FAIR ELECTION FUND REPORT
Secretary of State's Administration of Arizona Elections 2024

The Fair Election Fund is a non-partisan public interest organization committed to promoting effective administration of elections in transparent way that instills public confidence in electoral results. This is the sixth of multiple state reports evaluating the performance of Secretaries of State in administering elections.

In conducting its Report on Arizona's election administration, The Fair Election Fund, in part, relied on the nonpartisan tenants proposed by the Carter-Baker Report. The Carter-Baker Report was released by a bipartisan commission in 2005 to address "Americans [] losing confidence in the fairness of elections" and to address other "problems of our electoral system." The Carter-Baker Report rightly proclaimed "[e]lections are the heart of democracy. They are the instrument for the people to choose leaders and hold them accountable…If elections are defective, the entire democratic system is at risk."

The Carter-Baker Report included over 80 recommendations to improved election administration in the United States. These recommendations encompass the Carter-baker Reports five pillars of an effective electoral system:

> **To build confidence, the Commission recommends a modern electoral system built on five pillars:(1) a universal and up-to-date registration list, accessible to the public; (2) a uniform voter identification system that is implemented in a way that increases, not impedes, participation; (3) measures to enhance ballot integrity and voter access; (4) a voter-verifiable paper trail and improved security of voting systems; and (5) electoral institutions that are impartial, professional, and independent.**

The Fair Election Fund evaluated these nonpartisan recommendations and created a modernized five-part analysis focused on the areas that have the greatest impact on the effective administration of elections, increasing transparency, and increasing voter confidence.

The Fair Election Fund Five-Part analysis:

1. **The administration of elections and enforcement of existing laws**
2. **The transparency of election process**
3. **The quality of the voter registration list**
4. **The impartial, professional, and independence of election administration**
5. **Leadership to Instill Confidence in Election Results**

Using this Five-Part Analysis, this report evaluates Arizona's performance administering elections, and provides recommendations to improve the administration elections, increase transparency, and increase voter confidence.

Executive Summary

The Fair Election Fund's analysis of Arizona's election administration reveals significant failures that undermine voter confidence in the state. These issues include widespread operational failures at the county level, delayed election results, lack of transparency, and errors in the voter registration list. Together, these problems have led to over 60% of Arizonians expressing concerns that voting irregularities could threaten the legitimacy of elections and the certification of their leaders.[1]

The Fair Election Fund's investigation uncovered numerous statewide issues, many of which can be traced back to the Chief Election Officer of Arizona – the Secretary of State. As the state's top election official, the Secretary of State holds primary responsibility for overseeing the security and efficiency of elections. This includes the authority to create rules and procedures for voting, which are codified in the Elections Procedure Manual ("EPM"). The manual has the force of law and is intended to ensure consistent and efficient practices across the state.

The Secretary of State is also tasked with certifying election equipment, overseeing logic and accuracy testing, and maintaining the state's voter registration list. While Arizona employs a decentralized voting system, where county recorders manage voter registration and early voting, and election directors handle Election Day voting and ballot tabulation, many of the issues affecting voter confidence fall directly within the core responsibilities of the Secretary of State. These failures, particularly in areas under state oversight, have significantly eroded trust in the election process.

I. The Administration of Elections and Enforcement of Existing Laws

Arizona's election administration has been repeatedly hindered by operational failures, inefficient ballot tabulation, and election officials' failure to adhere to established legal standards. These issues have not only led to national scrutiny but have also fueled public skepticism regarding the integrity and legitimacy of the state's electoral process.

A. Delayed Election Results

As a critical swing state with elections of national significance, Arizona has faced intense criticism for its sluggish ballot tabulation and delayed election results. Commentators across the political spectrum have described the process as "embarrassing", "frustrating", and "ridiculous."[2] These delays have contributed to growing distrust in the electoral process.

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[1] *New Poll: Arizona Voters Weary About 2024 Election*, Democracy Defense Project (Oct. 4, 2024), https://www.democracydefenseproject.org/news/az/poll-2.

[2] Laurie Roberts, *Why does it take Arizona so long to count votes? This problem is fixable,* AZCentral (Nov. 8, 2024) https://www.azcentral.com/story/opinion/op-ed/laurieroberts/2024/11/08/arizona-election-results-slow-count-early-voting-law/76120797007/

For example, early ballots can be dropped off to the County Recorder as late as 7:00 p.m. on Election Day.[3] Ballots dropped off late on Election Day are sometimes referred to as "late earlies". In 2022, Maricopa County, Arizona's largest county, received more than 290,000 late earlies.[4] However, late earlies cannot be processed until after Election day, and even after Election Day election workers must first scan the barcode on the return envelope to make sure the ballot comes from a valid voter who hasn't already voted, verify the voter's signature on the return envelope, give the envelope to a bipartisan team to extract the ballot by hand, and ensure the ballot is not damaged.[5] Only once all four of these steps are taken, can the ballot then be sent for tabulation. This process has caused significant delays in the certification of Arizona's elections, sometimes even by weeks.

