

REFERENCE TITLE: ballots; election contests; certificates

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
First Regular Session  
2021

# HB 2720

Introduced by  
Representative Bolick

AN ACT

AMENDING SECTIONS 16-602, 16-621, 16-650, 16-663, 16-672, 16-673, 16-676  
AND 16-677, ARIZONA REVISED STATUTES; RELATING TO CONDUCT OF ELECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 16-602, Arizona Revised Statutes, is amended to  
3 read:

4 16-602. Removal of ballots from ballot boxes; disposition of  
5 ballots folded together or excessive ballots;  
6 designated margin; hand counts; vote count  
7 verification committee

8 A. For any primary, special or general election in which the votes  
9 are cast AS FOLLOWS:

10 1. On an electronic voting machine or tabulator, the election judge  
11 shall compare the number of votes cast as indicated on the machine or  
12 tabulator with the number of votes cast as indicated on the poll list and  
13 the number of provisional ballots cast and that information shall be noted  
14 in a written report prepared and submitted to the officer in charge of  
15 elections along with other tally reports.

16 2. WITHOUT REGARD TO THE SYSTEM OR METHOD USED TO PRODUCE OR  
17 TABULATE BALLOTS, THE COUNTY RECORDER OR OFFICER IN CHARGE OF ELECTIONS  
18 SHALL MAINTAIN A COUNT OF THE NUMBER OF PHYSICAL BALLOTS PRINTED AND THE  
19 NUMBER OF BALLOTS OTHERWISE GENERATED IN THE FOLLOWING CATEGORIES,  
20 INCLUDING THE AMOUNT OF ANY OVERLAP IN THOSE CATEGORIES, AND SHALL POST  
21 THAT INFORMATION ON THE COUNTY'S WEBSITE WITHIN ONE DAY AFTER ELECTION  
22 DAY:

- 23 (a) EARLY BALLOTS.
- 24 (b) REGULAR BALLOTS.
- 25 (c) PROVISIONAL BALLOTS.
- 26 (d) FEDERAL-ONLY BALLOTS.
- 27 (e) BALLOTS GENERATED IN AN ELECTRONIC FORM, ITEMIZED BY THE  
28 CATEGORIES PRESCRIBED IN THIS PARAGRAPH.

29 B. SUBSECTION A OF THIS SECTION DOES NOT AUTHORIZE A METHOD FOR  
30 PRINTING OR OTHERWISE GENERATING BALLOTS THAT IS NOT OTHERWISE PROVIDED  
31 FOR BY LAW.

32 ~~B.~~ C. For each countywide primary, special, general and  
33 presidential preference election, the county officer in charge of the  
34 election shall conduct a hand count at one or more secure facilities. The  
35 hand count shall be conducted as prescribed by this section and in  
36 accordance with hand count procedures established by the secretary of  
37 state in the official instructions and procedures manual adopted pursuant  
38 to section 16-452. The hand count is not subject to the live video  
39 requirements of section 16-621, subsection D, but the party  
40 representatives who are observing the hand count may bring their own video  
41 cameras in order to record the hand count. The recording shall not  
42 interfere with the conduct of the hand count and the officer in charge of  
43 the election may prohibit from recording or remove from the facility  
44 persons who are taking actions to disrupt the count. The sole act of  
45 recording the hand count does not constitute sufficient grounds for the  
46 officer in charge of the election to prohibit observers from recording or

1 to remove them from the facility. The hand count shall be conducted in  
2 the following order:

3 1. At least two percent of the precincts in that county, or two  
4 precincts, whichever is greater, shall be selected at random from a pool  
5 consisting of every precinct in that county. The county political party  
6 chairman for each political party that is entitled to continued  
7 representation on the state ballot or the chairman's designee shall  
8 conduct the selection of the precincts to be hand counted. The precincts  
9 shall be selected by lot without the use of a computer, and the order of  
10 selection by the county political party chairmen shall also be by lot.  
11 The selection of the precincts shall not begin until all ballots voted in  
12 the precinct polling places have been delivered to the central counting  
13 center. The unofficial vote totals from all precincts shall be made  
14 public before selecting the precincts to be hand counted. Only the  
15 ballots cast in the polling places and ballots from direct recording  
16 electronic machines shall be included in the hand counts conducted  
17 pursuant to this section. Provisional ballots, conditional provisional  
18 ballots and write-in votes shall not be included in the hand counts and  
19 the early ballots shall be grouped separately by the officer in charge of  
20 elections for purposes of a separate manual audit pursuant to subsection  
21 ~~F~~ G of this section.

