

House Engrossed

registrations; counting procedures; observers; verification

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

# HOUSE BILL 2710

AN ACT

AMENDING SECTIONS 16-168, 16-544, 16-550, 16-590, 16-602 AND 16-621,  
ARIZONA REVISED STATUTES; RELATING TO ELECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 16-168, 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.

- 1           5. Mailing address, if different from residence address.
- 2           6. Zip code.
- 3           7. Telephone number if given.
- 4           8. Birth year.
- 5           9. Occupation if given.
- 6           10. Voting history for all elections in the prior four years and
- 7 any other information regarding registered voters that the county recorder
- 8 or city or town clerk maintains electronically and that is public
- 9 information.

10           11. All data relating to early voters, including ballot requests

11 and ballot returns.

12           D. The names on the precinct lists shall be in alphabetical order

13 and the precinct lists in their entirety, unless otherwise agreed, shall

14 be delivered to each county chairman and each state chairman within ten

15 business days of the close of each date for counting registered voters

16 prescribed by subsection G of this section other than the primary and

17 general election registered voter counts in the same format and media as

18 prescribed by subsection C of this section. During the thirty-three days

19 immediately preceding an election and on request from a county or state

20 chairman, the county recorder shall provide at no cost a daily list of

21 persons who have requested an early ballot and shall provide at no cost a

22 weekly listing of persons who have returned their early ballots. The

23 recorder shall provide the daily and weekly information through the Friday

24 preceding the election. On request from a county chairman or state

25 chairman, the county recorder of a county with a population of more than

26 eight hundred thousand persons shall provide at no cost a daily listing of

27 persons who have returned their early ballots. The daily listing shall be

28 provided Mondays through Fridays, beginning with the first Monday

29 following the start of early voting and ending on the Monday before the

30 election.

31           E. Precinct registers and other lists and information derived from

32 registration forms ~~may be used only for purposes relating to a political~~

33 ~~or political party activity, a political campaign or an election, for~~

34 ~~revising election district boundaries or for any other purpose~~

35 ~~specifically authorized by law and~~ may not be used for a commercial

36 purpose as defined in section 39-121.03. The sale of registers, lists and

37 information derived from registration forms to a candidate or a registered

38 political committee for a use specifically authorized by this subsection

39 does not constitute use for a commercial purpose. The county recorder,

40 the secretary of state and other officers in charge of elections, ~~SHALL~~

41 ~~PROVIDE FOR ELECTRONIC ACCESS TO VOTER REGISTRATION INFORMATION, AND~~ on a

42 request for ~~an authorized~~ A NONCOMMERCIAL use and within thirty days from

43 receipt of the request, shall prepare additional copies of an official

44 precinct list and furnish them to any person ~~requesting them~~ WHO

45 ESTABLISHES AN ELECTRONIC PROFILE WITH THE INFORMATION PROVIDER AND

1 ATTESTS THAT THE INFORMATION WILL NOT BE USED FOR A COMMERCIAL PURPOSE AND  
2 on payment of a fee equal to the following amounts for the following  
3 number of voter registration records provided:

4 1. For one to one hundred twenty-four thousand nine hundred  
5 ninety-nine records, \$93.75 plus \$0.0005 per record.

6 2. For one hundred twenty-five thousand to two hundred forty-nine  
7 thousand nine hundred ninety-nine records, \$156.25 plus \$0.000375 per  
8 record.

9 3. For two hundred fifty thousand to four hundred ninety-nine  
10 thousand nine hundred ninety-nine records, \$203.13 plus \$0.00025 per  
11 record.

12 4. For five hundred thousand to nine hundred ninety-nine thousand  
13 nine hundred ninety-nine records, \$265.63 plus \$0.000125 per record.

14 5. For one million or more records, \$328.13 plus \$0.0000625 per  
15 record.

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

1 G. The county recorder shall count the registered voters by  
2 political party by precinct, legislative district and congressional  
3 district as follows:

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

6 (a) January 2.

7 (b) April 1.

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

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

12 (e) The last day on which a person may register to be eligible to  
13 vote in the next presidential preference election.

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

16 (a) January 2.

17 (b) April 1.

18 (c) July 1.

