

Senate Engrossed House Bill

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; AMENDING TITLE 16, CHAPTER 4, ARTICLE 10, ARIZONA REVISED STATUTES, BY ADDING SECTION 16-621.01; 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 PUBLICLY POSTED OR used for

36 a commercial purpose as defined in section 39-121.03. The sale of

37 registers, lists and information derived from registration forms to a

38 candidate or a registered political committee for a use specifically

39 authorized by this subsection does not constitute use for a commercial

40 purpose. The county recorder, the secretary of state and other officers

41 in charge of elections, ~~SHALL PROVIDE FOR ELECTRONIC ACCESS TO VOTER~~

42 ~~REGISTRATION INFORMATION, AND~~ on a request for ~~an authorized~~ A

43 NONCOMMERCIAL use and within thirty days from receipt of the request,

44 shall prepare additional copies of an official precinct list and furnish

45 them to any person ~~requesting them~~ WHO ESTABLISHES AN ELECTRONIC PROFILE

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

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

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

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

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

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

17 F. ~~Any person in possession of a precinct register or list, in~~
18 ~~whole or part, or any reproduction of a precinct register or list, shall~~
19 ~~not permit the register or list to be used, bought, sold or otherwise~~
20 ~~transferred for any purpose except for uses otherwise authorized by this~~
21 ~~section. A person in possession of information derived from voter~~
22 ~~registration forms or precinct registers shall not distribute, post or~~
23 ~~otherwise provide access to any portion of that information through the~~
24 ~~internet except as authorized by subsection I of this section. Nothing in~~
25 This section ~~shall~~ DOES NOT preclude public inspection of voter
26 registration records ~~at the office of the county recorder for the purposes~~
27 ~~prescribed by this section~~, except that the month and day of birth date,
28 the social security number or any portion thereof, the driver license
29 number or nonoperating identification license number, the Indian census
30 number, the father's name or mother's maiden name, the state or country of
31 birth and the records containing a voter's signature and a voter's ~~e-mail~~
32 EMAIL address shall not be accessible or reproduced by any person other
33 than the voter, by an authorized government official in the scope of the
34 official's duties, for any purpose by an entity designated by the
35 secretary of state as a voter registration agency pursuant to the national
36 voter registration act of 1993 (P.L. 103-31; 107 Stat. 77), for signature
37 verification on petitions and candidate filings, for election purposes and
38 for news gathering purposes by a person engaged in newspaper, radio,
39 television or reportorial work, or connected with or employed by a
40 newspaper, radio or television station or pursuant to a court
41 order. Notwithstanding any other law, a voter's ~~e-mail~~ EMAIL address may
42 not be released for any purpose. A person who violates this subsection or
43 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.

43 L. On or before January 15 of each odd-numbered year, the county
44 recorder or other officer in charge of elections shall send a notice to
45 each voter who is on the active early voting list and who did not vote an

1 early ballot in all elections for two consecutive election cycles as
2 prescribed by subsection K of this section. If the voter has provided the
3 voter's telephone or mobile phone number or email address to the county
4 recorder, the county recorder may additionally provide the notice to the
5 voter by telephone call, text message or email. The notice shall inform
6 the voter that if the voter wishes to remain on the active early voting
7 list, the voter shall do both of the following with the notice received:

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

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

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

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

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

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

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

3 16-550. Receipt of voter's ballot; cure period

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

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

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

36 D. This section does not apply to:

37 1. A special taxing district that is authorized pursuant to section
38 16-191 to conduct its own elections.

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

41 Sec. 4. Section 16-590, Arizona Revised Statutes, is amended to
42 read:

43 16-590. Appointment of challengers and party representatives

44 A. The county ~~chairman~~ CHAIRPERSON of each party may, ~~—~~ for each
45 precinct, ~~—~~ by written appointment addressed to the election

1 board, ~~and~~ designate a party agent or representative and alternates for a
2 polling place in the precinct, A VOTING CENTER IN THE PRECINCT OR A
3 LOCATION AT WHICH ELECTRONIC PROCESSING OF BALLOTS OCCURS who may act as
4 challengers for the party ~~which~~ THAT appointed ~~him~~ THEM. IF THE COUNTY
5 PARTY CHAIRPERSON FAILS TO APPOINT A PARTY AGENT OR REPRESENTATIVE FOR A
6 LOCATION, THE STATE PARTY CHAIRPERSON MAY MAKE THOSE APPOINTMENTS, AND IF
7 THE STATE PARTY CHAIRPERSON FAILS TO APPOINT A PARTY AGENT OR
8 REPRESENTATIVE, THE LEGISLATIVE DISTRICT CHAIRPERSON IN THE AREA IN WHICH
9 THE POLLING PLACE, VOTING CENTER OR OTHER LOCATION IS LOCATED MAY MAKE
10 THOSE APPOINTMENTS FOR A LOCATION.