In response to these concerns, the Arizona Legislature passed HB 2703 in 2024.[6] The bipartisan legislation was designed to modernize and expedite ballot tabulation, mirroring more efficient systems such as Florida's. Key provisions of the bill included: 1) moving the deadline for in-person drop off early ballots from 7 p.m. on Election Day to the Friday before Election Day, 2) allowing on-site tabulation and verification at early voting centers for ballots dropped off after the new deadline, and 3) increasing the number of polling places by limiting school officials' ability to refuse use of school facilities for voting.[7]

These measures were carefully crafted to reduce the post-election processing burden without disenfranchising voters. Despite widespread support from both Republican lawmakers and election officials across party lines, Governor Katie Hobbs vetoed the bill, citing concerns about disenfranchisement and school safety.[8] Governor Hobbs proposed alternative regulations that, instead, compromised the security and integrity of Arizona elections by widely expanding voter access and completely ignoring the original problem- inefficiency. This proposal was ultimately rejected by the state Legislature. In Governor Hobbs' veto letter she concluded that "any potential compromise was rejected, leading me to believe that the focus of this legislation is disenfranchising eligible voters, not delivering faster election results for Arizonians."[9] Arizona Senate President Warren Peterson disagreed, stating that the veto of HB 2703 "was a missed opportunity to increase voter confidence and reduce frustration on election night" and that a "Status quo for our state's elections is not an option. Arizona should never again be the laughingstock of the nation for its woefully slow election reporting."[10]

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[3] A.R.S. § 16-547 (D).

[4] *Fast Facts*, Maricopa County Elections (Nov. 21, 2024), elections.maricopa.gov/voting/just-the-facts/fast-facts.html.

[5] *Id*.

[6] H.B. 2703, 57th Leg., 1st Reg. Sess. (Az. 2025).

[7] *Id*.

[8] Manuelita Beck, *Governor Hobbs vetoes House Hill 2703, which aimed to speed up ballot-counting,* abc15 Arizona (Feb. 18, 2025), https://www.abc15.com/news/politics/governor-hobbs-vetoes-house-bill-2703-which-aimed-to-speed-up-ballot-counting.

[9] Letter from Governor Katie Hobbs to Steve Montenegro, Speaker of the Arizona House of Representatives, *House Bill 2703: early voting; tabulation; ballot deadlines* (Feb. 18, 2025).

[10] Manuelita Beck, *Governor Hobbs vetoes House Hill 2703, which aimed to speed up ballot-counting*, abc15 Arizona (Feb. 18, 2025), https://www.abc15.com/news/politics/governor-hobbs-vetoes-house-bill-2703-which-aimed-to-speed-up-ballot-counting.

B. Printer Failures in the 2022 General Election

On Election Day in November 2022, Maricopa County, Arizona's largest and most populous county, experienced widespread ballot printer failures. Roughly 70 of the counties 223 vote centers reported problems with on-demand ballot printers, leading to long lines, voter confusion, and in some cases, disenfranchisement. [11] The incident significantly damaged public confidence and fueled claims of election fraud.

After the election, Maricopa County hired a team of independent investigators to produce a report outlining their findings. [12] The independent investigation found that the failures were primarily due to the county's use of longer, 20-inch ballots printed on heavier 100-pound paper, which overwhelmed the machines. The long length of the ballot, coupled with heavier paper, created an issue where errors such as "white splotches" would appear on the timing marks and other parts of the ballot.[13] The result was that on-site tabulators rejected affected ballots. Voters whose ballots could not be read instead deposited them in a secure box that was transferred to central tabulation, where they were tabulated by different machines. In some cases, the ballots were recreated by bipartisan teams and then counted.[14] The report also cited inadequate pre-election testing, which failed to simulate real-world Election Day conditions.[15]

Then-Secretary of State Katie Hobbs faced significant criticism, as her office is responsible for certifying voting equipment, setting procedural standards, and overseeing logic and accuracy testing. Specifically, the Secretary of State is responsible for appointing a committee to investigate and test the various types of vote recording or tabulating machines or devices to be used on Election Day.[16] The committee must then submit its recommendations to the Secretary of State, who will then make the final adoption of the equipment/machines to be used on Election Day.[17] The question becomes, was this requirement not fulfilled? Regardless, this 2022 incident raised multiple concerns about Secretary Hobbs office's effectiveness in fulfilling these core duties.

