

Arizona Capitol Times

Your Inside Source for Arizona Government, Politics and Business

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Late senator's son backs Harris for president

See page 4 for more details

Mayes, environmental groups sue ACC over power plant expansion

See page 9 for more details

Groups sue officials to remove illegal voters from rolls

See page 12 for more details

One should not be able to avail oneself the right to vote in one state and then say, oh you know what – I didn't really mean that.

-Attorney Tim La Sota, argues that Republican candidate Michael Way is ineligible to hold office due to state residency requirements.

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BALLOT MEASURE TARGETS CITIZEN INITIATIVES PRIOR TO ELECTION

BY KIERA RILEY kriley@stateaffairs.com

A measure crafted to allow legal challenges to the constitutionality of voter initiatives before placement on the ballot is poised to upend decades of case law if approved in November.

Current court holdings only allow courts to strike down citizen ballot measures based on failings in form, like a violation of the single subject or separate amendment provisions, or for signature requirements, and prohibits assessing substantive violations of the U.S. or state constitution until after the election.

Proposition 136, referred to the ballot by the Legislature last session, would open the door to legal challenges during the signature gathering process and allow the court to weigh in on the true constitutionality of ballot initiatives before a measure heads to voters.

Supporters say the change could save time, money and effort typically invested into getting an initiative passed and would ensure all measures placed on the ballot are constitutional, but opponents contend pre-election litigation could mount

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Arizona State Sen. Eva Burch, D, Mesa, walks across the Senate floor at the Capitol on April 10, 2024, in Phoenix. (AP Photo/Matt York)

LD 9 DEMOCRAT DEFENDS SENATE SEAT AGAINST SAME GOP FOE

BY HANNAH ELSMORE helsmore@stateaffairs.com



Robert Scantlebury

The race for the Legislative District 9 Senate seat is a rematch between former police officer Robert Scantlebury, a Republican, and incumbent Sen. Eva Burch, D-Mesa, but a GOP consultant said the competitive district will favor the Democrat candidate who garnered national attention during the recent legislative session.

Burch, a newcomer at the time, defeated her Republican challenger in 2022. Scantlebury, a former Mesa police officer, lost by more than 3,000 votes.

His bid for the seat comes on heels of a legislative session where Burch garnered national attention for sharing her experience with needing an abortion due to a nonviable pregnancy.

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Inside

Capitol Times Q&A
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The new age of water in Arizona

We're bringing you the latest updates on the recent water shortage declaration and its implications for Arizona. Join us as we explore the innovative conservation programs being introduced by Arizona's cities and towns, touch on current water legislation, and highlight cutting-edge technologies in water management.

Join moderator Steve Goldstein in this informative discussion. Register today!

It's free to attend. - Tuesday, September 10, 2024 • 8:00 - 9:00 AM

Panelists

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Brenda Burman
General Manager,
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Tom Buschatzke
Director, Arizona Department
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Shawn Bradford
Head of US Regulated Water,
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Leslie Meyers
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Resources & Services
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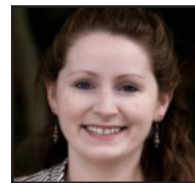
Questions? Call Sandy Mitchell at 602.889.7113 or email at smitchell@stateaffairs.com

CAPITOL QUOTES



"Reality has proven that as a general rule, those who are not citizens do not register to vote."

-Pima County Recorder Gabriella Cazares-Kelly, questioning the premise of Strong Communities Foundation of Arizona's suit alleging election irregularities in Arizona.



"The (Arizona Corporation) Commission's decision to gut this requirement disregarded decades of precedent, is unsupported by evidence and contrary to Arizona law."

-Western Resource Advocates attorney Emily Doerfler, on reasons the ACC should not have exempted a power plant from environmental review.

"From the time I was 18 years old, it was more exciting for me to get my voter's registration than it was actually to get my driver's license."

-Former Republican state Rep. Regina Cobb, on how her early passion for politics led her to public service.



"I'm not good at fishing, I'll practice when I'm done being governor."

-Gov. Katie Hobbs, at the ceremony to announce the Apache trout is no longer on the endangered species list.



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REGINA COBB:

BLENDING ALL HER TALENTS IN A NEW ROLE



"From the time I was 18 years old, it was more exciting for me to get my voter's registration than it was actually to get my driver's license." (Photo by Jakob Thorington/Arizona Capitol Times)

Editor's Note: The Arizona Capitol Times has reestablished its Q&A that will feature people in the world of Arizona politics and government. You'll get their take on current and past events, their jobs and organizations and learn a little about them as people. This is the first one since March 2020 and will be a weekly feature.

After eight years serving in the House of Representatives, former Republican state Rep. Regina Cobb now finds herself as the Arizona Dental Association's executive director, carrying her knowledge and experience of lawmaking into her lobbying position. In a recent interview with the Arizona Capitol Times, Cobb discussed her experience at the Legislature as a House Appropriations Committee chair and how it differs from her observations of current lawmakers.

The questions and answers have been edited lightly for style and clarity.

Do you miss being in the Legislature at all?

There are times I miss it. I love policy. That's what I really wanted to do, was to represent my district, and I love the people of my district. I still get to do some of that policy part because I'm our chief lobbyist so I work with some of the issues in medicine and in dentistry.

What got you initially interested in public office?

From the time I was 18 years old, it was more exciting for me to get my voter's registration than it was actually to get my

driver's license. My parents were really involved in politics. Not physically involved but always knew the issues, knew who was running and talked about politics within my family. What got me probably thinking about running for office was I saw a need of my state representative. She was also a patient of mine at the time. She's no longer alive. I saw the slate of people that were going to run, and I felt like I could do a better job than any of them. It wasn't good timing. I had thought about doing it later on in my career, but not something at that moment. That opportunity happened at that moment and I decided I was going to take it.

What's your favorite moment while you were at the Legislature?

I was really excited to get KidsCare passed. I think that was a goal of mine when I first started in the office. When the cuts happened, it shouldn't have happened. I'm a children's advocate. It was a difficult moment for me because I had to go against my party. I probably gave up political capital for about a year, which is fine. I kind of got a year where I can get my feet beneath me again and kind of regroup.

What's budget season like as Appropriations' chair? Walk me through that process.

It's hectic all year long if the Appropriations chair is utilized the way they're supposed to be utilized. I know the last few years it hasn't been that way. Speaker Toma and President Peterson have pretty much done all the negotiations. During the summertime, I would meet with all the agencies and the departments and go through their budgets. I also met with lobbyists and different organizations to get the lay of the land. Probably in September or October was my time that I would

spend mostly with the members as they start filtering in at that point. In January, you hear what the governor's preliminary budget is. One thing that probably irritated me more than anything is the governor's budget would always come out before the House's budget came out. When the governor comes out with a preliminary budget, it's setting everybody up for failure. They keep saying "this is what we're going to get." The normal negotiations shouldn't be that way. That is a sore spot for me because one of our priorities, and especially the first year that I was in the Appropriations chair, was to pay down the debt. When the governor refinanced instead of paying down the debt, I got a little irritated with that because that took away one of our priorities. We did end up doing that a few years later. (Sen. John) Kavanagh was the chairman in the Senate and he probably had more time negotiating with me as a vice chair in the House when I was there than he does as a chairman in the Senate now. That's sad because he has a lot of knowledge and brings a lot of history to the process.

Do you think that's a product of the direction the Legislature has been headed toward or is it due to operating under a divided government?

I think it's because they're operating under a divided government. The House, the Senate and the Governor's Office all want that control. I think that that's how it changed, because we weren't divided before. We all knew we were playing a dance and we knew we were going to have to dance with each other. They don't necessarily feel that way and they feel like they could get a budget done, but they're not going to get all the things on either side that they want.

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ELECTIONS



Jimmy McCain, son of Sen. John McCain, R-Ariz., pauses at his father's casket during ceremonies honoring McCain at the U.S. Capitol Rotunda in Washington, Aug. 31, 2018. Jimmy McCain has registered as a Democrat and will vote for Kamala Harris for president in 2024. (Kevin Lamarque/Pool Photo via AP)

JIMMY MCCAIN, SON OF LATE SENATOR, BACKS HARRIS FOR PRESIDENT

BY JONATHAN J. COOPER *Associated Press*

Jimmy McCain, a son of former Arizona senator and 2008 Republican presidential nominee John McCain, said this week he has registered as a Democrat and will vote for Vice President Kamala Harris, a valuable nod of support for the Democratic nominee in a battleground state.

Meanwhile, Trump's running mate, Ohio Sen. JD Vance, was scheduled to appear outside Phoenix on Sept. 4 at a rally with the conservative youth organizing group Turning Point USA, which has been instrumental in remaking the Arizona GOP as a faithful organ of former President Donald Trump's "Make America great again" movement.