22 2. The races to be counted on the ballots from the precincts that  
23 were selected pursuant to paragraph 1 of this subsection for each primary,  
24 special and general election shall include up to five contested races.  
25 After the county recorder or other officer in charge of elections  
26 separates the primary ballots by political party, the races to be counted  
27 shall be determined by selecting by lot without the use of a computer from  
28 those ballots as follows:

29 (a) For a general election, one statewide ballot measure, unless  
30 there are no measures on the ballot.

31 (b) One contested statewide race for statewide office.

32 (c) One contested race for federal office, either United States  
33 senate or United States house of representatives. If the United States  
34 house of representatives race is selected, the names of the candidates may  
35 vary among the sampled precincts.

36 (d) One contested race for state legislative office, either state  
37 house of representatives or state senate. In either case, the names of  
38 the candidates may vary among the sampled precincts.

39 (e) If there are fewer than four contested races resulting from the  
40 selections made pursuant to subdivisions (a) through (d) of this ~~section~~  
41 PARAGRAPH and if there are additional contested federal, statewide or  
42 legislative races or ballot measures, additional contested races shall be  
43 selected by lot not using a computer until four races have been selected  
44 or until no additional contested federal, statewide or legislative races  
45 or ballot measures are available for selection.

1 (f) If there are no contested races as prescribed by this  
2 paragraph, a hand count shall not be conducted for that precinct for that  
3 election.

4 3. For the presidential preference election, select by lot two  
5 percent of the polling places designated and used pursuant to section  
6 16-248 and perform the hand count of those ballots.

7 4. For the purposes of this section, a write-in candidacy in a race  
8 does not constitute a contested race.

9 5. In elections in which there are candidates for president, the  
10 presidential race shall be added to the four categories of hand counted  
11 races.

12 6. Each county chairman of a political party that is entitled to  
13 continued representation on the state ballot or the chairman's designee  
14 shall select by lot the individual races to be hand counted pursuant to  
15 this section.

16 7. The county chairman of each political party shall designate and  
17 provide the number of election board members as designated by the county  
18 officer in charge of elections who shall perform the hand count under the  
19 supervision of the county officer in charge of elections. For each  
20 precinct that is to be audited, the county chairmen shall designate at  
21 least two board workers who are registered members of any or no political  
22 party to assist with the audit. Any qualified elector from this state may  
23 be a board worker without regard to party designation. The county  
24 election officer shall provide for compensation for those board workers,  
25 not to include travel, meal or lodging expenses. If there are less than  
26 two persons for each audited precinct available to participate on behalf  
27 of each recognized political party, the recorder or officer in charge of  
28 elections, with the approval of at least two county party chairpersons in  
29 the county in which the shortfall occurs, shall substitute additional  
30 individual electors who are provided by any political party from anywhere  
31 in the state without regard to party designation to conduct the hand  
32 count. A county party chairman shall approve only those substitute  
33 electors who are provided by the county chairman's political party. The  
34 political parties shall provide to the recorder or officer in charge of  
35 elections in writing the names of those persons intending to participate  
36 in the hand count at the audited precincts not later than 5:00 p.m. on the  
37 Tuesday preceding the election. If the total number of board workers  
38 provided by all parties is less than four times the number of precincts to  
39 be audited, the recorder or officer in charge of elections shall notify  
40 the parties of the shortage by 9:00 a.m. on the Wednesday preceding the  
41 election. The hand count shall not proceed unless the political parties  
42 provide the recorder or officer in charge of elections, in writing, a  
43 sufficient number of persons by 5:00 p.m. on the Thursday preceding the  
44 election and a sufficient number of persons, pursuant to this paragraph,  
45 arrive to perform the hand count. The recorder or officer in charge of  
46 elections may prohibit persons from participating in the hand count if

1 they are taking actions to disrupt the count or are unable to perform the  
 2 duties as assigned. For the hand count to proceed, not more than  
 3 seventy-five percent of the persons performing the hand count shall be  
 4 from the same political party.

