN FANN: Please do.

15 SEN. BOYER: Thank you, Madam President.

16 Members, I've thought about this bill all
17 weekend. I went down on a missions trip in Mexico this
18 weekend, and so it gave me a lot of thought to think about
19 this, how I was going to vote.

20 I went into it, I thought I knew how I was
21 going to vote. And, Members, in our -- my caucus, I mean,
22 you know what I brought up in -- in caucus last week.
23 I've always said so long as there's hope for both sides to
24 work with one another, that I want to do all I can in my
25 limited power to have us work amicably together.

1 Members, we still have time to work on this.
2 My no vote today will give the board time to resolve
3 itself on how to legally proceed with providing these
4 public records for independent sunshine and scrutiny while
5 also providing a hundred percent protection for the
6 private nature of an individual's votes.

7 This is Arizona. We know how to walk and
8 chew gum at the same time. I've heard from both sides,
9 there's been mistrust on the other side's respective
10 motives, whether it's been due to media interviews,
11 whether it's press releases or social media posts, which
12 is why it's critical that we, the State Senate and the
13 County Board of Supervisors, find a way to amicably work
14 together and address the concerns of both sides.

15 No elected official, whether at the county
16 board level or at the state legislative level, should have
17 to have a police presence outside of their personal homes
18 due to a sincere policy disagreement, whether that's the
19 Speaker, whether that's individual County Board of
20 Supervisors.

21 Members, I believe the board genuinely seeks
22 the confidence and clarity from a court order to legally
23 proceed. They seek to obtain it, and we seek that they
24 get that legal confidence post haste.

25 Overall, I believe the Maricopa County Board

1 of Supervisors has no policy disagreement with additional
2 audits of the last election. And, ultimately, that is
3 exactly what should happen. An abundance of oversight and
4 review of government is precisely the job of this senate.
5 It will happen where all parties have a legal confidence.
6 It should happen without contempt charges, and the legal
7 process to proceed is underway.

8 Arizona citizens demand confidence, clarity,
9 and transparency in our election system. Audits provide
10 more confidence, more sunshine. The Arizona Senate
11 demands that those voter expectations are met. And it's
12 my opinion that the subpoena power that we have is clearly
13 both a broad and effective tool to provide accountability
14 to our citizens. It's used sparingly and reluctantly for
15 an important reason. Measured restraint is a virtue.

16 Subpoenas to legislative committees are
17 about providing the public transparent conversation in
18 front of our citizens. That authority is clear, and it
19 will be used, if necessary. Lawmakers should be praised,
20 not condemned, for passionately protecting the will of the
21 voters. It's noble and it's righteous.

22 Make no mistake, today's vote merely
23 provides a little bit more time for us to work together
24 charitably and amicably as friends for the sole purpose of
25 gaining more clarity. This is not a final determination

1 nor is this the end of the process.

2 Members, my vote today is about prayerful
3 patience. It's about resolving disagreements civilly.
4 And these are things that I believe all of the senators
5 can agree upon regardless of our respective votes today.

6 Madam President, with that I vote no.

7 CHAIRMAN FANN: Thank you.

8 Senator Petersen?

9 SEN. PETERSEN: Thank you, Madam President.
10 I rise to explain my vote.

11 CHAIRMAN FANN: Proceed.

12 SEN. PETERSEN: Thank you, Madam President.

13 When it comes to obstruction, lies, and
14 deception, the Maricopa County Board gets an A plus. I
15 want to address four false claims that are either
16 willfully or ignorantly being spread.

17 The first one is one we just heard,
18 unfortunately from my colleague here, that the county
19 wants to work with us. That is absolutely not true.

20 The Maricopa County's recent lawsuit lacks
21 merit. It repeatedly contradicts the County's previous
22 legal positions and misleads the court on material factual
23 issues. After seven weeks of delay, the latest lawsuit, a
24 lawsuit asks -- trying to get a judge to tell us we can't
25 vote is another attempt to postpone compliance with the

1 Senate's investigation.

2 Consider Maricopa County's shifting legal
3 positions which change to match their evolving political
4 concerns. First of all, they argued jurisdiction. The
5 County claimed that the court has jurisdiction to consider
6 the legality of legislative subpoenas. That was on
7 December 18th.

8 Then the County argued that the court lacked
9 jurisdiction to consider the legality of legislative
10 subpoenas. That was on the 23rd.

11 Now the County conveniently readopts the
12 view that the court has jurisdiction to consider the
13 legality of subpoenas. That's their complaint from
14 February 5th.

15 But once we started moving forward with
16 contempt, suddenly their -- their position keeps
17 flip-flopping.

18 Legislative purpose. First the County
19 denied that the Senate subpoenas had a valid legislative
20 purpose. That was on January 8th.

21 Then the County admitted the validity of the
22 Senate's legislative purpose. That was a letter from
23 Maricopa County to the Senate on January 15th.

24 Now the County reasserts its denial of a
25 valid legislative purpose. That's from the complaint on

1 February 5th.

2 Ballot images. First the County claimed
3 that Arizona law prohibited from producing ballot images
4 to the Senate's auditors. That was on December 18th.

5 Then the County agreed to produce ballot
6 images. That was part of our settlement agreement.

7 Now the County, again, claims it is legally
8 prohibited from producing ballot images.

9 Okay. Reissuance of new subpoenas. First
10 the County argued that the December subpoenas would not
11 survive the investiture of the new Arizona legislature.
12 That was on a motion to dismiss on January 8th.

13 To address this concern, the Senate
14 expressly and unequivocally stated that it would reissue
15 the subpoenas when the new legislature was seated. That
16 was in our counterclaim.

17 After the Senate fulfilled that promise, the
18 County now cries foul again suggesting falsely that the
19 County did not receive adequate notice of the subpoena.

20 Personal witnesses. Let's talk about that.
21 The County claims that its witnesses appeared as requested
22 by the Senate, but that the Senate was unprepared for his
23 attendance. That is a pure fabrication designed to
24 mislead the court and the public.

25 In truth, legal counsel for both sides

1 discussed the issue and agreed that the in-person
2 attendance by the County on January 13th was unnecessary
3 in light of the pending litigation concerning the validity
4 of subpoenas. Counsel for the Senate specifically asked
5 whether the County intended to appear in person as a PR
6 stunt. Counsel for the County reassured counsel for the
7 Senate that was not their intention.

8 County representatives, nevertheless,
9 appeared at the Senate the following morning with a
10 reporter and camera in tow. When asked why they had
11 reneged on their previous agreement, counsel for the
12 County described it as a miscommunication, quote, between
13 County personnel.