11 B. At each voting place, one challenger for each political party
12 may be present and act, but ~~no~~ A challenger may NOT enter a voting booth
13 except to mark ~~his~~ THAT CHALLENGER'S ballot.

14 C. Not more than the number of party representatives for each party
15 ~~which~~ WHO were mutually agreed ~~upon~~ ON by each political party represented
16 on the ballot shall be in the polling place OR VOTING CENTER at one
17 time. If ~~such~~ AN agreement cannot be reached, the number of
18 representatives shall be limited to one in the polling place at one time
19 for each political party.

20 D. A challenger or party representative shall be a resident of this
21 state and registered to vote in this state.

22 Sec. 5. Section 16-602, Arizona Revised Statutes, is amended to
23 read:

24 16-602. Removal of ballots from ballot boxes; designated
25 margin; hand counts; vote count verification
26 committee

27 A. For any primary, special or general election in which the votes
28 are cast on an electronic voting machine or tabulator, the election judge
29 shall compare the number of votes cast as indicated on the machine or
30 tabulator with the number of votes cast as indicated on the poll list and
31 the number of provisional ballots cast and that information shall be noted
32 in a written report prepared and submitted to the officer in charge of
33 elections along with other tally reports.

34 B. For each countywide primary, special, general and presidential
35 preference election, the county officer in charge of the election shall
36 conduct a hand count at one or more secure facilities. The hand count
37 shall be conducted as prescribed by this section and in accordance with
38 hand count procedures established by the secretary of state in the
39 official instructions and procedures manual adopted pursuant to section
40 16-452. THE COUNTY OFFICER IN CHARGE OF THE ELECTION SHALL PUBLISH THE
41 PROCEDURES FOR THE HAND COUNT, INCLUDING THE TIMES AND LOCATIONS, ON THE
42 COUNTY'S WEBSITE NOT LATER THAN THE TUESDAY BEFORE ELECTION DAY. The hand
43 count is ~~not~~ subject to the live video requirements of section 16-621,
44 subsection D, ~~but~~ AND the party representatives who are observing the hand
45 count may bring their own video cameras in order to record the hand count.

1 The recording shall not interfere with the conduct of the hand count and
2 the officer in charge of the election may prohibit from recording or
3 remove from the facility persons who are taking actions to disrupt the
4 count. The sole act of recording the hand count does not constitute
5 sufficient grounds for the officer in charge of the election to prohibit
6 observers from recording or to remove them from the facility. The hand
7 count shall be conducted in the following order:

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

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

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

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

37 (c) One contested race for federal office, either United States
38 senate or United States house of representatives. If the United States
39 house of representatives race is selected, the names of the candidates may
40 vary among the sampled precincts.

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

44 (e) If there are fewer than four contested races resulting from the
45 selections made pursuant to subdivisions (a) through (d) of this ~~section~~

1 PARAGRAPH and if there are additional contested federal, statewide or
2 legislative races or ballot measures, additional contested races shall be
3 selected by lot not using a computer until four races have been selected
4 or until no additional contested federal, statewide or legislative races
5 or ballot measures are available for selection.

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

9 3. For the presidential preference election, select by lot two
10 percent of the polling places designated and used pursuant to section
11 16-248 and perform the hand count of those ballots.