Jimmy McCain's endorsement and Vance's Turning Point USA appearance reflect the disparate segments of the GOP that Harris and Trump are trying to reach. Democrats are appealing to traditional conservatives disillusioned by Trump's takeover of the GOP, while Republicans are looking to shore up their base and ensure that their young supporters turn out.

Jimmy McCain said he had been an independent since leaving the Republican Party after Trump became its standard bearer in 2016. He decided during a nine-month overseas deployment that just ended to switch his registration to Democratic and announce it publicly. His decision was first reported by CNN.

He said he was further "fired up" by the decision after seeing Trump's campaign visit to Arlington National Cemetery, a visit that Harris called a "political stunt" that "disrespected sacred ground." Trump has had a fraught relationship with the McCain family since he

denigrated the senator's status as a war hero during his 2016 campaign.

Jimmy McCain said it was personally difficult for him to hear his father disrespected, but he said his father chose a public life and Americans are allowed to criticize their leaders.

"With Arlington, the people who are buried there gave their lives and the ultimate sacrifice," McCain said.

"They don't get a political opinion. ... We don't know what those people felt, thought, what they believed. We know they believed in their country and that's about it."

Trump said he was invited to Arlington by the families of Marines killed in a suicide bombing during the chaotic U.S. withdrawal from Afghanistan. His campaign released statements from the relatives accusing Harris of playing politics with the issue.

Jimmy McCain, 36, enlisted in the U.S. Marines as a teenager and served four years. He reenlisted in the Army National Guard and was later commissioned as an officer, currently holding the rank of 1st lieutenant.

Ideologically, McCain said he's a moderate and harkened back to his father's 2008 campaign slogan, "Country first."

"I'm a center man who cares about his country more than anything," McCain said.

Cindy McCain, the late senator's widow, endorsed President Joe Biden shortly before the 2020 election, a vote

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LD 9 DEMOCRAT DEFENDS SENATE SEA AGAINST SAME GOP FOE

Burch played a key role during the 2024 legislative session in the Democrats' effort to repeal the state's near-total ban on abortion that would become state law after the U.S. Supreme Court ruled that *Roe v. Wade* was no longer valid.

Burch is a nurse who has focused on health care related issues since taking office, and said her experience as a nurse has highlighted issues that are close to her.

If she is re-elected to the Senate, Burch said one of the first bills she plans to reintroduce would be one to lower the cost of prescription medications for Arizonans, widening the scope to include those who are not Medicare patients.

"Health care expenses are certainly high on the list of what people are paying for that keep them from being able to meet the needs of their families," Burch said.

She said health care affordability is part of the bigger issue of the cost of living in Arizona. Housing cost is another high priority issue in her district, which covers much of east and central Mesa, and finding permanent solutions will require bipartisanship, she said.

"There's never going to be a bill that specifies everyone and all the stakeholders, so if we want to get them (housing-related bills) across the finish line, we need to have the right leadership in place in the House and the Senate that will not obstruct the legislation for arbitrary reasons," Burch said.

Reigning in the Empowerment Scholarship Accounts program would be another step to take to improve Arizona's economy, Burch said. An enrollment cap — with some exceptions — would help balance the state's budget and allow more spending in public education, she said.

As the incumbent prepares for her general election rematch with Scantlebury, her image has become closely tied to the pro-choice movement, particularly through her backing of the proposed Arizona Abortion Access Act, which seeks to legalize abortions up to fetal viability in most cases.

After making national headlines for sharing her abortion story on the Senate floor, Burch said she is feeling "even more passionate" as she knocks on doors and hears from constituents who share similar experiences.

However, she warned that voter approval of the pro-abortion proposition in November should not be the only thing motivating Arizonans at the ballot box.

"I can't stress enough how important it is that we have pro-choice candidates in the

Legislature, and we have pro-choice judges, because the constitutional amendment is not going to be the end of the story in Arizona," Burch said.

On the other hand, Scantlebury's campaign has focused on border security, public safety, school choice and lowering the cost of living. The Republican candidate has taken a similar approach in this campaign as he did two years ago.

When it comes to housing affordability, Scantlebury wants to remove regulatory guardrails for homeowners, according to his campaign website.

"Neighborhoods are often harmed by the presence of AirBnBs or homes that are converted to businesses," Scantlebury's campaign website reads. "With the right regulatory and economic policies, we will put ourselves, our children, and our grandchildren in a better position to succeed."

Scantlebury had the endorsement of current U.S. Senate candidate Kari Lake during the 2022 election cycle, and has the backing of the Homebuilder's Association and the Mesa Police Association.

His bid to unseat Burch has brought in \$10,000 in donations from the Freedom Club Political Action Committee, but his on-hand balance is slim in comparison to the incumbent. Scantlebury had \$29,931 on hand, as of pre-primary campaign finance reports, while Burch held a significant lead with \$130,081 on hand.

GOP consultant Chuck Coughlin said Scantlebury's luck in the race is slim to none. "It's not possible," he said, noting that the competitive district has turned even more blue since the 2022 election cycle.

Coughlin said the presidential election will increase turnout from young voters, further stacking the odds against Scantlebury in the district that favors Democrat candidates by 2.6%, according to the Independent Redistricting Commission.

Though the district is considered highly competitive, Scantlebury does not have the same appeal that a more moderate GOP candidate could, he said.

"I think the people representing that district right now are reflective of what that district is," Coughlin said. "Republicans keep running MAGA-esque candidates that can't appeal to that district, I just don't see it."

Scantlebury did not respond to multiple requests from the Arizona Capitol Times for an interview prior to deadline.

CONTINUED FROM FRONT PAGE

BALLOT MEASURE TARGETS CITIZEN INITIATIVES PRIOR TO ELECTION

high costs as groups simultaneously gather signatures and fight in court and could stymie investments in initiatives altogether.

The Legislature passed Senate Concurrent Resolution 1041, sponsored by Sen. J.D. Mesnard, R-Chandler, along party lines and transmitted the measure to the Secretary of State's Office in June.

The measure allows for challenges to the constitutionality of citizen proposed ballot measures within at least 100 days before the election.

In unveiling the measure to the Senate Elections Committee in February, Mesnard said challenges "inevitably" follow ballot initiatives, but the current process leads to an adverse result after efforts to see a measure through.

"It's a lot of disappointment," Mesnard said. "And that's following hundreds of thousands or millions of dollars and lots of time spent advocating, getting them passed, only to find out they were unconstitutional."

He deemed getting litigation out of the way beforehand is the "lesser of the evils."

"If I were them, I'd rather know earlier in the effort that this thing is going to go south," Mesnard said.

Greg Blackie, lobbyist for the Arizona Free Enterprise Club, supported the measure through the Legislature.

He said the measure works to "protect our ballot from unconstitutional measures."

"From our perspective, voters have a right to presume that what's being put before them on their ballot is constitutional. And so it's kind of confusing and could be disappointing to vote on a measure only to see it struck down after the fact," Blackie said. "It's a lot cleaner to just get it resolved on the front end."

As it stands now, ballot measures can face constitutional challenges pre-election, but only on form requirements for bringing an initiative to the ballot, number of valid



Sen. J.D. Mesnard speaks at the Capitol in this 2021 photograph. (Photo by Howard Fischer/Capitol Media Services)

signatures and language in the 200-word description.

The precedent against considering substantive constitutional challenge was established under a 2006 ruling in *League of Arizona Cities and Towns v. Brewer*, a pre-election challenge to a proposed private property rights ballot measure claiming an alleged violation of the state Constitution Revenue Source Rule.

In a unanimous decision, the Arizona Supreme Court ruled the court could not weigh in on more substantial claims of constitutional violations as doing so would disrupt the legislative process.

"A fundamental component of the legislative process in Arizona is the right of the people to offer legislation through the initiative," Rebecca White Berch, the vice chief justice at the time, wrote. "And just as the courts may not predetermine the substantive validity of the legislature's measures, so too must they refrain from

predetermining the substantive validity of the people's initiatives, even if the legislation might conflict with the Arizona Constitution or state law."

The same was held in 1997 in *Winkle v. City of Tucson*, a case concerning a city minimum wage ballot measure.

Justice Stanley Feldman wrote at the time: "Voter initiatives, part and parcel of the legislative process, receive the same judicial deference as proposals before the state legislature – courts are powerless to determine their substantive validity unless and until they are adopted."

