

REFERENCE TITLE: **presidential preference caucuses; independent voters**

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SB 1668

Introduced by
Senator Quezada

AN ACT

AMENDING SECTIONS 16-168, 16-193, 16-241, 16-242 AND 16-243, ARIZONA REVISED STATUTES; REPEALING SECTIONS 16-244, 16-245, 16-246, 16-247, 16-248, 16-249 AND 16-250, ARIZONA REVISED STATUTES; AMENDING SECTION 16-602, ARIZONA REVISED STATUTES; RELATING TO THE PRESIDENTIAL PREFERENCE ELECTION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 16-168, Arizona Revised Statutes, is amended to
3 read:

4 16-168. Precinct registers; date of preparation; contents;
5 copies; reports; statewide database; violation;
6 classification

7 A. By the tenth day preceding the primary and general elections the
8 county recorder shall prepare from the original registration forms or from
9 electronic media at least four lists that are printed or typed on paper,
10 or at least two electronic media poll lists, or any combination of both,
11 of all qualified electors in each precinct in the county, and the lists
12 shall be the official precinct registers.

13 B. The official precinct registers for use at the polling place
14 shall contain at least the names in full, party preference, date of
15 registration and residence address of each qualified elector in the
16 respective precincts. The names shall be in alphabetical order and, in a
17 column to the left of the names, shall be numbered consecutively beginning
18 with number 1 in each precinct register.

19 C. For the purposes of transmitting voter registration information
20 as prescribed by this subsection, electronic media shall be the principal
21 media. A county or state chairman who is eligible to receive copies of
22 precinct lists as prescribed by this subsection may request that the
23 recorder provide a paper copy of the precinct lists. In addition to
24 preparing the official precinct lists, the county recorder shall provide a
25 means for electronically reproducing the precinct lists. Unless otherwise
26 agreed, the county recorder shall deliver one electronic media copy of
27 each precinct list in the county without charge and on the same day within
28 eight days after the close of registration for the primary and general
29 elections to the county chairman and one electronic media copy to the
30 state chairman of each party that has at least four candidates other than
31 presidential electors appearing on the ballot in that county at the
32 current election. The secretary of state shall establish a single format
33 that prescribes the manner and template in which all county recorders
34 provide this data to the secretary of state to ensure that the submissions
35 are uniform from all counties in this state, that all submissions are
36 identical in format, including the level of detail for voting history, and
37 that information may readily be combined from two or more counties. The
38 electronic media copies of the precinct lists that are delivered to the
39 party chairmen shall include for each elector the following information:

- 40 1. Name in full and appropriate title.
- 41 2. Party preference.
- 42 3. Date of registration.
- 43 4. Residence address.
- 44 5. Mailing address, if different from residence address.

- 1 6. Zip code.
- 2 7. Telephone number if given.
- 3 8. Birth year.
- 4 9. Occupation if given.
- 5 10. Voting history for all elections in the prior four years and
- 6 any other information regarding registered voters that the county recorder
- 7 or city or town clerk maintains electronically and that is public
- 8 information.
- 9 11. All data relating to permanent early voters and nonpermanent
- 10 early voters, including ballot requests and ballot returns.
- 11 D. The names on the precinct lists shall be in alphabetical order
- 12 and the precinct lists in their entirety, unless otherwise agreed, shall
- 13 be delivered to each county chairman and each state chairman within ten
- 14 business days of the close of each date for counting registered voters
- 15 prescribed by subsection G of this section other than the primary and
- 16 general election registered voter counts in the same format and media as
- 17 prescribed by subsection C of this section. During the thirty-three days
- 18 immediately preceding an election and on request from a county or state
- 19 chairman, the county recorder shall provide at no cost a daily list of
- 20 persons who have requested an early ballot and shall provide at no cost a
- 21 weekly listing of persons who have returned their early ballots. The
- 22 recorder shall provide the daily and weekly information through the Friday
- 23 preceding the election. On request from a county chairman or state
- 24 chairman, the county recorder of a county with a population of more than
- 25 eight hundred thousand persons shall provide at no cost a daily listing of
- 26 persons who have returned their early ballots. The daily listing shall be
- 27 provided Mondays through Fridays, beginning with the first Monday
- 28 following the start of early voting and ending on the Monday before the
- 29 election.
- 30 E. Precinct registers and other lists and information derived from
- 31 registration forms may be used only for purposes relating to a political
- 32 or political party activity, a political campaign or an election, for
- 33 revising election district boundaries or for any other purpose
- 34 specifically authorized by law and may not be used for a commercial
- 35 purpose as defined in section 39-121.03. The sale of registers, lists and
- 36 information derived from registration forms to a candidate or a registered
- 37 political committee for a use specifically authorized by this subsection
- 38 does not constitute use for a commercial purpose. The county recorder,
- 39 the secretary of state and other officers in charge of elections, on a
- 40 request for an authorized use and within thirty days from receipt of the
- 41 request, shall prepare additional copies of an official precinct list and
- 42 furnish them to any person requesting them on payment of a fee equal to
- 43 the following amounts for the following number of voter registration
- 44 records provided:

