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TO: Representative Jennifer Williamson
Chair, House Committee on Rules

To the Chair and members of the Rules Committee:

I understand that House Bill 2351 (A-Engrossed) has been returned to Committee for further work. Since I have the opportunity to do so, I would like to place on the record the intent behind the introduction of House Bill 2351 by my office when I was Secretary of State.

The bill contained several provisions. One priority for our office was the provision that a deadline be set for responses by campaigns to requests for information sent by the Secretary of State's office. I am glad to see that provision move forward, as it will make a significant difference in the timeliness of resolving campaign complaints.

A second provision expanded the permissible use of campaign funds for legal expenses to include more than actions under campaign finance reporting provisions. This provision would acknowledge that there can be legitimate legal issues to be resolved regarding campaign operations under other elections statutes as well.

The current version of the bill eliminated the provision providing a civil penalty for single instances of individuals signing a ballot not of their own when the Secretary of State or Attorney General determine that the signing was not made with intent to commit fraud. I still believe that is an issue worth discussing, but respect your decision not to move forward with that item at this time.

The final provision, establishing a civil penalty of up to 10 percent of campaign moneys improperly converted to personal use in circumstances where conversion is accurately included in timely filed statements of contributions and expenditures has come under question. I believe the intent was appropriate but that it may be necessary to improve the drafting of this measure.

Our intent was not to change anything regarding requirements or findings that campaigns should be fully reimbursed for funds inappropriately converted to personal use. We simply sought to avoid the situation where a candidate or treasurer was required to use personal funds both to reimburse the campaign and to pay a fine equivalent to the amount of the conversion plus a potential \$1000 over and above that amount. And even then, we did not seek to free the candidate or treasurer of that obligation where they had clearly failed to report the expenditure, and could not therefore reasonably claim to have believed the conversion was lawful. The intent was to keep all penalties in place in that situation but to ameliorate the potential for a candidate or treasurer to have to pay 2 times the amount of the conversion when the reporting was done accurately and in the mistaken impression that the particular conversion was appropriate.

There may be a way to more clearly reflect this intent and I hope you will work to make that clarification happen. I can't speak to the other amendments to the bill that were made further expanding the circumstances where legal expenses would be approved. Those were not in our original draft.

I know that the political dynamics around election laws make it difficult to amend these statutes even when the effort is being made to make the system more fair, more transparent, and more clear for those conducting campaigns. I hope the controversy that has erupted will not deter you from continuing to work on clarification of our election statutes, which are in dire need of that effort.

Very truly yours,

Jeanne Paquette Atkins
Former Secretary of State