STATE OF UTAH

OFFICE OF THE LIEUTENANT GOVERNOR

GREG BELL
LIEUTENANT GOVERNOR

September 18, 2013

Senator Margaret Dayton
Senate Chair - Government Operations Interim Committee
350 North State, Suite 320
Salt Lake City, UT 84114

Representative Jack R. Draxler
House Chair – Government Operations Interim Committee
350 North State, Suite 350
Salt Lake City, 84114

Dear Senator Dayton and Representative Draxler,

As required by Utah State Code §67-1a-14 the Lieutenant Governor respectfully submits the attached study of signing a petition online for your review.

Thank you for your continued work and interest in making the elections processes in our state the best they can be. Please contact Mark Thomas in my office for any questions on this study.

Sincerely,

Greg Bell
Lieutenant Governor

cc: Representative Rebecca Chavez-Houck
Senator Curtis S. Bramble

Office of the Lieutenant Governor
Study of Signing a Petition Online
Utah Code §67-1a-14

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Office of the Lieutenant Governor

Study of Signing a Petition Online

Utah State Code §67-1a-14

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Utah State Code §67-1a-14 tasks the lieutenant governor with studying a way that a registered voter can receive information about and sign petitions online. The Lieutenant Governor's Office, in conjunction with county and municipal election officials, has studied the issue and submits the following report.

The issues involved with collecting signatures online fall into two categories: technology and policy. This report will first provide background information, it will then consider the technological aspects and finally, detail several policy considerations.

Background

In 2010, a candidate for governor submitted a petition to the Lieutenant Governor's Office in order to qualify for the ballot as an unaffiliated candidate. The candidate was required to submit 1000 certified signatures from registered voters. The candidate collected the petition signatures in two forms. One form contained mostly handwritten holographic signatures and another form contained a small number of electronic signatures entered through the candidate's website.

The Lieutenant Governor took the position that electronic signatures were not allowed under Utah State Code. Furthermore, the lack of processes and procedures raised concerns about the integrity of the petition. The candidate submitted a typed list of names claiming them to be from people who had gone to his website and electronically signed the petition.

Without electronic signatures, the candidate did not meet the required threshold. The candidate filed a lawsuit in the Utah Supreme Court against the Lieutenant Governor claiming the Lieutenant Governor did not have the authority to reject the electronic signatures from his petition.

The sponsors of the Utahns for Ethical Government initiative asked the court to determine whether electronic signatures may be used in initiatives but the court declined to address the issue.

The court concluded that electronic signatures may be used in unaffiliated candidate petitions and the candidate was placed on the ballot.

In 2011, the Legislature passed SB165, which prohibited the use of electronic signatures in petitions. The following year, the Legislature passed HB119 requiring the Lieutenant Governor to study the issues surrounding the use of electronic signatures in petitions.

Technology

The Lieutenant Governor's Office met with developers and programmers in the Department of Technology Services to discuss any technological hurdles to an individual signing a petition online. In our current state of technology, and with the appropriate features, there do not appear to be any hurdles to verifying the identity of a voter online.

People bank online, register for school online, pay taxes online and engage in numerous other sorts of transactions online that require their identity to be verified. Passwords, pin numbers and challenge questions are all tools used to verify an individual's identity and any combination of those tools could be used to verify a voter online in order to sign a petition.

Existing Online Voter Verification

In Utah, an individual can already register to vote online if they have a currently valid driver license or state identification. This system has proved to be secure since it was put in place in 2010. An individual needs to provide their house number, driver license or state identification number and their date of birth to use the online system. If their information is not current with the driver license division they must update that information before they can use the system. There have been no known security issues with this system in the past 3 years since first going live.

Arizona Pilot Project

In 2011 the State of Arizona passed legislation authorizing a pilot project allowing voters to sign a candidate nomination petition online. To verify a voter's identity Arizona requires a voter to provide their name, birthdate and driver license or identification card number. Once their identity is verified the voter is provided with a list of petitions they are qualified to sign.

Election officials in the Arizona Secretary of State's office have indicated that the system was working very well from a technological standpoint and they had not run into any major issues. A pamphlet provided by the Arizona Secretary of State's office outlining how their online pilot program works is attached to this study.