14 Now the County intentionally misrepresents
15 the incident as an obvious setup by the Senate.

16 Let's talk about availability of political
17 remedies. First the County adopted an exceedingly clear
18 view of the Senate's right to hold the Board of
19 Supervisors in contempt. This is their motion right here.
20 Quote, Here petitioners have a plain, speedy, and adequate
21 remedy at law. This is the County talking. Arizona law
22 provides that the remedy for contempt of a legislative
23 subpoena is with the house of the legislature that issued
24 the subpoena, A.R.S. 41-1151.

25 It is plain, speedy, and adequate. It is

1 plain because the method of the enforcement is spelled out
2 in the statute. It is speedy. They need only vote on a
3 resolution. That's it. Vote on a resolution.

4 And by the way, folks, we waive resolutions
5 all the time. Why? Because they're just resolutions.
6 They're procedural things. They're postcards.

7 It is the plain -- it is plain -- it -- it
8 provides only a vote on a resolution and is adequate as it
9 provides a method of ensuring compliance with the
10 subpoena, up to and including imprisonment.

11 That's what the County said. They said,
12 hey, you have a political -- we have a political solution
13 here. We don't need to be here in court. Why? Because
14 they didn't think we could get a vote contempt. They
15 thought they could peel off one of our senators --
16 (indiscernible). They thought they could peel off one of
17 our republican senators.

18 UNIDENTIFIED SPEAKER: They did.

19 SEN. PETERSEN: Sounds like they may have.
20 I hope -- I hope that's not the case. I hope that
21 changes.

22 Now the County is asking the judicial branch
23 to interfere with the legislative branch's previously
24 concerned remedy of contempt.

25 So through this pattern of litigation for

1 the purpose of delay and public impugment of legislative
2 intentions, the Board of Supervisors has exhibited unusual
3 contempt for the investigatory powers of the Senate. The
4 most recent lawsuit only recommitts them to that path.

5 Let's talk about another lie, that they
6 can't give us the ballots because it's illegal for them to
7 give us the ballots. That's not true. They're protected
8 by A.R.S. 41-1152, immunity of witnesses. This is the
9 plain text right here. Evidence produced pursuant to this
10 article -- AKA a subpoena -- may not be used in any manner
11 in any criminal prosecution against a natural person.

12 And just think about it practically. Who is
13 going to prosecute them? The county attorney? I doubt
14 it. That's not going to happen.

15 So there's no penalty. It's -- first of
16 all, it's not illegal. All of our attorneys say it's not
17 illegal for them to give us the ballots. But even if it
18 was, they're protected by A.R.S. 11 dash -- 41-1152. But
19 you know what? It's clear. If you violate a subpoena, if
20 you don't comply with a subpoena, there is -- there are
21 consequences for that.

22 Here's another lie that's being spread in
23 the -- in the public. Okay? That -- that this affects
24 the secrecy of the ballot, if we conduct a forensic audit.
25 That's complete hogwash. The County has suggested in its

1 court filings and public statements that its defiance is
2 necessary to preserve the secrecy of the ballot. That is
3 a flat-out lie. It is literally impossible for the
4 legislature or anyone else to determine how any person has
5 voted.

6 As anyone who -- who has voted knows,
7 ballots are anonymous. They don't contain any information
8 that ties them back to any specific voter. The
9 legislature is only asking for copies of anonymous ballots
10 and other generalized data.

11 If this information can be entrusted with
12 the County, unelected county bureaucrats, surely it can be
13 accessed -- accessed by the people's elected
14 representatives in the legislature.

15 Here's another lie. That the legislature
16 doesn't have the authority to investigate. The
17 legislature's subpoena power and power to investigate is
18 inherent in its sovereign authority under the Arizona
19 Constitution. Both the Arizona Supreme Court and the U.S.
20 Supreme Court have affirmed this.

21 The Arizona Supreme Court has said, quote,
22 It is within the powers of legislative committees to
23 conduct investigations and to issue subpoenas and to
24 summon witnesses generally and punish them for contempt if
25 they refuse to answer relevant questions or produce

1 records. That's Buell v. Superior Court.

2 Furthermore, according to this Arizona
3 Supreme Court, legis -- the legislative subpoena power is
4 so broad and so important it can even reach materials that
5 are otherwise privileged. Okay?

6 In describing the parallel authority of the
7 U.S. Congress under the Federal Constitution, the U.S.
8 Supreme Court has said that the power of inquiry with
9 process to enforce it is an essential and appropriate
10 auxiliary to the legislative function, and that this power
11 to obtain information is broad and indispensable. That's
12 Trump v. Mazars.

13 And that's -- it just makes perfect common
14 sense. When we were given the authority under the state
15 constitution to be lawmakers, we need to be able to
16 collect facts. We need to be able to investigate.
17 Otherwise, how are we going to know how to change the
18 laws? How are we going to know how to make a law to fix
19 something that we can never know what to fix?

20 The legislature's responsible for creating
21 the laws under which Arizona elections are conducted. To
22 discharge this duty, it must be able to independently
23 determine whether our current election process and systems
24 are properly administrated, free from fraud, and produce
25 accurate results.

1 The Board of Supervisors is insisting that
2 the 2020 election was conducted flawlessly in Maricopa
3 County, and that it can pick and choose what elections
4 materials it will or won't produce to the Senate. This
5 defiance of valid subpoenas is unlawful and it's
6 offensive. That's the question we can ask today. Have
7 they complied with the subpoena?

8 Senator Boyer, have they complied with the
9 subpoena?

10 They have not. They have not. Counties are
11 creations of the state. The Arizona Supreme Court has
12 said repeatedly and explicitly, they are inferior
13 political subdivisions that possess only those powers that
14 the legislature has given to them. Whatever authority the
15 Board of Supervisors has over the conduct of elections
16 derives from statutes enacted by the legislature.

17 The legislature is entitled to examine
18 whether the Board of Supervisors is competently carrying
19 out those duties. No statute or case supports the notion
20 that counties have some privilege to withhold documents or
21 materials of any kind from the legislature.

22 You know, it may be the case that the audit
23 shows that the 2020 election was conducted perfectly and
24 without error. It is certainly possible, though, that the
25 audit will reveal errors, shortcomings, and

1 vulnerabilities in Maricopa County's election systems.

2 The key question is not whether those flaws
3 would have changed the outcome of any race in the 2020
4 election; rather, the key question is what the legislature
5 can do going forward to safeguard the integrity of the
6 election and ensure accuracy of the results. Fulfilling
7 this vital duty lies at the core of the legislature's
8 constitutional authority and responsibility.