19 (d) October 1.

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

29 I. The county recorder and the secretary of state shall protect  
30 access to voter registration information in an auditable format and method  
31 specified in the secretary of state's electronic voting system  
32 instructions and procedures manual that is adopted pursuant to section  
33 16-452.

34 J. The secretary of state shall develop and administer a statewide  
35 database of voter registration information that contains the name and  
36 registration information of every registered voter in this state. The  
37 statewide database is a matter of statewide concern and is not subject to  
38 modification or further regulation by a political subdivision. The  
39 database shall include an identifier that is unique for each individual  
40 voter. The database shall provide for access by voter registration  
41 officials and shall allow expedited entry of voter registration  
42 information after it is received by county recorders. As a part of the  
43 statewide voter registration database, county recorders shall provide for  
44 the electronic transmittal of that information to the secretary of state  
45 on a real time basis. The secretary of state shall provide for

1 maintenance of the database, including provisions regarding removal of  
2 ineligible voters that are consistent with the national voter registration  
3 act of 1993 (P.L. 103-31; 107 Stat. 77; 52 United States Code sections  
4 20501 through 20511) and the help America vote act of 2002 (P.L. 107-252;  
5 116 Stat. 1666; 52 United States Code sections 20901 through 21145),  
6 provisions regarding removal of duplicate registrations and provisions to  
7 ensure that eligible voters are not removed in error. For the purpose of  
8 maintaining compliance with the help America vote act of 2002, each county  
9 voter registration system is subject to approval by the secretary of state  
10 for compatibility with the statewide voter registration database system.

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

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

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

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

1           Sec. 2. Section 16-544, Arizona Revised Statutes, is amended to  
2 read:

3           16-544. Active early voting list; civil penalty; violation;  
4           classification; definition

5           A. Any voter may request to be included on a list of voters to  
6 receive an early ballot by mail for any election for which the county  
7 voter registration roll is used to prepare the election register. The  
8 county recorder of each county shall maintain the active early voting list  
9 as part of the voter registration roll.

10          B. In order to be included on the active early voting list, the  
11 voter shall make a written request specifically requesting that the  
12 voter's name be added to the active early voting list for all elections in  
13 which the applicant is eligible to vote. An early voter request form  
14 shall conform to requirements prescribed in the instructions and  
15 procedures manual issued pursuant to section 16-452. The application  
16 shall allow for the voter to provide the voter's name, residence address,  
17 mailing address in the voter's county of residence, date of birth and  
18 signature and shall state that the voter is attesting that the voter is a  
19 registered voter who is eligible to vote in the county of residence. The  
20 voter shall not list a mailing address that is outside of this state for  
21 the purpose of the active early voting list unless the voter is an absent  
22 uniformed services voter or overseas voter as defined in the uniformed and  
23 overseas citizens absentee voting act ~~of 1986~~ (P.L. 99-410; 52 United  
24 States Code section 20310). In lieu of the application, the applicant may  
25 submit a written request that contains the required information.

26          C. On receipt of a request to be included on the active early  
27 voting list, the county recorder or other officer in charge of elections  
28 shall compare the signature on the request form with the voter's signature  
29 on the voter's registration form and, if the request is from the voter,  
30 shall mark the voter's registration file as an active early ballot  
31 request.

32          D. Not less than ninety days before any polling place election  
33 scheduled in March or August, the county recorder or other officer in  
34 charge of elections shall mail to all voters who are eligible for the  
35 election and who are included on the active early voting list an election  
36 notice by nonforwardable mail that is marked with the statement required  
37 by the postmaster to receive an address correction notification. If an  
38 election is not formally called by a jurisdiction by the one hundred  
39 twentieth day before the election, the recorder or other officer in charge  
40 of elections is not required to send the election notice. The notice  
41 shall include the dates of the elections that are the subject of the  
42 notice, the dates that the voter's ballot is expected to be mailed and the  
43 address where the ballot will be mailed. If the upcoming election is a  
44 partisan open primary election and the voter is not registered as a member  
45 of one of the political parties that is recognized for purposes of that

1 primary, the notice shall include information on the procedure for the  
2 voter to designate a political party ballot. The notice shall be  
3 delivered with return postage prepaid and shall also include a means for  
4 the voter to do any of the following:

5 1. Change the mailing address for the voter's ballot to another  
6 location in the voter's county of residence.