In 2012 the online system debuted in February, only a few months before the May deadline for candidate filings. During that time 6023 signatures were collected online for 134 petitions. In preparation for the 2014 declaration period 58 petitions have already been posted online and 1908 signatures have been collected as of September 17, 2013.

Possible Online System

It would not be difficult to use a similar system for a voter to sign an online petition in Utah. It makes sense that any online petition website be run at the state level to ensure the necessary security controls be consistent for any voter using the system.

One option would be to follow the Arizona model where a voter simply provides their currently valid driver license or state identification card, their address and date of birth at which point a voter would be allowed to sign a petition online.

Another option would be to require the voter to register to sign petitions using the same online process used to register to vote. Once the county clerk approves their registration, the voter could be provided with log in credentials or a process by which a voter can create log in credentials.

The system could send them a pin number, either electronically or physically through the mail which the voter would need to access the online system. The pin number could be used as a password or the system could allow voter to create their own user name and password once they had provided the assigned pin number.

Once the voter provided the required log in information any petition the voter is eligible to sign could be presented to them by comparing the voter's information to the statewide database. In this scenario any signature submitted online could be automatically validated as the voter would only be presented with those petitions they are qualified to sign.

Since a voter would be automatically verified online upon inputting their information there is arguably no need for an election official to verify that information. However some county election officials have expressed a desire to have an opportunity to double check the names before they are certified. This could be handled the way online voter registrations are currently processed. After a person registers online that registration is placed in a holding area until the county clerk has the opportunity to approve it. If the clerk were given the option to verify signatures then the petition would not be certified until the clerk had given the final sign off.

It might be desirable to have a feature that allows any online petition signature to also display the IP address so that the location of the signature can be tracked. If many signatures are coming from the same IP address a clerk could investigate further to ascertain if any fraudulent activity is occurring.

Policy Considerations

If an online signature system was implemented there are several policy issues that will need to be considered.

Online only or Online/Paper Combination?

Lawmakers will need to consider whether all signatures for a given petition should be collected online or if some percentage of signatures should be collected online while a percentage are still collected in a paper format. In the Arizona pilot project only 50% of the minimum number of signatures required to qualify may be collected online, while the rest are done by paper.

If the legislature decided to authorize a pilot project, a mix of online and paper signatures could be a way to test the security of the system while still using the proven paper method. This could give some comfort to anyone concerned about the security of an all online system.

Who should verify online signatures?

The clerk is currently the election official in charge of verifying most petition signatures and our office would propose that counties continue to have that responsibility. The Lieutenant Governor's office can house and manage the tool in conjunction with DTS but the current setup of counties verifying signatures for voters in their county works well. The Lieutenant Governor's office would simply provide the tools for the county to verify signatures online.

Should petition signers be made public?

Under the current code information regarding the signer of a petition is public information and our office sees no reason to change that. The question to consider is whether a person's name should be public as soon as they sign the petition or not until the petition is certified. If the signature is made public as soon as the petition is signed that could be a protection against fraud as any voter could check to see if their name is on a petition.

Should online petition gatherers have a cost?

Under the present system a group or individual circulating petitions is required to pay the costs of printing the petitions. If the state were to go to an online system should there be any fee associated with using the online system?

Possible Benefits of Online Signatures

Online signatures can have additional safety checks in place that would protect a voter from having their name signed fraudulently. If a voter was required to register to sign petitions online when they created that registration they could provide an email address that would alert them anytime a petition was signed with their name. If the voter did not sign the petition they would have an opportunity to remove their name from the petition and to change their login credentials.

Another benefit of online signatures is that removal of a signature could be accomplished fairly easily. Any voter could log-in using the credentials discussed above and click a button to remove their signature from a petition. One policy consideration is whether a voter can sign a petition again once they have removed their name or whether they only have one chance to sign and remove their name.

A further benefit of an online system is that a voter could be provided with all information regarding any given petition, including for and against arguments. A voter would have the time to consider all of the information before signing their name to something and without the pressure of someone holding a clipboard to their face. Under the current system a voter is not

provided with pro and con statements until the measure has been approved for the ballot and the local jurisdiction or state puts out a voter information pamphlet. With an online system it would be possible to provide for or against statements from the very beginning and promulgate those via the website.