9 So we have seen -- we're hearing somebody
10 say they -- that we want the County to work with us. Our
11 position has not changed since the beginning. We have
12 said right after the election, we want the ballots, and we
13 want the machines to conduct a forensic audit. That's it.
14 Our position has not changed.

15 On the other hand, the county supervisors
16 have literally twisted themselves into a pretzel and
17 flip-flopped every single day and tried to drag this out
18 and drag this out and drag it on hoping when the -- when
19 we change legislatures, when I became the judiciary chair,
20 it would end. Oh, that'll be the end of it.

21 Now they're pushing because they're going to
22 have some elections coming up. And then they keep pushing
23 because the more delay, the more they know that time kills
24 things. They're just dragging it out.

25 There's no good-faith effort here to resolve

1 it. It's very simple. We need the ballots, and we need
2 the machines. And we want to conduct a forensic audit.
3 And they're not doing it. They are not conducting a
4 forensic audit. The two audits they have are a joke.
5 They're not going to find anything. There's -- they're
6 not meant to find fraud, even if there is fraud.

7 The bottom line is we have made a request.
8 We've issued a subpoena, and they have given us the
9 finger. They've refused to comply with the subpoena.
10 That's why they're in contempt. That's why they deserve
11 to be held in contempt. It has been months. Months and
12 months.

13 So the four things: They can give us access
14 to the ballots and the equipment without any consequence;
15 we will protect the secrecy of the ballot; we have the
16 authority to investigate; and the County is blocking and
17 obstructing, and they deserve to be held in contempt.

18 Madam President, with that I vote aye.

19 CHAIRMAN FANN: Thank you.

20 Members, have you all voted?

21 Senator Townsend, are you ready to vote yet,
22 while we have a little lull? I'll take you.

23 SEN. TOWNSEND: Yes, ma'am. Madam
24 President, permission to explain my vote.

25 CHAIRMAN FANN: Proceed.

1 SEN. TOWNSEND: So two years ago I was made
2 the chair of the Elections Committee over in the House.
3 And in an effort to learn as much as I could, you know,
4 more than what I had known to that point, I went on
5 several tours around the state of county recorders'
6 offices. Down south, up north.

7 And I waited so I could learn as much as I
8 could before I went to the Maricopa County recorders,
9 because I know them being the -- the largest. Once I
10 went, I went at least three times, maybe four, if my
11 memory serves me correctly, bringing different legislators
12 with me. And each time I got their spiel as to why we
13 should go with the Dominion machines. Why we should
14 invest and fast-track the legislation to go ahead and move
15 forward with these.

16 And the reason was, is the new way of -- of
17 adjudicating the ballots. Before, if somebody spoiled
18 their ballots, the person would have to revote the entire
19 ballot. But this time -- and those legislators that were
20 with me will remember they had big screen TVs. And they
21 had two people working there. And everyone could see the
22 TV. And they would scan the ballots, and they would only
23 have to adjudicate the race that got spoiled. And that,
24 isn't this great?

25 And you can now go and inspect those

1 adjudicated ballots with ease. And you can have full
2 transparency. And you would be able to reassure whoever
3 was doing the audit that this was done correctly.

4 So when we went forward, not realizing and
5 not knowing, man, if -- hindsight being 20/20, if we only
6 knew then what we know now, would never have approved that
7 system; if we had known that what they were telling us in
8 theory was true, but in practice was not true. When we
9 wanted to look at those and see "how did we do on the
10 adjudication?" the door would be closed in our face, and
11 we would be accused of all kinds of things.

12 I was told by Merissa Hamilton, former
13 candidate for the mayor of Phoenix, that when she looked
14 at the RFP, what was there of it for Dominion, that part
15 of what the selling point was, was that you could take
16 those ballots and post them online.

17 Now, that comes with a caveat. I'm not a
18 hundred percent sure that I'm right about that, but I -- I
19 want to say, and I believe that she said, that these
20 ballots, because they're secret ballots, you can post the
21 file online for people to look through, and that the
22 county recorder chose not to do that.

23 So if that's true, and if you can post those
24 online; and if it's true that we were sold a product that
25 we would be able to go back and look at and audit to make

1 sure that this was done correctly, you know, if all of
2 that was true, why, when it's time to do this audit, are
3 we being stopped?

4 The reason that has been put out in the
5 press is because, unfortunately, by law, it has to be by
6 court order, according to Arizona Revised Statute 16-624.
7 That that says, you know, it's in the -- in the possession
8 of the courts. The court order -- you know, the courts
9 will be responsible for this.

10 But that talks about recounts and
11 challenges. If there's a recount or a challenge. Right
12 now we're not recounting anything. And as far as I'm
13 aware, there's no candidate who's challenging the outcome
14 of an election.

15 So 16-624 does not apply to what we're
16 talking about here. So you cannot tell the public that we
17 are compromising the secret ballot, and they're protecting
18 the public's information, when they are not. And you
19 cannot tell the public that this is against the law, based
20 on 16-624, when it is not.

21 That leads you to ask the question, why?
22 Why so much energy to prevent us, the Senate, from
23 exercising (indiscernible) power? And for those who don't
24 know what plenary power is, it's unobstructed power to be
25 able to exercise that which you're talking about. You

1 can't create any law, any statute to change that power.
2 It is given to us in the constitution.

3 So I contacted a constitutional scholar, Rob
4 Natelson, just to be sure. And he even gave me a court
5 case that reaffirms our plenary power and our ability to
6 investigate. It's Howard Jarvis Taxpayers Association v.
7 Padilla, a 2016 California Supreme Court ruling.

8 It reaffirms that the Senate has the ability
9 to investigate, a plenary power to investigate. No
10 statute, no other court decision. Nothing can stop that.
11 We have the ability to investigate.

12 We were promised and sold a product with the
13 mindset that if we wanted to investigate, we could see it.
14 So why the political gymnastics to prevent that?

15 All that does is leave the public to
16 believe -- because I have a hard time believing that any
17 lawyer worth their salt is going to sell these county
18 supervisors on the fact that they cannot legally allow us
19 to go in and look at these based on 16-624. It's very
20 clear. It -- you know.

21 So they must know that this is political
22 gymnastics. So it leads the public to believe they are
23 hiding something. A two-second perusal of Facebook and
24 you will find it. They're hiding it. Arrest them. You
25 know, the constant emails that we're getting all day long.

1 The public believes there's an attempt to hide something.
2 And it's really hard for this senator to believe otherwise
3 at this point.

