

REFERENCE TITLE: hand count; electronic tabulation verification

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

HB 2080

Introduced by
Representatives Finchem: Barton, Biasiucci, Burges, Carter, Chaplik, Diaz,
Hoffman, Pingerelli

AN ACT

AMENDING SECTIONS 16-442, 16-443, 16-445, 16-602, 16-621, 16-663 AND
16-664, ARIZONA REVISED STATUTES; RELATING TO CONDUCT OF ELECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 16-442, Arizona Revised Statutes, is amended to
3 read:

4 16-442. Committee approval; adoption of vote tabulating
5 equipment; experimental use; emergency
6 certification

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

20 B. Machines or devices used at any election for federal, state or
21 county offices may only be certified for use in this state and may only be
22 used in this state if they comply with the help America vote act of 2002
23 and if those machines or devices have been tested and approved by a
24 laboratory that is accredited pursuant to the help America vote act of
25 2002. FOR THE REGULAR PRIMARY AND GENERAL ELECTIONS, MACHINES OR DEVICES
26 FOR TABULATING BALLOTS MAY BE USED ONLY FOR QUALITY CONTROL CHECKS OR TO
27 OTHERWISE VERIFY THE HAND COUNT OF BALLOTS.

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

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

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

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

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

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

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

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

27 16-443. Authorization of use at certain elections

28 At all state, county, city or town elections, agricultural
29 improvement district elections and primary elections, ballots or votes may
30 be cast, recorded and counted by voting or marking devices and vote
31 tabulating devices as provided in this article, **EXCEPT THAT VOTE**
32 **TABULATING DEVICES MAY NOT BE USED AS THE PRIMARY MEANS OF TABULATING FOR**
33 **THE REGULAR PRIMARY AND GENERAL ELECTIONS.**

34 Sec. 3. Section 16-445, Arizona Revised Statutes, is amended to
35 read:

36 16-445. Filing of computer election programs with secretary
37 of state

38 A. For any state, county, school district, special district, city
39 or town election, ~~including primary elections,~~ that uses vote tabulating
40 devices as provided in this article, there shall be filed with the
41 secretary of state at least seventeen days before the date of the election
42 a copy of each computer program for each election. The secretary of state
43 shall hold all computer program software filed pursuant to this section in
44 escrow for three years. The secretary of state shall securely destroy the

1 software filed pursuant to this section on the expiration of the
2 three-year period.

3 B. A copy of any subsequent revision of the computer program shall
4 be filed in the same manner within forty-eight hours following the
5 revision.

6 C. Any tape or disc used in ~~the~~ programming or ~~operation of~~
7 OPERATING a vote tabulating device on which votes are counted and any tape
8 used in compiling vote totals shall be kept under lock and seal, and if
9 there is a retally of votes, the officer entrusted with the tapes or discs
10 shall submit the officer's affidavit stating that they are the tapes or
11 discs, or both, used in the election and have not been altered.

12 D. All materials submitted to the secretary of state shall be used
13 by the secretary of state or attorney general to preclude fraud or any
14 unlawful act under ~~the laws of~~ this title and title 19 and shall not be
15 disclosed or used for any other purpose.

16 Sec. 4. Section 16-602, Arizona Revised Statutes, is amended to
17 read:

18 16-602. Removal of ballots from ballot boxes; designated
19 margin; hand counts; vote count verification
20 committee

21 A. For any ~~primary, special or general~~ election in which the votes
22 are cast on an electronic voting machine or tabulator, the election judge
23 shall compare the number of votes cast as indicated on the machine or
24 tabulator with the number of votes cast as indicated on the poll list and
25 the number of provisional ballots cast and that information shall be noted
26 in a written report prepared and submitted to the officer in charge of
27 elections along with other tally reports. FOR THE REGULAR PRIMARY AND
28 GENERAL ELECTIONS, ALL BALLOTS SHALL BE COUNTED BY HAND AS PRESCRIBED IN
29 THE SECRETARY OF STATE'S INSTRUCTIONS AND PROCEDURES MANUAL ADOPTED
30 PURSUANT TO SECTION 16-452, AND ELECTRONIC TABULATION OF BALLOTS SHALL BE
31 USED ONLY FOR SAMPLING AND VERIFYING THE HAND COUNT.

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

1 sufficient grounds for the officer in charge of the election to prohibit
2 observers from recording or to remove them from the facility. The **SAMPLE**
3 hand count shall be conducted in the following order:

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

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

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

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

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

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

40 (e) If there are fewer than four contested races resulting from the
41 selections made pursuant to subdivisions (a) through (d) of this **section**
42 **PARAGRAPH** and if there are additional contested federal, statewide or
43 legislative races or ballot measures, additional contested races shall be
44 selected by lot not using a computer until four races have been selected

1 or until no additional contested federal, statewide or legislative races
2 or ballot measures are available for selection.