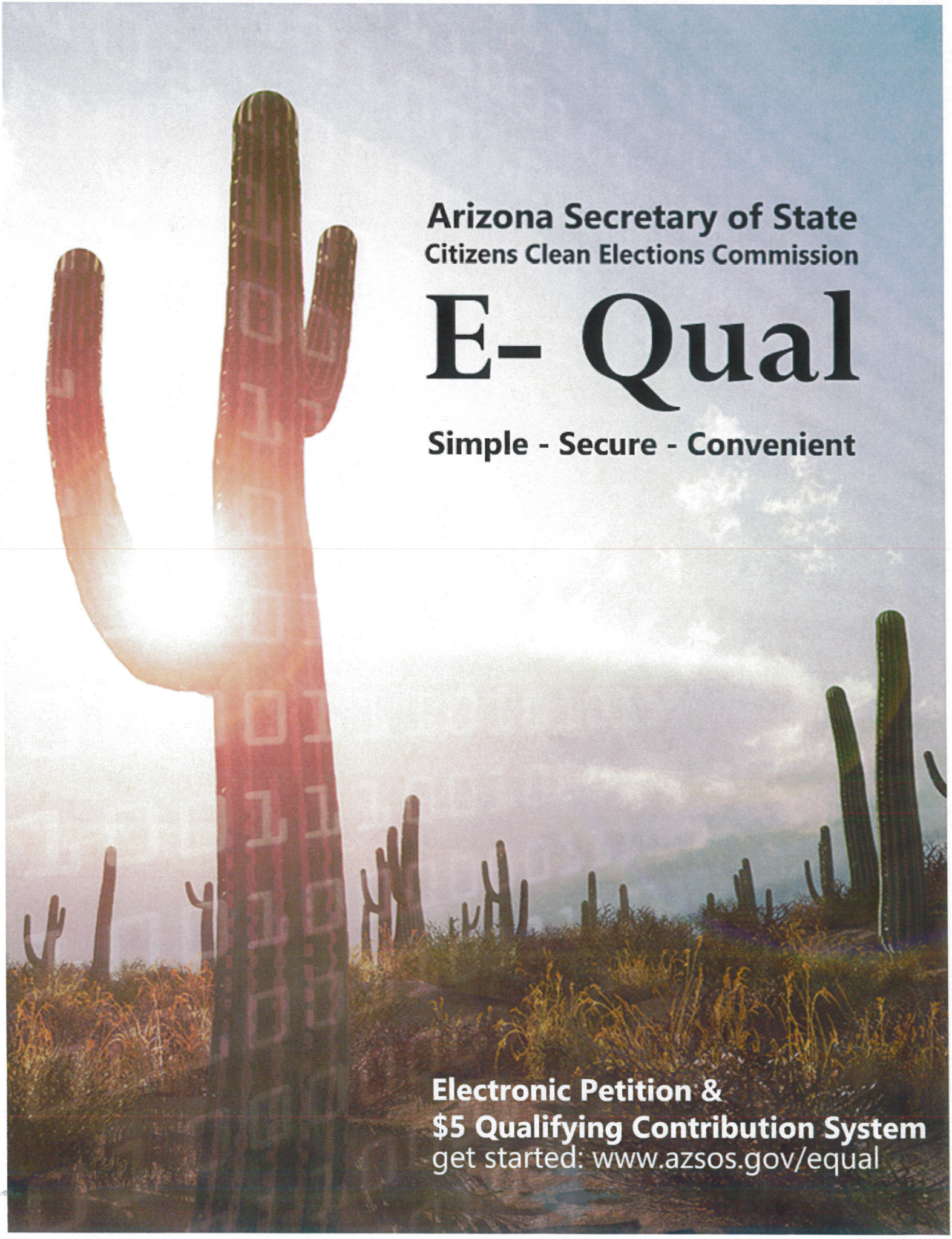
The system could have a function that would require someone to scroll through all of the information and click a verification button that they have read the material before they are allowed to sign the petition. This would be one method of trying to make sure those that sign petitions are informed about the petition subject matter before signing.

An online system would require less time for election officials to have to process paperwork and verify petition signatures. There would be time savings on both the front end when petition packets need to be physically numbered and on the back end when signatures need to be verified. This would result in a time and cost saving for both state and local election officials.

Conclusion

After completing this study the Lieutenant Governor's office is confident a secure system can be implemented to allow voters to sign a petition online. This is a policy consideration for the Legislature and the Lieutenant Governor's Office would be happy to work with the Legislature if there is a desire to move this issue forward.