1 1. For one to one hundred twenty-four thousand nine hundred
2 ninety-nine records, ~~ninety-three dollars seventy-five cents~~ \$93.75 plus
3 \$0.0005 per record.

4 2. For one hundred twenty-five thousand to two hundred forty-nine
5 thousand nine hundred ninety-nine records, ~~one hundred fifty-six dollars~~
6 ~~twenty-five cents~~ \$156.25 plus \$0.000375 per record.

7 3. For two hundred fifty thousand to four hundred ninety-nine
8 thousand nine hundred ninety-nine records, ~~two hundred three dollars~~
9 ~~thirteen cents~~ \$203.13 plus \$0.00025 per record.

10 4. For five hundred thousand to nine hundred ninety-nine thousand
11 nine hundred ninety-nine records, ~~two hundred sixty-five dollars~~
12 ~~sixty-three cents~~ \$265.63 plus \$0.000125 per record.

13 5. For one million or more records, ~~three hundred twenty-eight~~
14 ~~dollars thirteen cents~~ \$328.13 plus \$0.0000625 per record.

15 F. Any person in possession of a precinct register or list, in
16 whole or part, or any reproduction of a precinct register or list, shall
17 not permit the register or list to be used, bought, sold or otherwise
18 transferred for any purpose except for uses otherwise authorized by this
19 section. A person in possession of information derived from voter
20 registration forms or precinct registers shall not distribute, post or
21 otherwise provide access to any portion of that information through the
22 internet except as authorized by subsection I of this section. Nothing in
23 this section shall preclude public inspection of voter registration
24 records at the office of the county recorder for the purposes prescribed
25 by this section, except that the month and day of birth date, the social
26 security number or any portion thereof, the driver license number or
27 nonoperating identification license number, the Indian census number, the
28 father's name or mother's maiden name, the state or country of birth and
29 the records containing a voter's signature and a voter's e-mail address
30 shall not be accessible or reproduced by any person other than the voter,
31 by an authorized government official in the scope of the official's
32 duties, for any purpose by an entity designated by the secretary of state
33 as a voter registration agency pursuant to the national voter registration
34 act of 1993 (P.L. 103-31; 107 Stat. 77), for signature verification on
35 petitions and candidate filings, for election purposes and for news
36 gathering purposes by a person engaged in newspaper, radio, television or
37 reportorial work, or connected with or employed by a newspaper, radio or
38 television station or pursuant to a court order. Notwithstanding any
39 other law, a voter's e-mail address may not be released for any purpose.
40 A person who violates this subsection or subsection E of this section is
41 guilty of a class 6 felony.

42 G. The county recorder shall count the registered voters by
43 political party by precinct, legislative district and congressional
44 district as follows:

1 1. In even numbered years, the county recorder shall count all
2 persons who are registered to vote as of:

3 (a) January 2.

4 (b) April 1.

5 (c) The last day on which a person may register to be eligible to
6 vote in the next primary election.