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

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

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

21 7. The county ~~chairman~~ CHAIRPERSON of each political party shall
22 designate and provide the number of election board members as designated
23 by the county officer in charge of elections who shall perform the hand
24 count under the supervision of the county officer in charge of
25 elections. For each precinct that is to be audited, the county ~~chairmen~~
26 CHAIRPERSONS shall designate at least two board workers who are registered
27 members of any or no political party to assist with the audit. Any
28 qualified elector from this state may be a board worker without regard to
29 party designation. IF THE COUNTY PARTY CHAIRPERSON FAILS TO DESIGNATE A
30 SUFFICIENT NUMBER OF BOARD WORKERS, THE STATE PARTY CHAIRPERSON SHALL
31 DESIGNATE QUALIFIED ELECTORS TO BE BOARD WORKERS. IF THE STATE PARTY
32 CHAIRPERSON FAILS TO DESIGNATE A SUFFICIENT NUMBER OF BOARD WORKERS, THE
33 LEGISLATIVE DISTRICT CHAIRPERSON OF THE DISTRICT IN WHICH THE HAND COUNT
34 IS TO OCCUR SHALL DESIGNATE QUALIFIED ELECTORS TO BE BOARD WORKERS. The
35 county election officer shall provide for compensation for those board
36 workers, not to include travel, meal or lodging expenses. If there are
37 less than two persons for each audited precinct available to participate
38 on behalf of each recognized political party, the recorder or officer in
39 charge of elections, with the approval of at least two county party
40 chairpersons in the county in which the shortfall occurs, shall substitute
41 additional individual electors who are provided by any political party
42 from anywhere in the state without regard to party designation to conduct
43 the hand count. A county party ~~chairman~~ CHAIRPERSON shall approve only
44 those substitute electors who are provided by the county ~~chairman's~~
45 CHAIRPERSON'S political party. The political parties shall provide to the

1 recorder or officer in charge of elections in writing the names of those
2 persons intending to participate in the hand count at the audited
3 precincts not later than 5:00 p.m. on the Tuesday preceding the
4 election. If the total number of board workers provided by all parties is
5 less than four times the number of precincts to be audited, the recorder
6 or officer in charge of elections shall notify the parties of the shortage
7 by 9:00 a.m. on the Wednesday preceding the election. IF, BY 9:00 A.M. ON
8 THE THURSDAY PRECEDING THE ELECTION, THE NUMBER OF PERSONS PROVIDED BY THE
9 POLITICAL PARTIES IS ESTIMATED TO BE INSUFFICIENT TO PERFORM THE HAND
10 COUNT BY THE COUNTY OFFICER IN CHARGE OF ELECTIONS, THE COUNTY OFFICER IN
11 CHARGE OF ELECTIONS SHALL PREPARE A LIST OF QUALIFIED ELECTORS WHO ARE
12 PROVIDED BY ANY POLITICAL PARTY IN THIS STATE. THE COUNTY OFFICER IN
13 CHARGE OF ELECTIONS SHALL PROVIDE THE LIST OF THOSE PERSONS TO THE COUNTY
14 CHAIRPERSON OF EACH RECOGNIZED POLITICAL PARTY IN THE COUNTY NOT LATER
15 THAN 5:00 P.M. ON THE FRIDAY PRECEDING THE ELECTION. THE SELECTION OF
16 PERSONS TO PERFORM THE HAND COUNT SHALL ENSURE WHEN PRACTICABLE THAT NOT
17 MORE THAN SEVENTY-FIVE PERCENT OF THE PERSONS CONDUCTING THE HAND COUNT
18 ARE MEMBERS OF THE SAME POLITICAL PARTY, EXCEPT THAT IF A RECOGNIZED
19 POLITICAL PARTY PROVIDES AN INSUFFICIENT NUMBER OF QUALIFIED ELECTORS OR
20 NO QUALIFIED ELECTORS AS DETERMINED BY THE COUNTY RECORDER OR OTHER
21 OFFICER IN CHARGE OF ELECTIONS BY 9:00 A.M. ON THE WEDNESDAY FOLLOWING THE
22 ELECTION, THE HAND COUNT SHALL PROCEED WITHOUT REGARD TO THE POLITICAL
23 PARTY AFFILIATIONS OF THE QUALIFIED ELECTORS CONDUCTING THE HAND
24 COUNT. THE HAND COUNT SHALL NOT PROCEED UNLESS THE RECOGNIZED POLITICAL
25 PARTIES PROVIDE IN WRITING TO THE COUNTY OFFICER IN CHARGE OF ELECTIONS
26 BEFORE 5:00 P.M. ON THE THURSDAY FOLLOWING THE ELECTION THE NAMES OF A
27 SUFFICIENT NUMBER OF QUALIFIED ELECTORS OR UNLESS ANY POLITICAL PARTY
28 PROVIDES IN WRITING TO THE COUNTY OFFICER IN CHARGE OF ELECTIONS BEFORE
29 5:00 P.M. ON THE THURSDAY FOLLOWING THE ELECTION THE NAMES OF A SUFFICIENT
30 NUMBER OF QUALIFIED ELECTORS AS PRESCRIBED IN THIS SUBSECTION AND A
31 SUFFICIENT NUMBER OF THOSE PERSONS ARRIVE TO PERFORM THE HAND COUNT. The
32 hand count shall not proceed unless the political parties provide the
33 recorder or officer in charge of elections, in writing, a sufficient
34 number of persons ~~by~~ NOT LATER THAN 5:00 p.m. on the Thursday ~~preceding~~
35 FOLLOWING the election and a sufficient number of persons, pursuant to
36 this paragraph, arrive to perform the hand count. The recorder or officer
37 in charge of elections may prohibit persons from participating in the hand
38 count if they are taking actions to disrupt the count or are unable to
39 perform the duties as assigned. ~~For the hand count to proceed, not more~~
40 ~~than seventy-five percent of the persons performing the hand count shall~~
41 ~~be from the same political party.~~