7 2. Update the voter's residence address in the voter's county of  
8 residence.

9 3. Request that the voter not be sent a ballot for the upcoming  
10 election or elections indicated on the notice.

11 E. If the notice that is mailed to the voter is returned  
12 undeliverable by the postal service, the county recorder or other officer  
13 in charge of elections shall take the necessary steps to contact the voter  
14 at the voter's new residence address in order to update that voter's  
15 address or to move the voter to inactive status as prescribed in section  
16 16-166, subsection A. If a voter is moved to inactive status, the voter  
17 shall be removed from the active early voting list. If the voter is  
18 removed from the active early voting list, the voter shall only be added  
19 to the active early voting list again if the voter submits a new request  
20 pursuant to this section.

21 F. Not later than the first day of early voting, the county  
22 recorder or other officer in charge of elections shall mail an early  
23 ballot to all eligible voters included on the active early voting list in  
24 the same manner prescribed in section 16-542, subsection C. If the voter  
25 has not returned the notice or otherwise notified the election officer  
26 within forty-five days before the election that the voter does not wish to  
27 receive an early ballot by mail for the election or elections indicated,  
28 the ballot shall automatically be scheduled for mailing.

29 G. If a voter who is on the active early voting list is not  
30 registered as a member of a recognized political party and fails to notify  
31 the county recorder of the voter's choice for political party ballot  
32 within forty-five days before a partisan open primary election, the  
33 following apply:

34 1. The voter shall not automatically be sent a ballot for that  
35 partisan open primary election only and the voter's name shall remain on  
36 the active early voting list for future elections.

37 2. To receive an early ballot for the primary election, the voter  
38 shall submit the voter's choice for political party ballot to the county  
39 recorder.

40 H. After a voter has requested to be included on the active early  
41 voting list, the voter shall be sent an early ballot by mail automatically  
42 for any election at which a voter at that residence address is eligible to  
43 vote until any of the following occurs:



1           1. The voter requests in writing to be removed from the active  
2 early voting list **OR MAKES A VERBAL REQUEST THAT INCLUDES INFORMATION**  
3 **SUFFICIENT TO VERIFY THE VOTER'S IDENTITY.**

4           2. The voter's registration or eligibility for registration is  
5 moved to inactive status or canceled as otherwise provided by law.

6           3. The notice sent by the county recorder or other officer in  
7 charge of elections is returned undeliverable and the county recorder or  
8 officer in charge of elections is unable to contact the voter to determine  
9 the voter's continued desire to remain on the list.

10          4. The voter fails to vote an early ballot in all elections for two  
11 consecutive election cycles. For the purposes of this paragraph,  
12 "election" means any regular primary or regular general election for which  
13 there was a federal race on the ballot or for which a city or town  
14 candidate primary or first election or city or town candidate second,  
15 general or runoff election was on the ballot. This paragraph does not  
16 apply to:

17          (a) A special taxing district that is authorized pursuant to  
18 section 16-191 to conduct its own elections.

19          (b) A special district mail ballot election that is conducted  
20 pursuant to article 8.1 of this chapter.

21          I. A voter may make a written request at any time to be removed  
22 from the active early voting list. The request shall include the voter's  
23 name, residence address, date of birth and signature. On receipt of a  
24 completed request to remove a voter from the active early voting list, the  
25 county recorder or other officer in charge of elections shall remove the  
26 voter's name from the list as soon as practicable.

27          J. An absent uniformed services voter or overseas voter as defined  
28 in the uniformed and overseas citizens absentee voting act ~~of 1986~~  
29 (P.L. 99-410; 52 United States Code section 20310) is eligible to be  
30 placed on the active early voting list pursuant to this section.

31          K. A voter's failure to vote an early ballot once received does not  
32 constitute grounds to remove the voter from the active early voting list,  
33 except that a county recorder shall remove a voter from the active early  
34 voting list if both of the following apply:

35           1. The county recorder or other officer in charge of elections  
36 complies with subsection M of this section.