And both cases harkened back to a 1914 opinion, *State ex rel. Bullard v. Osborn*, which held that giving courts the ability to "assume in advance the power and right to decide whether the proposed measure was invalid would be tantamount to claiming the power of life or death over every initiated measure by the people. It would limit the right of the people to propose only valid

laws, whereas the other law-making body, the legislature, would go untrammelled as to the legal soundness of its measures. Such differentiation of powers is expressly prohibited."

In the years since, the same string of case law threaded through ballot measure challenges in the lead-up to elections. In line with case law, courts have waited until post-election to consider whether a measure is constitutional and taken up pre-election challenges on a limited basis.

And under that system, those spearheading citizens' initiatives say they can better anticipate legal challenges and budget for the fees that follow.

Stacy Pearson, lead political consultant for the Smart and Safe Arizona campaign to legalize marijuana, said campaigns prepare for the "six week gauntlet where the signatures and the summary and the traditional legal challenges occur."

But allowing challenges earlier, Pearson said, could keep campaigns in court for more of the election cycle and strain resources on the ground.

"Every dollar that an initiative campaign is spending in court, they're not spending communicating with voters," Pearson said. "So doubling, or tripling or even quadrupling the legal budget has a direct impact on the campaign itself."

She noted, too, the vetting campaigns do to ensure a ballot measure is constitutional, seeking review from both their own attorneys and legislative council.

"It's reviewed dozens and dozens of times before a voter is asked to sign a petition, or ultimately vote for an initiative," Pearson said.

Overall, Pearson said the change carries a cost.

"It just makes it more expensive," Pearson said. "This doesn't provide better protection to the voters of Arizona. It makes sure that special interests are the only ones that have the funding available to use direct democracy."

JIMMY MCCAIN, SON OF LATE SENATOR, BACKS HARRIS FOR PRESIDENT

of confidence that helped the Democrat eke out a narrow win in Arizona with support from Republicans disaffected with Trump. Biden appointed McCain to be the U.S. ambassador to the United Nations food and agriculture agencies in Rome, where she is now executive director of the U.N. World Food Programme.

A Navy pilot, John McCain was shot down over North

Vietnam in 1967. He was captured, beaten and held prisoner for more than five years, refusing to be released ahead of other American servicemembers.

Trump said of McCain, "He's not a war hero. He was a war hero because he was captured. I like people who weren't captured." McCain later angered Trump with his dramatic thumbs-down vote against repealing Obama's

health care law.

McCain represented Arizona in Congress for 31 years until his death in 2018 from an aggressive brain tumor and built a national reputation as a "maverick" willing to buck his party. While he sometimes took flack from the GOP base and faced fierce primary challengers, he was overwhelmingly re-elected and remains a beloved figure in the state.

GUEST COMMENTARIES

LATINO FAMILIES ABSENT FROM ARIZONA ESA COVERAGE

By *Krissia Campos Spivey*

As school choice policies expand, I noticed a rise in criticism for these programs without an accurate consideration of the families they serve. For example, this article from CNN in June, “Arizona is sending taxpayer money to religious schools — and billionaires see it as a model for the US,” focused on Arizona’s Empowerment Scholarship Account program, but misses so much about the program. Most glaringly, this piece of over 3,300 words neglected to include any Latino voices, despite Latinos comprising one-third of Arizona’s population and 45% of its K-12 student population — and is projected to exceed 50% by 2026. This oversight highlights a broader problem with school choice critics: their arguments often come from ideological biases rather than practical concerns for the students and worse yet, disadvantaged children.

As a proponent of school choice in all its forms — including traditional public schools, public charters, public magnet schools, online schools, homeschooling, and the new microschooling — I believe that it should be up to parents to make decisions about their children’s education. As a mother whose children attend a traditional public school, I am not opposed to public education. On the contrary, my family has loved our traditional public schools for over eight years, and I believe a child can find the ideal educational fit in any type of school. Because of that, I take issue with critics of ESA programs that fail to include the perspectives of people like me, a Hispanic parent.

Critics’ Ideological Bias

Critics of school choice often base their opposition on ideological grounds rather than addressing the practical benefits of such programs. Many of these critics are comfortable and well-established individuals who lack firsthand experience with the struggles faced by disadvantaged families. This mirrors what I see on a national level with school choice critics — they get so wrapped up in ideologies that it is easy for them to lose the perspective of the families and the students benefiting from the programs. According to a survey by the National School Choice Awareness Foundation, 76% of Black parents and 66% of



Hispanic parents considered a new school for their children in 2023. Additionally, 63% of Black parents and 53% of Hispanic parents are considering exercising school choice in 2024. These statistics show the significant demand for school choice among minority communities.

Benefits of School Choice

Numerous data points support the benefits of ESA and Arizona’s ESA programs. In fact, 70% of private schools in Arizona serve students with special needs, providing tailored educational environments. Arizona’s ESA program is projected to cost the state \$332 million in the current fiscal year, potentially increasing to \$429 million next year, but it represents only 2% of total K-12 spending in Arizona. Furthermore, cross-district open enrollment policies (traditional public school transfers) and universal private school scholarships enable 32% of publicly funded students in Arizona to attend the school of their choice.

The True Human Impact

Beyond the numbers, school choice significantly impacts families on a personal level, and Hispanic voices are not even invited to the debate. As a Hispanic mother running a program supporting Hispanic families exploring educational options, my team has had one-on-one conversations with over 700 Hispanic parents in the last 12 months. Like many others, these parents care deeply about their children’s education and often seek better opportunities. I don’t believe it is a coincidence that the largest minority group represented in K-12 education supports school choice policies that provide access to greater educational options. Latino students disproportionately face greater achievement gaps and challenges compared to their peers as they navigate their educational experience. We have encountered parents of special needs children, parents of English learners mistakenly placed in special education, and parents eager to utilize open enrollment policies to transfer to another traditional public school of their choice. Additionally, many parents seek charter schools with Spanish immersion programs to maintain our linguistic heritage. These diverse needs highlight the importance of providing various educational options to meet each student’s unique requirements. Truthfully, I have never had a conversation with a Hispanic parent against school choice policies.

Education is the most crucial tool for the growth of this country and our democracy. With 28% of K-12 students being Latino, it is essential for critics and lawmakers from all spectrums to consider this group of the population — not only because it is the right thing to do, but also because it is the smart thing to do. School choice offers numerous benefits, especially for disadvantaged families seeking better educational opportunities for their children. To truly support our nation’s growth, we must move beyond ideological biases and focus on the practical, human impact of these programs.

Krissia Campos Spivey is the director of Conoce tus Opciones Escolares, a national school choice awareness foundation.

\$265B PLAN WOULD BENEFIT LATINO COMMUNITIES

By *Rep. Lydia Hernandez*

I am proud of the contributions Arizona’s Latino communities make to our neighborhoods and our state’s economy. As an Arizona state representative and chair of the Latino Caucus, I understand the challenges our communities face when it comes to housing affordability and access to essential financial services. Despite the immense economic gains our communities have made over the years, half of Latinos in our state spend more than 30% of their income on housing, and 16% of Latino Arizonans still live below the poverty line as of 2022.

We need bold solutions to tackle these disparities, expand economic opportunity, and empower our communities to build credit and eventually build wealth. That is why I am excited about Capital One’s \$265 billion Community Benefits Plan, which they will roll out should the merger with Discover be approved. This plan is unique in that it was not drafted in a dark room filled with only powerful executives. Capital One brought together grassroots organizations that have a vested interest in the success of our communities, including the National Association for Latino Community Asset Builders, which supports the development of affordable housing and the expansion of financial counseling.

I’m thrilled to see that this plan includes several proposals that will greatly benefit our communities, including \$35 billion to support homeowners and aspiring homeowners in Arizona and all over the country. The plan also includes a \$600 million



commitment to supporting Community Development Financial Institutions, which are essential in providing financial services to households often excluded from traditional banking. These funds will help them expand their reach and help underserved communities build their American dream, whether that be starting

their own business, financing their education or buying a home.

Capital One’s plan will also support our state’s Latino-owned businesses, which often struggle to access banking services from traditional financial institutions. The plan sets aside \$15 billion for small business lending in low-moderate income neighborhoods, which will expand credit access to Arizona’s aspiring small business owners and empower them to drive economic growth, create jobs, and contribute to the economic fabric of our great state.

There is a lot of work to be done in order to achieve financial inclusion for all Americans. But I know that this plan will be a great step in the right direction for Latino communities in Arizona. They need bold and ambitious private sector investments that address their needs.

As regulators review this merger, I urge them to consider all the benefits it will bring to communities other financial institutions often leave behind. This merger and the Community Benefits Plan will empower more people to build wealth in our country, start businesses, and get one step closer to realizing their American dream.

Rep. Lydia Hernandez, a Democrat, represents Legislative District 24.