5 8. If a political party is not represented by a designated  
 6 chairperson within a county, the state chairperson for that political  
 7 party, or a person designated by the state chairperson, may perform the  
 8 actions required by the county chairperson as specified in this section.

9 ~~D.~~ D. If the randomly selected races result in a difference in any  
 10 race that is less than the designated margin when compared to the  
 11 electronic tabulation of those same ballots, the results of the electronic  
 12 tabulation constitute the official count for that race. If the randomly  
 13 selected races result in a difference in any race that is equal to or  
 14 greater than the designated margin when compared to the electronic  
 15 tabulation of those same ballots, a second hand count of those same  
 16 ballots and races shall be performed. If the second hand count results in  
 17 a difference in any race that is less than the designated margin when  
 18 compared to the electronic tabulation for those same ballots, the  
 19 electronic tabulation constitutes the official count for that race. If  
 20 the second hand count results in a difference in any race that is equal to  
 21 or greater than the designated margin when compared to the electronic  
 22 tabulation for those same ballots, the hand count shall be expanded to  
 23 include a total of twice the original number of randomly selected  
 24 precincts. Those additional precincts shall be selected by lot without  
 25 the use of a computer.

26 ~~D.~~ E. In any expanded count of randomly selected precincts, if the  
 27 randomly selected precinct hand counts result in a difference in any race  
 28 that is equal to or greater than the designated margin when compared to  
 29 the electronic tabulation of those same ballots, the final hand count  
 30 shall be extended to include the entire jurisdiction for that race. If  
 31 the jurisdictional boundary for that race would include any portion of  
 32 more than one county, the final hand count shall not be extended into the  
 33 precincts of that race that are outside of the county that is conducting  
 34 the expanded hand count. If the expanded hand count results in a  
 35 difference in that race that is less than the designated margin when  
 36 compared to the electronic tabulation of those same ballots, the  
 37 electronic tabulation constitutes the official count for that race.

38 ~~E.~~ F. If a final hand count is performed for an entire  
 39 jurisdiction for a race, the final hand count shall be repeated for that  
 40 race until a hand count for that race for the entire jurisdiction results  
 41 in a count that is identical to one other hand count for that race for the  
 42 entire jurisdiction and that hand count constitutes the official count for  
 43 that race.

44 ~~F.~~ G. After the electronic tabulation of early ballots and at one  
 45 or more times selected by the chairman of the political parties entitled  
 46 to continued representation on the ballot or the chairman's designee, the

1 chairmen or the chairmen's designees shall randomly select one or more  
2 batches of early ballots that have been tabulated to include at least one  
3 batch from each machine used for tabulating early ballots and those  
4 ballots shall be securely sequestered by the county recorder or officer in  
5 charge of elections along with their unofficial tally reports for a  
6 postelection manual audit. The chairmen or the chairmen's designees shall  
7 randomly select from those sequestered early ballots a number equal to one  
8 percent of the total number of early ballots cast or five thousand early  
9 ballots, whichever is less. From those randomly selected early ballots,  
10 the county officer in charge of elections shall conduct a manual audit of  
11 the same races that are being hand counted pursuant to subsection ~~B~~ C of  
12 this section. If the manual audit of the early ballots results in a  
13 difference in any race that is equal to or greater than the designated  
14 margin when compared to the electronically tabulated results for those  
15 same early ballots, the manual audit shall be repeated for those same  
16 early ballots. If the second manual audit results in a difference in that  
17 race that is equal to or greater than the designated margin when compared  
18 to the electronically tabulated results for those same early ballots, the  
19 manual audit shall be expanded only for that race to a number of  
20 additional early ballots equal to one percent of the total early ballots  
21 cast or an additional five thousand ballots, whichever is less, to be  
22 randomly selected from the batch or batches of sequestered early  
23 ballots. If the expanded early ballot manual audit results in a  
24 difference for that race that is equal to or greater than the designated  
25 margin when compared to any of the earlier manual counts for that race,  
26 the manual counts shall be repeated for that race until a manual count  
27 results in a difference in that race that is less than the designated  
28 margin. If at any point in the manual audit of early ballots the  
29 difference between any manual count of early ballots is less than the  
30 designated margin when compared to the electronic tabulation of those  
31 ballots, the electronic tabulation shall be included in the canvass and no  
32 further manual audit of the early ballots shall be conducted.