37           2. The voter fails to vote using an early ballot in all of the  
38 following elections for two consecutive election cycles:

39           (a) A regular primary and regular general election for which there  
40 was a federal race on the ballot.

41           (b) A city or town candidate primary or first election and a city  
42 or town candidate second, general or runoff election.

1 L. On or before January 15 of each odd-numbered year, the county  
2 recorder or other officer in charge of elections shall send a notice to  
3 each voter who is on the active early voting list and who did not vote an  
4 early ballot in all elections for two consecutive election cycles as  
5 prescribed by subsection K of this section. If the voter has provided the  
6 voter's telephone or mobile phone number or email address to the county  
7 recorder, the county recorder may additionally provide the notice to the  
8 voter by telephone call, text message or email. The notice shall inform  
9 the voter that if the voter wishes to remain on the active early voting  
10 list, the voter shall do both of the following with the notice received:

11 1. Confirm in writing the voter's desire to remain on the active  
12 early voting list.

13 2. Return the completed notice to the county recorder or other  
14 officer in charge of elections within ninety days after the notice is sent  
15 to the voter. The notice shall be signed by the voter and shall contain  
16 the voter's address and date of birth.

17 M. If a voter receives a notice as prescribed by subsection L of  
18 this section and the voter fails to respond within the ninety-day period,  
19 the county recorder or other officer in charge of elections shall remove  
20 the voter's name from the active early voting list.

21 N. A candidate, political committee or other organization may  
22 distribute active early voting list request forms to voters. If the  
23 active early voting list request forms include a printed address for  
24 return, that address shall be the political subdivision that will conduct  
25 the election. Failure to use the political subdivision as the return  
26 addressee is punishable by a civil penalty of up to three times the cost  
27 of the production and distribution of the active early voting list  
28 request.

29 O. All original and completed active early voting list request  
30 forms that are received by a candidate, political committee or other  
31 organization shall be submitted within six business days after receipt by  
32 a candidate or political committee or eleven days before the election day,  
33 whichever is earlier, to the political subdivision that will conduct the  
34 election. Any person, political committee or other organization that  
35 fails to submit a completed active early voting list request form within  
36 the prescribed time is subject to a civil penalty of up to \$25 per day for  
37 each completed form withheld from submittal. Any person who knowingly  
38 fails to submit a completed active early voting list request form before  
39 the submission deadline for the election immediately following the  
40 completion of the form is guilty of a class 6 felony.

41 P. For the purposes of this section, "election cycle" means the  
42 two-year period beginning on January 1 in the year after a statewide  
43 general election or, for cities and towns, the two-year period beginning  
44 on the first day of the calendar quarter after the calendar quarter in  
45 which the city's or town's second, runoff or general election is scheduled

1 and ending on the last day of the calendar quarter in which the city's or  
2 town's immediately following second, runoff or general election is  
3 scheduled, however that election is designated by the city or town.

4 Sec. 3. Section 16-550, Arizona Revised Statutes, is amended to  
5 read:

6 16-550. Receipt of voter's ballot; cure period

7 A. On receipt of the envelope containing the early ballot and the  
8 ballot affidavit, the county recorder or other officer in charge of  
9 elections shall compare the ~~signatures thereon~~ SIGNATURE ON THE ENVELOPE  
10 with the signature of the elector on the elector's registration  
11 record. FOR ANY COMPARISON WITH THE ELECTOR'S REGISTRATION RECORD, THE  
12 COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS SHALL REDACT THE  
13 ELECTOR'S DESIGNATED POLITICAL PARTY. If the signature is inconsistent  
14 with the elector's signature on the elector's registration record, the  
15 county recorder or other officer in charge of elections shall make  
16 reasonable efforts to contact the voter, advise the voter of the  
17 inconsistent signature and allow the voter to correct or the county to  
18 confirm the inconsistent signature. The county recorder or other officer  
19 in charge of elections shall allow signatures to be corrected not later  
20 than the fifth business day after a primary, general or special election  
21 that includes a federal office or the third business day after any other  
22 election. If the signature is missing, the county recorder or other  
23 officer in charge of elections shall make reasonable efforts to contact  
24 the elector, advise the elector of the missing signature and allow the  
25 elector to add the elector's signature not later than 7:00 p.m. on  
26 election day. If satisfied that the signatures correspond, the recorder  
27 or other officer in charge of elections shall hold the envelope containing  
28 the early ballot and the completed affidavit unopened in accordance with  
29 the rules of the secretary of state.