C. Elections Procedure Manual

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[11] Jonathan J. Cooper, *Paper changes caused Maricopa County printer failure: report*, The Associated Press (April. 10, 2023), https://apnews.com/article/maricopa-county-ballot-printers-mcgregor-kari-lake-9edeef525b8afacb767a4960bf951ea1.

[12] Ruth V. McGregor, *Maricopa County 2022 General Election Ballot-on-Demand Printer Investigation* (April. 10, 2023) https://www.maricopa.gov/DocumentCenter/View/82599/Maricopa-Election-Report-and-Attachments?bidId=

[13] *Id*.

[14] Jerod MacDonald-Evoy, *GOP lawmakers grill former justice on Maricopa County ballot printer problems*, AZ Mirror (Dec. 28, 2023), https://azmirror.com/2023/12/28/gop-lawmakers-grill-former-justice-on-maricopa-county-ballot-printer-problems/.

[15] Ruth V. McGregor, *Maricopa County 2022 General Election Ballot-on-Demand Printer Investigation* (April. 10, 2023) https://www.maricopa.gov/DocumentCenter/View/82599/Maricopa-Election-Report-and-Attachments?bidId=

[16] A.R.S. § 16-442.

[17] *Id*.

The Arizona Legislature has the exclusive power to determine what the law shall be.[18] The Legislature exercised this exclusive authority by constructing a detailed statutory scheme governing the state's elections, and specifically delegating the authority to the Secretary of State to create an Elections Procedure Manual ("EPM") on a specified set of topics.[19] The Secretary of State is responsible for promulgating an EPM every two years, which, upon approval by the Governor and the Attorney General, has the force of law.[20] Arizona statute further provides "[a] person who violates any rule adopted pursuant to this section is guilty of a class 2 misdemeanor."[21] The EPM is intended to be written to "ensure election practices are consistent and efficient throughout Arizona."[22]

In 2023, Secretary of State Adrian Fontes released a revised version of the EPM. However, multiple provisions in Secretary Fontes' revised manual were not specifically authorized by statute or were in direct conflict with other statutes. These changes weakened safeguards against noncitizen voting, limited the ability to challenge early ballots, and introduced policies inconsistent with the state law.

For example, in Chapter 1, the 2023 EPM provided that while conducting voter list maintenance and identifying a potential non-citizen on the voter roll, the County Recorder shall send the person a return form requesting confirmation, under penalty of perjury, that the person is a resident of the county and is not knowingly registered to vote in another county or another state.[23] However, the EPM provided further that "failure to return the form within thirty-five days will result in the person's registration being put into inactive status."[24] Instead, Arizona statute provides that the "notice shall inform the person that failure to return the form within thirty-five days will result in the person's registration being cancelled. If the person fails to return the notice within thirty-five days the county recorder shall cancel the person's registration."[25]

Additionally, in Chapter 13 on canvassing and certifying the election, the 2023 EPM states that "Secretary of State has a non-discretionary duty to canvass the returns" but "if the official canvass of any county has not been received by the deadline, the Secretary of State must proceed with the state canvass without including the votes of the missing county."[26] However, Arizona law does not allow the Secretary of State to disenfranchise the voters of an entire county. Instead, Arizona law expressly states that "if the official canvass of any county has not been received on the fourth Monday following the general election, the canvass shall be postponed from day to day, not to exceed thirty days from the date of the election, until canvasses from all counties are received."[27]

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[18] Ariz. Const. art. IV.

[19] A.R.S. § 16-452(B).

[20] A.R.S. § 16-142(A)(1).

[21] A.R.S. § 16-452(C).

[22] McKenna v. Soto, 250 Ariz. 469, 473 ¶ 20 (2021).

[23] 2023 Ariz. Sec'y of State, Elections Procedure Manual, 48 (Dec. 30, 2023).

[24] *Id*.

[25] A.R.S. § 16-165(A)(9).

[26] 2023 Ariz. Sec'y of State, Elections Procedure Manual, 252 (Dec. 30, 2023).

[27] A.R.S. § 16-648(C).

Several lawsuits were filed, challenging the EPM related to canvassing, poll-site speech restrictions, and procedural standards.[28] The courts ultimately struck down several key provisions of the EPM, citing direct contradictions with statutory law and violations of the Arizona Administrative Procedure Act.[29] The legal rebuke raised significant concerns about the Secretary of State's adherence to legislative boundaries and commitment to upholding election integrity.

SECTION I: The Administration of Elections and Enforcement of Existing Laws
GRADE: . . . . . D

II. The Transparency of the Election Process

A. Voter Roll Data

As a nationally significant battleground state, Arizona bears a heightened responsibility to ensure public confidence and transparency in its electoral processes. However, recent actions by key state officials, particularly Governor Katie Hobbs and Secretary of State Adrian Fontes, have raised serious concerns about the state's commitment to accountability and transparency.