33 ~~H.~~ H. During any hand count of early ballots, the county officer  
34 in charge of elections and election board workers shall attempt to  
35 determine the intent of the voter in casting the ballot.

36 ~~H.~~ I. Notwithstanding any other law, the county officer in charge  
37 of elections shall retain custody of the ballots for purposes of  
38 performing any required hand counts, ~~and the officer~~ shall provide for  
39 security for those ballots, **SHALL CREATE DIGITIZED IMAGES OF THOSE BALLOTS**  
40 **AND SHALL KEEP THE DIGITIZED IMAGES AND THE PHYSICAL BALLOTS AS PUBLIC**  
41 **RECORDS.**

42 ~~I.~~ J. The hand counts prescribed by this section shall begin  
43 within twenty-four hours after the closing of the polls and shall be  
44 completed before the canvassing of the election for that county. The  
45 results of those hand counts shall be provided to the secretary of state,

1 who shall make those results publicly available on the secretary of  
2 state's website.

3 ~~J.~~ K. For any county in which a hand count has been expanded to  
4 all precincts in the jurisdiction, the secretary of state shall make  
5 available the escrowed source code for that county to the superior court.  
6 The superior court shall appoint a special master to review the computer  
7 software. The special master shall have expertise in software  
8 engineering, shall not be affiliated with an election software vendor nor  
9 with a candidate, shall sign and be bound by a nondisclosure agreement  
10 regarding the source code itself and shall issue a public report to the  
11 court and to the secretary of state regarding the special master's  
12 findings on the reasons for the discrepancies. The secretary of state  
13 shall consider the reports for purposes of reviewing the certification of  
14 that equipment and software for use in this state.

15 ~~K.~~ L. The vote count verification committee is established in the  
16 office of the secretary of state and all of the following apply:

17 1. ~~At least thirty days before the 2006 primary election,~~ The  
18 secretary of state shall appoint seven persons to the committee, not more  
19 than three of whom are members of the same political party.

20 2. Members of the committee shall have expertise in any two or more  
21 of the areas of advanced mathematics, statistics, random selection  
22 methods, systems operations or voting systems.

23 3. A person is not eligible to be a committee member if that person  
24 has been affiliated with or received any income in the preceding five  
25 years from any person or entity that provides election equipment or  
26 services in this state.

27 4. The vote count verification committee shall meet and establish  
28 one or more designated margins to be used in reviewing the hand counting  
29 of votes as required pursuant to this section. The committee shall review  
30 and consider revising the designated margins every two years for use in  
31 the applicable elections. The committee shall provide the designated  
32 margins to the secretary of state at least ten days before the primary  
33 election and at least ten days before the general election, and the  
34 secretary of state shall make that information publicly available on the  
35 secretary of state's website.

36 5. Members of the vote count verification committee are not  
37 eligible to receive compensation but are eligible for reimbursement of  
38 expenses pursuant to title 38, chapter 4, article 2. The committee is a  
39 public body and its meetings are subject to title 38, chapter 3, article  
40 3.1 and its reports and records are subject to title 39, chapter 1.

41 Sec. 2. Section 16-621, Arizona Revised Statutes, is amended to  
42 read:

43 16-621. Proceedings at the counting center; observers; video

44 A. All proceedings at the counting center shall be under the  
45 direction of the board of supervisors or other officer in charge of  
46 elections and shall be conducted in accordance with the approved