30 B. The recorder or other officer in charge of elections shall  
31 thereafter safely keep the affidavits and early ballots in the recorder's  
32 or other officer's office and may deliver them for tallying pursuant to  
33 section 16-551. Tallying of ballots may begin immediately after the  
34 envelope and completed affidavit are processed pursuant to this section  
35 and delivered to the early election board.

36 C. The county recorder shall send a list of all voters who were  
37 issued early ballots to the election board of the precinct in which the  
38 voter is registered.

39 D. This section does not apply to:

40 1. A special taxing district that is authorized pursuant to section  
41 16-191 to conduct its own elections.

42 2. A special district mail ballot election that is conducted  
43 pursuant to article 8.1 of this chapter.



1 official instructions and procedures manual adopted pursuant to section  
2 16-452. THE COUNTY OFFICER IN CHARGE OF THE ELECTION SHALL PUBLISH THE  
3 PROCEDURES FOR THE HAND COUNT, INCLUDING THE TIMES AND LOCATIONS, ON THE  
4 COUNTY'S WEBSITE NOT LATER THAN THE TUESDAY BEFORE ELECTION DAY. The hand  
5 count is ~~not~~ subject to the live video requirements of section 16-621,  
6 subsection D, ~~but~~ AND the party representatives who are observing the hand  
7 count may bring their own video cameras in order to record the hand count.  
8 The recording shall not interfere with the conduct of the hand count and  
9 the officer in charge of the election may prohibit from recording or  
10 remove from the facility persons who are taking actions to disrupt the  
11 count. The sole act of recording the hand count does not constitute  
12 sufficient grounds for the officer in charge of the election to prohibit  
13 observers from recording or to remove them from the facility. The hand  
14 count shall be conducted in the following order:

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

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

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

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

1 (c) One contested race for federal office, either United States  
2 senate or United States house of representatives. If the United States  
3 house of representatives race is selected, the names of the candidates may  
4 vary among the sampled precincts.

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

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

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

18 3. For the presidential preference election, select by lot two  
19 percent of the polling places designated and used pursuant to section  
20 16-248 and perform the hand count of those ballots.

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

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

26 6. Each county ~~chairman~~ CHAIRPERSON of a political party that is  
27 entitled to continued representation on the state ballot or the ~~chairman's~~  
28 CHAIRPERSON'S designee shall select by lot the individual races to be hand  
29 counted pursuant to this section.

