

REFERENCE TITLE: elections; hand count; tabulators prohibited

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

## **SB 1348**

Introduced by  
Senator Rogers

### **AN ACT**

AMENDING SECTIONS 16-442, 16-443, 16-444, 16-446, 16-448 AND 16-449, ARIZONA REVISED STATUTES; REPEALING SECTIONS 16-450 AND 16-451, ARIZONA REVISED STATUTES; AMENDING SECTIONS 16-602, 16-621 AND 16-663, ARIZONA REVISED STATUTES; REPEALING SECTION 16-664, ARIZONA REVISED STATUTES; AMENDING SECTION 16-1011, ARIZONA REVISED STATUTES; RELATING TO THE 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 16-442, Arizona Revised Statutes, is amended to  
3 read:

4 16-442. Committee approval; emergency certification

5 A. The secretary of state shall appoint a committee of three  
6 persons, to consist of a member of the engineering college at one of the  
7 universities, a member of the state bar of Arizona and one person familiar  
8 with voting processes in the state, ~~no~~ NOT more than two of whom shall be  
9 of the same political party, and at least one of whom shall have at least  
10 five years of experience with and shall be able to render an opinion based  
11 on knowledge of, training in or education in ~~electronic~~ voting systems,  
12 procedures and security. The committee shall investigate and test the  
13 various types of vote recording ~~or tabulating machines or~~ devices that may  
14 be used under this article. The committee shall submit its  
15 recommendations to the secretary of state who shall make final adoption of  
16 the type or types, make or makes, model or models to be certified for use  
17 in this state. The committee shall serve without compensation.

18 B. Machines or devices used at any election for federal, state or  
19 county offices may only be certified for use in this state and may only be  
20 used in this state if they comply with the help America vote act of 2002,  
21 ~~and~~ if those machines or devices have been tested and approved by a  
22 laboratory that is accredited pursuant to the help America vote act of  
23 2002 AND IF THOSE MACHINES OR DEVICES ARE TO BE USED TO COMPLY WITH THE  
24 ACCESSIBILITY REQUIREMENTS PRESCRIBED BY SECTION 16-442.01. EXCEPT AS  
25 REQUIRED TO COMPLY WITH SECTION 16-442.01, THE SECRETARY OF STATE MAY NOT  
26 APPROVE FOR GENERAL USE ELECTRONIC TABULATING MACHINES OR OTHER TABULATING  
27 MACHINES.

28 C. After consultation with the committee prescribed by subsection A  
29 of this section, the secretary of state shall adopt standards that specify  
30 the criteria for loss of certification for equipment that was used at any  
31 election for federal, state or county offices and that was previously  
32 certified for use in this state. On loss of certification, machines or  
33 devices used at any election may not be used for any election for federal,  
34 state or county offices in this state unless recertified for use in this  
35 state.

36 D. The secretary of state may revoke the certification of any  
37 voting system or device for use in a federal, state or county election in  
38 this state or may prohibit for up to five years the purchase, lease or use  
39 of any voting system or device leased, installed or used by a person or  
40 firm in connection with a federal, state or county election in this state,  
41 or both, if either of the following occurs:

42 1. The person or firm installs, uses or ~~permits~~ **ALLOWS** the use of a  
43 voting system or device that is not certified for use or approved for  
44 experimental use in this state pursuant to this section.

1           2. The person or firm uses or includes hardware, firmware or  
2 software in a version that is not certified for use or approved for  
3 experimental use pursuant to this section in a certified voting system or  
4 device.

5           E. The governing body of a city or town or the board of directors  
6 of an agricultural improvement district may adopt for use in elections any  
7 kind of electronic voting system ~~or vote tabulating device~~ approved by the  
8 secretary of state, and thereupon the voting or marking device ~~and vote~~  
9 ~~tabulating equipment~~ may be used at any or all elections for voting; ~~AND~~  
10 recording ~~and counting~~ votes cast at an election.

11           F. The secretary of state or the governing body may provide for the  
12 experimental use of a voting system or device without a final adoption of  
13 the voting system or device, and its use at the election is as valid as if  
14 the machines had been permanently adopted.