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

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

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

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

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

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

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

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

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

40 J. For any county in which a hand count has been expanded to all
41 precincts in the jurisdiction, the secretary of state shall make available
42 the escrowed source code for that county to the superior court. The
43 superior court shall appoint a special master to review the computer
44 software. The special master shall have expertise in software
45 engineering, shall not be affiliated with an election software vendor nor

1 with a candidate, shall sign and be bound by a nondisclosure agreement
2 regarding the source code itself and shall issue a public report to the
3 court and to the secretary of state regarding the special master's
4 findings on the reasons for the discrepancies. The secretary of state
5 shall consider the reports for purposes of reviewing the certification of
6 that equipment and software for use in this state.

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

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

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

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

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

28 5. Members of the vote count verification committee are not
29 eligible to receive compensation but are eligible for reimbursement of
30 expenses pursuant to title 38, chapter 4, article 2. The committee is a
31 public body and its meetings are subject to title 38, chapter 3, article
32 3.1 and its reports and records are subject to title 39, chapter 1.

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

35 16-621. Proceedings at the counting center and hand count
36 locations

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

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

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

37 1. The electronic vote adjudication feature shall be included in
38 the tabulation system logic and accuracy testing prescribed by section
39 16-449.

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

1 is clear on a portion or all of the ballot, or any portion of any ballot
2 as prescribed by section 16-610 or 16-611, or to tally write-in choices as
3 prescribed by section 16-612.

4 3. The electronic vote adjudication process used by the electronic
5 vote adjudication board shall provide for:

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

10 (b) The creation and retention of comprehensive logs of all digital
11 duplication and adjudication actions performed by an electronic vote
12 adjudication board.

13 (c) The retention of the original ballot and the digital duplicate
14 of the ballot.

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

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

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

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

1 Sec. 7. Title 16, chapter 4, article 10, Arizona Revised Statutes,
2 is amended by adding section 16-621.01, to read:

3 16-621.01. Affidavit envelope processing centers; observers

4 THE COUNTY CHAIRMAN OF EACH PARTY, BY WRITTEN APPOINTMENT ADDRESSED
5 TO THE COUNTY OFFICER IN CHARGE OF ELECTIONS, MAY DESIGNATE A PARTY
6 REPRESENTATIVE TO OBSERVE THE PROCEEDINGS AT A THIRD-PARTY VENDOR THAT
7 PROCESSES RETURNED AFFIDAVIT ENVELOPES ON BEHALF OF A COUNTY. THE COUNTY
8 OFFICER IN CHARGE OF ELECTIONS SHALL FORWARD THAT INFORMATION TO THE
9 VENDOR. IF MORE THAN ONE COUNTY CONTRACTS WITH THE SAME VENDOR OR IF THE
10 COUNTY PARTY CHAIRMAN DOES NOT APPOINT A PARTY REPRESENTATIVE, THE STATE
11 PARTY CHAIRMAN MAY MAKE THE DESIGNATION.