7 (d) The last day on which a person may register to be eligible to
8 vote in the next general election.

9 (e) The last day on which a person may register to be eligible to
10 vote in the next presidential preference ~~election~~ CAUCUS.

11 2. In odd numbered years, the county recorder shall count all
12 persons who are registered to vote as of:

13 (a) January 2.

14 (b) April 1.

15 (c) July 1.

16 (d) October 1.

17 H. The county recorder shall report the totals to the secretary of
18 state as soon as is practicable following each of the dates prescribed in
19 subsection G of this section. The report shall include completed
20 registration forms returned in accordance with section 16-134,
21 subsection B. The county recorder shall also provide the report in a
22 uniform electronic computer media format that shall be agreed on between
23 the secretary of state and all county recorders. The secretary of state
24 shall then prepare a summary report for the state and shall maintain that
25 report as a permanent record.

26 I. The county recorder and the secretary of state shall protect
27 access to voter registration information in an auditable format and method
28 specified in the secretary of state's electronic voting system
29 instructions and procedures manual that is adopted pursuant to section
30 16-452.

31 J. The secretary of state shall develop and administer a statewide
32 database of voter registration information that contains the name and
33 registration information of every registered voter in this state. The
34 statewide database is a matter of statewide concern and is not subject to
35 modification or further regulation by a political subdivision. The
36 database shall include an identifier that is unique for each individual
37 voter. The database shall provide for access by voter registration
38 officials and shall allow expedited entry of voter registration
39 information after it is received by county recorders. As a part of the
40 statewide voter registration database, county recorders shall provide for
41 the electronic transmittal of that information to the secretary of state
42 on a real time basis. The secretary of state shall provide for
43 maintenance of the database, including provisions regarding removal of
44 ineligible voters that are consistent with the national voter registration
45 act of 1993 (P.L. 103-31; 107 Stat. 77; 52 United States Code sections

1 20501 through 20511) and the help America vote act of 2002 (P.L. 107-252;
2 116 Stat. 1666; 52 United States Code sections 20901 through 21145),
3 provisions regarding removal of duplicate registrations and provisions to
4 ensure that eligible voters are not removed in error. For the purpose of
5 maintaining compliance with the help America vote act of 2002, each county
6 voter registration system is subject to approval by the secretary of state
7 for compatibility with the statewide voter registration database system.

8 K. Except as provided in subsection L of this section, for requests
9 for the use of registration forms and access to information as provided in
10 subsections E and F of this section, the county recorder shall receive and
11 respond to requests regarding federal, state and county elections.

12 L. Beginning January 1, 2008, recognized political parties shall
13 request precinct lists and access to information as provided in
14 subsections E and F of this section during the time periods prescribed in
15 subsection C or D of this section and the county recorder shall receive
16 and respond to those requests. If the county recorder does not provide
17 the requested materials within the applicable time prescribed for the
18 county recorder pursuant to subsection C or D of this section, a
19 recognized political party may request that the secretary of state provide
20 precinct lists and access to information as provided in subsections E and
21 F of this section for federal, state and county elections. The secretary
22 of state shall not provide access to precinct lists and information for
23 recognized political parties unless the county recorder has failed or
24 refused to provide the lists and materials as prescribed by this section.
25 The secretary of state may charge the county recorder a fee determined by
26 rule for each name or record produced.

27 M. For municipal registration information in those municipalities
28 in which the county administers the municipal elections, county and state
29 party chairmen shall request and obtain voter registration information and
30 precinct lists from the city or town clerk during the time periods
31 prescribed in subsection C or D of this section. If the city or town
32 clerk does not provide that information within the same time prescribed
33 for county recorders pursuant to subsection C or D of this section, the
34 county or state party chairman may request and obtain the information from
35 the county recorder. The county recorder shall provide the municipal
36 voter registration and precinct lists within the time prescribed in
37 subsection C or D of this section.

38 N. The county recorders and the secretary of state shall not
39 prohibit any person or entity prescribed in subsection C of this section
40 from distributing a precinct list to any person or entity that is deemed
41 to be using the precinct list in a lawful manner as prescribed in
42 subsections E and F of this section.