4 So the last thing I'm going to say is your
5 word is supposed to mean something. A, if you said that
6 we should support Dominion because it's transparent and
7 easier to use, and you'll be able to audit it, and then
8 you go back on that word, your word is never going to be
9 trusted again. If you say you're going to vote along with
10 your caucus and then you do not, your word is never going
11 to be trusted again.

12 So now it's in the hands of the public. And
13 I'm understanding that several groups that were
14 independent have recently formed a coalition to take care
15 of this on their own. And I'm embarrassed that they have
16 to do this. It should be us doing it. But we have
17 someone who has reneged on his word, and now is going to
18 have to go into the hands of the public.

19 And right now the last place this needs to
20 be is in a place where the public is so lathered up over
21 all of this. We need to do this in a way that's
22 professional, legal, and proper. Not that the public's
23 not, but they shouldn't have to do this on our behalf.

24 So I'm embarrassed. I'm -- I'm ashamed.
25 And I'm disappointed that those I believed have completely

1 destroyed my confidence in them.

2 So, Public, do what you got to do.

3 And with that, this is Senator Kelly
4 Townsend voting aye on SCR1005.

5 CHAIRMAN FANN: Secretary, record the vote
6 for Senator Townsend as a yes vote on SR1005.

7 Senator Leach?

8 SEN. LEACH: Thank you, Madam Chair. I
9 raise to explain my vote.

10 CHAIRMAN FANN: Proceed.

11 SEN. LEACH: Thank you, Madam Chair.

12 I just want to further comments by -- by the
13 judicial chair, Senator Petersen, with some comments that
14 were put out this morning by the Arizona Senate. And I'm
15 not sure everyone had an opportunity to review those, but
16 I think it highlights three particular important points
17 that should not be lost on us as we -- as we go forward
18 and deliberate this -- this issue and this situation that
19 we're in.

20 In January -- to remind you once again, in
21 January the County admitted that the Senate had a valid
22 legislative purpose to issue the subpoenas. For any of
23 you that want a copy of that, I display that and keep that
24 as a reminder to where we are in this discussion and how
25 far we've not come in that recent amount of time.

1 Let me read that again. In January the
2 County admitted that the Senate had a valid legislative
3 purpose to issue the subpoenas.

4 As I stated last week on Thursday, the
5 subpoena's about -- more about going forward than anything
6 else. Your input, all of you, each and every one of you,
7 and the input of the security and the clarity of our
8 elections is paramount in that, the eyes of the voters of
9 the state of Arizona. A reminder, the County admitted
10 that the Senate had a valid legislative purpose to issue
11 the subpoenas.

12 In January, the County agreed to produce
13 valid images to the Senate. Now in a complaint it says
14 that it's legally prohibited.

15 This is consistent -- this is consistent not
16 only to January, but unfortunately is consistent to their
17 actions since November where we have been told one thing
18 and acting about -- about -- in good faith on their word,
19 they have elected to do another thing or even, to -- to
20 put a finer point on it, to take us to court to stop the
21 action that they, in fact, agreed to.

22 Thirdly I'd like to remind you, in
23 December the County adopted a clear view of the Senate's
24 right to hold the Board of Supervisors in contempt. Seems
25 to be a lot of discussion about and -- and how some Board

1 of Supervisor members claim that this is an ultimate
2 surprise and no one knew. Being part of those discussions
3 since November -- actually, in November, when we talked
4 about the hand count raising from two percent to five
5 percent, I was involved and another -- a number of other
6 Senate members in discussing -- discussing that item,
7 which led into further discussions that ultimately led to
8 the December sixth-hour hearing, that the caucus, the
9 majority caucus, agreed upon and put together with the
10 then-sitting members of the Judiciary Committee, with the
11 addition of the incoming government elections chair,
12 Senator Ugenti-Rita, and the purpose for her involvement
13 was she would be coming in as a new chairman.

14 And so it was all prospective. It was
15 prospective to the point not to overturn an election, but
16 to find out if everything was in place and how we can
17 improve upon and how we could show the voters of Arizona,
18 particularly those in Maricopa County, that had concerns
19 about not only the process, but the Dominion voting
20 machines, that the State Senate, and its -- and the
21 legislature in total, and the state of Arizona were
22 protecting the ballot. Protecting the ballot.

23 And that's what we're doing here this
24 afternoon, ladies and gentlemen. With all the other noise
25 that's happening out there, we are working to protect the

1 ballot of voters in the state of Arizona. It is
2 unfortunate that it's come to this. It could have been
3 done when the supervisors said a long time ago, back in
4 December, that they had two auditors on the ground ready
5 to perform the audit save for the fact that there was
6 another lawsuit.

7 But yet, here we stand on the 8th of
8 February, and not only getting a pushback in the courts on
9 a daily basis, but now we got a -- a temporary restraining
10 order against us for the legislature not to hold a vote.

11 Members, think about that. A subdivision of
12 the state of Arizona telling the Senate, going to court,
13 not allowing us to vote. That is -- if it's not
14 concerning to you, Members, it's very concerning to me.

15 I'm asking you to seriously look at that
16 board and see if it is politics, close (indiscernible),
17 that is making you vote the color that you're voting or is
18 it long term? Is it protection of the vote? Is it the
19 strength of the Senate? Is it the strength of the state
20 of Arizona in protecting the ballot that you're voting
21 for? If it is not, I would ask that you change your vote
22 and vote green.

23 For that, Madam President, I vote aye.

24 CHAIRMAN FANN: Thank you.

25 Senator Borrelli?

1 SEN. BORRELLI: Yes. Thank you, Madam
2 President. Rise to explain my vote.

3 CHAIRMAN FANN: Proceed.

4 SEN. BORRELLI: Thank you, Madam President.

5 And, Members, once again, what we have here
6 is a failure to communicate. This is the issue of, once
7 again, a political subdivision challenging your direct
8 authority. A lot has been said already about the county
9 supervisors, how they've misled the public. How about
10 just a bald-faced lie?

11 They tried to negotiate -- say they wanted
12 to negotiate in good faith. A bald-faced lie. They want
13 to have -- they said, let's have somebody that's certified
14 to do the audit. Well, there's no company that -- they
15 didn't hire anybody to certify -- that do -- that's
16 certified to do an audit. What they did is they hired a
17 company that certifies the machines that actually makes it
18 work properly.

19 Let me just kind of run that down. That's
20 like having your cable guy come out and set up your
21 entertainment system, and then they certify that your
22 remote control works on all the devices. That's all they
23 did. And they're perpetrating that as an audit.