1 instructions and procedures manual issued pursuant to section 16-452 under  
2 the observation of representatives of each political party and the public.  
3 The proceedings at the counting center may also be observed by up to three  
4 additional people representing a candidate for nonpartisan office, or  
5 representing a political committee in support of or in opposition to a  
6 ballot measure, proposition or question, **AND AT LEAST TEN PERSONS FROM THE**  
7 **GENERAL PUBLIC WHO ARE REGISTERED VOTERS IN THE COUNTY.** A draw by lot  
8 shall determine which three groups or candidates shall have  
9 representatives participate in the observation at the counting center **AND**  
10 **WHICH MEMBERS OF THE GENERAL PUBLIC SHALL PARTICIPATE IN THE OBSERVATION.**  
11 Persons representing a candidate for nonpartisan office or persons or  
12 groups representing a political committee in support of or in opposition  
13 to a ballot measure, proposition or question, ~~AND MEMBERS OF THE PUBLIC~~  
14 ~~who are interested in participating in the observation,~~ shall notify the  
15 officer in charge of elections of their desire to be included in the draw  
16 not later than seventeen days before the election. After the deadline to  
17 receive submissions from the interested persons or groups, but prior to  
18 fourteen days before the election, the county officer in charge of  
19 elections shall draw by lot, from the list of those that expressed  
20 interest, three persons or groups **AND TEN MEMBERS OF THE GENERAL PUBLIC**  
21 and those selected shall be notified and allowed to observe the  
22 proceedings at the counting center. If a group is selected the group may  
23 alter who represents that group for different days of observation but on  
24 any given observation day a selected group shall not send more than one  
25 observer. A group may rotate an observer throughout the day. **ANY MEMBER**  
26 **OF THE GENERAL PUBLIC WHO WAS SELECTED AS AN OBSERVER MAY OBSERVE AT ANY**  
27 **TIME THROUGHOUT THE DAY AT THE COUNTING CENTER. ALL OBSERVERS SHALL BE**  
28 **ALLOWED TO OBSERVE EACH ESSENTIAL PART OF THE PROCEEDINGS AT THE COUNTING**  
29 **CENTER.** Only those persons who are authorized for the purpose **OF**  
30 **PROCESSING AND COUNTING BALLOTS AND ELECTION SUPPLIES** shall touch any  
31 ballot or ballot card or return. All persons who are engaged in  
32 processing and counting of the ballots shall be qualified electors, shall  
33 be deputized in writing and shall take an oath that they will faithfully  
34 perform their assigned duties. There shall be no preferential counting of  
35 ballots for the purpose of projecting the outcome of the election. If any  
36 ballot, including any ballot received from early voting, is damaged or  
37 defective so that it cannot properly be counted by the automatic  
38 tabulating equipment, a true duplicate copy shall be made of the damaged  
39 or defective ballot in the presence of witnesses and substituted for the  
40 damaged or defective ballot. All duplicate ballots created pursuant to  
41 this subsection shall be clearly labeled "duplicate" and shall bear a  
42 serial number that shall be recorded on the damaged or defective ballot.  
43 **THE IMAGES OF ALL DUPLICATED BALLOTS SHALL BE POSTED TO THE COUNTY'S**  
44 **WEBSITE WITHIN TWENTY-FOUR HOURS AFTER DUPLICATION ALONG WITH THE**  
45 **DETERMINATION BY THE BOARD AS TO THAT VOTER'S INTENT FOR EACH CONTEST**  
46 **ADJUDICATED.**

1 B. If the counting center automatic tabulating equipment includes  
2 an electronic vote adjudication feature that has been certified for use as  
3 prescribed by section 16-442 and the board of supervisors or officer in  
4 charge of elections authorizes the use of this feature at the counting  
5 center, all of the following apply:

6 1. The electronic vote adjudication feature shall be included in  
7 the tabulation system logic and accuracy testing prescribed by section  
8 16-449.

9 2. The board of supervisors or officer in charge of elections shall  
10 appoint an electronic vote adjudication board that consists of two judges  
11 who are overseen by an inspector, with the two judges equally divided  
12 between the two largest political parties as prescribed by section 16-531,  
13 subsection D to adjudicate and submit for tabulation a ballot that is read  
14 by the tabulation machine as blank in order to determine if voter intent  
15 is clear on a portion or all of the ballot, or any portion of any ballot  
16 as prescribed by section 16-610 or 16-611, or to tally write-in choices as  
17 prescribed by section 16-612. THE IMAGES OF ALL DUPLICATED BALLOTS SHALL  
18 BE POSTED TO THE COUNTY'S WEBSITE WITHIN TWENTY-FOUR HOURS AFTER  
19 DUPLICATION ALONG WITH THE DETERMINATION BY THE ELECTRONIC VOTE  
20 ADJUDICATION BOARD AS TO THAT VOTER'S INTENT FOR EACH CONTEST ADJUDICATED.

21 3. The electronic vote adjudication process used by the electronic  
22 vote adjudication board shall provide for:

23 (a) A method to track and account for the original ballot and the  
24 digital duplicate of the ballot created by the electronic vote  
25 adjudication feature that includes a serial number on the digital image  
26 that can be used to track electronic vote adjudication board actions.