1 Sec. 2. Section 16-193, Arizona Revised Statutes, is amended to
2 read:

3 16-193. Active registered voters; applicability

4 The terms "registered voters", "persons who are registered to vote",
5 "registered electors" and "voters registered" as used in the following
6 sections include only active registered voters for purposes of the
7 following:

8 1. Calculating petition signature requirements pursuant to sections
9 11-133, 16-322, 16-341, 45-415, 45-433, 48-4433 and 48-4832.

10 2. Mailing and distributing election-related notices, pamphlets or
11 ballots pursuant to sections 11-137, 15-905.01, ~~16-245~~, 16-412, 16-461,
12 16-510, 19-123, 19-141, 35-454, 41-563.02, 42-6109.01, 42-17057, 42-17107,
13 48-620, 48-4021, 48-4236, 48-5314, 48-6432 and 48-6433.

14 3. Furnishing ballots pursuant to sections 16-508 and 48-685.

15 4. Determining qualification for political parties' continued
16 representation on the ballot pursuant to ~~sections 16-244 and~~ SECTION
17 16-804.

18 5. Choosing political party officers pursuant to sections 16-821
19 and 16-823.

20 Sec. 3. Heading change

21 The article heading of title 16, chapter 2, article 4, Arizona
22 Revised Statutes, is changed from "PRESIDENTIAL PREFERENCE ELECTION" to
23 "PRESIDENTIAL PREFERENCE CAUCUS".

24 Sec. 4. Section 16-241, Arizona Revised Statutes, is amended to
25 read:

26 16-241. Presidential preference caucus

27 ~~A. A~~ Presidential preference ~~election~~ CAUCUSES shall be held on
28 the Tuesday immediately following March 15 of each year in which the
29 President of the United States is elected to give qualified electors the
30 opportunity to express their preference for the presidential candidate of
31 the political party ~~indicated as their preference by the record of their~~
32 ~~registration~~ OF THEIR CHOOSING. PRESIDENTIAL PREFERENCE CAUCUSES SHALL
33 ALLOW PARTICIPATION BY PERSONS WHO ARE REGISTERED INDEPENDENT OR NO PARTY
34 PREFERENCE. ~~No other election may appear on the same ballot as the~~
35 ~~presidential preference election.~~

36 ~~B. Notwithstanding subsection A of this section, the governor may~~
37 ~~issue a proclamation that the presidential preference election is to be~~
38 ~~held on a date later than the date prescribed in subsection A of this~~
39 ~~section. The proclamation shall be issued no later than one hundred~~
40 ~~eighty days before the date of the election as set forth in the~~
41 ~~proclamation. The governor shall transmit a copy of the election~~
42 ~~proclamation to the clerks of the county boards of supervisors.~~

43 ~~C. Except as otherwise provided in this article, the presidential~~
44 ~~preference election shall be conducted and canvassed in the same manner as~~
45 ~~prescribed in this title for the primary election held pursuant to section~~

1 ~~16-201. All provisions of other laws that govern elections and that are~~
2 ~~not in conflict with this article apply to a presidential preference~~
3 ~~election, including laws relating to registration and qualifications of~~
4 ~~electors.~~

5 ~~D. Unless otherwise specifically prescribed by this article, the~~
6 ~~powers and duties conferred by law on boards of supervisors, officers in~~
7 ~~charge of elections, county recorders, precinct boards and central~~
8 ~~counting boards in connection with a primary election are conferred on~~
9 ~~those persons for purposes of a presidential preference election and shall~~
10 ~~be exercised by them for a presidential preference election.~~

11 ~~E. Every act that is an offense pursuant to the election laws of~~
12 ~~this state is an offense for purposes of a presidential preference~~
13 ~~election, and a person is subject to the penalties prescribed by those~~
14 ~~laws.~~

15 Sec. 5. Section 16-242, Arizona Revised Statutes, is amended to
16 read:

17 16-242. Qualifications for ballot; nomination paper

18 A. A person seeking nomination as a candidate for the office of
19 president of the United States shall sign and cause to be filed with the
20 secretary of state a nomination paper that contains the following
21 information:

22 1. The name, residence address and mailing address of the
23 candidate.

