



NEWS RELEASE

Arizona House of Representatives

Representative Mark Finchem (R-11)

1700 West Washington • Phoenix, Arizona • 85007

Monday, February 7, 2022
FOR IMMEDIATE RELEASE

Representative Finchem Introduces Resolution to Set Aside & Decertify Three 2020 County Elections

STATE CAPITOL, PHOENIX – State Representative Mark Finchem has introduced [HCR 2033](#), a concurrent resolution calling for the elections of Maricopa, Pima and Yuma Counties to be set aside based on clear and convincing evidence that the elections in those counties were irredeemably compromised.

Statement from Representative Finchem:

“The circumstances surrounding these elections undermine voter confidence in the election system, moreover, they ultimately translate into doubts about election integrity.

“The questions first raised over a year ago about the legitimacy of the 2020 General Election persist. Evidence and testimony collected since November 3, 2020, has reached the point of clear and convincing and is now in the hands of the Arizona Attorney General for action. Citations of various elements justifying the Resolution can be found in the body of the Resolution. *We have debunked the ‘baseless claims’ narrative promoted by the propaganda pushing media and are now on to the business of providing specific relief to the People.*

“While some may say there is no valid constitutional, nor statutory grounds for such an action, they clearly are disregarding longstanding jurisprudence. Article II, Section 1, Clause 2 of the U.S. Constitution provides, in relevant part, ‘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.’ U.S. Const. Art. II, § 1, cl. 2 (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. Blecker*, 146 U.S. 1, 35 (1892); *see also Bush v. Gore*, 531 U.S. 98, 104 (2000).

“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’).

“One significant common law principle is that actions taken as the result of fraud or illegality are void *ab initio*, and can be rescinded. See, e.g., *United States v. Bradley*, 35 U.S. 343, 360 (1836) (citing *Pigot’s Case*, 11 Co. Lit. 27b (1614)). This principle has been applied to reverse a fraudulent election even after the election was certified and the illegally certified candidate was sworn in and sitting in the legislature. *Marks v. Stinson*, No. CIV. A. 93-6157, 1994 WL 47710, at *15-*16 (E.D. Pa. Feb. 18, 1994), *vacated in part*, 19 F.3d 873 (3d Cir. 1994), *affirmed after remand*, 37 F.3d 1487 (1994).

“That there is no process under current law for the Arizona Legislature to ‘decertify’ an election, does not mean that the Legislature cannot provide a remedy for outcome-determinative fraud and illegality in the conduct of the election, exercising powers it has directly from Article II of the federal Constitution, for as the Supreme Court stated in *McPherson*, ‘there is no doubt of the right of the legislature to resume the power [to appoint electors] at any time, for it can neither be taken away nor abdicated.’

“In the case of Maricopa, Pima and Yuma Counties, the fact that there is evidence showing illegal acts occurred, whether by intent or omission does not matter, the margin of error exceeds the margin of victory. If we are a nation governed by the ‘rule of law,’ as we so often espouse, then violations of the law must have consequences. In that regard, the 2020 General Election is irredeemably compromised, and it is impossible to name a clear winner of the contest.”

Text of HCR 2033 is available [here](#).

Mark Finchem is a Republican member of the Arizona House of Representatives serving Legislative District 11, which includes portions of Pima and Pinal Counties. Follow him on Twitter at @RealMarkFinchem.

###