30 7. The county ~~chairman~~ CHAIRPERSON of each political party shall  
31 designate and provide the number of election board members as designated  
32 by the county officer in charge of elections who shall perform the hand  
33 count under the supervision of the county officer in charge of  
34 elections. For each precinct that is to be audited, the county ~~chairmen~~  
35 CHAIRPERSONS shall designate at least two board workers who are registered  
36 members of any or no political party to assist with the audit. Any  
37 qualified elector from this state may be a board worker without regard to  
38 party designation. IF THE COUNTY PARTY CHAIRPERSON FAILS TO DESIGNATE A  
39 SUFFICIENT NUMBER OF BOARD WORKERS, THE STATE PARTY CHAIRPERSON SHALL  
40 DESIGNATE QUALIFIED ELECTORS TO BE BOARD WORKERS. IF THE STATE PARTY  
41 CHAIRPERSON FAILS TO DESIGNATE A SUFFICIENT NUMBER OF BOARD WORKERS, THE  
42 LEGISLATIVE DISTRICT CHAIRPERSON OF THE DISTRICT IN WHICH THE HAND COUNT  
43 IS TO OCCUR SHALL DESIGNATE QUALIFIED ELECTORS TO BE BOARD WORKERS. 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~~ CHAIRPERSON shall approve only  
8 those substitute electors who are provided by the county ~~chairman's~~  
9 CHAIRPERSON'S political party. The political parties shall provide to the  
10 recorder or officer in charge of elections in writing the names of those  
11 persons intending to participate in the hand count at the audited  
12 precincts not later than 5:00 p.m. on the Tuesday preceding the  
13 election. If the total number of board workers provided by all parties is  
14 less than four times the number of precincts to be audited, the recorder  
15 or officer in charge of elections shall notify the parties of the shortage  
16 by 9:00 a.m. on the Wednesday preceding the election. ~~The hand count~~  
17 ~~shall not proceed unless the political parties provide the recorder or~~  
18 ~~officer in charge of elections, in writing, a sufficient number of persons~~  
19 ~~by 5:00 p.m. on the Thursday preceding the election and a sufficient~~  
20 ~~number of persons, pursuant to this paragraph, arrive to perform the hand~~  
21 ~~count.~~ IF THE POLITICAL PARTIES DO NOT PROVIDE A SUFFICIENT NUMBER OF  
22 PERSONS BY 9:00 A.M. ON THE THURSDAY PRECEDING THE ELECTION, THE COUNTY  
23 OFFICER IN CHARGE OF ELECTIONS SHALL PREPARE A LIST OF QUALIFIED ELECTORS  
24 WHO ARE PROVIDED BY ANY POLITICAL PARTY IN THIS STATE. THE COUNTY OFFICER  
25 IN CHARGE OF ELECTIONS SHALL PROVIDE THE LIST OF THOSE PERSONS TO THE  
26 COUNTY CHAIRPERSON OF EACH RECOGNIZED POLITICAL PARTY IN THE COUNTY NOT  
27 LATER THAN 5:00 P.M. ON THE FRIDAY PRECEDING THE ELECTION. THE SELECTION  
28 OF PERSONS TO PERFORM THE HAND COUNT SHALL ENSURE WHEN PRACTICABLE THAT  
29 NOT MORE THAN SEVENTY-FIVE PERCENT OF THE PERSONS CONDUCTING THE HAND  
30 COUNT ARE MEMBERS OF THE SAME POLITICAL PARTY, EXCEPT THAT IF A RECOGNIZED  
31 POLITICAL PARTY PROVIDES AN INSUFFICIENT NUMBER OF QUALIFIED ELECTORS OR  
32 NO QUALIFIED ELECTORS, THE HAND COUNT SHALL PROCEED WITHOUT REGARD TO THE  
33 POLITICAL PARTY AFFILIATIONS OF THE QUALIFIED ELECTORS CONDUCTING THE HAND  
34 COUNT. The recorder or officer in charge of elections may prohibit  
35 persons from participating in the hand count if they are taking actions to  
36 disrupt the count or are unable to perform the duties as assigned. ~~For~~  
37 ~~the hand count to proceed, not more than seventy-five percent of the~~  
38 ~~persons performing the hand count shall be from the same political party.~~  
39 8. If a political party is not represented by a designated  
40 chairperson within a county, the state chairperson for that political  
41 party, or a person designated by the state chairperson, may perform the  
42 actions required by the county chairperson as specified in this section.  
43 C. If the randomly selected races result in a difference in any  
44 race that is less than the designated margin when compared to the  
45 electronic tabulation of those same ballots, the results of the electronic

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

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

27 E. If a final hand count is performed for an entire jurisdiction  
28 for a race, the final hand count shall be repeated for that race until a  
29 hand count for that race for the entire jurisdiction results in a count  
30 that is identical to one other hand count for that race for the entire  
31 jurisdiction and that hand count constitutes the official count for that  
32 race.

33 F. After the electronic tabulation of early ballots and at one or  
34 more times selected by the ~~chairman~~ CHAIRPERSON of the political parties  
35 entitled to continued representation on the ballot or the ~~chairman's~~  
36 CHAIRPERSON'S designee, the ~~chairmen~~ CHAIRPERSONS or the ~~chairmen's~~  
37 CHAIRPERSONS' designees shall randomly select one or more batches of early  
38 ballots that have been tabulated to include at least one batch from each  
39 machine used for tabulating early ballots and those ballots shall be  
40 securely sequestered by the county recorder or officer in charge of  
41 elections along with their unofficial tally reports for a postelection  
42 manual audit. The ~~chairmen~~ CHAIRPERSONS or the ~~chairmen's~~ CHAIRPERSONS'  
43 designees shall randomly select from those sequestered early ballots a  
44 number equal to one percent of the total number of early ballots cast or  
45 five thousand early ballots, whichever is less. From those randomly



