A CONCURRENT RESOLUTION

DECERTIFYING AND SETTING ASIDE THE 2020 ARIZONA ELECTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Whereas, a declaration of the results of statewide electoral contests in the 2020 general election is in dispute with probable cause to believe that multiple discrepancies exist, both criminal and noncriminal in nature, and that so many questionable ballots were commingled with legitimate ballots across the State of Arizona that significant voter disenfranchisement has occurred, making the election irredeemably compromised; and

Whereas, the Constitution of the United States provides for enumerated powers of the federal government; moreover, the Tenth Amendment specifies such enumerated powers as negative rights of the federal government, while protecting vast unenumerated powers for the state governments, stating, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people"; and

Whereas, Article I, Section 4, Clause 1 of the United States Constitution empowers state legislatures, including the Legislature of the State of Arizona, to prescribe the "Times, Places, and Manner" of conducting elections; and

Whereas, the definition of "manner" is at the sole discretion of the Legislature; and

Whereas, Article II, Section 1, Clause 2 of the United States Constitution empowers state Legislatures, including the Legislature of the State of Arizona, to direct the manner of appointing electors for President and Vice President of the United States; and

Whereas, Article IV, Section 4 of the United States Constitution, known as the "Guarantee Clause," guarantees each state a republican form of government, the foundation of which is self-governance through free and fair elections accurately reflecting the will of the people; and

Whereas, the fifteen counties within the State of Arizona conducted an election on November 3, 2020 for federal offices, including selecting electors for President and Vice President of the United States; and

Whereas, the Legislature of the State of Arizona has exercised its authority to establish election administration procedures for the state under Arizona Revised Statutes (A.R.S.) title 16, commonly known as the Arizona Election Code; and

Whereas, title 3, section 2 of the United States Code further empowers state legislatures to appoint electors if the election failed to produce a clear winner of an election due to tampering; and

Whereas, the A.R.S. section 16-121.01, subsection B, paragraph 2 specifies conditions to be a qualified elector and disqualifying factors from being such, including "That the registrant has not resided in this state for twenty-nine days next preceding the election or other event for which the registrant's status as properly registered is in question"; and

Whereas, the Arizona Election Code requires that all persons voting in an election must be registered to vote twenty-nine days before an election by law, and voter registration was extended by the federal
judiciary to October 23 in direct conflict with A.R.S. section 16-101, subsection A, paragraph 3, a violation of the separation of powers; and

Whereas, the Arizona Election Code requires election officials at polling places and points where ballots are received via United States Postal Service to authenticate the signatures of in-person voters; and

Whereas, pattern analysis of early voting ballot return envelopes revealed that of 34,448 such ballot return envelope images there were 2-copy, 3-copy and 4-copy duplicates originating from 17,126 unique voters while no duplicates were reported in Maricopa County's canvass report; and

Whereas, Maricopa County reported 1,455 ballot envelopes having no signatures, yet they were counted contrary to A.R.S. section 16-547, subsection A, which requires the following: "I declare the following under penalty of perjury: I am a registered voter in [fill in the county name] county Arizona, I have not voted and will not vote in this election in any other county or state, I understand that knowingly voting more than once in any election is a class 5 felony and I voted the enclosed ballot and signed this affidavit personally unless noted below"; and

Whereas, the requisite audit agent signatures for sixteen Maricopa County early voting ballot transport statements are missing, thus breaking the requisite chain of custody; and

Whereas, the count of ballots contained in a transfer box for nineteen Maricopa County early voting ballot transport statements are missing, thus breaking the requisite chain of custody; and

Whereas, the requisite chain of custody for twelve Maricopa County early voting ballot transport statements was broken by missing one sealed signature; and

Whereas, the requisite chain of custody for fifteen Maricopa County early voting ballot transport statements was broken by missing one received signature; and

Whereas, the requisite chain of custody for fifteen Maricopa County early voting ballot transport statements was broken by missing two sealed signatures; and

Whereas, election day poll workers and observers testified to observing discrepancies in ballot handling, that ballot chain of custody was breached in case after case, that poll watchers and observers were not allowed to be on site or close enough to observe whether poll workers were following proper identification processes, that poll workers were made to stay seated or in a particular area far away from where voting activity was occurring, that poll workers were reprimanded for asking questions and that poll workers observed bias in voting; and