The most alarming example involves the discovery of a large-scale voter registration "glitch" in September 2024, which revealed that approximately 218,000 registered voters were missing legally required citizenship documentation.[30] This issue was ultimately traced back to a two-decade-old administrative error originating in the Arizona Motor Vehicle Division (MVD), which failed to properly collect or verify citizenship documentation for a significant number of individuals during the voter registration process.[31] MVD had historically categorized anyone with a pre-1996 license as a U.S. citizen, even though the agency had not obtained their proof of citizenship, such as a birth certificate or passport.

When the issue first came to light, Secretary Fontes privately briefed Governor Hobbs and Attorney General Kris Mayes, initially estimating the number of affected voters at approximately 150,000.[32] Secretary of State Fontes said critics would "beat us up no matter what the hell we do."[33] Attorney General Kris Mayes also worried they would be accused of rigging the 2024 election in a crucial state.[34] However, instead of taking immediate public action or notifying county election officials, Secretary Fontes chose to withhold the full list of impacted individuals, citing concerns over voter privacy and safety. Over time, the number of voters found to be affected rose

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[28] Caitlin Severs, *GOP Sues Fontes over Election Procedures Manual*, AZMirror (Feb. 9, 2024), https://azmirror.com/2024/02/09/gop-sues-fontes-over-election-procedures-manual/

[29] American Encore v. Fontes, No. CV-24-01673-PHX-MTL, 2024 WL 4333202 (D. Ariz. 2024).

[30] Jen Fifield, *Arizona labeled longtime residents as citizens without proof for years, leading to voter roll errors*, Votebeat (Oct. 3, 2024), https://www.votebeat.org/arizona/2024/10/03/citizenship-proof-error-federal-only-voter-registration-drivers-license-records/.

[31] *Id*.

[32] Yvonne Wingett Sanchez, *On a private call, Arizona's top Democrats debated a 'dire' ballot dilemma, The Washington Post* (Sept. 28, 2024), https://www.washingtonpost.com/politics/2024/09/28/arizona-noncitizens-hobbs-fontes-mayes/.

[33] *Id*.

[34] *Id*.

to 218,000, increasing the scope and seriousness of the problem. "Now we find out that he hasn't been as forthcoming with Arizonians as we would have hoped", Arizona GOP Chair Gina Swoboda said.[35] "We find that troubling, and will be taking additional action."[36]

A lawsuit was eventually filed against Secretary Fontes requesting that the court force the Secretary to release the names of the voters whose citizenship proof was in question.[37] Only after the court granted plaintiffs request, did Secretary Fontes release the names of the voters. "We have complied with and are complying with a court directive to release specific voter records for 218,000 individuals as part of our ongoing legal process" said Secretary Fontes, "And I have good reason not to trust them with that specific information."[38] Maricopa County Superior Court Judge Scott Blaney who issued the order, said "Despite the political undertones, this is simply a public records case."[39]

This lack of transparency, particularly so close to a major election, caused significant confusion among county election officials and eroded public trust in the state's election oversight. In a state where elections are frequently decided by narrow margins, even the perception of impropriety or administrative incompetence can have far-reaching consequences.

B. Drop-Box Procedures

Arizona law provides four different methods for secure early voting and allows for these early voting methods in every election, including on-site and off-site voting.[40] Arizona election officials must mail a ballot to every voter on the state's active early voting list.[41] To protect from abuse and fraud, the Arizona Legislature has enacted multiple laws to ensure the integrity of Arizona elections. Every ballot mailed to a voter must be accompanied by a return envelope, preprinted with the post office address of the election official responsible for tallying the ballot.[42] The four methods that a Arizonian can choose from to return a completed early voted ballot include: 1) deliver, 2) or mail [the ballot] to the county recorder or other officer in charge of elections of the political subdivision in which the elector is registered, or the voted ballot may be returned by 3) deposit by the voter, 4) or the voter's agent at any polling place in the county.[43] Arizona law provides for necessarily monitored drop-boxes for early voted ballots only at polling places. Additionally, "in order to be valid and counted, the ballot and affidavit must be delivered

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[35] Jen Fifield, *Arizona labeled longtime residents as citizens without proof for years, leading to voter roll errors*, Votebeat (Oct. 3, 2024), https://www.votebeat.org/arizona/2024/10/03/citizenship-proof-error-federal-only-voter-registration-drivers-license-records/.

[36] *Id*.