24 2. The name of the recognized political party from which the person
25 seeks nomination.

26 3. The name and address of the chairman of the candidate's state
27 committee.

28 ~~4. The exact manner for printing the candidate's name on the~~
29 ~~presidential preference ballot pursuant to section 16-311.~~

30 B. The nomination paper shall be filed not less than one hundred
31 days nor more than one hundred thirty days before the presidential
32 preference ~~election~~ CAUCUS and not later than 5:00 p.m. on the last day
33 for filing. If the last day for filing falls on a Saturday, Sunday or
34 legal holiday, the nomination paper shall be filed not later than 5:00
35 p.m. on the next business day.

36 C. A candidate for the office of president of the United States
37 shall file with the secretary of state nomination petitions signed by at
38 least five hundred qualified electors who are qualified to vote for the
39 candidate whose nomination petition they are signing for that election or,
40 for recognized parties with fewer than fifty thousand registered voters,
41 nomination petitions signed by at least five hundred qualified electors of
42 any political party affiliation who, at the time they sign, are registered
43 voters. The nomination petitions shall be filed within the time period
44 prescribed by subsection B of this section.

1 D. Nomination petitions shall conform to the requirements of
2 section 16-314.

3 E. In lieu of the petition requirements of this section, a
4 candidate may qualify to appear on the presidential preference ~~election~~
5 CAUCUS ballot of the candidate's political party by filing with the
6 secretary of state during the time period prescribed by subsection B of
7 this section a notice of candidacy signed by the candidate and evidence
8 that by the filing deadline the candidate's name is qualified to appear on
9 the presidential preference ~~election~~ CAUCUS ballot of the candidate's
10 political party in at least two other states.

11 F. Within seventy-two hours after the close of filing the secretary
12 of state shall ~~certify to the officer in charge of elections~~ PUBLISH the
13 names of the candidates who are qualified for the presidential preference
14 ~~election~~ CAUCUS ballot.

15 Sec. 6. Section 16-243, Arizona Revised Statutes, is amended to
16 read:

17 16-243. National convention delegates; vote for candidates

18 A. The OPERATION OF THE CAUCUSES AND THE selection of delegates to
19 the political party national conventions shall be as provided in the
20 bylaws of each state party, EXCEPT THAT PERSONS WHO ARE REGISTERED AS
21 INDEPENDENT OR NO PARTY PREFERENCE SHALL BE PERMITTED TO PARTICIPATE AND
22 VOTE IN A POLITICAL PARTY CAUCUS.

23 B. At the political party national convention, each delegate to the
24 national convention shall vote for the party's presidential nominee
25 candidate who received the greatest number of votes in the presidential
26 preference ~~election~~ CAUCUS until the candidate is nominated for the office
27 of President of the United States by the convention, until the candidate
28 releases the delegate from the delegate's obligation, until a candidate
29 withdraws from the race or until one convention nominating ballot has been
30 taken. After a candidate is nominated, withdraws from the race, delegates
31 are released or one ballot is taken, each delegate is free to vote as the
32 delegate chooses, and no rule may be adopted by a delegation requiring the
33 delegation to vote as a body or causing the vote of any delegate to go
34 uncounted or unreported.

35 Sec. 7. Repeal

36 Sections 16-244, 16-245, 16-246, 16-247, 16-248, 16-249 and 16-250,
37 Arizona Revised Statutes, are repealed.

38 Sec. 8. Section 16-602, Arizona Revised Statutes, is amended to
39 read:

40 16-602. Removal of ballots from ballot boxes; disposition of
41 ballots folded together or excessive ballots;
42 designated margin; hand counts; vote count
43 verification committee

44 A. For any primary, special or general election in which the votes
45 are cast on an electronic voting machine or tabulator, the election judge

1 shall compare the number of votes cast as indicated on the machine or
2 tabulator with the number of votes cast as indicated on the poll list and
3 the number of provisional ballots cast and that information shall be noted
4 in a written report prepared and submitted to the officer in charge of
5 elections along with other tally reports.