Whereas, some voters were made to vote a provisional ballot while others were instructed to simply retrieve proof of residence, showing improper and biased voting center activity when, in certain circumstances, workers were instructed to call the Elections Department for voter authorization as opposed to following standardized protocols applicable to all voters; and
Whereas, testimony was given describing the following observations: trays of mail-in ballots were brought into tabulating rooms to be properly and independently checked and counted by processing teams of two different parties whose envelopes had already been pre-opened in the "mailroom"; batches and trays of ballots by the thousands in one 4-5 hour shift were carried to rooms and offsite where they were not overseen; workers in the ballot processing room were allowed to retain their personal purses and backpacks and were observed rummaging through them, presenting opportunity for ballot tampering; ballots were moved to rooms where there were no independent ballot watchers; signatures on absentee ballots did not match and thousands more in a 4-5 hour period were not verified before being counted or "run through" electronic signature adjudication, which alone could comprise hundreds of thousands of ballots in Maricopa County, in which 1.875 million out of 2 million were cast by mail; there was inadequate and improper oversight in which only one independent ballot observer from two different parties was assigned to observe the ballot processing activities of 90 tables at one time and from a distance; and

Whereas, election observers witnessed the following: computers and laptops with internet connection capability in the tabulation centers; over-votes for candidate Trump were not counted even when voter intent was clear; some ballots were changed from candidate Trump to candidate Biden but observers were never provided answers regarding how or when they were to be rectified; 30 of the same signature on 30 different ballots but the Attorney General's Election Fraud Unit was not notified; and

Whereas, an election volunteer testified to observing 100,000 votes per day in the adjudication room over three days being improperly processed and a Dominion employee making a copy of an entire voter file and taking it off the METEC with him, thus breaking the requisite chain of custody; and

Whereas, evidence was presented that individuals were permitted to vote in violation of A.R.S. section 16-122, which states, "No person shall be permitted to vote unless such person's name appears as a qualified elector in both the general county register and in the precinct register or list of the precinct and election districts or proposed election districts in which such person resides, except as provided in sections 16-125, 16-135 and 16-584"; and

Whereas, the Arizona Election Code authorizes poll watchers, selected by candidates and political parties, to observe the process of canvassing absentee and mail-in ballots in certain counties in the state, but the watchers were not allowed to meaningfully observe the precanvassing and canvassing activities relating to absentee and mail-in ballots; and

Whereas, the Arizona Election Code is silent on contested elections in which proof of fraud sufficient to alter the outcome of an election is predicted and testimony detailing the fraud is taken; and
Whereas, on November 30, 2020, members of the Legislature of the State of Arizona sitting as an ad hoc public fact-finding hearing on election integrity ("the Panel") heard testimony and received evidence that through extraordinary means the vote count in some counties was electronically altered to award enough votes to a candidate that did not actually receive said number of votes in such a volume so as to alter the outcome of the election; and

Whereas, it is well settled civil rights law under the Equal Protection Clause of the United States Constitution that to protect individual franchise of sovereignty commonly known as suffrage, the legal doctrine of "one person, one vote" shall apply to all elections; and

Whereas, the Arizona Legislature has the duty to ensure that no citizen of this State is disenfranchised, to insist that all elections be conducted according to the law and to satisfy the general public that every legal vote is counted accurately; and

Whereas, mathematical modeling evidence was presented to the Panel to explain how the slope of tabulation for the presidential candidates could only be explained by a vote count of 130% of one party's registered voters, revealing the violation of "one person, one vote"; and

Whereas, on November 30, 2020, the Panel was shown evidence that, while tabulation of votes using vote tabulation equipment was intended, through extraordinary means fractional vote calculation occurred, awarding more than one vote to one candidate and less than one vote to another; and

Whereas, evidence related to the matching of signature records made by voters predating the election to those found on paper ballot envelopes was provided; and

Whereas, evidence was received by the Panel that votes for candidate Trump were intermittently, and in some cases immediately, assigned to candidate Biden, and votes for candidate Trump were not tabulated; and

Whereas, the Arizona Senate Forensic Audit revealed key cybersecurity failures of the system necessary for electronic tabulation of votes, including the failure to perform basic operating system patch management and the failure to update antivirus definitions, despite the claim that the system was not configured to access the internet nor capable of accessing the internet, which represents a significant security risk as reported by the Senate's qualified cyber forensics analysis provider; and