24 It's been said that if you're at the poker
25 table more than 15 minutes and you can't figure out who

1 the mark is, you're it.

2 What this is, is a power struggle between a
3 political subdivision that's trying to cover their butts
4 for some reason -- I don't know -- because nothing can
5 happen to them if they comply. And they still are in
6 contempt right now.

7 What we're voting on here is to hopefully
8 give it a little bit more strength behind yourself. Right
9 now if -- you're not even representing your own
10 constituents who sent you here to represent them so that
11 the cities and the counties and fire districts and even
12 HOAs don't trample on their rights. And, once again, it's
13 surrender.

14 And, ironically -- especially, I can't
15 believe this even on the democrat caucus -- you're
16 actually supporting a Board of Supervisors that a majority
17 of them are republican. And you're allowing them to
18 literally trample on you.

19 You all know my background. 20 years of
20 service in the Marines. I came from a world where honor,
21 courage, and commitment was an everyday way of life. That
22 is not a marketing slogan. That's the way it is. And
23 heroes are names -- their names are etched on walls
24 outside, and on monuments, and this is disgraceful that
25 we're basically turning our backs on the representation

1 that we took an oath to take -- to serve them.

2 So let's go back to the rule book. We have
3 a constitution. It's broken down. U.S. Constitution. In
4 the constitution, the states retain the rights for
5 elections. We can delegate some of the authority to the
6 county supervisors, but the overall responsibility does
7 not diminish. Falls on us. Falls on us.

8 By us not acting is dereliction of duty. We
9 have a duty to the -- our constituents. We have a duty to
10 support them and defend them. Once again, a political
11 subdivision. What's next? We got the county. Next thing
12 you know, it's the city, a school board. All the
13 regulations and laws pass -- that we pass here to regulate
14 the schools. You just told a school board, oh, that's
15 okay. That's just a suggestion.

16 Hey, cities, you can't just go ahead and
17 arbitrarily make speed traps. You can't do that. We have
18 laws for that. So that's why we don't have mob rule
19 within a city or a school board or a county supervisor.
20 This is just great. It's amazing.

21 At 13:35 we prayed and we pledged to a flag,
22 our flag. The United States flag. I never pledged to a
23 white flag. And that's what you're doing right now.
24 You're surrendering your authority.

25 I'm going to tell you this right now,

1 surrender is not in my creed. And I can't believe you
2 guys are allowing them to walk all over you with lies.
3 Lies. And your constituents are not going to put up with
4 it, because they see through the BS of a BOS.

5 CHAIRMAN FANN: And how do you vote, sir?

6 SEN. BORRELLI: And I hope you reconsider.

7 Madam President, I vote aye.

8 CHAIRMAN FANN: Thank you.

9 Senator Mesnard?

10 SEN. MESNARD: Madam President, I rise to
11 explain my vote.

12 CHAIRMAN FANN: Proceed.

13 SEN. MESNARD: Madam President, the idea of
14 holding anybody or any body in contempt is a big deal.
15 And I know the introduction of this motion was not made
16 lightly. I know that many of the folks who are yeses on
17 the board don't relish being yeses. Found this vote to be
18 difficult. I myself found it difficult to fathom that we
19 would hold somebody in contempt.

20 But as time went on, months now, in fact,
21 the decision was becoming easier and easier. And it
22 culminated for me in what I saw the Maricopa County Board
23 of Supervisors try to do this morning. Something I've
24 never seen anybody attempt to do in my years down here.
25 And, seemingly, is an obvious violation of separation of

1 powers.

2 And that was when they filed a motion with
3 the court to try to stop us from having a vote. That
4 is -- that is beyond outrageous. That is like out of this
5 universe ludicrous. We are the Arizona Senate. We do
6 debate things all the time down here that are
7 controversial. And people can fight those out on the
8 court of public opinion.

9 But the idea that they would try to go and
10 get the judicial branch to tell the legislative branch it
11 can't vote? I mean, that -- like, serious, who is
12 advising them?

13 That was enough to tell me that the thought
14 process behind their actions to date is -- is beyond
15 suspect. It is clear. It's clear to me. And it made
16 this vote easy, at this point. Because from my
17 perspective, all the evidence, despite what they say --
18 and these are people that I personally like. These are
19 people that I consider friends. I've known for a long
20 time. Every one of them.

21 But it made very clear to me that -- that
22 their actions show they are dripping with contempt, apart
23 from the issue of ballots and -- and machines.

24 So that being said, I want to recap just a
25 couple of things. I don't want to repeat what others have

1 said. But this is why I'm voting in favor. That was the
2 culmination of it. But when I look back over the last
3 couple of months, the initial argument from the board was
4 we can't do this because we're involved in litigation.
5 And it's evidence. We all remember that, right? Well, we
6 can't.

7 Okay. So then guess what, that came to an
8 end. And then, okay, we want to work with you. Want to
9 work with you. And then, oh, we're -- we're going to
10 allow an audit. Oh, but wait. You know, no, we -- we
11 don't want to hand over the ballots because that's about
12 protecting the integrity of the election. That's what
13 they said. The secrecy of the ballot.

14 Please raise your hand if you wrote your
15 name on your ballot before you turned it in? Nobody did
16 that. It is not a legitimate argument. It is meant for
17 something else. And then when you look at the statements
18 coming out from the chairman, my supervisor, and other
19 members of the Board of Supervisor, again, the contempt is
20 clear.

21 And on Friday the Board of Supervisors'
22 chairman suggested, and the implication of this is so
23 offensive, suggest that we're doing this, quote unquote,
24 suspiciously before an impeachment trial begins in the
25 U.S. Senate. Are you kidding me? This began months ago.

1 Months before there was an impeachment -- months before
2 January 6th happened and everything that happened on that
3 fateful day. Months before that.

4 We are here because every step of the way
5 there's never been an attempt by the Board of Supervisors
6 to be helpful. Every argument in court is that we -- it
7 was a sham subpoena was the latest one. But, you know,
8 we -- that -- and of course now the argument is that they
9 say we'd be breaking the law, even though statute gives
10 them immunity. Even though it's very clear the whole
11 purpose of a court order and their statute they reference
12 is for when someone goes to court to challenge, there's a
13 process in place. And if they win that, a court will
14 order them to, you know, look at the ballots. That
15 doesn't apply to a house of the legislature. That was
16 never conceived of.

17 So that's what makes it really difficult for
18 me to accept that there's, you know, authenticity and
19 genuineness on the other side at this point. All the
20 evidence, from my perspective, points to the contrary.