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

6 3. For the presidential preference election, select by lot two
7 percent of the polling places designated and used pursuant to section
8 16-248 and perform the hand count of those ballots.

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

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

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

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

1 preceding the election and a sufficient number of persons, pursuant to
 2 this paragraph, arrive to perform the hand count. The recorder or officer
 3 in charge of elections may prohibit persons from participating in the hand
 4 count if they are taking actions to disrupt the count or are unable to
 5 perform the duties as assigned. For the hand count to proceed, not more
 6 than seventy-five percent of the persons performing the hand count shall
 7 be from the same political party.

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

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

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

41 E. If a final **SAMPLE** hand count is performed for an entire
 42 jurisdiction for a race, the final **SAMPLE** hand count shall be repeated for
 43 that race until a hand count for that race for the entire jurisdiction
 44 results in a count that is identical to one other hand count for that race

1 for the entire jurisdiction and that hand count constitutes the official
2 count for that race.

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

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

42 H. Notwithstanding any other law, the county officer in charge of
43 elections shall retain custody of the ballots for purposes of performing
44 any required hand counts and the officer shall provide for security for
45 those ballots.

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

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

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

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

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

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

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

39 5. Members of the vote count verification committee are not
40 eligible to receive compensation but are eligible for reimbursement of
41 expenses pursuant to title 38, chapter 4, article 2. The committee is a
42 public body and its meetings are subject to title 38, chapter 3, article
43 3.1 and its reports and records are subject to title 39, chapter 1.

1 Sec. 5. Section 16-621, Arizona Revised Statutes, is amended to
2 read:

3 16-621. Proceedings at the counting center

4 A. All proceedings at the counting center shall be under the
5 direction of the board of supervisors or other officer in charge of
6 elections and shall be conducted in accordance with the approved
7 instructions and procedures manual issued pursuant to section 16-452 under
8 the observation of representatives of each political party and the public.
9 The proceedings at the counting center may also be observed by up to three
10 additional people representing a candidate for nonpartisan office, or
11 representing a political committee in support of or in opposition to a
12 ballot measure, proposition or question. A draw by lot shall determine
13 which three groups or candidates shall have representatives participate in
14 the observation at the counting center. Persons representing a candidate
15 for nonpartisan office or persons or groups representing a political
16 committee in support of or in opposition to a ballot measure, proposition
17 or question, who are interested in participating in the observation, shall
18 notify the officer in charge of elections of their desire to be included
19 in the draw not later than seventeen days before the election. After the
20 deadline to receive submissions from the interested persons or groups, but
21 prior to fourteen days before the election, the county officer in charge
22 of elections shall draw by lot, from the list of those that expressed
23 interest, three persons or groups and those selected shall be notified and
24 allowed to observe the proceedings at the counting center. If a group is
25 selected the group may alter who represents that group for different days
26 of observation but on any given observation day a selected group shall not
27 send more than one observer. A group may rotate an observer throughout
28 the day. Only those persons who are authorized for the purpose shall
29 touch any ballot or ballot card or return. All persons who are engaged in
30 processing and counting of the ballots shall be qualified electors, shall
31 be deputized in writing and shall take an oath that they will faithfully
32 perform their assigned duties. There shall be no preferential counting of
33 ballots for the purpose of projecting the outcome of the election. If any
34 ballot, including any ballot received from early voting, is damaged or
35 defective so that it cannot properly be counted by the automatic
36 tabulating equipment, a true duplicate copy ~~shall be made~~ of the damaged
37 or defective ballot **SHALL BE MADE** in the presence of witnesses and
38 substituted for the damaged or defective ballot. All duplicate ballots
39 created pursuant to this subsection shall be clearly labeled "duplicate"
40 and shall bear a serial number that shall be recorded on the damaged or
41 defective ballot.

42 ~~B. If the counting center automatic tabulating equipment includes~~
43 ~~an electronic vote adjudication feature that has been certified for use as~~
44 ~~prescribed by section 16-442 and the board of supervisors or officer in~~

1 ~~charge of elections authorizes the use of this feature at the counting~~
2 ~~center, all of the following apply:~~

3 ~~1. The electronic vote adjudication feature shall be included in~~
4 ~~the tabulation system logic and accuracy testing prescribed by section~~
5 ~~16-449.~~

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

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

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

21 ~~(b) The creation and retention of comprehensive logs of all digital~~
22 ~~duplication and adjudication actions performed by an electronic vote~~
23 ~~adjudication board.~~

24 ~~(c) The retention of the original ballot and the digital duplicate~~
25 ~~of the ballot.~~

26 ~~C.~~ **B. IN ANY ELECTION FOR WHICH ELECTRONIC TABULATION IS ALLOWED,**
27 if for any reason it becomes impracticable to count all or a part of the
28 ballots with tabulating equipment, the officer in charge of elections may
29 direct that they be counted manually, following as far as practicable the
30 provisions governing the counting of paper ballots.