Whereas, Election Assistance Commission (EAC) Certification Defense is not valid in view of the evidence the 4 "exe" files were created after Dominion software install, that 45 "dll" files were modified after the Dominion software install, that 377 "dll" files were created after the Dominion software install, that 1053 "dll" files were modified after the Dominion software install and that there was a failure to preserve security logs as reported by the Senate's qualified cyber forensics analysis provider; and
Whereas, 865 directories and 85,673 election-related files (scanned ballots, .dvd files, slog.txt files, etc.) were deleted between October 28, 2020 and November 5, 2020, 9,571 directories and 1,064,746 election-related files were deleted between November 1, 2020 and March 16, 2021, 304 directories and 59,387 files containing election data were deleted from the HiPro scanner 1 on March 3, 2021, 1,016 directories and 196,463 files containing election data were deleted from the HiPro scanner 3 on March 3, 2021, and 981 directories and 191,295 files containing election data were deleted from the HiPro scanner 4 on March 3, 2021 as reported by the Senate's qualified cyber forensics analysis provider, all showing an illegal destruction of election records under 52 United States Code section 20701; and

Whereas, there is clear evidence of intentional remote overwriting of the security logs by the Elections Management System Administrator (EMSADMIN) Account where on February 11, 2021, 462 log entries were overwritten, on March 3, 2021, 37,686 log entries were overwritten and on April 12, 2021, 330 log entries were overwritten as reported by the Senate's qualified cyber forensics analysis provider, all in direct violation of 52 United States Code section 20701; and

Whereas, Maricopa County Supervisors admitted on the Congressional Record that general election results were purged from the Election Management System (EMS) as evidenced by a February 1, 2021 SQL Log entry that the RTRAdmin Account purged the general election results from the database, with no corresponding Windows Access Log entry, as reported by the Senate's qualified cyber forensics analysis provider; and

Whereas, Maricopa County records reveal a failure to maintain chain of custody and properly document ballot retrieval and transport, which makes it impossible to verify the origin of the ballots counted in the election under scrutiny; and

Whereas, Arizona statutes set out specific requirements for secure ballot retrieval and chain of custody procedures of the transfer of voted ballots from drop boxes and vote centers; and

Whereas, Maricopa County officials violated Arizona statutes and do not have the required chain of custody for at least 740,000 ballots; and

Whereas, the United States EAC advocates for thorough, detailed chain of custody as a standard of care, stating, "keeping a proper chain of custody is more than best practice...chain of custody documents provide evidence that can be used to authenticate election results, corroborate post-election tabulation audits, and demonstrate that election outcomes can be trusted; and

Whereas, the Arizona Legislature understood the need for ballot chain of custody and included that requirement in A.R.S. title 16; moreover, the Secretary of State, Governor and Attorney General agreed on the requirements for voted ballots deposited in Early Voting locations in the 2019 Elections Procedure Manual (EPM); and
Whereas, Maricopa County reported that 923,000 early voter ballots were accepted at vote centers or drop box locations and that the county lacks chain of custody documents for at least 740,000 of those early voter ballots; and

Whereas, of the 1,895 Early Voting Ballot Transport Statements (EVBTS), eighty percent have defects that violate Arizona statutes; and

Whereas, violations of Arizona statutes include documents with no record of the number of ballots retrieved and documents that reveal a failure to assign two couriers for each ballot retrieval; and

Whereas, the Maricopa County Recorder, who is responsible for enforcing the chain of custody of all ballots, failed to enforce the counting of ballots and record the number of ballots retrieved from each ballot drop box location. Arizona law was disregarded by the Maricopa County Recorder's Office, specifically the EPM requirement that when the secure ballot container is opened by the County Recorder or officer in charge of elections or designee, the number of ballots inside the container shall be counted and noted on the retrieval form. These violations of Arizona statutes are so egregious and so widespread that they demand referral to the Arizona Attorney General's Office under the Arizona Election Code, which states, "An officer of an election who knowingly fails or refuses to perform any duty required of him under this chapter is guilty of a class 2 misdemeanor unless another classification is specifically prescribed"; and

Whereas, 1,514 EVBTS forms out of a total of 1,895 forms have no ballot counts and 48 out of 1,895 unique EVBTS forms have either one retriever signature where two are required or have no signatures at all; and

Whereas, 23,344 voters voted via mail-in ballot even though they show in the Melissa Commercial Database as having moved and no one with the same last name living at the address of record for the voter; 2,382 voters voted in person even though they show in the Melissa Commercial Database as having moved out of Maricopa County; 2,081 voters moved out of state during the 29 days before the election and were given a full ballot instead of a presidential-only ballot; and 255,326 early votes show in the VM55 that do not have a corresponding EV33 entry, in total showing that the margin of error far exceeds the margin of victory by candidate Biden; and

Whereas, there is additional evidence of similar crimes of compliance and manipulation of votes in Pima County and of "ballot harvesting" in violation of A.R.S. section 16-1005 in Yuma County; and

Whereas, the State of Arizona's general election results were certified on November 30, 2020 when the Arizona Secretary of State, the Governor of the State and the Attorney General of the State prematurely certified results of the November 3, 2020 election even while a hearing was underway revealing election discrepancies and fraud, herein
enumerated, knowing that such action would deprive one or both candidates due process in the ongoing litigation regarding presidential electors.