[37] *Strong Communities Foundation of Arizona, Inc. v. Fontes*, No. CV-2024-027778 (Ariz. Super. Ct. Maricopa Cnty. Oct. 2, 2024)

[38] Peter Valencia, *Fontes releases list of 218K Arizona voters who don't have proof of citizenship on file*, Arizona's Family (Nov. 4, 2024), https://www.azfamily.com/2024/11/04/live-fontes-speaks-order-release-list-218k-voters-over-citizenship-record-error/.

[39] *Id*.

[40] A.R.S. § 16-541 & 16-542.

[41] A.R.S. § 16-544(F).

[42] A.R.S. § 16-547(A).

[43] A.R.S. § 16-548(A).

to the office of the county recorder or other officer in charge of elections or may be deposited at any polling pace in the county not later than 7:00 p.m. on election day."[44]

These procedures reflect the Arizona Legislature's intent to balance voter access with procedural safeguards. However, Secretary of State Fontes invented a fifth unauthorized method of early ballot return: unstaffed drop boxes. This policy, published in the Secretary's 2023 EPM, instructed election officials throughout the state to employ unstaffed drop-boxes as another manner by which voters may cast their votes early.[45] In direct violation of law, this fifth method seeks to validate ballots that were not "delivered to the office of the county recorder", by the voter or the U.S. Postal Service ("USPS") or "deposited at any polling place in the county" by the voter or the voter's agent.[46]

The Legislature's original procedures aligned with national best practices and the recommendations of the Commission on Federal Election Reform ("CFER"), co-chaired by President Jimmy Carter and former Secretary of State James Baker to raise confidence in the electoral system. The Commission issued a report in 2005 documenting its findings and recommendations.[47] The CFER Report documented multiple vulnerabilities inherent in voting absentee ballot and warned that "absentee ballots remain the largest source of potential voter fraud".[48] To mitigate these vulnerabilities, the CFER Report recommended that "state and local jurisdictions… prohibit a person from handling absentee ballots other than the voter, an acknowledged family member, the USPS or other legitimate shipper, or election officials."[49]

Unlike USPS collection boxes, unstaffed ballot drop-boxes lack essential federal protections. For example, contents of USPS mail collection boxes enjoy additional special protections under federal law. Obstruction of mail passage is punishable by a fine and imprisonment for up to six months.[50] Destruction of mail is punishable by up to five years' imprisonment.[51] Vandalism of a mailbox is punishable by three years' imprisonment.[52] These special protections do not apply to Arizona's ballot drop-boxes or the ballots deposited into them.

A significant issue here is the inconsistencies between Secretary Fontes' EPM and Arizona law, causing confusion for voters as to which rules govern. Voters deserve clear consistent rules, and Arizona law is clear that "an EPM regulation that exceeds the scope of its statutory authorization or contravenes an election statute's purpose does not have the force of law."[53] However, voters should not be tasked with determining what rule governs when reviewing published materials from Arizona's chief election officer, Secretary of State Fontes.

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[44] A.R.S. § 16-547(D).

[45] 2023 Ariz. Sec'y of State, Elections Procedure Manual, 62-64 (Dec. 30, 2023).

[46] A.R.S. § 16-547(D).

[47] Commission on Federal Election Reform, *Building Confidence in U.S. Elections* (Sep. 2005).

[48] *Id* at 46.

[49] *Id* at 47.

[50] 18 U.S.C. § 1701.

[51] 18 U.S.C. § 1702.

[52] 18 U.S.C. § 1705.

[53] *Leach v. Hobbs*, 250 Ariz. 572, 576 (2021).

SECTION II: The Transparency of Electoral Process

GRADE: . . . . . B-

III. The Quality of the Voter Registration List

The quality of Arizona's voter registration list has been consistently called into question, with numerous reports of duplicate registrations, unverified citizenship status, and outdated records. These persistent issues not only threaten to undermine the integrity of elections but also appear to violate both federal and state standards designed to ensure clean and accurate voter rolls. The continued existence of these problems, without meaningful corrective action, poses a risk to the accuracy of the state's elections and raises the potential for illegible voting.

The National Voter Registration Act ("NVRA"), requires states to "conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of… (A) death of the registrant; or (B) a change in the residence of the registrant" to maintain accurate and updated voter-registration records in a uniform manner across the state.[54] Instead of implementing an efficient and uniform voter file maintenance program, Secretary Fontes told the Arizona Legislature, when providing information regarding its list maintenance program, that the program "is in development."[55]

All counties in Arizona have registration rates that far exceed the national and statewide rates in recent years. Specifically, Apache, La Paz, Navajo and Santa Cruz counties have more registered voters than citizens over the age of 18. The remaining counties have voter registration rates of between 80 and 99 percent, with the majority being over 90 percent.