27 (b) The creation and retention of comprehensive logs of all digital  
28 duplication and adjudication actions performed by an electronic vote  
29 adjudication board.

30 (c) The retention of the original ballot and the digital duplicate  
31 of the ballot.

32 C. If for any reason it becomes impracticable to count all or a  
33 part of the ballots with tabulating equipment, the officer in charge of  
34 elections may direct that they be counted manually, following as far as  
35 practicable the provisions governing the counting of paper ballots.

36 D. For any statewide, county or legislative election, the county  
37 recorder or officer in charge of elections shall provide for a live video  
38 recording of the custody of all ballots while the ballots are present in a  
39 tabulation room in the counting center. The live video recording shall  
40 include date and time indicators, SHALL CLEARLY DISPLAY THE BALLOTS BEING  
41 COUNTED AND THE ELECTRONIC SCREENS BEING USED BY THE ELECTRONIC VOTE  
42 ADJUDICATION BOARD and shall be linked to the secretary of state's  
43 website. The secretary of state shall post links to the video coverage  
44 for viewing by the public. The county recorder or officer in charge of  
45 elections shall record the video coverage of the ballots at the counting  
46 center and shall retain those recordings as a public record for at least

1 as long as the challenge period for the general election. If the live  
2 video feed is disrupted or disabled, the recorder or officer in charge of  
3 elections is not liable for the disruption but shall attempt to reinstate  
4 video coverage as soon as is practicable. Any disruption in video  
5 coverage shall not affect or prevent the continued tabulation of ballots  
6 BUT SHALL RESULT IN THE MEMBERS OF THE BOARD OF SUPERVISORS AND THE COUNTY  
7 RECORDER BEING DEEMED INELIGIBLE FOR REELECTION AND BARRED FROM HOLDING  
8 ANY PUBLIC OFFICE IN THIS STATE FOR TEN YEARS AFTER THE EXPIRATION OF THE  
9 TERM OF OFFICE IN WHICH THE DISRUPTION IN VIDEO COVERAGE OCCURRED. ~~This~~  
10 ~~subsection is contingent on legislative appropriation.~~

11 E. The county recorder or other officer in charge of elections  
12 shall maintain records that record the chain of custody for all election  
13 equipment and ballots during early voting through the completion of  
14 provisional voting tabulation. **BALLOTS AND ELECTRONIC DATA THAT CONTAIN**  
15 **REPRESENTATIONS OF THE VOTERS' CHOICES MAY BE REMOVED FROM A BALLOT BOX,**  
16 **TABULATOR OR ELECTRONIC OR COMPUTER SYSTEM ONLY IF IN THE CUSTODY OF AT**  
17 **LEAST ONE PERSON FROM EACH OF TWO OR MORE POLITICAL PARTIES.**

18 Sec. 3. Section 16-650, Arizona Revised Statutes, is amended to  
19 read:

20 **16-650. Declaration of election to office; delivery of**  
21 **certificate of election; legislative action**

22 A. The secretary of state shall declare elected the person  
23 receiving the highest number of votes cast for each office for which the  
24 nominees filed nominating petitions and papers with the secretary of state  
25 pursuant to section 16-311, subsection ~~B~~ E and shall, unless enjoined  
26 from so doing by an order of court, deliver to each such person, ~~upon~~ ON  
27 compliance with the provisions imposed by law ~~upon~~ ON candidates for  
28 office as conditions precedent to the issuance of the certificates, a  
29 certificate of election, signed by the secretary of state and  
30 authenticated with the great seal of ~~the~~ THIS state.

31 B. **NOTWITHSTANDING SUBSECTION A OF THIS SECTION, THE LEGISLATURE**  
32 **RETAINS ITS LEGISLATIVE AUTHORITY REGARDING THE OFFICE OF PRESIDENTIAL**  
33 **ELECTOR AND BY MAJORITY VOTE AT ANY TIME BEFORE THE PRESIDENTIAL**  
34 **INAUGURATION MAY REVOKE THE SECRETARY OF STATE'S ISSUANCE OR CERTIFICATION**  
35 **OF A PRESIDENTIAL ELECTOR'S CERTIFICATE OF ELECTION. THE LEGISLATURE MAY**  
36 **TAKE ACTION PURSUANT TO THIS SUBSECTION WITHOUT REGARD TO WHETHER THE**  
37 **LEGISLATURE IS IN REGULAR OR SPECIAL SESSION OR HAS HELD COMMITTEE OR**  
38 **OTHER HEARINGS ON THE MATTER.**

39 Sec. 4. Section 16-663, Arizona Revised Statutes, is amended to  
40 read:

41 **16-663. Recount of votes; method**

42 A. The superior court to which the facts requiring a recount are  
43 certified shall ~~forthwith~~ PROMPTLY make and enter an order requiring a  
44 recount of the votes cast for such office, measure or proposal. The  
45 recount shall be conducted in accordance with the laws pertaining to  
46 contests of elections.