Therefore

Be it resolved by the House of Representatives of the State of Arizona, the Senate concurring:

1. That the Members of the Legislature recognize that lawful voters expect that election officials and state legislators will do their duty to ensure that lawful votes of the people as cast are honored and not diluted or debased by acts classified by the Arizona Legislature as criminal acts.

2. That, in the words of constitutional expert Alexander Hamilton in Federalist 68, "Nothing was more to be desired than that every practicable obstacle should be opposed to cabal, intrigue, and corruption. These most deadly adversaries of republican government might naturally have been expected to make their approaches from more than one quarter, but chiefly from the desire in foreign powers to gain an improper ascendant in our councils. How could they better gratify this, than by raising a creature of their own to the chief magistracy of the Union? But the convention have guarded against all danger of this sort, with the most provident and judicious attention."

3. That when a state legislature exercises this plenary power to determine the manner in which electors are chosen, that power is governed solely by the federal Constitution, the jurisprudence memorialized in Leser v. Garnett, 258 U.S. 130, 137 (1922) (function of state legislature in carrying out a federal function derived from the United States Constitution "transcends any limitations sought to be imposed by the people of a State") and that no state constitution, state law or state court can alter or constrain that grant of power.

4. That the appointment of these electors is thus placed absolutely and wholly with the legislatures of the several states, that this power is conferred on the legislatures of the states by the Constitution of the United States and cannot be taken from them or modified by their state constitutions; and that whatever provisions may be made by statute, or by the state constitution, to choose electors by the people, there is no doubt of the right of the legislature to resume the power at any time, for it can neither be taken away nor abdicated, the jurisprudence memorialized in McPherson v. Blacker, 146 U.S. 1, 34–35 (1892).

5. That the legal doctrine Ex Dolo Malo Non Oritur Actio, a right of action cannot arise out of fraud and that "No court will lend its aid to a man who founds his cause of action upon an immoral or an illegal act. The maxim lies at the foundation of a general rule of public policy, the rule that the courts will not sustain an action which arises out of the moral turpitude of the plaintiff or out of his violation of a general law enacted to carry into effect the public policy of the state or nation." Marshall v. Lovell, 19 F.2d 751, 755 (8th Cir. Minn. 1927).

6. That substantial irregularities and violations of A.R.S. title 16 elections law are specifically classified as criminal behaviors.
7. That significant irregularities associated with the illegal practice commonly known as "ballot harvesting," a class 6 felony criminal offense under Arizona law, affected mail-in balloting, precanvassing and canvassing and occurred during the November 3, 2020 election.

8. That there was infringement on the Legislature of the State of Arizona's authority pursuant to the United States Constitution under legislative plenary power and the "Supremacy Clause" to regulate elections.

9. That the selection of presidential electors and other statewide electoral contest results in this State involving federal offices is in dispute.

10. That, based on the clear and convincing nature of the evidence cited in this Resolution, there remains an irreconcilable controversy that cannot be resolved with the declaration of a clear winner, and as such is irredeemably compromised.

11. That the Office of the President of the United States is in fact the Chief Magistrate of these United States, charged with the duty of care under the Guarantee Clause of the Constitution as such to maintain impartial and fair elections.

12. That Article II, Section 1, Clause 2 of the United States Constitution provides, in relevant part, that "Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress." (Emphasis added.) The Supreme Court has described the constitutional authority of the state legislatures to determine the manner of choosing electors as "plenary." See McPherson v. Blacker, 146 U.S. 1, 35 (1892); see also Bush v. Gore, 531 U.S. 98, 104 (2000).

13. That the Supreme Court of the United States has even noted that, "whatever provisions may be made by statute, or by the state constitution, to choose electors by the people, there is no doubt of the right of the legislature to resume the power at any time." McPherson, 146 U.S. at 35 (emphasis added, quoting with approval Sen. R., 1st Sess. 43rd Cong. No. 395); see also Bush v. Gore, 531 U.S. at 104 ("The State, of course, after granting the franchise in the special context of Article II, can take back the power to appoint electors").

14. That the Members of the Legislature hereby notify the President of the United States Senate, the Speaker of the United States House of Representatives and the Members of Congress from the State of Arizona that it is the justifiable position of the Arizona State Legislature that we set aside the results of the Maricopa, Pima and Yuma County elections as irredeemably compromised and reclaim the 2020 Presidential Electors due to the irredeemably flawed nature of these elections that prevent the declaration of a clear winner of said presidential electors.