6 B. For each countywide primary, special, ~~AND~~ AND general ~~and~~
7 ~~presidential preference~~ election, the county officer in charge of the
8 election shall conduct a hand count at one or more secure facilities. The
9 hand count shall be conducted as prescribed by this section and in
10 accordance with hand count procedures established by the secretary of
11 state in the official instructions and procedures manual adopted pursuant
12 to section 16-452. The hand count is not subject to the live video
13 requirements of section 16-621, subsection D, but the party
14 representatives who are observing the hand count may bring their own video
15 cameras in order to record the hand count. The recording shall not
16 interfere with the conduct of the hand count and the officer in charge of
17 the election may prohibit from recording or remove from the facility
18 persons who are taking actions to disrupt the count. The sole act of
19 recording the hand count does not constitute sufficient grounds for the
20 officer in charge of the election to prohibit observers from recording or
21 to remove them from the facility. The hand count shall be conducted in
22 the following order:

23 1. At least two percent of the precincts in that county, or two
24 precincts, whichever is greater, shall be selected at random from a pool
25 consisting of every precinct in that county. The county political party
26 chairman for each political party that is entitled to continued
27 representation on the state ballot or the chairman's designee shall
28 conduct the selection of the precincts to be hand counted. The precincts
29 shall be selected by lot without the use of a computer, and the order of
30 selection by the county political party chairmen shall also be by lot.
31 The selection of the precincts shall not begin until all ballots voted in
32 the precinct polling places have been delivered to the central counting
33 center. The unofficial vote totals from all precincts shall be made
34 public before selecting the precincts to be hand counted. Only the
35 ballots cast in the polling places and ballots from direct recording
36 electronic machines shall be included in the hand counts conducted
37 pursuant to this section. Provisional ballots, conditional provisional
38 ballots and write-in votes shall not be included in the hand counts and
39 the early ballots shall be grouped separately by the officer in charge of
40 elections for purposes of a separate manual audit pursuant to subsection F
41 of this section.

42 2. The races to be counted on the ballots from the precincts that
43 were selected pursuant to paragraph 1 of this subsection for each primary,
44 special and general election shall include up to five contested races.
45 After the county recorder or other officer in charge of elections

1 separates the primary ballots by political party, the races to be counted
2 shall be determined by selecting by lot without the use of a computer from
3 those ballots as follows:

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

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

7 (c) One contested race for federal office, either United States
8 senate or United States house of representatives. If the United States
9 house of representatives race is selected, the names of the candidates may
10 vary among the sampled precincts.

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

14 (e) If there are fewer than four contested races resulting from the
15 selections made pursuant to subdivisions (a) through (d) of this ~~section~~
16 ~~PARAGRAPH~~ and if there are additional contested federal, statewide or
17 legislative races or ballot measures, additional contested races shall be
18 selected by lot not using a computer until four races have been selected
19 or until no additional contested federal, statewide or legislative races
20 or ballot measures are available for selection.

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

24 ~~3. For the presidential preference election, select by lot two~~
25 ~~percent of the polling places designated and used pursuant to section~~
26 ~~16-248 and perform the hand count of those ballots.~~

27 ~~4.~~ 3. For the purposes of this section, a write-in candidacy in a
28 race does not constitute a contested race.

29 ~~5.~~ 4. In elections in which there are candidates for president,
30 the presidential race shall be added to the four categories of hand
31 counted races.

32 ~~6.~~ 5. Each county chairman of a political party that is entitled
33 to continued representation on the state ballot or the chairman's designee
34 shall select by lot the individual races to be hand counted pursuant to
35 this section.