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REGINA COBB: BLENDING ALL HER TALENTS IN A NEW ROLE

What's the toughest part of being a legislator

Making decisions and being able to look at yourself in the mirror the next day and know that you've made the right decision, even if it goes against what everybody else believes you should do. I'm representing not only my constituents, but I represent myself too. Sometimes what was difficult is making those really tough decisions and knowing at the end of the day that I'm going to receive some type of punishment. If I go against my party, then I'm going to have to answer to my party.

We're about to get a new wave of legislators after the election. What would be your advice to someone who's just been elected to the Capitol for the first time?

Sit back and watch for a while. I took this advice – sitting back and observing the situation without going in and thinking you know everything. I knew dentistry. I had been doing it for 30 years. Negotiating the bills, figuring out how to get them passed, the chess game that you play to get your bills passed was all a learning process, and it took me probably two or three years before I really learned that whole process of how it goes. One of the best things I did was I told myself, I'm only going to sponsor 10 bills for the first few years, and I actually kept that. The only reason I would go over that in the latter years is because being the Appropriations chair, I always had to sponsor all the appropriation bills, and I always had some technical corrections in my pocket. But if you look at my first years, you'll see that I only would usually sponsor right around 10 bills. Also time management – that was such a big deal with me. My first year gave me an unreal expectation of how long a session really lasts. I think, was like 56 days or something and ended around the beginning of April. That's two to three months ahead of where they're ending sessions now.

It must be maddening now with some of these little breaks lawmakers are going on later in the session. How do you plan around that?

You were not allowed to even schedule anything. It was told that right in the

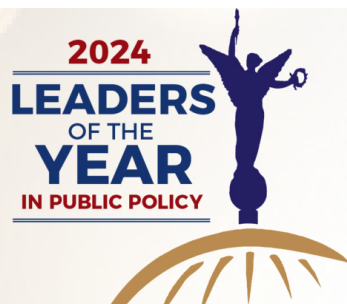
beginning you are going to be on the floor, and you better not schedule your vacation until after June. Now they're scheduling vacations like in May and I'm thinking, this is not what our Legislature is supposed to be. They're supposed to be there at all times. I mean, one of the reasons that they do this legislative immunity for traffic things is to make sure that our legislators made it on time. Now you're taking vacations for two or three weeks. This is ridiculous. I mean, it shouldn't happen. I wish they would get back to where they were before, because I don't think we missed days.

What kind of insight do you have now after being a lawmaker and having been on the other side of committee rooms?

I started on the other side with the dental association. My job is to evaluate bills, figure out what we want to accomplish, who could speak during committee. Who do we get as a sponsor, those kinds of things. My predecessor, Doris Goodale, sponsored one of my bills for me. It's actually easier this time because I understand the process a little bit more than I did the first time around when I was doing it as Government Affairs chairman. I think this job takes every one of my talents and kind of mounts them into one. It has dentistry, has administration, it has the legislative experience, PR experience – all those things are things that I've done throughout my career.

What are you hoping to see from the Legislature over the next year?

For one thing, I'm hoping we see a positive budget. I know last year we were making up for mistakes that they made the prior year. Going forward, I think they ... say what can we do differently to where we can at least get a neutral budget, if not a positive budget – and that we're not cutting services. I would like to see some of the things that were cut over the last few years restored. They swept \$80 million of board funds, not just our board, but all the boards. I think that that's a problem when you don't give control to the boards for their own appropriations. I'd also like to see some actual collaboration on getting things done. Hitting each other over the head is not conducive to getting progress.



The Arizona Capitol Times presents the 2024 Leaders of the Year! Each year, the Arizona Capitol Times recognizes leaders who have contributed to the growth of our state. These people hunker down each day to find ways to improve the quality of life of Arizona's citizens. The awardees will be recognized at an awards luncheon at noon on September 24th at the Marriott Phoenix Airport. They will also be profiled in a special edition of the Arizona Capitol Times.

LIFETIME ACHIEVEMENT

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Robert Linde
General Manager, Snowbowl Ski Resort

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ELECTIONS

*Mike Cease**Nina Luxenberg*

GREEN PARTY OFFERS ALTERNATIVES IN ACC RACE

BY REAGAN PRIEST rpriest@stateaffairs.com

A pair of Green Party candidates are running in the already crowded race for three seats on the Arizona Corporation Commission.

Mike Cease and Nina Luxenberg ran as write-in candidates in the Green Party primary and will be on the general election ballot alongside three Democrats and three Republicans.

Cease is a long-time member of the Arizona Green Party and has run as a Green-endorsed candidate in many Tucson elections. Luxenberg is a newer Arizona resident and a radiologist also based in Tucson.

The two garnered 179 and 175 votes respectively in the Green Party primary and will have to contend with big vote-getters like Rachel Walden, a Republican candidate for the ACC who received the most votes of any female candidate in the Arizona primary.

Cease has a background in chemical engineering and has been a member of the Green Party since 1996. He said his priorities as a commissioner would include sanctioning Arizona companies with ties to Israel, pushing utility companies to transition to renewable energy sources and stopping mining companies from polluting groundwater.

A ceasefire in the Israel-Palestine conflict is a priority for Cease, and something he said he hopes to facilitate through ending partnerships between Arizona companies and Israel. He said he decided to run for the Corporation Commission because he realized it can have an impact on a lot of issues that Green Party voters care about, like a ceasefire.

“[The ACC] touches on a whole range of core issues in the Green Party platform and Green Party values,” Cease said.

Luxenberg said she moved to Arizona two years ago from Florida and has fallen in love with the state and its nature. Her passion for the environment drove her to run for public office for the first time in her life.

“When I moved to Arizona, I joined the Green Party,” Luxenberg said. “I have always followed their tenants, their platform, basically it’s people, planet and peace, and I abide by all of that.”

Luxenberg said her top priorities are lowering utility costs,

incentivizing solar energy and protecting the state’s water supply. One of her biggest concerns is the potential opening of a new mine near the Santa Rita Mountains in Pima County.

Mining operations like the one near the Santa Rita Mountains are high priorities for many Arizona Green Party candidates, including Cease and the party’s candidate for U.S. Senate, Edward Quintana. Cease said he is also particularly concerned about the Resolution Copper Mine that has been threatening the sacred Native American site Oak Flat in eastern Arizona.

While the Democratic candidates for the ACC have positioned themselves as the climate-focused slate and have received endorsements from environmental groups like the Sierra Club, Green Party candidates are the best choice for real solutions, Luxenberg said.

“The Green Party has always put the people first and we are concerned about implementing climate change solutions as quickly as possible,” Luxenberg said.

Cease acknowledged that he and Luxenberg face more challenges in their campaigns as Green Party candidates, especially after being excluded from a Sept. 3 debate hosted by the Citizens Clean Elections Commission. After some Green Party candidates said they weren’t invited to debates, Clean Elections said it instituted a new rule requiring statewide candidates to receive 1% of all votes cast in all primaries to be invited to debate.

That threshold is over 12,000 votes, something Cease said Green Party candidates could never hope to achieve with their closed primaries and around 3,400 registered voters.

“It’s devastating because that’s an awesome opportunity for any candidate to get his or her message out there,” Cease said.

All Arizonans, regardless of political party, will be able to cast votes for Green Party candidates if they choose, and Cease and Luxenberg hope voters consider them when casting their ballots.

“This isn’t voting for the lesser of two evils, that’s not how we’re going to see change,” Luxenberg said. “It’s not a question of, ‘I don’t want to support them because they won’t win.’ Voting is one way we give our voice, so I think everyone should vote their conscience.”

ENVIRONMENT

MAYES, ENVIRONMENTAL GROUPS SUE ACC OVER POWER PLANT EXPANSION

BY REAGAN PRIEST rpriest@stateaffairs.com

Attorney General Kris Mayes and two environmental organizations have filed complaints against the Arizona Corporation Commission over its June decision to exempt an energy company from an environmental review of its power plant expansion.

The ACC voted in June to reverse an order from the Arizona Power Plant and Transmission Line Siting Committee requiring UniSource Energy to obtain a Certificate of Environmental Compatibility for its proposed expansion of the Black Mountain Generating Station near Kingman.

Mayes’ office filed the complaint in Maricopa County Superior Court, saying the commission “misinterpreted key terms and made erroneous conclusions” in its decision.

“Arizona’s energy projects must remain accountable under the law in order to protect communities and our environment,” Mayes said in a statement.

Mayes is asking the court to throw out the commission’s ruling and order commissioners to deny UniSource’s request to forgo environmental review of the plant expansion.