31 ~~D.~~ **C.** For any statewide, county or legislative election, the
32 county recorder or officer in charge of elections shall provide for a live
33 video recording of the custody of all ballots while the ballots are
34 present in a tabulation room in the counting center. The live video
35 recording shall include date and time indicators and shall be linked to
36 the secretary of state's website. The secretary of state shall post links
37 to the video coverage for viewing by the public. The county recorder or
38 officer in charge of elections shall record the video coverage of the
39 ballots at the counting center and shall retain those recordings as a
40 public record for at least as long as the challenge period for the general
41 election. If the live video feed is disrupted or disabled, the recorder
42 or officer in charge of elections is not liable for the disruption but
43 shall attempt to reinstate video coverage as soon as is practicable. Any
44 disruption in video coverage shall not affect or prevent the continued

1 tabulation of ballots. This subsection is contingent on legislative
2 appropriation.

3 ~~F.~~ D. The county recorder or other officer in charge of elections
4 shall maintain records that record the chain of custody for all election
5 equipment and ballots during early voting through the completion of
6 provisional voting tabulation.

7 Sec. 6. Section 16-663, Arizona Revised Statutes, is amended to
8 read:

9 16-663. Recount of votes; method

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

15 B. When the court orders a recount of votes which were cast and
16 tabulated on electronic voting equipment, such recount shall be pursuant
17 to section 16-664. On completion of the recount, ~~and for legislative,~~
18 ~~statewide and federal candidate races only,~~ the county chairmen of the
19 political parties entitled to continued representation on the ballot or
20 the chairman's designee shall select at random without the use of a
21 computer five per cent of the precincts for the recounted race for a hand
22 count, and if the results of that hand count when compared to the
23 electronic tabulation of that same race are less than the designated
24 margins calculated pursuant to section 16-602, the recount is complete and
25 the electronic tabulation is the official result. If the hand count
26 results in a difference that is equal to or greater than the designated
27 margin for that race, the procedure established in section 16-602,
28 subsections C, D, E and F applies.

29 C. WHEN THE COURT ORDERS A RECOUNT OF VOTES THAT WERE TABULATED BY
30 HAND, THE RECOUNT SHALL BE A HAND COUNT AND THE COURT MAY ORDER THE USE OF
31 TABULATING EQUIPMENT TO VERIFY THE RESULTS OF THE RECOUNT THAT WAS
32 CONDUCTED BY HAND. IF THE RESULTS OF THAT HAND COUNT WHEN COMPARED TO THE
33 ELECTRONIC TABULATION OF THAT SAME RACE ARE LESS THAN THE DESIGNATED
34 MARGINS CALCULATED PURSUANT TO SECTION 16-602, THE RECOUNT IS COMPLETE AND
35 THE ELECTRONIC TABULATION IS THE OFFICIAL RESULT. IF THE HAND COUNT
36 RESULTS IN A DIFFERENCE THAT IS EQUAL TO OR GREATER THAN THE DESIGNATED
37 MARGIN FOR THAT RACE, THE PROCEDURE ESTABLISHED IN SECTION 16-602,
38 SUBSECTIONS C, D, E AND F APPLIES.

39 Sec. 7. Section 16-664, Arizona Revised Statutes, is amended to
40 read:

41 16-664. Recount of votes by automatic tabulating system

42 A. In the event of a court-ordered recount of votes that were cast
43 and tabulated on electronic voting equipment ~~for a state primary, state~~
44 ~~general or state special election,~~ the secretary of state shall order the
45 ballots recounted on an automatic tabulating system to be furnished and

1 programmed under the supervision of the secretary of state. In the event
2 of a court-ordered recount for elections other than for the office of
3 supervisor, the secretary of state may designate the county board of
4 supervisors to perform the duties assigned to the secretary of state.

5 B. If the office of secretary of state is contested, the governor
6 shall order the ballots recounted on an automatic tabulating system to be
7 furnished and programmed under the supervision of the governor.

8 C. The programs to be used in the recount of votes pursuant to this
9 section shall differ from the programs prescribed by section 16-445 and
10 used in the initial tabulation of the votes.

11 Sec. 8. Effective date

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