15           G. After consultation with the committee prescribed by subsection A  
16 of this section, the secretary of state may approve for emergency use an  
17 upgrade or modification to a voting system or device that is certified for  
18 use in this state if the governing body establishes in an open meeting  
19 that the election cannot be conducted without the emergency certification.  
20 Any emergency certification shall be limited to ~~no~~ NOT more than six  
21 months. At the conclusion of the certification period the voting system  
22 or device shall be decertified and unavailable for future use unless  
23 certified in accordance with this section.

24           Sec. 2. Section 16-443, Arizona Revised Statutes, is amended to  
25 read:

26           16-443. Authorization of use at all elections

27           At all state, county, city or town elections, agricultural  
28 improvement district elections and primary ~~AND GENERAL~~ elections, ballots  
29 or votes may be cast; ~~AND~~ recorded ~~and counted~~ by voting or marking  
30 devices ~~and vote tabulating devices as provided in this article~~. ~~FOR ALL~~  
31 ~~STATE, COUNTY, CITY OR TOWN ELECTIONS, BALLOTS SHALL BE TABULATED BY HAND.~~

32           Sec. 3. Section 16-444, Arizona Revised Statutes, is amended to  
33 read:

34           16-444. Definitions

35           ~~A.~~ In this article, unless the context otherwise requires:

36           1. "Ballot" means a paper ballot on which votes are recorded.

37           2. "Computer program" includes all programs and documentation  
38 adequate to process the ballots at an equivalent counting center.

39           3. "Counting center" means one or more locations selected by the  
40 board of supervisors for the ~~automatic~~ counting of ballots.

41           4. "Electronic voting system" means a system in which votes are  
42 recorded on a paper ballot by means of marking; ~~and such votes are~~  
43 ~~subsequently counted and tabulated by vote tabulating equipment at one or~~  
44 ~~more counting centers.~~

1           5. "E-pollbook" means an electronic system in which a voter is  
2 checked in and through which a voter's signature is recorded to indicate  
3 that the voter has voted.

4           6. "Instructions and procedures manual" means the manual prepared  
5 for use as a guide for the conduct of elections by an approved electronic  
6 voting system, including, but not limited to, detailed instructions for  
7 the performance of each task relating to the collection of ballots and the  
8 counting of votes in a manner that will provide maximum security,  
9 efficiency and accuracy.

10          7. "Vote tabulating equipment" includes apparatus necessary to  
11 automatically examine and count votes as designated on ballots and  
12 tabulate the results.

13          8. "Voting device" means an apparatus that the voter uses to record  
14 the voter's votes by marking a paper ballot, which votes are subsequently  
15 counted by ~~electronic tabulating equipment~~ HAND.

16          ~~B. The provisions of all state laws relating to elections not  
17 inconsistent with this article apply to all elections where electronic  
18 tabulating devices are used. Any provision of law that conflicts with  
19 this article does not apply to the elections in which electronic  
20 tabulating devices are used.~~

21          Sec. 4. Section 16-446, Arizona Revised Statutes, is amended to  
22 read:

23          16-446. Specifications of electronic voting system

24          A. An electronic voting system consisting of a voting or marking  
25 device ~~in combination with vote tabulating equipment~~ shall provide  
26 facilities for voting for candidates at both primary and general  
27 elections.

28          B. An electronic voting system shall:

29           1. Provide for voting in secrecy when used with voting booths.

30           2. ~~Permit~~ ALLOW each elector to vote at any election for any person  
31 for any office whether or not nominated as a candidate, ~~AND~~ to vote for  
32 as many persons for an office ~~as~~ FOR WHICH the elector is entitled to vote  
33 ~~for and to vote for or against any question on which the elector is~~  
34 ~~entitled to vote, and the vote tabulating equipment shall reject choices~~  
35 ~~recorded on the elector's ballot if the number of choices exceeds the~~  
36 ~~number that the elector is entitled to vote for the office or on the~~  
37 ~~measure.~~

38           3. Prevent the elector from voting for the same person more than  
39 once for the same office.

40           4. Be suitably designed for the purpose used and be of durable  
41 construction, and may be used safely, efficiently and accurately in the  
42 conduct of elections ~~and counting ballots.~~

43           5. Be provided with means for sealing the voting or marking device  
44 against any further voting after the close of the polls and the last voter  
45 has voted.

1           6. When properly operated, record correctly ~~and count accurately~~  
2 every vote cast.