21 That being said, there are others who want
22 to give them the benefit of the doubt. And I appreciate
23 that because they -- these guys are -- are friends of
24 ours, and we've known them for a long time. And so
25 with obviously the way the vote is going to go, looks like

1 that's going to happen.

2 So my only request is that if moving forward
3 all the actions in court, and that's what we have to look
4 at is what is filed in court. Because, as we know,
5 actions do speak louder than words. It's easy to go on
6 television and make out like you're the good guy and the
7 others are the villains. We need to look at the action.

8 It seems to me that an action that says
9 there are -- that this is genuinely about a question
10 of -- of whether they have the authority to do this and it
11 wouldn't be breaking the law would mean they would go with
12 us to the highest court we can get to as quickly as
13 possible to ask the question.

14 But if they're not willing to do that, if
15 this is, as all of their tweets have suggested lately, oh,
16 they're trying to, you know, challenge the election and
17 all this kind of stuff, then -- then we have to draw a
18 line. There has to be a line or else the authority -- and
19 this is what grieves me about this vote, candidly, is the
20 authority of the institution is irrevocably damaged.

21 It means that people will know they can
22 ignore a subpoena, and that there isn't, you know, likely
23 consequence to that, even though our subpoenas are every
24 bit as enforceable as judicial subpoenas.

25 So, Madam President, as -- as you and others

1 move forward, I would call upon those who -- who have
2 questioned up to this point how it's gone and believe that
3 there -- in the glass half full optimistic view, that
4 there is a pathway forward, that they would take a
5 leadership role in this.

6 Because, obviously, many of us have -- have
7 drawn a different conclusion, but we have to -- we have to
8 press forward in a way that -- that salvages the purpose
9 of this in the first place.

10 And so, Madam President, with that I vote
11 aye.

12 CHAIRMAN FANN: Thank you, Senator Mesnard.

13 Is there anybody else that would like to
14 speak before we close the board?

15 Senator Gray?

16 SEN. GRAY: Thank you, Madam President. I
17 rise to explain my vote.

18 CHAIRMAN FANN: Proceed.

19 SEN. GRAY: I've got to say, I -- I really
20 have to guard my emotion because I'm -- I'm very
21 passionate about this, very concerned with this.

22 CHAIRMAN FANN: Can you put your mic up a
23 little closer?

24 SEN. GRAY: Thank you. How's this?

25 CHAIRMAN FANN: Thank you.

1 SEN. GRAY: I -- I was actually planning on
2 changing my vote to a no so that I could recall this back
3 up because it means so much to me.

4 Why does it mean so much to me? Because
5 I've gotten tens of thousands of emails from people,
6 voters in our county, that don't believe the system is
7 working. I think it's egregious that we just blow them
8 off and say, oh, you know, let them tinker with something
9 and just give us some information and -- and not do a
10 thorough check.

11 So everybody that has your name up there in
12 green, and the one that I know that's going to be coming,
13 I want to thank you, because you're standing for the
14 voters. As a republican I hear all the time, you're
15 disenfranchising voters. Disenfranchising voters. We are
16 trying to get voters fully aware.

17 And I will say, too, because I've been
18 getting texts from my supervisor, who was the chairman
19 last year, as if, well, you know, we -- we've
20 always -- we've been, you know, handling this thing very
21 carefully. And I said it last Thursday. I talked with my
22 county supervisor multiple times as we were going through
23 this process to tell him, we just want our voters to have
24 certainty. We want it basically audited so that they can
25 know that their votes counted.

1 I said that. I reiterated that more than
2 once. Our -- our judici -- judiciary chair, Eddie
3 Farnsworth then, reiterated that in committee a couple of
4 times at least. Our -- from the Senate side, that has
5 been the very thing that we hit on. That was the reason
6 we wanted to see an audit, is to just prove to our voters.
7 And I'm not talking about a superficial audit that they're
8 doing now. I'm talking about a forensic audit to prove to
9 our voters.

10 And then what happens? With all of that
11 communication and -- and Senator Mesnard talked about
12 we're friends. Well, I -- I considered myself a friend
13 with my supervisor. But then what does he come out and
14 do? He comes out and blames us for being Trumpians. And
15 all we want to do is overturn the election.

16 I mean, our majority whip talked about
17 boldfaced lie. You know, I think the political correct
18 way of saying he misrepresented the truth. Okay. What's
19 the difference between -- between that and a boldfaced
20 lie? I don't see a difference.

21 When you misrepresent truth to get your way,
22 to make you look good and them look bad, and he's made the
23 Senate look bad in the media, which is very happy to do
24 that, is that the kind of government we want? I don't
25 care if it's on your side or against your side. Is that

1 the kind of government we want?

2 You know, I -- I -- when I first ran, I said
3 I'm a businessman, not a politician. And then after that
4 I had to start saying, well, I can't say that anymore
5 because I'm not in business anymore and I am a politician.

6 But I can say, and I have said, the title
7 that we get because we get a certain number of votes is
8 the honorable. And I have said repeatedly, that position
9 and that title does not make us honorable. It's our
10 conduct that makes us honorable. If we don't do the right
11 things, we can have the title, the honorable, and I've
12 seen too many people that have stayed in the legislature
13 because they want the title and the significance.

14 If you do not have the character to be
15 titled honorable by the deeds you do and the -- and the
16 way you treat people, you shouldn't have it just because
17 you're elected to an office. And I got to tell you, when
18 I look at the Board of Supervisors and I see the kind of
19 conduct and the complete disregard for the voters, I don't
20 consider that honorable. I don't care what party you're
21 in. I don't consider that honorable. That's
22 dishonorable.

23 And so all we're trying to do -- and,
24 unfortunately, it doesn't look like we're going to make
25 it. But all we're trying to do, and what I will continue

1 to try to do, and I will continue to do everything we can
2 to make this happen, is to satisfy our voters, not
3 overturn an election. Obviously, it's never been about
4 that. But is to give our voters, the tens of thousands of
5 voters who don't believe their vote was counted
6 appropriately, the belief that there are people down here
7 in the legislature who are standing up for them. And I
8 stand up for them.

9 I'm not going to change my -- my vote to a
10 no, because I don't want to be associated with anybody
11 that will just disregard them. Disregard their care.
12 Disregard their concern for integrity in our voting
13 system.

14 And I -- I -- I'm just -- I am utterly,
15 utterly, utterly disappointed with our Board of
16 Supervisors that don't seem to care. They care more about
17 protecting themselves than -- than really showing that
18 their system worked thoroughly.