The Election Assistance Commission, an independent federal agency dedicated to improving the administration of elections across the country, publishes the Election Administration Voting Survey ("EAVS") following each federal general election. The EAVS is then sent to the chief election official of each state, who then provides responses to the survey's questions that cover various aspects of the state's election administration. After incorporating each state's responses, the final EAVS report then provides information on (1) how many registrants received confirmation notices and did not respond, (2) how many registrants Arizona removed after two federal elections had passed, and (3) the reasons for each registrant's removal.[56] In a federal lawsuit filed in 2024 against Secretary Fontes, plaintiffs cited this information provided by EAVS and argued that there are at least 1,222,367 Arizona registrants who received but did not respond to confirmation notices and who did not vote in either of the last two federal elections,

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[54] 52 U.S.C. § 20507 (a)(4)(A)-(B).

[55] Emily Holshouser, *Republicans sue to purge at least 500,000 people from Arizona's voter rolls*, AZmirror (June 10, 2024), https://azmirror.com/briefs/republicans-sue-to-purge-at-least-500000-people-from-arizonas-voter-rolls/.

[56] U.S. Election Assistance Commission to the 118th Cong., *Election Administration and Voting Survey 2022 Comprehensive Report* (Jun. 2023).

which renders these voters ineligible based on the NVRA.[57] Plaintiffs further argued that all 1,222,367 voters were registered to vote for the November 5, 2024 election.[58]

The named plaintiffs also submitted a public records request prior to filing their lawsuit, asking for records concerning voter history and information of voters who reactivated their registrations by way of casting vote in the 2020 General or Midterm Election.[59] Within a week of the plaintiff's request, the Secretary of State's office closed the request without providing any documents and stating that "the Secretary of State's Office does not have any records responsive to your request."[60]

Arizona has faced additional federal lawsuits related to the failure to remove duplicate voters from its registration rolls. These cases have underscored the state's failures to meet the requirements of the NVRA. In addition to duplicate registrations, there have been ongoing legal challenges regarding the failure to remove voters whose addresses have changed as indicated by USPS change-of-address data. These cases illustrate a systemic issue in the state's ability to effectively update voter records, an essential task for maintaining the accuracy and fairness of elections.

Despite the mounting evidence of systemic flaws in Arizona's election administration, both Governor Hobbs and Secretary Fontes have publicly downplayed the significance of these problems. Public statements from both officials have often framed these issues as isolated incidents or non-systemic glitches, failing to acknowledge the broader, ongoing challenges facing the state's election system. Even when these problems have been highlighted by lawsuits or investigations, there has been a notable lack of comprehensive corrective action or clear plans to address the root causes of the issues.

SECTION III: The Quality of the Voter Registration List

GRADE: . . . . . D-

IV. The Impartial, Professional, and Independence of Election Administration

A. Conflict of Interest for Secretary of State Katie Hobbs

The tenure of Katie Hobbs as Arizona's Secretary of State from 2019 to 2023, raised significant concerns regarding the impartiality and independence of election administration in the state. In 2022, Hobbs, while serving as the state's chief election officer, the Secretary of State, ran for Governor in an election she was directly overseeing. While Arizona law does not explicitly prohibit such a dual role, her candidacy created a perception of conflict of interest that many critics found troubling.

[57] *1789 Foundation Inc. v. Fontes*, No. CV-24-02987-PHX-SPL, 2024 WL 834919 (D. Ariz. Oct. 30, 2024).
[58] *Id*.
[59] *Id*.
[60] *Id*.

"I think it would be wise if the Secretary of State seconded responsibility for ministerial oversight to either the attorney general of the Maricopa County recorder", said Former Secretary of State, Richard Mahoney.[61] However, Hobbs did not recuse herself from any aspect of the election process nor did she provide a public framework to address potential conflicts between her duties as the election administrator and her role as a candidate in the very election she was overseeing. Hobbs narrowly defeated her opponent, Kari Lake, by a margin of just 17,117 votes.

This situation became particularly problematic in the aftermath of the 2022 printer issues in Maricopa County, where over 59% of Maricopa's vote centers rejected defective ballots more than 200,000 times.[62] After the election, Kari Lake quickly filed an election contest against Secretary Hobbs, the Maricopa County Recorder, members of the Maricopa County Board of Supervisors and the Maricopa County director of elections.[63] The complaint alleged that Maricopa county did not test any of the tabulators used on Election Day for logic and accuracy, which is a criminal violation under Arizona law.[64] Kari Lake argued that Maricopa County ballot printers and tabulator "failures" created "chaos" on Election Day, which led to illegal votes being cast and valid votes being omitted.[65]

Despite the centrality of the Secretary of State's office in overseeing election procedures and addressing such problems, Hobbs did not take proactive steps to provide transparency or assurance regarding the issues, contributing to the perception that her office was not acting with the necessary impartiality. While her office was involved in legal disputes surrounding the election's administration, there was no independent review or oversight of her decisions, raising questions about the independence of the office when its chief officer had a vested personal interest in the outcome of the election.