3           7. Provide a durable paper document that visually indicates the  
4 voter's selections, that the voter may use to verify the voter's choices,  
5 that may be spoiled by the voter if it fails to reflect the voter's  
6 choices and that ~~permits~~ **ALLOWS** the voter to cast a new ballot. This  
7 paper document shall be used in manual audits and recounts.

8           8. To the extent practicable, provide for the ballot layout to be  
9 in the same order of arrangement, including rotation, as provided for  
10 paper ballots, except that information may be printed in vertical or  
11 horizontal rows, or in a number of separate pages or screens that are  
12 placed or displayed on the voting device. The titles of offices may be  
13 arranged in vertical columns or in a series of separate pages or screens  
14 and shall be printed above or at the side of the names of candidates so as  
15 to indicate clearly the candidates for each office and the number to be  
16 elected. If there are more candidates for an office than can be printed  
17 in one column or on one ballot page or screen, the ballot shall be clearly  
18 marked that the list of candidates is continued on the following column,  
19 page or screen, and to the extent practicable, the same number of names  
20 shall be printed on each column, page or screen.

21           9. Provide for a color designation for use in the primary election  
22 for each political party represented.

23           Sec. 5. Section 16-448, Arizona Revised Statutes, is amended to  
24 read:

25           16-448. Write-in votes; instructions

26           ~~Whenever ballots are to be counted by electronic data processing~~  
27 ~~equipment;~~ All write-in votes for candidates, to be counted, shall be  
28 marked by the voter in the space provided opposite the names of the  
29 write-in candidates. The instructions to voters printed on the ballots  
30 shall instruct the voter that the vote will not be counted unless the  
31 voter properly marks the ballot when writing in a candidate's name.

32           Sec. 6. Section 16-449, Arizona Revised Statutes, is amended to  
33 read:

34           16-449. Required test of equipment and programs; notice;  
35 procedures manual

36           A. Within the period of time before the election day prescribed by  
37 the secretary of state in the instructions and procedures manual adopted  
38 pursuant to section 16-452, the board of supervisors or other election  
39 officer in charge, or for an election involving state or federal  
40 candidates, the secretary of state, shall have the ~~automatic tabulating~~  
41 equipment and programs tested to ascertain that the equipment and programs  
42 will correctly ~~count~~ **MARK** the votes cast for all offices and on all  
43 measures. Public notice of the time and place of the test shall be given  
44 at least forty-eight hours ~~prior thereto~~ **BEFORE THE TEST** by publication  
45 once in one or more daily or weekly newspapers published in the town, city

1 or village using such equipment, if a newspaper is published therein,  
 2 otherwise in a newspaper of general circulation therein. The test shall  
 3 be observed by at least two election inspectors, who shall not be of the  
 4 same political party, and shall be open to representatives of the  
 5 political parties, candidates, the press and the public. The test shall  
 6 be conducted by processing a preaudited group of ballots so ~~marked~~ as to  
 7 record a predetermined number of valid votes for each candidate and on  
 8 each measure and shall include for each office one or more ballots that  
 9 have votes in excess of the number allowed by law in order to test the  
 10 ability of the ~~automatic tabulating~~ VOTING equipment and programs to  
 11 reject such votes. If any error is detected, the cause ~~therefor~~ FOR THE  
 12 ERROR shall be ascertained and corrected and an errorless count shall be  
 13 made before the ~~automatic tabulating~~ equipment and programs are approved.  
 14 A copy of a revised program shall be filed with the secretary of state  
 15 within forty-eight hours after the revision is made. ~~If the error was~~  
 16 ~~created by automatic tabulating equipment malfunction, a report shall be~~  
 17 ~~filed with the secretary of state within forty-eight hours after the~~  
 18 ~~correction is made, stating the cause and the corrective action taken.~~  
 19 The test shall be repeated immediately before the start of the official  
 20 count of the ballots in the same manner as set forth above. After the  
 21 completion of the count, the programs used and the ballots shall be  
 22 sealed, retained and disposed of as provided for paper ballots.