19 And like I said last Thursday, if it doesn't
20 work thoroughly, it's the responsibility of the
21 legislature to do the fix. They don't seem to be caring
22 about that. They disregard that. They disregard those
23 voters. I'm not going to be surprised when those voters
24 disregard them.

25 But, again, I think political people should

1 be honorable by their conduct, not because they got a
2 title.

3 And, Madam President, with that I gladly
4 vote aye.

5 CHAIRMAN FANN: So I'm going to explain my
6 vote and plead for one of our members to please change
7 their votes, if at all possible.

8 Needless to say, I would not have put this
9 on the board had I not been under the impression and was
10 told that we had 16 solid votes. Had I been told that
11 there wasn't, perhaps we would have talked about this
12 before it went up on the board.

13 So I will not belabor everything that was
14 said already by a lot of members, other than I will say
15 these are our friends. The Board of Supervisors, I have
16 worked with them for decades, through various committees,
17 through everything else. This is not personal. This is
18 business. And they are doing what they feel they need to
19 do, and we're doing what we -- what we need to do.

20 This is about the constitution. This is
21 about the moving forward of how we do our laws in Arizona.
22 I was hoping this would be more of a bipartisan bill for
23 the mere fact that I can tell you, if the situation were
24 reversed and there was something else going on, I would
25 bet that the members, our friends on the other side of the

1 aisle, would be saying wait a minute. We got to do
2 something different here.

3 So it's a shame that it did become a -- a
4 partisan issue when I thought that it could have been more
5 of something that it was the Senate body as a whole that
6 was -- that was protecting the constitution and the
7 authority of the legislative body.

8 As you know, this has been going on since
9 right after the vote, the November general election. We
10 have worked very hard to try and work this out. And my
11 credit goes to those members of the supervisors
12 association -- or the member -- the board members who
13 worked hard trying to get some resolutions here.

14 The resolution for contempt was actually
15 supposed to go up on the board three weeks ago, two and a
16 half weeks ago. And we said, let's sit down. Let's see
17 if we can work this out. So we took that off the agenda.
18 We did not vote on the resolution, much to the dismay of
19 some of my members in the public, but we did it in an
20 effort to -- to reach out and say, yes, let's try and do
21 it.

22 Now the result of that was that they wrote a
23 letter saying, yes, we do now acknowledge that you
24 are -- we are a subdivision of the state, and that, yes,
25 you do have the authority to subpoena, and you do have the

1 authority and the -- and the ability to have this
2 information through those subpoenas. And then they said
3 we are going to hire two independent forensic auditors.
4 Went into executive session. Hired the two auditors that
5 were on the EOC.

6 I've spoken to the EAC, and they have said
7 we don't certify auditors. We have two companies that
8 have been authorized to certify the machines. And that's
9 all they do is certify the machines. And one of those
10 companies is a company called Pro B and B who certifies
11 the Dominion machines, or other machines. And they were
12 brought in to certify the machines that had already been
13 certified.

14 I reached back out to them and said,
15 Supervisors, this is not what we agreed to. We said two
16 independent forensic audits so that we could actually make
17 sure that the balance -- the ballot counts corrected.
18 There was no fake ballots. There was no this, that, and
19 the other. And I have said all along, I pray to God we
20 don't find anything bad. We'll find a few irregularities
21 that always happen with elections. But I certainly hope
22 that it wasn't anything more than that, because it would
23 shake the core of what we believe in our sanctity of our
24 elections.

25 However, if there's a small, minute chance

1 that that was uncovered, then it was our duty and our
2 obligation as a legislative body to turn that over to
3 whatever authorities may be, if it came down to that. And
4 that's all we've done.

5 And so what happened was, is when we reached
6 back out and said, let's -- the Senate, we will pay for
7 our own forensic audit. We don't expect you to pay for
8 another one. They went into executive session, came back
9 out and said, no, we're not letting anybody else touch
10 these machines.

11 I also offered to have it done under
12 the jur -- under the watchful eye of the two EAC companies
13 or the treasurer or the recorder or the auditors, anybody
14 was allowed to be there and oversee exactly what our
15 auditor was going to do. But they still said no. We're
16 sticking with our two. That's all we want, period.

17 So I'm sorry to say, this is why we're at
18 where we're at right now. So we are doing this
19 resolution. It is not mean. It's not hateful. It's not
20 trying to poke anybody in the eye. It is a procedural
21 move that is required by law for us to do so that we can
22 move forward with compelling this information that we need
23 to get the forensic audits done.

24 Now, we have a lot of options here. One of
25 those options very well be is that we pass the resolution.

1 The supervisors put out a press release this morning that
2 they were going to do temporary restraining orders. And
3 chances are what this is going to do is elevate it that it
4 will go straight -- let's hope to the Supreme Court,
5 because it's going to need a body of judges to understand
6 and to make a ruling as to what our statutes say and to
7 make sure there is no conflicting.

8 So this is actually a tool for us to get to
9 that resolution. But by not passing this bill, we have
10 taken that tool away from the toolbox. We have now all of
11 a sudden undermined our own ability to be able to get to a
12 resolution here.

13 So I am hoping, I am praying, I am asking
14 for enough votes to get this to pass so that we can
15 actually pursue this matter with the courts, so we can get
16 a resolution and get this put behind us.

17 Also want to make one more thing very, very,
18 very clear. Contrary to what might be in the media or
19 anything else, this never, ever, ever was, never will be,
20 about overturning an election, about decertifying electors
21 or anybody else.

22 This is 100 percent, nothing more, than the
23 Senate body doing our job as we swore our oath and
24 obligation to the constitution to make sure that we have
25 fair and honest elections in Arizona. We are fulfilling

1 that oath. We are going to do this.

2 So I am hoping someone might change their
3 vote and let this pass so that we can move forward.

4 And with that, by a vote of 15 ayes, 15
5 nays, you have failed to pass SR1005.

6 Committee announcements for Tuesday,
7 February the 9th. Republican Caucus, Senator Borrelli.

8 SEN. BORRELLI: Yes, Madam President. With
9 your permission, a Republican Caucus will meet at 10 a.m.
10 in caucus room number 1. Thank you.

11 CHAIRMAN FANN: Thank you.

12 Democratic Caucus, Senator Contreras.

13 SEN. CONTRERAS: Madam President, with your
14 permission, Democratic Caucus will be meeting at 9:30 a.m.
15 in caucus room 2.