It is ultimately the desire of the Lieutenant Governor's office to create a one-stop web portal where a voter can register to vote, update their registration and political party affiliation, find their polling location or by-mail status, view candidate biographical and financial disclosure information. Should the Legislature allow for the use of electronic signatures in petitions, our office would anticipate this one-stop web portal allowing any voter to review any petition they are eligible to sign.


Arizona Secretary of State
Citizens Clean Elections Commission
E- Qual
Simple - Secure - Convenient
Electronic Petition &
$5 Qualifying Contribution System
get started: www.azsos.gov/equal

E-Qual

E-Qual is a pilot project authorized under Laws 2011, Ch. 332 Sec. 32 that allows registered voters to securely sign a candidate's nomination petition and/or contribute a $5 Qualifying Contribution to a participating Clean Elections candidate on the internet. Under the pilot project, candidates for **statewide or legislative office** may create an electronic nomination petition using E-Qual and collect signatures electronically from voters that are eligible to sign their nomination petitions. A candidate may collect up to 50% of the minimum number of signatures required for that office utilizing E-Qual. Candidates that choose to participate with the Citizens Clean Elections Commission may create an electronic $5 Qualifying Contribution Form to collect $5 contributions from voters. A candidate may collect up to 50% of the minimum number of qualifying contributions required for that office utilizing E-Qual.

How it works:

Voter: The voter enters his name, birthdate and Arizona Motor Vehicle Division issued Driver License/Identification Card number into E-Qual. This information is verified against the statewide voter registration database. Once the voter is verified as a registered voter, E-Qual determines which nomination petitions the voter is eligible to sign and which candidates the voter is eligible to give a $5 qualifying contribution based on the voter's registration information. If a voter chooses to sign a petition or give a $5 contribution, the voter's signature that is on file with the statewide voter registration database is affixed to the nomination petition or $5 Qualifying Contribution Form. Funds are transferred from the voter to the candidate via PayPal.

Candidate: A candidate accesses E-Qual through the Campaign Finance System. The candidate may then create and manage his nomination petition and/or $5 Qualifying Contribution Form. The candidate must print his nomination petition and/or $5 Qualifying Contribution Form from E-Qual and turn into the Secretary of State's Office during the candidate filing period.

Questions

1. **How secure is E-Qual?**

   Security is very important to the Secretary of State's office. We handle information relayed online with the same commitment given to voters who use EZ Voter to register online to ensure a secure environment to conduct these election related transactions. E-Qual utilizes encryption and secured socket layers to transfer and display Web content securely. The data transferred is encrypted so that it cannot be read by anyone except the recipient. This is the same logic and security measures as the state's current online voter registration program called EZ Voter in place since 2002. The voter will be required to enter his or her name, date of birth, and AZ driver license number (AZ DL) or AZ ID card number. This information is validated against the statewide voter registration database in real time prior to allowing the voter to sign a petition or contribute a $5 Qualifying Contribution.

2. **How does E-Qual verify the voter?**

   The voter enters his name, birthdate and driver license/identification number into E-Qual which is verified against the statewide voter registration database. Once the voter is verified, the system knows the party and the district of the voter. E-Qual will check the party of the voter, the district, and how many petitions the voter may have signed electronically when determining which petitions or $5 Qualifying Contributions to present to the voter.

3. **Can a voter without an AZ Driver License or Identification Card use E-Qual?**

   No. A DL or ID card issued by the Arizona Motor Vehicle Division is required to use E-Qual. Over 95% of all registered voters have an AZ DL or ID card on their voter registration record. The DL or ID card allows the system to access the digitized signature on file with the Statewide Voter Registration Database. Voters without a DL or ID card may use the traditional method of signing paper petitions or $5 Qualifying Contributions.

4. **How does redistricting affect E-Qual?**

   Counties will update voter registration records with the new legislative districts soon after the March 2012 elections. For candidates that utilize E-Qual *prior to the new districts being in place*, they must designate the "old" district number when creating their petition. Once the county recorders update voter registration records, the Secretary of State's Office will notify candidates utilizing E-Qual that they must close their existing petition with the "old" district number and create a new petition with the "new" district number. All petitions with the "old" district number and the "new" district number will be accepted by the Secretary of State's Office, as long as they otherwise meet the filing requirements, and the candidate will submit both sets of petitions to the Secretary of State's office at the time of filing.