23 ~~B. Electronic ballot tabulating systems shall be tested for logic~~  
 24 ~~and accuracy within seven days before their use for early balloting~~  
 25 ~~pursuant to the instructions and procedures manual for electronic voting~~  
 26 ~~systems that is adopted by the secretary of state as prescribed by section~~  
 27 ~~16-452. The instructions and procedures manual shall include procedures~~  
 28 ~~for the handling of ballots, the electronic scanning of ballots and any~~  
 29 ~~other matters necessary to ensure the maximum degree of correctness,~~  
 30 ~~impartiality and uniformity in the administration of an electronic ballot~~  
 31 ~~tabulating system.~~

32 ~~C. B.~~ Notwithstanding ~~subsections~~ SUBSECTION A ~~and B~~ of this  
 33 section, if a county uses accessible voting equipment to mark ballots ~~and~~  
 34 ~~that accessible voting equipment does not independently tabulate or tally~~  
 35 ~~votes~~, the secretary of state in cooperation with the county officer in  
 36 charge of elections may designate a single date to test the logic and  
 37 accuracy of ~~both~~ the accessible voting equipment and ~~electronic ballot~~  
 38 ~~tabulating systems~~ ANY OTHER EQUIPMENT OR DEVICES USED TO MARK THE  
 39 BALLOTS.

40 Sec. 7. Repeal

41 Sections 16-450 and 16-451, Arizona Revised Statutes, are repealed.

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

3           16-602. Paper ballots; report

4           ~~A.~~ For any primary, special or general election in which the votes  
5 are cast on an electronic voting machine ~~or tabulator~~, the election judge  
6 shall compare the number of votes cast as indicated on the machine ~~or~~  
7 ~~tabulator~~ with the number of votes cast as indicated on the poll list and  
8 the number of provisional ballots cast and that information shall be noted  
9 in a written report prepared and submitted to the officer in charge of  
10 elections along with other tally reports. **ALL BALLOTS SHALL BE COUNTED BY**  
11 **HAND AS PRESCRIBED IN THE SECRETARY OF STATE'S INSTRUCTIONS AND PROCEDURES**  
12 **MANUAL ADOPTED PURSUANT TO SECTION 16-452.**

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

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

1 ~~elections for purposes of a separate manual audit pursuant to subsection F~~  
2 ~~of this section.~~

3 ~~2. The races to be counted on the ballots from the precincts that~~  
4 ~~were selected pursuant to paragraph 1 of this subsection for each primary,~~  
5 ~~special and general election shall include up to five contested races.~~  
6 ~~After the county recorder or other officer in charge of elections~~  
7 ~~separates the primary ballots by political party, the races to be counted~~  
8 ~~shall be determined by selecting by lot without the use of a computer from~~  
9 ~~those ballots as follows:~~

10 ~~(a) For a general election, one statewide ballot measure, unless~~  
11 ~~there are no measures on the ballot.~~

12 ~~(b) One contested statewide race for statewide office.~~

13 ~~(c) One contested race for federal office, either United States~~  
14 ~~senate or United States house of representatives. If the United States~~  
15 ~~house of representatives race is selected, the names of the candidates may~~  
16 ~~vary among the sampled precincts.~~

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

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

27 ~~(f) If there are no contested races as prescribed by this~~  
28 ~~paragraph, a hand count shall not be conducted for that precinct for that~~  
29 ~~election.~~

30 ~~3. For the presidential preference election, select by lot two~~  
31 ~~percent of the polling places designated and used pursuant to section~~  
32 ~~16-248 and perform the hand count of those ballots.~~

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

35 ~~5. In elections in which there are candidates for president, the~~  
36 ~~presidential race shall be added to the four categories of hand counted~~  
37 ~~races.~~

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

42 ~~7. The county chairman of each political party shall designate and~~  
43 ~~provide the number of election board members as designated by the county~~  
44 ~~officer in charge of elections who shall perform the hand count under the~~  
45 ~~supervision of the county officer in charge of elections. For each~~