Under state law, utility companies must receive a Certificate of Environmental Compatibility, known as a CEC, for power plants with generators of 100 megawatts or more. UniSource argued that the expansion project would add four generators that are 50 megawatts each and should not require a CEC, despite the total wattage of the expansion exceeding 100 megawatts.

Several groups, including Western Resource Advocates, the Sierra Club, Arizona Solar Energy Industries Association and the Attorney General’s Office, asked the commission to rehear the case, saying the decision went against decades of precedent. The commission did not respond to the request, effectively denying it.

Western Resource Advocates and the Sierra Club both filed motions similar to the one filed by Mayes.

“The requirement that utilities obtain a certificate of environmental compatibility is an important part of Arizona’s regulatory process,” said Emily Doerfler, an attorney for Western Resource Advocates, in a written statement. “The Commission’s decision to gut this requirement disregarded decades of precedent, is unsupported by evidence and contrary to Arizona law.”

In the lawsuit, Mayes also accuses the ACC of considering evidence that was “not permitted by law” in order to make its decision, thus creating “ambiguity in the law.”

The commission has defended its decision, saying it was only following language in state statute that left little room for interpretation.

“The Commission followed the letter of the law as written,” said Tom Van Flein, the commission’s general counsel, in a written statement on Aug. 30. “Policy advocates wanted a different interpretation for policy reasons. That remains the purview of the Legislature.”

The advocacy groups have rejected that reasoning, saying it doesn’t explain why the commission had previously ruled the opposite for nearly 50 years. They say the Legislature made the intent of the law quite clear by including a policy statement for the statute when it was passed.

It’s unclear when the court will make a decision on the complaint. If the case is unresolved before Election Day, the commission could have a new makeup if the court sends the decision back for a vote.

EDUCATION

STUDENT DISCIPLINE AMONG KEY REASONS WHY TEACHERS QUIT

BY HOWARD FISCHER *Capitol Media Services*

Teachers are leaving the profession for a variety of reasons, and it's not always about pay.

A new survey released Sept. 3 by the state Department of Education of those who did not return to teaching this year finds some other factors are bigger drivers, including burnout, lack of respect and that student behavior and discipline problems were an issue at their school last year.

And state Superintendent of Public Instruction Tom Horne said he believes the thing that will most help keep teachers in the classroom is having the administration back their decisions when they discipline students. And that includes burnout.

"Wouldn't you be burned out if you had to teach a class where the kids were acting up and the administrators weren't doing anything about it?" Horne told Capitol Media Services. "I wouldn't last a year."

He is using the report to make a new push for legislation designed to penalize districts that don't back their teachers.

Horne supported a proposal earlier this year introduced by Sen. John Kavanagh, R-Fountain Hills, which would have reduced the academic standings of schools whose administrators do not impose discipline at least three out of every four times requested by a teacher.

"I've heard from too many teachers where they write up referrals, and nothing is done," said Rep. Matt Gress, R-Phoenix, during debate on the measure. "And many kids are able to run roughshod all over the school and distracting the learning from too many kids that are wanting to get an education."

The enforcement mechanism behind all this would have required the state Board of Education to lower a school's letter grade if it did not implement disciplinary actions in at least 75% of the total number of student discipline referrals submitted by teachers in a single year. Only if a school had a "reasonable justification" for falling below that figure would there be no penalty.

It cleared the Republican-controlled Senate on a party-line vote but died in the House when some Republicans refused to go along.

"Shame on the legislators who voted against it," Horne said. Several Democrats said this is an issue that should remain a local concern. But Rep. Nancy Gutierrez, D-Tucson, also said during the debate that she saw a darker motive in the proposal. She pointed out that each school gets a rating of A through F, one that is based on academic performance and year-over-year improvement. Parents can use those ratings to determine whether to send a child there.

"It is my opinion that this bill has been put forward in order not to support teachers but in order to make it so that there's an easier way to have more public schools with D and F grades to support



In this Sept. 26, 2022, photo, Katerina Hoffman, 22, a teaching resident at Encanto Elementary School in Phoenix, works with second-grade students. (Photo by Sophie Oppfelt/Cronkite News)

some of the rhetoric that we hear that public schools are failing our students," Gutierrez said.

That's an argument that has been used by some to support the use of tax dollars to let parents send their children to private or parochial schools.

Horne acknowledged that the threat of lower grades is designed to get the attention of schools – and parents.

"Believe me, districts care about their grades," he said. "If you give them a grade incentive to support the teachers on discipline, they'll do it."

Rep. Jennifer Pawlik, D-Chandler, said during the debate over the legislation that she is glad that Horne is "listening to teachers." Pawlik, a former teacher, agreed that teacher turnover goes beyond salaries.

"A lot of people are leaving right now because classroom behaviors have accelerated," she said. "And it's really hard to be a teacher right now."

But Pawlik said what was in the Kavanagh legislation was not an incentive but "punitive," something she said is not the answer.

Kavanagh said on Sept. 3 he still supports the goal but is "open" to alternate ways to encourage administrators to support the discipline imposed by teachers.

The new report released by the Department of Education focuses less on pay – issues generally outside the control of school districts and boards – and more on things that can be done at the local level. And that deals largely with what it calls "teacher voice."

"If teachers truly have input into the creation of the systems, procedures, and expectations at their schools, they feel more empowered to achieve desired outcomes," the report says. "Teachers feel valued and work together to find solutions."

That, in turn, the report says, creates not just long-term satisfaction but also a "commitment to the field of education."

"A greater retention rate for not only the campus, but the district takes place when utilizing the strategy of teacher voice," it says. The email survey was sent out to more than 5,900 teachers who

did not return this year.

Of that, 2,482 completed it. But about 1,500 responses were removed because they were ineligible to participate because the reasons they left teaching were unrelated to what they survey was about, reasons like retirement, going into administration or accepting a mentoring job.

Participants were given more than two dozen factors from which to choose and told to rate them as whether they agreed these were reasons they left.

More than 71% said they agreed or strongly agreed that burnout was a factor.

Some 69% gave a similar rating to not feeling respected, with almost 64% citing student behavior.

And wanting a higher salary was cited by 62%.

Other factors that departed teachers said they agreed with include:

- Too many intrusions on teaching time.
- Dissatisfied with teaching as a career.
- Deciding to pursue a position other than a K-12 teacher.
- Too many students in a class.

The results, said Horne, are not exactly a surprise. The same issues have been cited year after year in surveys by other organizations.

In fact, a task force on teacher retention formed by Gov. Katie Hobbs reported in December – before this year's legislative session – that solutions include raising salaries, cutting workloads and reducing stress.

That report found that teacher turnover comes with a cost to students.

It cited studies that teacher effectiveness continues to steadily increase until the 12th year, with the largest gains in student achievement occurring during a teacher's first five years in the classroom.

But it also found that in Arizona one-third of all teachers have four years or less experience, with fewer than half having 10 or more years in the classroom.

ENVIRONMENT

FEDS SAY APACHE TROUT NO LONGER ENDANGERED SPECIES

BY HOWARD FISCHER *Capitol Media Services*

It's not going to change the ability of Arizonans to catch them.

But the U.S. Department of Interior announced Sept. 4 it has removed the Apache trout from the list of endangered and threatened species.

What the delisting shows, according to Interior Secretary Deb Haaland, is that the federal Endangered Species Act does work. And she said it has been decades of work that has brought the trout, the official state fish, back from populating just 30 miles of streams in the White Mountains to 30 different populations occupying 175 miles of habitat.

Gov. Katie Hobbs said it's about more than the \$5.1 million federal spending which ensures that the trout remain available for anglers to go out, catch and, in some cases, can cook up in a frying pan.

"It is a success that we have gotten it off of the endangered species list," she said. "It's now

thriving, which adds to visit the White Mountain Apache area and participate in other activities like fishing."

Actually, fishing the Apache trout has been allowed for a while, according to Alex Loubere, the native trout and chub coordinator at the Arizona Game and Fish Department.

Loubere said, delisting or not, his agency will continue to monitor the trout and make adjustments in where and when anglers can drop a line in the water.

That, however, won't include Hobbs – at least not for some time.

"I'm not good at fishing," she said. "I'll practice when I'm done being governor."

And putting a live worm on a hook?

"I have," said the governor. "I don't enjoy it. I'm not good at it."



This photo provided by the Arizona Game and Fish Department shows an Apache trout, Arizona's state fish that was removed from the federal list of threatened species. (Arizona Game and Fish Department via AP)

ELECTIONS

GET READY TO SEE A LOT OF RUBEN GALLEGOS ADS

BY HOWARD FISCHER
Capitol Media Services

Sick of those political ads on TV and radio? You ain't seen nothing yet.