B. Secretary of State Fontes Ignoring Procedural Safeguards

Adrian Fontes, who succeeded Hobbs as Secretary of State in 2023, similarly faced criticism for actions that compromised the professionalism, impartiality, and independence of Arizona's election administration. One of the most controversial decisions under his leadership was his attempt to circumvent the Administrative Procedure Act during the revision of the EPM. Since 1952, the Legislature has required that where agencies or agency heads act to prescribe rules of general applicability, they do so in accordance with Arizona's Administrative Procedure Act ("APA").[66] Among other requirements, the APA mandates that any agency proposing "rules" provide at least 30 days for public comment on the proposed rules after their publication in draft form.[67] On July 1, 2023, Secretary of State Fontes published a 259-page "draft" EPM for public comment. However, On December 30, 2023, Secretary Fontes published a "final" now

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[61] Erica Cortellessa, *In Heated Arizona Governor's Race, Calls Grow for Democrat to Recuse Herself as Elections Chief*, Time Magazine (Nov. 2, 2022), https://time.com/6227705/katie-hobbs-role-election-chief-arizona-governors-race/.

[62] Opening Brief of Appellant Kari Lake, *Lake v. Hobbs*, No.2 CA-CV23-0144 (Ariz. Ct. App. Div.2 Sept. 15, 2023).

[63] *Lake v. Hobbs*, No. CV-2022-095403 (Ariz. Super. Ct. Maricopa Cnty. Dec 9, 2022).

[64] A.R.S. § 16-449(A)-(B).

[65] *Lake v. Hobbs*, No. CV-2022-095403 (Ariz. Super. Ct. Maricopa Cnty. Dec 9, 2022).

[66] A.R.S. § 41-1001.

[67] *Id*.

268-page EPM, which included provisions that were not present in the July draft, and not subject to public comment.[68]

The APA mandates that changes to the EPM must be open to public scrutiny to ensure that all stakeholders, particularly voters and election officials, have an opportunity to express concerns and provide feedback. Secretary Fontes' failure to provide the required 30-day public comment period before making changes to the EPM drew sharp rebuke from election law experts, political analysts, and members of both parties. This move, coming from the very office tasked with ensuring that elections are run fairly, was seen by many as part of a broader partisan agenda that undermined the professionalism and impartiality necessary for effective election administration.

In both Hobbs' and Fontes' cases, the lack of transparency and perceived partisan bias in their decision making process has compromised the public trust that is essential to a functioning democracy. Election administration must be perceived as a non-partisan, professional process, free from political interference, to ensure that all voters feel confident that their vote will be counted fairly and accurately.

SECTION IV: Impartial, Professional and Independent Election Administration

GRADE . . . . . D-

V. Leadership to Instill Confidence in Election Results

Arizona's election system has been plagued by persistent administrative failures that have deeply eroded public confidence in the integrity and reliability of the state's electoral process. From outdated voter rolls and ballot printing errors to delayed election results and procedural inconsistencies, the cumulative effect of these failures has created a significant decline in voter confidence. A growing number of Arizonans now question whether the state's elections are being conducted competently, impartially, and in accordance with the law.

For example, Pinal County's 2022 primary election was marred by severe administrative mismanagement. Approximately 20 of the county's 95 polling locations ran low or completely ran out of ballots on Election Day, forcing some voters to leave without casting their votes. [69] In one example, county officials explained that the printer could only print out about one ballot every three minutes. Even though most sites had two printers, they only had the capacity to print out about 40 ballots per hour. In response to the printing issues, the use of express voting machines, typically reserved for those who require disability accommodations, was authorized for the general public.[70] A later statewide recount ultimately revealed errors, showing that election officials

[68] *Republican Nat'l Comm. et al. v. Fontes*, No. CV2024-050553 (Ariz. Super. Ct. Maricopa. Cnty. Feb. 9, 2024).

[69] Bob Christie, *Arizona county hit with voting problems, officials vow fixes*, The Associated Press (Aug. 3, 2022), https://apnews.com/article/2022-midterm-elections-arizona-phoenix-8d0b5c299367dc6fc814c13daf2546db

[70] AZ Family Digital News Staff, *Pinal County officials apologize for running out of ballots during Tuesday's primary*, Arizona's Family (Aug. 3, 2022), https://www.azfamily.com/2022/08/03/pinal-county-officials-address-tuesdays-ballot-shortages/.

initially failed to count 442 ballots and, separately, failed to count some votes on dozens more. If not for the recount, those votes would have gone uncounted.[71]

Additionally, in the lead-up to the primary, the Pinal County erroneously mailed about 63,000 incorrect ballots, which contained inaccurate information regarding local races.[72] In response, election officials issued confusing guidance instructing voters that they could use the faulty ballots for federal and state races, but that votes for local contests would not be counted. Instead, new ballots would be sent out exclusively containing municipal races. In a state where election result delays set historical records, the requirement for citizens to now fill out and submit two ballots, is not a solution, but rather gasoline on the fire.