36 ~~7.~~ 6. The county chairman of each political party shall designate
37 and provide the number of election board members as designated by the
38 county officer in charge of elections who shall perform the hand count
39 under the supervision of the county officer in charge of elections. For
40 each precinct that is to be audited, the county chairmen shall designate
41 at least two board workers who are registered members of any or no
42 political party to assist with the audit. Any qualified elector from this
43 state may be a board worker without regard to party designation. The
44 county election officer shall provide for compensation for those board
45 workers, not to include travel, meal or lodging expenses. If there are

1 less than two persons for each audited precinct available to participate
2 on behalf of each recognized political party, the recorder or officer in
3 charge of elections, with the approval of at least two county party
4 chairpersons in the county in which the shortfall occurs, shall substitute
5 additional individual electors who are provided by any political party
6 from anywhere in the state without regard to party designation to conduct
7 the hand count. A county party chairman shall approve only those
8 substitute electors who are provided by the county chairman's political
9 party. The political parties shall provide to the recorder or officer in
10 charge of elections in writing the names of those persons intending to
11 participate in the hand count at the audited precincts not later than 5:00
12 p.m. on the Tuesday preceding the election. If the total number of board
13 workers provided by all parties is less than four times the number of
14 precincts to be audited, the recorder or officer in charge of elections
15 shall notify the parties of the shortage by 9:00 a.m. on the Wednesday
16 preceding the election. The hand count shall not proceed unless the
17 political parties provide the recorder or officer in charge of elections,
18 in writing, a sufficient number of persons by 5:00 p.m. on the Thursday
19 preceding the election and a sufficient number of persons, pursuant to
20 this paragraph, arrive to perform the hand count. The recorder or officer
21 in charge of elections may prohibit persons from participating in the hand
22 count if they are taking actions to disrupt the count or are unable to
23 perform the duties as assigned. For the hand count to proceed, not more
24 than seventy-five percent of the persons performing the hand count shall
25 be from the same political party.

26 ~~8.~~ 7. If a political party is not represented by a designated
27 chairperson within a county, the state chairperson for that political
28 party, or a person designated by the state chairperson, may perform the
29 actions required by the county chairperson as specified in this section.

30 C. If the randomly selected races result in a difference in any
31 race that is less than the designated margin when compared to the
32 electronic tabulation of those same ballots, the results of the electronic
33 tabulation constitute the official count for that race. If the randomly
34 selected races result in a difference in any race that is equal to or
35 greater than the designated margin when compared to the electronic
36 tabulation of those same ballots, a second hand count of those same
37 ballots and races shall be performed. If the second hand count results in
38 a difference in any race that is less than the designated margin when
39 compared to the electronic tabulation for those same ballots, the
40 electronic tabulation constitutes the official count for that race. If
41 the second hand count results in a difference in any race that is equal to
42 or greater than the designated margin when compared to the electronic
43 tabulation for those same ballots, the hand count shall be expanded to
44 include a total of twice the original number of randomly selected

1 precincts. Those additional precincts shall be selected by lot without
2 the use of a computer.

3 D. In any expanded count of randomly selected precincts, if the
4 randomly selected precinct hand counts result in a difference in any race
5 that is equal to or greater than the designated margin when compared to
6 the electronic tabulation of those same ballots, the final hand count
7 shall be extended to include the entire jurisdiction for that race. If
8 the jurisdictional boundary for that race would include any portion of
9 more than one county, the final hand count shall not be extended into the
10 precincts of that race that are outside of the county that is conducting
11 the expanded hand count. If the expanded hand count results in a
12 difference in that race that is less than the designated margin when
13 compared to the electronic tabulation of those same ballots, the
14 electronic tabulation constitutes the official count for that race.

15 E. If a final hand count is performed for an entire jurisdiction
16 for a race, the final hand count shall be repeated for that race until a
17 hand count for that race for the entire jurisdiction results in a count
18 that is identical to one other hand count for that race for the entire
19 jurisdiction and that hand count constitutes the official count for that
20 race.