1           B. ~~When the court orders~~ A COUNT-ORDERED recount of votes which  
2 THAT were cast and tabulated on electronic voting equipment, ~~such recount~~  
3 shall be pursuant to section 16-664. On completion of the recount, and  
4 for legislative, statewide and federal candidate races only, the county  
5 chairmen of the political parties entitled to continued representation on  
6 the ballot or ~~the~~ A chairman's designee shall select at random without the  
7 use of a computer five ~~percent~~ PERCENT of the precincts for the recounted  
8 race for a hand count, and if the results of that hand count when compared  
9 to the electronic tabulation of that same race are less than the  
10 designated margins calculated pursuant to section 16-602, the recount is  
11 complete and the electronic tabulation is the official result. If the  
12 hand count results in a difference that is equal to or greater than the  
13 designated margin for that race, the ~~procedure~~ PROCEDURES established in  
14 section 16-602, subsections ~~C, D, E, and F~~ ~~applies~~ AND G APPLY.

15           Sec. 5. Section 16-672, Arizona Revised Statutes, is amended to  
16 read:

17           16-672. Contest of state election; grounds; venue

18           A. Any elector of ~~the~~ THIS state may contest the election of any  
19 person declared elected to a state office, INCLUDING THE OFFICE OF  
20 PRESIDENTIAL ELECTOR, or declared nominated to a state office at a primary  
21 election, or the declared result of an initiated or referred measure, or a  
22 proposal to amend the Constitution of Arizona, or other question or  
23 proposal submitted to vote of the people, ~~upon~~ ON any of the following  
24 grounds:

25           1. For misconduct on the part of election boards or any members  
26 ~~thereof~~ OF ELECTION BOARDS in any of the counties of ~~the~~ THIS state, or on  
27 the part of any officer making or participating in a canvass for a state  
28 election.

29           2. That the person whose right to the office is contested was not  
30 at the time of the election eligible to HOLD the office.

31           3. That the person whose right is contested, or any person acting  
32 for him, has given to an elector, inspector, judge or clerk of  
33 election, ~~a~~ a bribe or reward, or has offered ~~such~~ A bribe or reward for  
34 the purpose of procuring his election, or has committed any other offense  
35 against the elective franchise.

36           4. On account of illegal votes.

37           5. That by reason of erroneous count of votes the person declared  
38 elected or the initiative or referred measure, ~~or~~ proposal to amend the  
39 constitution, ~~or~~ other question or proposal submitted, ~~which~~ has been  
40 declared carried, did not in fact receive the highest number of votes for  
41 the office or a sufficient number of votes to carry the measure,  
42 amendment, question or proposal.

43           B. The contest may be brought in the superior court ~~of~~ IN the  
44 county in which the person contesting resides or in the superior court ~~of~~  
45 IN Maricopa county.

1 C. In a contest of the election of a person declared elected to a  
2 state office, **INCLUDING PRESIDENTIAL ELECTOR**, or of an initiated or  
3 referred measure, constitutional amendment,~~—~~ or other question or  
4 proposal,~~—~~ which has been declared carried, the attorney general may  
5 intervene, and ~~upon~~ **ON** demand, the place of trial of the contest shall be  
6 changed to Maricopa county, if commenced in another county.

7 Sec. 6. Section 16-673, Arizona Revised Statutes, is amended to  
8 read:

9 16-673. Statement of contest; verification; filing;  
10 timeliness

11 A. The elector contesting a state election ~~shall~~, within five days  
12 after completion of the canvass of the election and declaration of the  
13 result ~~thereof~~ by the secretary of state or by the governor, **SHALL** file in  
14 the court in which the contest is commenced a statement in writing setting  
15 forth:

16 1. The name and residence of the ~~party~~ **PERSON** contesting the  
17 election, and that he is an elector of the state and county in which he  
18 resides.