1 ~~precinct that is to be audited, the county chairmen shall designate at~~  
2 ~~least two board workers who are registered members of any or no political~~  
3 ~~party to assist with the audit. Any qualified elector from this state may~~  
4 ~~be a board worker without regard to party designation. The county~~  
5 ~~election officer shall provide for compensation for those board workers,~~  
6 ~~not to include travel, meal or lodging expenses. If there are less than~~  
7 ~~two persons for each audited precinct available to participate on behalf~~  
8 ~~of each recognized political party, the recorder or officer in charge of~~  
9 ~~elections, with the approval of at least two county party chairpersons in~~  
10 ~~the county in which the shortfall occurs, shall substitute additional~~  
11 ~~individual electors who are provided by any political party from anywhere~~  
12 ~~in the state without regard to party designation to conduct the hand~~  
13 ~~count. A county party chairman shall approve only those substitute~~  
14 ~~electors who are provided by the county chairman's political party. The~~  
15 ~~political parties shall provide to the recorder or officer in charge of~~  
16 ~~elections in writing the names of those persons intending to participate~~  
17 ~~in the hand count at the audited precincts not later than 5:00 p.m. on the~~  
18 ~~Tuesday preceding the election. If the total number of board workers~~  
19 ~~provided by all parties is less than four times the number of precincts to~~  
20 ~~be audited, the recorder or officer in charge of elections shall notify~~  
21 ~~the parties of the shortage by 9:00 a.m. on the Wednesday preceding the~~  
22 ~~election. The hand count shall not proceed unless the political parties~~  
23 ~~provide the recorder or officer in charge of elections, in writing, a~~  
24 ~~sufficient number of persons by 5:00 p.m. on the Thursday preceding the~~  
25 ~~election and a sufficient number of persons, pursuant to this paragraph,~~  
26 ~~arrive to perform the hand count. The recorder or officer in charge of~~  
27 ~~elections may prohibit persons from participating in the hand count if~~  
28 ~~they are taking actions to disrupt the count or are unable to perform the~~  
29 ~~duties as assigned. For the hand count to proceed, not more than~~  
30 ~~seventy-five percent of the persons performing the hand count shall be~~  
31 ~~from the same political party.~~

32 ~~8. If a political party is not represented by a designated~~  
33 ~~chairperson within a county, the state chairperson for that political~~  
34 ~~party, or a person designated by the state chairperson, may perform the~~  
35 ~~actions required by the county chairperson as specified in this section.~~

36 ~~c. If the randomly selected races result in a difference in any~~  
37 ~~race that is less than the designated margin when compared to the~~  
38 ~~electronic tabulation of those same ballots, the results of the electronic~~  
39 ~~tabulation constitute the official count for that race. If the randomly~~  
40 ~~selected races result in a difference in any race that is equal to or~~  
41 ~~greater than the designated margin when compared to the electronic~~  
42 ~~tabulation of those same ballots, a second hand count of those same~~  
43 ~~ballots and races shall be performed. If the second hand count results in~~  
44 ~~a difference in any race that is less than the designated margin when~~  
45 ~~compared to the electronic tabulation for those same ballots, the~~

1 ~~electronic tabulation constitutes the official count for that race. If~~  
2 ~~the second hand count results in a difference in any race that is equal to~~  
3 ~~or greater than the designated margin when compared to the electronic~~  
4 ~~tabulation for those same ballots, the hand count shall be expanded to~~  
5 ~~include a total of twice the original number of randomly selected~~  
6 ~~precincts. Those additional precincts shall be selected by lot without~~  
7 ~~the use of a computer.~~

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

20 ~~E. If a final hand count is performed for an entire jurisdiction~~  
21 ~~for a race, the final hand count shall be repeated for that race until a~~  
22 ~~hand count for that race for the entire jurisdiction results in a count~~  
23 ~~that is identical to one other hand count for that race for the entire~~  
24 ~~jurisdiction and that hand count constitutes the official count for that~~  
25 ~~race.~~

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

1 ~~to the electronically tabulated results for those same early ballots, the~~  
2 ~~manual audit shall be expanded only for that race to a number of~~  
3 ~~additional early ballots equal to one percent of the total early ballots~~  
4 ~~cast or an additional five thousand ballots, whichever is less, to be~~  
5 ~~randomly selected from the batch or batches of sequestered early ballots.~~  
6 ~~If the expanded early ballot manual audit results in a difference for that~~  
7 ~~race that is equal to or greater than the designated margin when compared~~  
8 ~~to any of the earlier manual counts for that race, the manual counts shall~~  
9 ~~be repeated for that race until a manual count results in a difference in~~  
10 ~~that race that is less than the designated margin. If at any point in the~~  
11 ~~manual audit of early ballots the difference between any manual count of~~  
12 ~~early ballots is less than the designated margin when compared to the~~  
13 ~~electronic tabulation of those ballots, the electronic tabulation shall be~~  
14 ~~included in the canvass and no further manual audit of the early ballots~~  
15 ~~shall be conducted.~~