1 selected early ballots, the county officer in charge of elections shall  
2 conduct a manual audit of the same races that are being hand counted  
3 pursuant to subsection B of this section. If the manual audit of the  
4 early ballots results in a difference in any race that is equal to or  
5 greater than the designated margin when compared to the electronically  
6 tabulated results for those same early ballots, the manual audit shall be  
7 repeated for those same early ballots. If the second manual audit results  
8 in a difference in that race that is equal to or greater than the  
9 designated margin when compared to the electronically tabulated results  
10 for those same early ballots, the manual audit shall be expanded only for  
11 that race to a number of additional early ballots equal to one percent of  
12 the total early ballots cast or an additional five thousand ballots,  
13 whichever is less, to be randomly selected from the batch or batches of  
14 sequestered early ballots. If the expanded early ballot manual audit  
15 results in a difference for that race that is equal to or greater than the  
16 designated margin when compared to any of the earlier manual counts for  
17 that race, the manual counts shall be repeated for that race until a  
18 manual count results in a difference in that race that is less than the  
19 designated margin. If at any point in the manual audit of early ballots  
20 the difference between any manual count of early ballots is less than the  
21 designated margin when compared to the electronic tabulation of those  
22 ballots, the electronic tabulation shall be included in the canvass and no  
23 further manual audit of the early ballots shall be conducted.

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

27 H. Notwithstanding any other law, the county officer in charge of  
28 elections shall retain custody of the ballots for purposes of performing  
29 any required hand counts and the officer shall provide for security for  
30 those ballots.

31 I. The hand counts prescribed by this section shall begin within  
32 twenty-four hours after the closing of the polls and shall be completed  
33 before the canvassing of the election for that county. **THE COUNTY SHALL**  
34 **MAKE AVAILABLE ON THE COUNTY'S WEBSITE** the results of those hand counts  
35 **AND** shall ~~be provided~~ **PROVIDE THEM** to the secretary of state, who shall  
36 make those results publicly available on the secretary of state's website.

37 J. For any county in which a hand count has been expanded to all  
38 precincts in the jurisdiction, the secretary of state shall make available  
39 the escrowed source code for that county to the superior court. The  
40 superior court shall appoint a special master to review the computer  
41 software. The special master shall have expertise in software  
42 engineering, shall not be affiliated with an election software vendor nor  
43 with a candidate, shall sign and be bound by a nondisclosure agreement  
44 regarding the source code itself and shall issue a public report to the  
45 court and to the secretary of state regarding the special master's

1 findings on the reasons for the discrepancies. The secretary of state  
2 shall consider the reports for purposes of reviewing the certification of  
3 that equipment and software for use in this state.

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

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

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

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

16 4. The vote count verification committee shall meet and establish  
17 one or more designated margins to be used in reviewing the hand counting  
18 of votes as required pursuant to this section. The committee shall review  
19 and consider revising the designated margins every two years for use in  
20 the applicable elections. The committee shall provide the designated  
21 margins to the secretary of state at least ten days before the primary  
22 election and at least ten days before the general election, and the  
23 secretary of state shall make that information publicly available on the  
24 secretary of state's website.

25 5. Members of the vote count verification committee are not  
26 eligible to receive compensation but are eligible for reimbursement of  
27 expenses pursuant to title 38, chapter 4, article 2. The committee is a  
28 public body and its meetings are subject to title 38, chapter 3, article  
29 3.1 and its reports and records are subject to title 39, chapter 1.