16 CHAIRMAN FANN: Thank you.

17 Appropriations, Senator Gowan.

18 SEN. GOWAN: Thank you, Madam President.
19 With your permission, Appropriations will meet at 2 p.m.,
20 Senator hearing room 109 tomorrow.

21 CHAIRMAN FANN: Thank you.

22 Senator Boyer.

23 SEN. BOYER: Thank you, Madam President.
24 The Education Committee will meet at 2 p.m. tomorrow in
25 senate hearing room 1.

1 CHAIRMAN FANN: Thank you.

2 Senator Gray?

3 SEN. GRAY: Thank you, Madam President. I
4 move the Senate stand adjourned until Tuesday, February 9,
5 2021, at 1:30 p.m.

6 CHAIRMAN FANN: Members, you've all heard
7 the motion. All those in favor indicate by saying aye.

8 MULTIPLE SPEAKERS: Aye.

9 CHAIRMAN FANN: Any opposed nay?

10 (No oral response.)

11 CHAIRMAN FANN: Appears the ayes have it, do
12 have it, so ordered. We are adjourned.

13 (The proceedings adjourned.)

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1 STATE OF ARIZONA)
) ss.
 2 COUNTY OF MARICOPA)

3

4 BE IT KNOWN that the foregoing audio/video
 5 recording was transcribed by me; that the 60 pages are a
 6 full, true, and accurate record of the audio recording,
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7 I CERTIFY that I am in no way related to any of
 8 the parties hereto, nor am I in any way interested in the
 outcome hereof.

8

9 [] Review and signature was requested.
 [] Review and signature was waived.
 10 [X] Review and signature not required.

11

12 I CERTIFY that I have complied with the ethical
 obligations set forth in ACJA 7-206(F)(3) and ACJA 7-206
 J(1)(g)(1) and (2).

13

Dated at Phoenix, Arizona, this 18th day of
 14 February, 2021.

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16

/S/ Debra Riggs Torres
 DEBRA RIGGS TORRES, RPR
 Certified Reporter
 Arizona CR No. 50647

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21 I CERTIFY that GRIFFIN GROUP INTERNATIONAL has
 22 complied with the ethical obligations set forth in ACJA
 7-206 (J)(1)(g)(1) through (6).

23

/S/ Griffin Group International
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24

25

<p style="text-align: center;">A</p>	<p>adjourned (3) 59:4,12,13</p>	<p>always (5) 2:17,25;17:23; 49:20;55:21</p>	<p>ARS (3) 23:24;25:8,18</p>	<p>16:12;30:18;36:4; 39:23;43:7;48:11; 53:4;59:7,8</p>
<p>ability (5) 34:5,8,11;55:1; 57:11</p>	<p>adjudicate (1) 31:23</p>	<p>amazing (1) 42:20</p>	<p>article (1) 25:10</p>	<p>ayes (6) 7:17;10:11;11:19; 15:25;58:4;59:11</p>
<p>able (8) 27:15,16,22;32:2, 25;33:25;35:7;57:11</p>	<p>adjudicated (1) 32:1</p>	<p>Amen (1) 3:10</p>	<p>ashamed (1) 35:24</p>	<p style="text-align: center;">B</p>
<p>abortion (1) 15:9</p>	<p>adjudicating (1) 31:17</p>	<p>amicably (3) 17:25;18:13;19:24</p>	<p>associated (1) 52:10</p>	<p>back (13) 6:1;17:3,10;26:8; 32:25;35:8;39:3; 42:2;45:2;49:2; 55:14;56:6,8</p>
<p>absent (1) 4:4</p>	<p>adjudication (1) 32:10</p>	<p>amount (1) 36:25</p>	<p>Association (2) 34:6;54:12</p>	<p>background (1) 41:19</p>
<p>absolutely (2) 14:13;20:19</p>	<p>administrated (1) 27:24</p>	<p>announcements (2) 4:8;58:6</p>	<p>Athena (1) 8:3</p>	<p>backs (1) 41:25</p>
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**Exhibit 8 to Plaintiffs'
Statement of Facts**

SB 1408 (Senate Engrossed)

Senate Engrossed

~~legislative subpoenas; records; penalties~~
legislative subpoena; records; privilege

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SENATE BILL 1408

AN ACT

AMENDING TITLE 41, CHAPTER 7, ARTICLE 3, ARIZONA REVISED STATUTES, BY
ADDING SECTION 41-1134; AMENDING SECTION 41-1152, ARIZONA REVISED
STATUTES; RELATING TO THE LEGISLATURE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 41, chapter 7, article 3, Arizona Revised
3 Statutes, is amended by adding section 41-1134, to read:

4 41-1134. Legislative investigations; authority

5 THE LEGISLATURE'S PLENARY AUTHORITY TO CONDUCT AN INVESTIGATION ON
6 ANY MATTER MAY NOT BE INFRINGED BY ANY OTHER LAW.

7 Sec. 2. Section 41-1152, Arizona Revised Statutes, is amended to
8 read:

9 41-1152. Immunity of witnesses; election records

10 A. Testimony or evidence produced pursuant to this article may not
11 be admitted in evidence or used in any manner in any criminal prosecution
12 against a natural person sworn and examined before either house of the
13 legislature or any committee of either house, except for perjury, false
14 swearing, tampering with physical evidence or any other offense committed
15 in connection with an appearance required by section 41-1151 if it
16 constitutes either the compelled testimony or the private papers of such
17 person ~~which~~ THAT would be privileged evidence pursuant to the fifth
18 amendment of the Constitution of the United States or article II, section
19 10, ~~of the~~ Constitution of Arizona, and such person claimed the privilege
20 against self-incrimination and a majority of the committee, after
21 consultation with the attorney general, votes to order such person to
22 testify or produce such papers.

23 B. EXCEPT AS PROVIDED IN SUBSECTION A OF THIS SECTION AND
24 NOTWITHSTANDING ANY OTHER LAW, COUNTY ELECTION EQUIPMENT, SYSTEMS AND
25 RECORDS AND OTHER INFORMATION THAT IS UNDER THE CONTROL OF COUNTY
26 PERSONNEL MAY NOT BE DEEMED PRIVILEGED INFORMATION, CONFIDENTIAL
27 INFORMATION OR OTHER INFORMATION PROTECTED FROM DISCLOSURE, ARE SUBJECT TO
28 SUBPOENA AND MUST BE PRODUCED. A COURT MAY COMPEL A PERSON TO PRODUCE THE
29 RECORDS THAT ARE SUBJECT TO THE SUBPOENA.

30 Sec. 3. Retroactivity

31 This act applies retroactively to from and after December 31, 2019.