A new report by AdImpact, which tracks these things, finds that politicians and the political action committees that support them have reserved almost \$1.8 billion worth of commercial time between Labor Day and Election Day.

And close to \$150 million of that is here in Arizona.

Most of that money, \$65 million, is being devoted to the hotly contested race for the U.S. Senate, with about three-fourths of that on behalf of Democrat Ruben Gallego. In fact, AdImpact reports that Gallego himself set aside \$18.3 million from his own campaign funds – the highest amount of any individual candidate in any Senate race in the nation.

The balance will come not just in whatever money that Republican Kari Lake can raise – she is far behind Gallego – but what outside interests spend here on both sides in an effort to influence the outcome.

That race has become one of the most highly watched as it could determine who gets control of the Senate. And it has become particularly important to Democrats to at least maintain their slim majority, with the House run by the GOP and the presidential race between Kamala Harris and Donald Trump being a potential toss-up in electoral votes.

Overall, AdImpact predicts more than \$603 million will be spent on the 34 Senate races in 2024, and almost \$348 million of that is on



Former prosecutors told the Arizona Supreme Court in a friend of the court brief that the Attorney General is the only officer who can seek a death warrant. (Photo by Unsplash)

behalf of Democrats.

That, the organization says, should come as no surprise.

"Democrats are facing an uphill climb for control of the Senate, running against a historically challenging map," its new report states. And Republicans, who control 49 of the 100 seats, are poised to pick up the seat being vacated in West Virginia by Joe Manchin, "meaning they are on the precipice of a majority."

And that means winning just a single other seat currently held by a Democrat – or, in the case of Arizona, by Kyrsten Sinema who reregistered from Democrat to independent – would give them control.

In another development, NBC News just reported that the political action committee affiliated with the Congressional Hispanic

Trump.

That, however, is less than the \$86 million the company says was spent four years ago here in the same Labor Day to Election Day period. Then, too, Democrats outspent Republicans: \$51 million to \$35 million. And that was just enough to have Joe Biden defeat Trump by 10,456 votes statewide.

Still, the nearly \$40 million already reserved in Arizona for presidential ads this year is dwarfed by \$136 million in Pennsylvania with its 19 electoral votes. Trump himself, in a recent pitch in Philadelphia, said, "If we win Pennsylvania, we win the presidency."

That nearly \$150 million estimate in total advertising spending in Arizona also includes ballot measures, though the report does not break out who has set aside funding.

Much of that is likely to be spent on Proposition 139, which would for the first time put a right to abortion in the Arizona Constitution. Even after paying for things like signature gathering, the most recent report of Arizona for Abortion Access, covering the period through the middle of July, listed more than \$9.7 million cash on hand.

By contrast, It Goes Too Far, the committee organized in opposition, had less than \$400,000 cash available at the same time.

In fact, AdImpact reports that almost \$40 million is reserved in Arizona for commercials in that contest between Kamala Harris and Donald Trump. Only viewers in the swing states of Pennsylvania, Georgia and Michigan will see more.

Caucus is going to spend about \$1.1 million in Arizona in a bid to get Gallego elected. That will be nearly \$690,000 in Spanish broadcast spots, \$250,000 on digital advertising and \$158,000 on statewide Spanish radio.

Arizona also is crucial in the presidential race. The most recent Cook Political Report figures 226 electoral votes are Democratic or leaning that way, with 219 for the GOP. That leaves 93 votes at play, with 270 needed to win.

And that list of toss-up states includes Arizona and its 11 electoral votes.

AdImpact says there's nearly \$40 million already reserved for ads in Arizona in the presidential race between now and Election Day.

The lion's share of that – \$34.9 million – is earmarked to elect Kamala Harris, with just \$9.9 million in reservations on behalf of Donald

ELECTIONS



Election workers sort early ballots for signature verification prior to tabulation inside the Maricopa County Recorder's Office on Nov. 8, 2022, in Phoenix. An Arizona group is suing all 15 county recorders, accusing them of failing to do their jobs to ensure that only citizens are voting. (AP Photo/Matt York)

GROUPS SUE OFFICIALS TO REMOVE ILLEGAL VOTERS FROM ROLLS

BY HOWARD FISCHER *Capitol Media Services*

Unhappy with the response it got to its queries, an Arizona group that has claimed election irregularity in the state is now suing all 15 county recorders, accusing them of failing to do their jobs to ensure that only citizens are voting.

The new filing Sept. 4 by Strong Communities Foundation of Arizona contends the recorders have an obligation under both state and federal statutes to perform "list maintenance" on their voter rolls. More to the point, the organization and its legal team, formed by former Donald Trump adviser Stephen Miller, are telling U.S. District Court Judge Susan Bolton that the recorders are not complying with those laws.

Now they want the judge to order the recorders to make what they claim are mandatory checks. And they also want the recorders to turn over a list of those who registered without providing proof of citizenship, which is legal, to Attorney General Kris Mayes.

Maricopa County Recorder Stephen Richer, who was the first one sued last month, already has denied his agency is not following the law.

The expanded lawsuit comes because America First Legal, which is representing Strong Communities, sent similar letters to the 14 other county recorders demanding they follow the law as attorney James Rogers sees it. Now it has added them to the lawsuit.

"The defendants have ignored these requirements," Rogers said of the county officials. "They have failed to take the actions required by law to ensure that foreign citizens are removed from their voter rolls," he wrote in the lawsuit. "These failures cause voters to lose confidence in the integrity of our election system."

But Gov. Katie Hobbs, on Sept. 6 was asked about this litigation and other similar lawsuits Hobbs said it is the challengers

who are causing the problem.

"I think it is absolutely unconscionable that folks are trying to, as we head into this important election season, this close to an election ... that they're trying to undo and upend how we do elections and how Arizonans can have their voices heard," she said. "We're going to do everything we can to make sure the processes in place which ensure that we have accurate and secure elections stay in place so that Arizonans can participate."

The issue surrounds the National Voter Registration Act. It allows people to register to vote without the same proof of citizenship that the state requires on its own forms.

But those who use the federal form can vote only in presidential and congressional races. At last count there were more than 41,000 on that list out of more than 4.1 million registered voters in Arizona.

Rogers acknowledges what the federal law allows. But he insists that it doesn't absolve election officials of a separate affirmative duty to use other resources and databases to scrub the rolls of anyone who is not a citizen.

"Foreign citizens do register to vote," he told Bolton. And Miller, who is president of America First Legal, said his organization "will do everything in its power to fight mass illegal alien voting and foreign interference in our democracy."

The evidence cited in the lawsuit of illegal voting, however, consists solely of information about efforts in other states where election officials said they had purged foreign voters from the rolls, including situations where Rogers said some actually had voted.

There is nothing in the litigation, however, that suggests people who are not citizens are signing up to vote in Arizo-

na, much less they are actually casting ballots. And neither Strong Communities or America First Legal responded to requests for any evidence they have.

Hobbs, for her part, said she doubts those federal-only voters are not citizens.

"These are people who didn't have the documentary proof of citizenship at the time of registering with the federal form," she said.

"That does not mean that they're not eligible voters," the governor continued. "And our systems in place ensure that every voter who's registered is eligible to vote."

That's also the assessment of the Secretary of State's Office, which is not a defendant in this lawsuit.

"The federal only ballots are made up of groups like Native Americans, college students and the elderly," those who may not have easy access to the documents to prove citizenship, said office spokesman Aaron Thacker.

Pima County Recorder Gabriella Cazares-Kelly, asked Sept. 6 about the new lawsuit, responded with a copy of a letter she sent when he first threatened to sue her in July. In it, she detailed the activities of her office to ensure that anyone who signs up using the federal form is eligible. And, like Hobbs, she questioned the premise of charges to the contrary.

"Reality has proven that as a general rule, those who are not citizens do not register to vote," Cazares-Kelly wrote. "In rare cases where someone who is not eligible actually attempts to register to vote, there are safeguards and laws to ensure that only eligible persons can vote."

Others, like Cochise County Recorder David Stevens, said he did not want to respond now that there is an active lawsuit against him.

ELECTIONS

LD15 GOP CANDIDATE FIGHTING RESIDENCY CHALLENGE

BY JAKOB THORINGTON
jthorington@stateaffairs.com

A Republican legislative candidate accused of not being eligible to hold public office due to state residency requirements said the complaint filed against him is “politically motivated.”

Attorneys presented evidence in a Maricopa County Superior Court hearing Sept. 3 alleging Michael Way of Queen Creek isn’t eligible to be a member of the Legislature because he hasn’t lived in the state for three uninterrupted years prior to the election in accordance with state law. Way recently won his primary race to be a nominee for the state House of Representatives in the Republican stronghold of Legislative District 15.