These errors further eroded public confidence and raised serious concerns about the county's preparedness and oversight. Kathy Nowak, then district chair for the Republican party, addressed county officials saying, "We're angry. We listened when you said the ballot box, misprint, and so forth was human error… the elections department is the problem. They have no ability to upgrade and renew the poll worker list."[73]

Virginia Ross was the county's elected recorder for almost a decade when she was put in the Elections Director spot for the 2022 midterm election.[74] The county manager agreed to pay her a "striking sum" due to the county recovering from previous election day mistakes. Her salary was more than $40,000 a month leading up to the election, which is more than five times what the past two election directors had made.[75] Plus, she would get a $25,000 bonus if the election supervisors said "yes" on November 21st, certifying the election.[76]

Internal documents show that Pinal County elections staff flagged "numerous errors" in ballot tabulation leading up to election day. For example, election officials hadn't properly loaded voter registration information into the county's database before the election, so poll workers couldn't properly check some voters in on Election Day.[77] Also, the ballot reports that poll workers used to outline how ballots were used at their locations, called "ballot reports", were "filled with errors".[78] The forms ensure that the correct number of ballots have been counted and are all returned from the polling location, but poll workers appear to have not understood which numbers

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[71] Jen Fifield, *After botching election results, Pinal County wants to try hand-counting ballots*, AZMirror (May 15, 2023), https://azmirror.com/2023/05/25/after-botching-election-results-pinal-county-wants-to-try-hand-counting-ballots/

[72] Vaughan Jones, *Pinal County sends over 60,000 erroneous primary ballots to voters*, KJZZ Phoenix (July 9, 2022), https://www.kjzz.org/2022-07-09/content-1793971-pinal-county-sends-over-60000-erroneous-primary-ballots-voters

[73] AZ Family Digital News Staff, *Pinal County officials apologize for running out of ballots during Tuesday's primary*, Arizona's Family (Aug. 3, 2022), https://www.azfamily.com/2022/08/03/pinal-county-officials-address-tuesdays-ballot-shortages/.

[74] Jen Fifield, *Pinal County's election director saw glaring errors, cashed out, then fled*, AZMirror (May 5, 2023), https://azmirror.com/2023/05/05/virginia-ross-pinal-countys-election-director-saw-glaring-errors-cashed-out-then-fled/

[75] *Id*.

[76] *Id*.

[77] *Id*.

[78] *Id*.

they should put where when filling it out. The county published a recount discrepancy report outlining the issues that occurred. One of which was the error in county officials programming the machines, which caused a failure of the machines to count unclear votes, which means some ballots were only partially tabulated.

On December 16th, as the recounts progressed in Arizona, Virginia Ross finalized the deed on a newly constructed house in Texas. Currently, there is no working phone number or email for Virginia Ross, and county officials told reporters they had "no way to relay an interview request". Journalists in the state have mailed certified letters to her new address in Texas, however there has been no response from Virginia Ross.[79]

What is particularly troubling is that these issues have persisted for multiple election cycles, across different administrations, without any substantial structural changes. In fact, efforts aimed at improving the efficiency and transparency of the electoral process, such as legislation to expedite the tabulation and release of election results, have often been dismissed or outright blocked by elected officials, including the Governor. Despite the clear need for reform, these actions suggest a disconnect between the priorities of state leadership and the concerns of voters. Instead of taking proactive steps to address long-standing issues, Arizona's top election officials and political leaders have offered little more than reassurances, without any comprehensive plans or timelines for reform. As a result, a significant segment of the electorate has lost faith in the state's ability to conduct free, fair, and efficient elections.

SECTION V: Leadership to Instill Confidence in Election Results
GRADE . . . . . C-

[79] *Id.*

ARIZONA SECRETARY OF STATE

PERFORMANCE SUMMARY

SECTION I: The Administration of Elections and Enforcement of Existing Laws

GRADE: . . . .D

SECTION II: The Transparency of Electoral Process

GRADE: . . . . . B-

SECTION III: The Quality of the Voter Registration List

GRADE: . . . . . D-

SECTION IV: Impartial, Professional and Independent Election Administration

GRADE: . . . . . D-

SECTION V: Leadership to Instill Confidence in Election Results

GRADE: . . . . . .C-

OVERALL GRADE: . . . . . D