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

19 ~~H. Notwithstanding any other law, the county officer in charge of~~  
20 ~~elections shall retain custody of the ballots for purposes of performing~~  
21 ~~any required hand counts and the officer shall provide for security for~~  
22 ~~those ballots.~~

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

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

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

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

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

4 ~~3. A person is not eligible to be a committee member if that person~~  
5 ~~has been affiliated with or received any income in the preceding five~~  
6 ~~years from any person or entity that provides election equipment or~~  
7 ~~services in this state.~~

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

17 ~~5. Members of the vote count verification committee are not~~  
18 ~~eligible to receive compensation but are eligible for reimbursement of~~  
19 ~~expenses pursuant to title 38, chapter 4, article 2. The committee is a~~  
20 ~~public body and its meetings are subject to title 38, chapter 3, article~~  
21 ~~3.1 and its reports and records are subject to title 39, chapter 1.~~

22 Sec. 9. Section 16-621, Arizona Revised Statutes, is amended to  
23 read:

24 16-621. Proceedings at the counting center: video recording

25 A. All proceedings at the counting center shall be under the  
26 direction of the board of supervisors or other officer in charge of  
27 elections and shall be conducted in accordance with the approved  
28 instructions and procedures manual issued pursuant to section 16-452 under  
29 the observation of representatives of each political party and the public.  
30 The proceedings at the counting center may also be observed by up to three  
31 additional people representing a candidate for nonpartisan office, or  
32 representing a political committee in support of or in opposition to a  
33 ballot measure, proposition or question. A draw by lot shall determine  
34 which three groups or candidates shall have representatives participate in  
35 the observation at the counting center. Persons representing a candidate  
36 for nonpartisan office or persons or groups representing a political  
37 committee in support of or in opposition to a ballot measure, proposition  
38 or question, who are interested in participating in the observation, shall  
39 notify the officer in charge of elections of their desire to be included  
40 in the draw not later than seventeen days before the election. After the  
41 deadline to receive submissions from the interested persons or groups, but  
42 prior to fourteen days before the election, the county officer in charge  
43 of elections shall draw by lot, from the list of those that expressed  
44 interest, three persons or groups and those selected shall be notified and  
45 allowed to observe the proceedings at the counting center. If a group is

1 selected the group may alter who represents that group for different days  
2 of observation but on any given observation day a selected group shall not  
3 send more than one observer. A group may rotate an observer throughout  
4 the day. Only those persons who are authorized for the purpose shall  
5 touch any ballot or ballot card or return. All persons who are engaged in  
6 processing and counting of the ballots shall be qualified electors, shall  
7 be deputized in writing and shall take an oath that they will faithfully  
8 perform their assigned duties. There shall be no preferential counting of  
9 ballots for the purpose of projecting the outcome of the election. THE  
10 BOARD OF SUPERVISORS OR OTHER OFFICER IN CHARGE OF ELECTIONS SHALL NOT  
11 ALLOW THE USE OF ELECTRONIC OR OTHER TABULATING EQUIPMENT AND ALL COUNTING  
12 SHALL BE DONE BY HAND. BALLOTS SHALL BE ORGANIZED AND REMAIN SEGREGATED  
13 BY PRECINCT, BOTH BEFORE AND AFTER COUNTING. ~~If any ballot, including any  
14 ballot received from early voting, is damaged or defective so that it  
15 cannot properly be counted by the automatic tabulating equipment, a true  
16 duplicate copy shall be made of the damaged or defective ballot in the  
17 presence of witnesses and substituted for the damaged or defective ballot.  
18 All duplicate ballots created pursuant to this subsection shall be clearly  
19 labeled "duplicate" and shall bear a serial number that shall be recorded  
20 on the damaged or defective ballot.~~

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

~~1. The electronic vote adjudication feature shall be included in  
27 the tabulation system logic and accuracy testing prescribed by section  
28 16-449.~~

