



September 27, 2022

VIA EMAIL

Pete Galvan
Associate Rules Attorney
Arizona State Senate
1700 West Washington Street
Room 202 C
Phoenix, AZ 85007
pgalvan@azleg.gov

Re: Public Records Request

Dear Associate Rules Attorney Galvan:

Pursuant to the Arizona Public Records Law, A.R.S. §§ 39-121 et seq., American Oversight makes the following request for records.

Requested Records

American Oversight requests that the Arizona State Senate promptly produce the following records:

All email communications (including emails, email attachments, calendar invitations, and calendar invitation attachments) between (a) Senator Sine Kerr, Senator TJ Shope, Senator Karen Fann, or anyone communicating on their behalf (such as a legislative aide, assistant, or scheduler), and (b) anyone communicating from an email address ending in .com, .net, .org, .mail, .edu, .me, or .law, containing any of the key terms listed below.

Key Terms:

- | | |
|------------------------------------|-------------------------|
| i. "Independent State Legislature" | vi. "Elections Clause" |
| ii. "Legislature Doctrine" | vii. "Election Clause" |
| iii. "Legislature Theory" | viii. "Electors Clause" |
| iv. ISLT | ix. "Elector Clause" |
| v. ISLD | x. Moore |
| | xi. Harper |

Please note that American Oversight does not seek, and that this request specifically excludes, the initial mailing of news clips or other mass-distribution emails. However, subsequent communications forwarding such emails are responsive to this request. In other words, for example, if Senator Kerr received a mass-distribution news clip email referencing "Legislature Doctrine," that



initial email would not be responsive to this request. However, if Senator Kerr forwarded that email to another individual with her own commentary, that subsequent message would be responsive to this request and should be produced.

Please provide all responsive records from September 1, 2021, through the date the search is conducted.

Statement of Noncommercial Purpose

This request is made for noncommercial purposes. American Oversight seeks records regarding legal mechanisms related to the administration of elections in Arizona. State election administration is a subject of great public interest.¹ Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including whether and to what extent public officials have discussed the Independent State Legislature Theory.

Because American Oversight is a 501(c)(3) nonprofit, this request is not in American Oversight's financial interest and is not made for a commercial purpose. American Oversight's mission is to promote transparency in government, to educate the public about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.²

Because this request is made for noncommercial purposes, American Oversight requests that any fees charged in connection with processing this request be limited to copying and postage charges, if applicable.³ Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fees.

Guidance Regarding the Search & Processing of Requested Records

In connection with its request for records, American Oversight provides the following guidance regarding the scope of the records sought and the search and processing of records:

¹ Jane C. Timm, *Arizona Republicans Propose Major Changes to Elections After GOP Review Finds No Fraud*, NBC News (Jan. 24, 2022, 4:31 AM), <https://www.nbcnews.com/politics/elections/arizona-republicans-propose-major-changes-elections-after-gop-review-finds-n1287879>.

² American Oversight currently has approximately 16,000 followers on Facebook and 119,100 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Sept. 22, 2022); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Sept. 22, 2022).

³ A.R.S. § 39-121.01(D)(1); *see also Hanania v. City of Tucson*, 128 Ariz. 135, 624 P.2d 332 (Ct. App. 1980). Furthermore, because this request is for noncommercial purposes,

- Please search all locations and systems likely to have responsive records.
- Our request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages.
- If any records are withheld in full or in part, pursuant to A.R.S. § 39-121.01(D)(2), please provide an index of records or categories of records that have been withheld and the reasons the records or categories of records have been withheld.
- In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.
- Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

Conclusion

If you have any questions regarding how to construe this request for records or believe that further discussions regarding search and processing would facilitate a more efficient production of records of interest to American Oversight, please do not hesitate to contact American Oversight to discuss this request. American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, American Oversight and your agency can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in an electronic format by email. Alternatively, please provide responsive material in native format or in PDF format on a USB drive. Please send any responsive material being sent by mail to American

additional fees provided for under A.R.S. § 39-121.03(A) are not applicable and should not be assessed.

Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will accelerate release of responsive records to American Oversight, please also provide responsive material on a rolling basis.

We share a common mission to promote transparency in government. American Oversight looks forward to working with your agency on this request. If you do not understand any part of this request, please contact Khahilia Shaw at records@americanoversight.org or (202) 539-6507.

Sincerely,

/s/ Khahilia Shaw
Khahilia Shaw
on behalf of
American Oversight