Way testified to the court that he believes the complaint against him was driven by the Arizona Freedom Caucus after he was asked about a news release from North Carolina Republican state Rep. Keith Kidwell’s office calling for an investigation of Way’s voting history. Kidwell leads the ultraconservative Freedom Caucus in the North Carolina House of Representatives.

“It is my position that he was tipped off and asked to put this on his letterhead and put out on social media after the story broke,” Way said. “He is a member of the Freedom Caucus ... I believe this is all politically motivated.”

LD15 Republican precinct committeewoman Deborah Kirkland filed the complaint against Way days after The Arizona Republic published a story that questioned if Way is eligible to hold public office because of voter records showing he voted in North Carolina’s 2022 general election.

Kidwell said in his news release that he wants Way to be investigated for “possible voter fraud.”

“I am deeply concerned by reports that Michael A. Way voted in North Carolina during a period for which he attested that he was in fact living in Arizona,” Kidwell said.

Freedom Caucus members aren’t the only ones who have weighed in on the issue. Rep. David Cook, R-Globe, sent a letter to Attorney General Kris Mayes on Sept. 3 calling for her office to investigate the allegations against Way, according to a Washington Post report. Several Freedom Caucus members have criticized Cook during his time at the Legislature.

Cook wrote: “A number of politicians beat the drums regarding election integrity frequently. This seems to be the poster child for laws ensuring election integrity – we cannot have individuals simply picking and choosing which state they want to vote in depending on the election.”

Kirkland testified that she supported Way’s



Republican legislative candidate defends what he says is his right to be on the ballot.



Michael Way

opponent Peter Anello in the primary election. Anello was endorsed by Rep. Jacqueline Parker, R-Mesa. Parker represents the district and is a member of the Arizona Freedom Caucus but she isn’t seeking re-election.

Anello also ran on the same slate as Rep. Neal Carter, R-San Tan Valley, and Arizona Freedom Caucus Chairman Sen. Jake Hoffman, R-Queen Creek.

Kirkland said she initially planned to support Way after the primary election because he’s a Republican but changed her mind after she became aware of The Arizona Republic article.

“I feel that Mr. Way lied to me,” Kirkland said. “How can it not be a little personal?”

Kirkland also said she didn’t support Way

during the primary election because she felt that he wasn’t active enough within the LD15 GOP precinct committee.

Way said he voted in North Carolina in a 2021 municipal election and in the state’s 2022 general election. He also testified that he and his family lived in multiple properties in North Carolina but said he was stationed there for a temporary work assignment for his company Charter One while visiting Arizona almost every month to see family, report on his business dealings, and attend church events.

“I would give him a big hug and I would say ‘welcome home,’” Charter One Managing Partner William Guttery said of how he greeted Way every time he saw Way when he returned from North Carolina.

Way said he’s considered Arizona his home since 2009 when his family moved to the state. He’s been out of the state for extended periods including a church mission to Brazil for two years, law school at the University of Wyoming, and the North Carolina work assignment. Way said he often frequented Arizona during each absence and left most of his personal belongings with family each time.

Way’s attorney, Andrew Gould, said there is no law preventing a person from being registered to vote in two states and there is no duty on a voter to cancel their voter registration.

It is a felony to vote in the same election in multiple states. Way said he didn’t vote in Arizo-

na during the North Carolina elections that he participated in. He said he voted in those North Carolina elections because he believed it was his civic duty and it was in the best interest of his company.

Kirkland’s attorney Tim La Sota said Way’s North Carolina voter registration is an admission of residency in the state.

“We’ve got nothing but self-serving testimony in Mr. Way’s defense,” La Sota said. “One should not be able to avail oneself the right to vote in one state and then say oh you know what – I didn’t really mean that. I should still be able to register to vote in another state when they have the residency requirement that overlapped.”

La Sota also questioned Way about an opinion article he wrote that was published by The Carolina Journal in January 2023 that describes Way having “deep roots and an appreciation” for his family’s home in the greater Raleigh area.

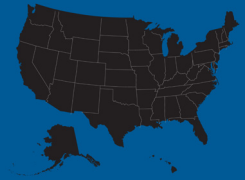
Way said he didn’t write the editor’s description La Sota referenced and it was likely done by a person on Charter One’s marketing team that didn’t run it by him before the article was published.

Maricopa County Superior Court Judge Roderick Coffey, an appointee of former Gov. Jan Brewer, said he will try to rule on the case no later than Sept. 9. Coffey also took a motion to dismiss the case by Gould under advisement but proceeded with the evidentiary hearing due to the expedited pace the case needs to proceed.

FROM OTHER STATES

FROM OTHER STATES

NEWS OF INTEREST FROM ACROSS THE NATION



Arkansas

WOMAN PLEADS GUILTY TO BOMB THREAT AGAINST GOVERNOR

FORT SMITH — An Arkansas woman has pleaded guilty to felony charges after she threatened in a phone call to bomb the office of Gov. Sarah Huckabee Sanders.

Susan Scott, a 66-year-old Fort Smith woman, pleaded guilty to threatening a catastrophe and second-degree battery of a police officer. Scott was sentenced to the 78 days she had already served in jail and a \$2,500 fine. Sebastian County Circuit Judge R. Gunner DeLay is also ordering Scott to have no contact with Sanders and her family or the officer who arrested Scott. He's ordering Scott to complete an anger management class. Investigators say Scott made the threat on June 14 and resisted arrest, including kicking and head-butting an officer.

California

BILLS PASS TO BAN DEEPFAKES, PROTECT WORKERS, REGULATE AI

SACRAMENTO — California lawmakers have approved a host of proposals on artificial intelligence. The bills are aimed at regulating the artificial intelligence industry, combatting deepfakes and protecting workers from exploitation by the rapidly evolving technology. The California Legislature controlled by Democrats was voting on hundreds of bills during its final week of the session to send to Gov. Gavin Newsom's desk. Newsom signaled in July he will sign a proposal to crack down on election deepfakes but has not weighed in other legislation. He has until Sept. 30 to decide.

Colorado

TRIAL TO FOCUS ON SHOOTER'S COMPETENCY IN SUPERMARKET MASSACRE

DENVER — The man charged with killing 10 people at a Colorado supermarket in 2021 is going on trial this week.

No one disputes that Ahmad Al Aliwi Alissa opened fire at the store in the college town of Boulder, including his lawyers. But over three years after the attack, authorities have not pointed to a motive for why he bypassed the supermarket near his house in a Denver suburb and drove to Boulder to launch his attack. He has been diagnosed with schizophrenia and has pleaded not guilty by reason of insanity. Potential jurors are set to be questioned. Opening statements are expected later in the week.

Georgia



CRIME LAB IMPROVEMENTS AIDED ARREST IN 24-YEAR-OLD MURDER

LAFAYETTE — A 63-year-old man has been arrested in Alabama in the 2000 murder of a northwest Georgia woman.

The Georgia Bureau of Investigation and the Walker County Sheriff's Office say they have charged Clarence D. George with murder and aggravated assault in the June 2000 death of Julie Ann McDonald. McDonald, a pharmacist, was found stabbed to death in her home in LaFayette, Georgia. Officials say better crime lab technology and traditional police work had allowed them to conclude that George had killed McDonald. Walker County Sheriff Steve Wilson says George was arrested in Birmingham on Aug. 22 and awaits extradition to Georgia.

Idaho

JUDGE CONSIDERS WHETHER TO HOLD MURDER TRIAL IN UNIVERSITY TOWN

BOISE — Attorneys for the man charged in the stabbing deaths of four University of Idaho students had experts outline widespread media coverage of the case and explain the effects on potential jurors during a hearing last week. Bryan Kohberger's defense team wants the trial set for 2025 moved from Moscow to Boise or another larger Idaho city, because they say it's the only way he will get a fair trial. They had a media tracking expert testify that news coverage has been more saturated in Moscow than it has in the rest of the state. But prosecutors said the media coverage has been statewide, and argued that the court could simply widen the jury pool and keep the trial local.

Iowa

LIBERTARIAN CANDIDATES FOR CONGRESS REMOVED FROM BALLOT

DES MOINES — Three Libertarian candidates in Iowa running for U.S. Congress will not be named on election ballots this November after a panel ruled they failed to comply with state law.

It's a decision that could affect the outcome of at least one tightly contested race. The 2-1 ruling by the state's objection committee, composed of one Democratic and two Republican elected officials, upheld challenges to the candidates' legitimacy. The chair of the Libertarian Party of Iowa told reporters after the hearing that Democrats and Republicans have both "done everything to keep us off the ballot." But the Democrat on the panel who opposed the candidates' removal accused his Republican colleagues of political bias.