19 2. The name of the person whose right to the office is contested,  
20 or the title of the measure, ~~or~~ constitutional amendment,~~—~~ or other  
21 proposition as it appeared ~~upon~~ **ON** the official ballot.

22 3. The office the election to which is contested.

23 4. The particular grounds of the contest.

24 B. The statement shall be verified by the affidavit of the  
25 ~~contestor~~ **PERSON CONTESTING THE ELECTION** that ~~he~~ **THE PERSON** believes the  
26 matters and things therein contained are true.

27 **C. AN ELECTION CONTEST FILED WITHIN THE TIME PRESCRIBED BY**  
28 **SUBSECTION A OF THIS SECTION IS DEEMED TIMELY AND MAY NOT BE BARRED UNDER**  
29 **THE DOCTRINE OF LACHES.**

30 Sec. 7. Section 16-676, Arizona Revised Statutes, is amended to  
31 read:

32 16-676. Time for hearing contest; continuance; findings of  
33 the court; judgment; jury trial

34 A. In any contest brought under ~~the provisions of~~ section 16-672 or  
35 16-674, ~~upon~~ **ON** the filing of the answer, or if no answer is filed, ~~upon~~  
36 **ON** the expiration of the time specified in the summons, the court shall  
37 set a time for the hearing of the contest, not later than ten days after  
38 the date on which the statement of contest was filed, which may be  
39 continued for not to exceed five days for good cause shown.

40 B. The court shall continue in session to hear and determine all  
41 issues arising in contested elections. After hearing the proofs and  
42 allegations of the parties, and within five days after the submission  
43 thereof, the court shall file its findings and immediately thereafter  
44 shall pronounce judgment, either confirming or annulling and setting aside  
45 the election.

1 C. If in an election contest it appears that a person other than  
2 the contestee has the highest number of legal votes, the court shall  
3 declare that person elected and that the certificate of election of the  
4 person whose office is contested is of no further legal force or effect.

5 D. ANY PARTY TO AN ELECTION CONTEST MAY REQUEST A JURY TRIAL, WHICH  
6 SHALL BE GRANTED AND TRIED AS OTHER JURY TRIALS IN A CIVIL ACTION, EXCEPT  
7 THAT THE STATUTORY PROVISIONS FOR ELECTION CONTESTS PREVAIL OVER ANY  
8 CONFLICTING RULES OF PROCEDURE FOR JURY TRIALS. IN AN ELECTION CONTEST  
9 JURY TRIAL, A COURT MAY NOT GRANT A MOTION TO DISMISS OR A MOTION FOR  
10 SUMMARY JUDGMENT THAT WOULD RESULT IN DISMISSAL UNTIL AFTER THE JURY HAS  
11 ISSUED ITS VERDICT.

12 Sec. 8. Section 16-677, Arizona Revised Statutes, is amended to  
13 read:

14 16-677. Inspection of ballots before trial; petition; bond;  
15 appointment of inspectors

16 A. After the statement of contest has been filed and the action is  
17 at issue, either party may have the ballots AND TABULATION EQUIPMENT  
18 inspected before preparing for trial.

19 B. The party applying for the inspection of ballots OR TABULATION  
20 EQUIPMENT shall file with the clerk of the court a verified petition  
21 stating that ~~he~~ THE PARTY cannot properly prepare for trial without an  
22 inspection of the ballots AND TABULATION EQUIPMENT and shall file with the  
23 petition a bond, approved by the clerk, with two sureties, in the  
24 principal amount of ~~three hundred dollars~~ \$300, conditioned that ~~he~~ THE  
25 PARTY will pay the costs and expenses of the inspection if ~~he~~ THE PARTY  
26 fails to maintain the contest. Thereupon the court shall appoint three  
27 persons, one selected by each of the parties and one by the court, by whom  
28 the inspection shall be made. If either party fails to name a person to  
29 act in making the inspection, the court shall make the appointment.

30 C. The inspection of the ballots AND TABULATION EQUIPMENT shall be  
31 made in the presence of the legal custodian of the ballots AND TABULATION  
32 EQUIPMENT, and the compensation of the inspectors shall be fixed by the  
33 court and taxed as costs against the losing party.