21 F. After the electronic tabulation of early ballots and at one or
22 more times selected by the chairman of the political parties entitled to
23 continued representation on the ballot or the chairman's designee, the
24 chairmen or the chairmen's designees shall randomly select one or more
25 batches of early ballots that have been tabulated to include at least one
26 batch from each machine used for tabulating early ballots and those
27 ballots shall be securely sequestered by the county recorder or officer in
28 charge of elections along with their unofficial tally reports for a
29 postelection manual audit. The chairmen or the chairmen's designees shall
30 randomly select from those sequestered early ballots a number equal to one
31 percent of the total number of early ballots cast or five thousand early
32 ballots, whichever is less. From those randomly selected early ballots,
33 the county officer in charge of elections shall conduct a manual audit of
34 the same races that are being hand counted pursuant to subsection B of
35 this section. If the manual audit of the early ballots results in a
36 difference in any race that is equal to or greater than the designated
37 margin when compared to the electronically tabulated results for those
38 same early ballots, the manual audit shall be repeated for those same
39 early ballots. If the second manual audit results in a difference in that
40 race that is equal to or greater than the designated margin when compared
41 to the electronically tabulated results for those same early ballots, the
42 manual audit shall be expanded only for that race to a number of
43 additional early ballots equal to one percent of the total early ballots
44 cast or an additional five thousand ballots, whichever is less, to be
45 randomly selected from the batch or batches of sequestered early

1 ballots. If the expanded early ballot manual audit results in a
2 difference for that race that is equal to or greater than the designated
3 margin when compared to any of the earlier manual counts for that race,
4 the manual counts shall be repeated for that race until a manual count
5 results in a difference in that race that is less than the designated
6 margin. If at any point in the manual audit of early ballots the
7 difference between any manual count of early ballots is less than the
8 designated margin when compared to the electronic tabulation of those
9 ballots, the electronic tabulation shall be included in the canvass and no
10 further manual audit of the early ballots shall be conducted.

11 G. During any hand count of early ballots, the county officer in
12 charge of elections and election board workers shall attempt to determine
13 the intent of the voter in casting the ballot.

14 H. Notwithstanding any other law, the county officer in charge of
15 elections shall retain custody of the ballots for purposes of performing
16 any required hand counts and the officer shall provide for security for
17 those ballots.

18 I. The hand counts prescribed by this section shall begin within
19 twenty-four hours after the closing of the polls and shall be completed
20 before the canvassing of the election for that county. The results of
21 those hand counts shall be provided to the secretary of state, who shall
22 make those results publicly available on the secretary of state's website.

23 J. For any county in which a hand count has been expanded to all
24 precincts in the jurisdiction, the secretary of state shall make available
25 the escrowed source code for that county to the superior court. The
26 superior court shall appoint a special master to review the computer
27 software. The special master shall have expertise in software
28 engineering, shall not be affiliated with an election software vendor nor
29 with a candidate, shall sign and be bound by a nondisclosure agreement
30 regarding the source code itself and shall issue a public report to the
31 court and to the secretary of state regarding the special master's
32 findings on the reasons for the discrepancies. The secretary of state
33 shall consider the reports for purposes of reviewing the certification of
34 that equipment and software for use in this state.

35 K. The vote count verification committee is established in the
36 office of the secretary of state and all of the following apply:

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

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

43 3. A person is not eligible to be a committee member if that person
44 has been affiliated with or received any income in the preceding five

1 years from any person or entity that provides election equipment or
2 services in this state.

3 4. The vote count verification committee shall meet and establish
4 one or more designated margins to be used in reviewing the hand counting
5 of votes as required pursuant to this section. The committee shall review
6 and consider revising the designated margins every two years for use in
7 the applicable elections. The committee shall provide the designated
8 margins to the secretary of state at least ten days before the primary
9 election and at least ten days before the general election, and the
10 secretary of state shall make that information publicly available on the
11 secretary of state's website.

12 5. Members of the vote count verification committee are not
13 eligible to receive compensation but are eligible for reimbursement of
14 expenses pursuant to title 38, chapter 4, article 2. The committee is a
15 public body and its meetings are subject to title 38, chapter 3, article
16 3.1 and its reports and records are subject to title 39, chapter 1.