30 Sec. 6. Section 16-621, Arizona Revised Statutes, is amended to  
31 read:

32 16-621. Proceedings at the counting center and hand count  
33 locations

34 A. All proceedings at the counting center AND AT THE HAND COUNT  
35 LOCATIONS PRESCRIBED IN SECTION 16-602 shall be under the direction of the  
36 board of supervisors or other officer in charge of elections and shall be  
37 conducted in accordance with the approved instructions and procedures  
38 manual issued pursuant to section 16-452 under the observation of  
39 representatives of each political party and the public. The proceedings  
40 at the counting center AND AT THE HAND COUNT LOCATIONS may also be  
41 observed by up to three additional people representing a candidate for  
42 nonpartisan office, or representing a political committee in support of or  
43 in opposition to a ballot measure, proposition or question. A draw by lot  
44 shall determine which three groups or candidates shall have  
45 representatives participate in the observation at the counting center AND

1 **AT THE HAND COUNT LOCATIONS.** Persons representing a candidate for  
2 nonpartisan office or persons or groups representing a political committee  
3 in support of or in opposition to a ballot measure, proposition or  
4 question, who are interested in participating in the observation, shall  
5 notify the officer in charge of elections of their desire to be included  
6 in the draw not later than seventeen days before the election. After the  
7 deadline to receive submissions from the interested persons or groups, but  
8 prior to fourteen days before the election, the county officer in charge  
9 of elections shall draw by lot, from the list of those that expressed  
10 interest, three persons or groups and those selected shall be notified and  
11 allowed to observe the proceedings at the counting center **AND AT THE HAND**  
12 **COUNT LOCATIONS.** If a group is selected the group may alter who  
13 represents that group for different days of observation but on any given  
14 observation day a selected group shall not send more than one observer. A  
15 group may rotate an observer throughout the day. Only those persons who  
16 are authorized for the purpose shall touch any ballot or ballot card or  
17 return. All persons who are engaged in processing and counting of the  
18 ballots shall be qualified electors, shall be deputized in writing and  
19 shall take an oath that they will faithfully perform their assigned  
20 duties. There shall be no preferential counting of ballots for the  
21 purpose of projecting the outcome of the election. If any ballot,  
22 including any ballot received from early voting, is damaged or defective  
23 so that it cannot properly be counted by the automatic tabulating  
24 equipment, a true duplicate copy shall be made of the damaged or defective  
25 ballot in the presence of witnesses and substituted for the damaged or  
26 defective ballot. All duplicate ballots created pursuant to this  
27 subsection shall be clearly labeled "duplicate" and shall bear a serial  
28 number that shall be recorded on the damaged or defective ballot.

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

34 1. The electronic vote adjudication feature shall be included in  
35 the tabulation system logic and accuracy testing prescribed by section  
36 16-449.

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

1           3. The electronic vote adjudication process used by the electronic  
2 vote adjudication board shall provide for:

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

7           (b) The creation and retention of comprehensive logs of all digital  
8 duplication and adjudication actions performed by an electronic vote  
9 adjudication board.

10          (c) The retention of the original ballot and the digital duplicate  
11 of the ballot.

12          (d) **THE OBSERVATION OF THE ELECTRONIC VOTE ADJUDICATION BOARD'S**  
13 **ACTIVITIES BY OBSERVERS AS PRESCRIBED IN THIS SECTION.**

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

18          D. For any statewide, county or legislative election, the county  
19 recorder or officer in charge of elections shall provide for a live video  
20 recording of the custody of all ballots while the ballots are present in a  
21 tabulation room in the counting center **AND WHILE AT THE HAND COUNT**  
22 **LOCATIONS PRESCRIBED IN SECTION 16-602.** The live video recording shall  
23 include date and time indicators and shall be linked to the secretary of  
24 state's website. The secretary of state shall post links to the video  
25 coverage for viewing by the public. The county recorder or officer in  
26 charge of elections shall record the video coverage of the ballots at the  
27 counting center **AND AT THE HAND COUNT LOCATIONS** and shall retain those  
28 recordings as a public record for at least as long as the challenge period  
29 for the general election. If the live video feed is disrupted or  
30 disabled, the recorder or officer in charge of elections is not liable for  
31 the disruption but shall attempt to reinstate video coverage as soon as is  
32 practicable. Any disruption in video coverage shall not affect or prevent  
33 the continued tabulation of ballots. This subsection is contingent on  
34 legislative appropriation.

35          E. The county recorder or other officer in charge of elections  
36 shall maintain records that record the chain of custody for all election  
37 equipment and ballots during early voting through the completion of  
38 provisional voting tabulation.