   For example, a candidate running for the State House of Representatives in the "old" Legislative District 3 will create an electronic nomination petition designating LD3. This nomination petition will then be open to eligible voters in LD3. After the counties have updated voter registration records with the new legislative districts, and upon notification from the Secretary of State's Office in March, the candidate will close his LD3 nomination petition and create a new nomination petition designating the "new" LD5. This nomination petition will then be open to eligible voters in LD5. The candidate will turn in three sets of paper petitions to the Secretary of State's Office during the candidate filing period:

   1. E-Qual LD3
   2. E-Qual LD5
   3. Traditional paper petitions

5. **Does the Secretary of State's Office or the Citizens Clean Elections Commission have access to the funds received for $5 Qualifying Contributions?**

   No. The Secretary of State's Office and Clean Elections do not have any way to access the funds. All transactions are handled by the voter, PayPal and the candidate.

6. **Why do I have to print out the documents if they are maintained by the Secretary of State's Office?**

   The Secretary of State's Office considers the electronic nomination petitions and $5 Qualifying Contribution Forms to be owned by the candidate. Our office does not access the information in E-Qual at any time and hard copy forms must be submitted to our office during the candidate filing period. The Secretary of State's Office is not able to print any documents from a candidate's E-Qual account.

7. **How many signatures can I collect through E-Qual?**

   The law allows for a candidate to electronically obtain 50% of the minimum amount of signatures for the office sought. For example, if the minimum amount of signatures for an office is 261, then E-Qual will allow the candidate to collect 130 through the system. It is recommended that a candidate gather enough signatures through traditional paper petitions to give the candidate an adequate buffer.

8. **How many $5.00 Qualifying Contributions can I collect through E-Qual?**

   The law allows for a candidate to electronically obtain 50% of the minimum amount of $5.00 Qualifying Contributions for the office sought. For example, if the minimum amount of $5.00 Qualifying Contributions for an office is 350, then E-Qual will allow the candidate to collect 175 through the system. It is recommended that a candidate gather enough $5.00 Qualifying Contributions through the traditional paper form to give the candidate an adequate buffer.

9. **As a candidate, can I eliminate a signature from my electronic petition?**

   Yes. Log onto the Campaign Finance system, view your petition, and select "Remove" by any voter that you wish not to be included. Once a signature is removed, a candidate will not be able to retrieve that signature.

10. **As a candidate, can I eliminate a $5.00 Qualifying Contribution from a voter that was made electronically?**

    Yes. Log onto the Campaign Finance system, view your $5.00 qualifying contributions, and select "Remove" by any voter that you wish not to be included. If a candidate removes a $5.00 contribution from the E-Qual system, the candidate/committee is responsible for initiating a refund to the voter through PayPal and ensuring that the Secretary of State's Campaign Finance System is updated accordingly.

11. **As a candidate, do I need to have a PayPal account to collect $5.00 Qualify Contributions through E-Qual?**

    Yes.

12. **Does the voter need to have a PayPal account to give a $5.00 Qualifying Contribution through E-Qual?**

    No. The voter will be presented with the options to pay with a credit card/debit card or with his PayPal account.

13. I'm not a participating Clean Elections candidate. Can I still use E-Qual to gather signatures on my nomination petition?

Yes. Candidates may use E-Qual to collect nomination petition signatures even if they are not a participating Clean Elections candidate. Alternately, candidates may choose to collect $5 Qualifying Contributions and not create an electronic nomination petition.

14. Who is the circulator for nomination petitions in E-Qual? Does the circulator have to sign each petition that is printed from E-Qual?

The candidate is considered the circulator for nomination petitions generated from E-Qual. The circulator does not have to sign each petition, but must sign a circulator cover sheet that is printed with the petitions. The cover sheet and petitions must be filed together at the Secretary of State's Office during the candidate filing period.

15. Can local candidates use E-Qual?

The law only allows for statewide and legislative candidates to use E-Qual at this time.

16. Can E-Qual be used to gather signatures for initiatives, referenda or recalls?

No. E-Qual can only be used to collect signatures for candidate nomination petitions and/or $5 Qualifying Contributions at this time.