Kentucky

GOVERNOR SAYS LAWMAKER FACING SEXUAL HARASSMENT SHOULD RESIGN

FRANKFORT — Gov. Andy Beshear says a state lawmaker accused of sexual harassment by several women should give "serious thought" to resigning.

The comments come as state Rep. Daniel Grossberg has become increasingly alienated in his own political party. Grossberg was temporarily suspended from the House Democratic caucus and removed from interim committee assignments after allegations arose this summer that the Louisville lawmaker had engaged in inappropriate conduct. Grossberg and his attorney have steadfastly denied he engaged in any impropriety or abuse of power. Grossberg won his spring primary by a narrow margin and is unopposed in the November election.

Louisiana

DA'S PROGRESSIVE POLICIES FACE BLOWBACK FROM CONSERVATIVE LEGISLATURE

NEW ORLEANS — New Orleans District Attorney Jason Williams promised to address the city's history of prosecutorial and police misconduct.

But conservative lawmakers have alleged he has over-reached by allowing for hundreds of people to have their convictions voided or sentences revised through post-conviction relief in the past few years. Republican Attorney General Liz Murrill has said she plans to review cases where Williams' office provided relief in the past year and Williams has agreed to appear in a state Senate hearing. Williams said his office has not engaged in any misconduct and is fulfilling campaign promises.

Mississippi

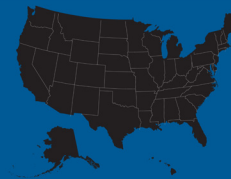
STATE SUES DRUGMAKERS AND OTHERS OVER OPIOIDS

JACKSON — Mississippi is suing drug manufacturers and pharmacy benefit managers alleging that opioids were over-prescribed.

Attorney General Lynn Fitch filed suit in state court. The suit names 13 companies and says they participated in "the worst man-made epidemic in modern medical history." Pharmacy benefit managers run prescription drug coverage for clients that include health insurers and employers that provide coverage. The lawsuit says the defendants contributed to the oversupply of opioids. Drugmakers, wholesalers and pharmacies have been involved in more than 100 settlements of opioid-related lawsuits over the past decade, including in Mississippi.

FROM OTHER STATES

NEWS OF INTEREST FROM ACROSS THE NATION



Missouri

OFFICER DIES IN CRASH DURING HIGH-SPEED CHASE

OSAGE BEACH — A Missouri police officer and mother of six children died after losing control of her patrol vehicle and crashing into a tree while chasing someone who fled a traffic stop.

Osage Beach police officer Phylcia Carson spun off the road and hit a tree while chasing someone a different officer had tried to pull over for speeding. The Camden County Sheriff's Office identified that person as 23-year-old Christopher Aaron Bishop Wehmeyer. He faces felony charges for resisting arrest and creating a substantial risk of death. Carson joined the Osage Beach Police Department in 2023 and is survived by her husband and six children.

Nebraska

MEASURE TO REPEAL PRIVATE SCHOOL TUITION FUNDING GOING TO BALLOT

Nebraska's top election official says organizers have collected enough signatures to ask voters to repeal a new law that uses taxpayer money to fund private school tuition.

Organizers of Support Our Schools announced in July that they had gathered more than 86,000 signatures of registered voters. That is well over the nearly 62,000 needed to get the repeal on the ballot. Signatures also had to be collected from 5% of the registered voters in at least 38 of Nebraska's 93 counties to qualify. Nebraska Secretary of State Bob Evnen confirmed that just more than 62,000 signatures had been verified. Evnen says the 5% threshold was met in at least 57 counties.

New Mexico

AFGHAN REFUGEE REACHES PLEA AGREEMENT IN CASE THAT SHOCKED MUSLIMS

ALBUQUERQUE — An Afghan refugee who was convicted earlier this year of first-degree murder in one of three fatal shootings that shook Albuquerque's Muslim community has reached a plea agreement that could resolve criminal charges stemming from the other two killings.

Muhammad Syed's attorneys confirmed that the agreement will be considered by a New Mexico judge. Syed had been set to stand trial in the second case starting next week, but those proceedings were canceled. Syed also has yet to be sentenced for the first conviction.

New York

EX-GOVERNOR AIDE CHARGED WITH BEING LINK TO CHINESE GOVERNMENT

Federal prosecutors say a former deputy chief of staff to New York Gov. Kathy Hochul has been charged with acting as an undisclosed agent of the Chinese government.

Linda Sun was arrested along with her husband at their \$3.5 million home on Long Island. Prosecutors say Sun blocked representatives of the Taiwanese government from having access to high-level officials in New York state and shaped New York governmental messaging to align with the priorities of China, among other infractions. Her husband, Chris Hu, is charged with money laundering conspiracy, conspiracy to commit bank fraud and misuse of means of identification. Hochul's office says Sun was fired in March 2023 after discovering evidence of misconduct.

Ohio

LAW BANNING FOREIGN NATIONALS FROM MAKING CAMPAIGN DONATIONS BLOCKED

COLUMBUS — A federal judge has blocked a new law banning foreign nationals and green card holders from contributing to state ballot campaigns in Ohio.

He cited grounds that the law curtails constitutionally protected free speech rights. U.S. District Judge Michael Watson wrote that the law wouldn't accomplish its stated goal of preventing foreign influence and would instead harm the First Amendment rights of lawful permanent residents. Watson said such residents can serve in the military, so it would be "absurd" to bar them from posting a yard sign expressing their view on state or local politics.

Oklahoma

RODEO FIRM BLAMES TAINTED FEED FOR KILLING 70 HORSES

OKLAHOMA CITY — A nearly century-old Oklahoma company that supplies stock for rodeos had as many as 70 horses die a week ago after receiving what an owner believes is tainted feed. Beutler and Son co-owner Rhett Beutler told local reporters the horses became sick and died shortly after being fed late last week. He says the horses suddenly began "falling over, dying." The Oklahoma Department of Agriculture says in a statement that feed from a Kansas company is being tested. The company has not been identified because of the ongoing investigation.

Oregon

BAN ON HARD-TO-TRACE GUNS GOES INTO EFFECT

PORTLAND — Largely untraceable firearms known as ghost guns are banned across Oregon after a federal judge denied a legal challenge to the prohibition.

Ghost guns are privately made and don't have serial numbers. By contrast, firearms manufactured by licensed companies are generally required to have serial numbers that allow officials to trace them back to the manufacturer, the dealer and the original purchaser. A lawyer for the Oregon Firearms Federation and the Firearms Policy Coalition Inc. had argued in court that self-made weapons without serial numbers are common and requiring his clients to add serial numbers to their guns or gun parts would be impractical.

Texas

LAW BANNING BUSINESS WITH FIRMS 'BOYCOTTING' FOSSIL FUELS CHALLENGED

A progressive business group sued Texas over a 2021 law that restricts state investments in companies that, according to the state, "boycott" the fossil fuel industry.

The lawsuit, which was filed by the American Sustainable Business Coalition against Texas Attorney General Ken Paxton and Comptroller Glenn Hegar, alleges that the law constitutes viewpoint discrimination and denies companies due process, in violation of the First and 14th Amendments. The group asked a federal judge in Austin to permanently block the state from enforcing the law. Hegar, the comptroller, called the lawsuit an "absurd" attempt to "force the state of Texas and Texas taxpayers to invest their own money in a manner inconsistent with their values and detrimental to their own economic well-being."

Utah

ARLINGTON CEMETERY CONTROVERSY SHINES SPOTLIGHT ON GOVERNOR

SALT LAKE CITY — A few months ago, Utah Gov. Spencer Cox was one of the few prominent Republicans consistently keeping his distance from Donald Trump.

Cox has carefully cultivated a brand of politics that centers on unity and respect, in contrast to Trump's brash style. Cox didn't vote for Trump in 2016 or 2020, and said he wouldn't vote for him this year. But that changed after the assassination attempt on Trump, and Cox has now endorsed the former president. This past week, the two became ensnarled in a controversy involving a Trump event at Arlington National Cemetery.

Wisconsin

WALZ UNHURT AFTER VEHICLES NEAR BACK OF MOTORCADE CRASH

MILWAUKEE — Some vans at the back of a motorcade carrying Democratic vice presidential nominee Tim Walz crashed while heading from the airport to a campaign stop in Milwaukee — Walz was not hurt.

President Joe Biden called and spoke to Walz a short time later, as the president was traveling to a separate campaign stop in Pittsburgh with Vice President Kamala Harris. The campaign said the crash involved vehicles near the rear of the motorcade. Walz was riding closer to the front. It wasn't immediately clear what caused the crash, which left some people with minor injuries.

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