~~2. The board of supervisors or officer in charge of elections shall  
30 appoint an electronic vote adjudication board that consists of two judges  
31 who are overseen by an inspector, with the two judges equally divided  
32 between the two largest political parties as prescribed by section 16-531,  
33 subsection D to adjudicate and submit for tabulation a ballot that is read  
34 by the tabulation machine as blank in order to determine if voter intent  
35 is clear on a portion or all of the ballot, or any portion of any ballot  
36 as prescribed by section 16-610 or 16-611, or to tally write-in choices as  
37 prescribed by section 16-612.~~

~~3. The electronic vote adjudication process used by the electronic  
39 vote adjudication board shall provide for:~~

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

1 ~~(b) The creation and retention of comprehensive logs of all digital~~  
2 ~~duplication and adjudication actions performed by an electronic vote~~  
3 ~~adjudication board.~~

4 ~~(c) The retention of the original ballot and the digital duplicate~~  
5 ~~of the ballot.~~

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

10 ~~D.~~ B. For any statewide, county or legislative election, the  
11 county recorder or officer in charge of elections shall provide for a live  
12 video recording of the custody of all ballots while the ballots are  
13 present in a tabulation room in the counting center. The live video  
14 recording shall include date and time indicators and shall be linked to  
15 the secretary of state's website. The secretary of state shall post links  
16 to the video coverage for viewing by the public. The county recorder or  
17 officer in charge of elections shall record the video coverage of the  
18 ballots at the counting center and shall retain those recordings as a  
19 public record for at least as long as the challenge period for the general  
20 election. If the live video feed is disrupted or disabled, the recorder  
21 or officer in charge of elections is not liable for the disruption but  
22 shall attempt to reinstate video coverage as soon as is practicable. Any  
23 disruption in video coverage shall not affect or prevent the continued  
24 tabulation of ballots. This subsection is contingent on legislative  
25 appropriation.

26 ~~E.~~ C. The county recorder or other officer in charge of elections  
27 shall maintain records that record the chain of custody for all election  
28 equipment and ballots during early voting through the completion of  
29 provisional voting tabulation.

30 Sec. 10. Section 16-663, Arizona Revised Statutes, is amended to  
31 read:

32 16-663. Recount of votes

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

38 ~~B. When the court orders a recount of votes which were cast and~~  
39 ~~tabulated on electronic voting equipment, such recount shall be pursuant~~  
40 ~~to section 16-664. On completion of the recount, and for legislative,~~  
41 ~~statewide and federal candidate races only, the county chairmen of the~~  
42 ~~political parties entitled to continued representation on the ballot or~~  
43 ~~the chairman's designee shall select at random without the use of a~~  
44 ~~computer five per cent of the precincts for the recounted race for a hand~~  
45 ~~count, and if the results of that hand count when compared to the~~

1 ~~electronic tabulation of that same race are less than the designated~~  
2 ~~margins calculated pursuant to section 16-602, the recount is complete and~~  
3 ~~the electronic tabulation is the official result. If the hand count~~  
4 ~~results in a difference that is equal to or greater than the designated~~  
5 ~~margin for that race, the procedure established in section 16-602,~~  
6 ~~subsections C, D, E and F applies.~~

7 Sec. 11. Repeal

8 Section 16-664, Arizona Revised Statutes, is repealed.

9 Sec. 12. Section 16-1011, Arizona Revised Statutes, is amended to  
10 read:

11 16-1011. Counterfeiting election returns; violation;  
12 classification

13 A. A person who knowingly forges or counterfeits returns of an  
14 election purporting to have been held at a precinct or place where no  
15 election was in fact held, or who knowingly substitutes, forges or  
16 counterfeits returns of election instead of the true returns for a  
17 precinct or place where an election was actually held, is guilty of a  
18 class 3 felony.

19 B. A person who knowingly substitutes, forges, counterfeits or  
20 tampers with ballot tabulations or totals or election results by  
21 electronic means or through the use of a computer, machine or other device  
22 is guilty of a class 3 felony. This subsection does not apply to the  
23 casting or tallying of ballots as provided by law or to the substitution  
24 or duplication of ballots as prescribed by sections 16-573, ~~AND~~ 16-574  
25 ~~and 16-621.~~

26 C. Notwithstanding sections 13-907 and 13-908, a person who is  
27 convicted under this section shall not be automatically restored the right  
28 to vote.

29 Sec. 13. Effective date

30 This act is effective from and after December 31, 2022.