

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

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

## **SB 1456**

Introduced by  
Senators Quezada: Gonzales

### **AN ACT**

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

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

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

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

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

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

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

3           2. For one hundred twenty-five thousand to two hundred forty-nine  
4 thousand nine hundred ninety-nine records, \$156.25 plus \$0.000375 per  
5 record.

6           3. For two hundred fifty thousand to four hundred ninety-nine  
7 thousand nine hundred ninety-nine records, \$203.13 plus \$0.00025 per  
8 record.

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

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

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

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

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

45           (a) January 2.

1 (b) April 1.

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

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

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

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

10 (a) January 2.

11 (b) April 1.

12 (c) July 1.

13 (d) October 1.

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

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

28 J. The secretary of state shall develop and administer a statewide  
29 database of voter registration information that contains the name and  
30 registration information of every registered voter in this state. The  
31 statewide database is a matter of statewide concern and is not subject to  
32 modification or further regulation by a political subdivision. The  
33 database shall include an identifier that is unique for each individual  
34 voter. The database shall provide for access by voter registration  
35 officials and shall allow expedited entry of voter registration  
36 information after it is received by county recorders. As a part of the  
37 statewide voter registration database, county recorders shall provide for  
38 the electronic transmittal of that information to the secretary of state  
39 on a real time basis. The secretary of state shall provide for  
40 maintenance of the database, including provisions regarding removal of  
41 ineligible voters that are consistent with the national voter registration  
42 act of 1993 (P.L. 103-31; 107 Stat. 77; 52 United States Code sections  
43 20501 through 20511) and the help America vote act of 2002 (P.L. 107-252;  
44 116 Stat. 1666; 52 United States Code sections 20901 through 21145),  
45 provisions regarding removal of duplicate registrations and provisions to

1 ensure that eligible voters are not removed in error. For the purpose of  
2 maintaining compliance with the help America vote act of 2002, each county  
3 voter registration system is subject to approval by the secretary of state  
4 for compatibility with the statewide voter registration database system.

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

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

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

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

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

42 16-193. Active registered voters; applicability

43 The terms "registered voters", "persons who are registered to vote",  
44 "registered electors" and "voters registered" as used in the following

1 sections include only active registered voters for purposes of the  
2 following:

3 1. Calculating petition signature requirements pursuant to sections  
4 11-133, 16-322, 16-341, 45-415, 45-433, 48-4433 and 48-4832.

5 2. Mailing and distributing election-related notices, pamphlets or  
6 ballots pursuant to sections 11-137, 15-905.01, ~~16-245~~, 16-412, 16-461,  
7 16-510, 19-123, 19-141, 35-454, 41-563.02, 42-6109.01, 42-17057, 42-17107,  
8 48-620, 48-4021, 48-4236, 48-5314, 48-6432 and 48-6433.

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

10 4. Determining qualification for political parties' continued  
11 representation on the ballot pursuant to ~~sections 16-244 and SECTION~~  
12 ~~16-804~~.

13 5. Choosing political party officers pursuant to sections 16-821  
14 and 16-823.

15 Sec. 3. Heading change

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

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

21 ~~16-241.~~ 16-241. Presidential preference caucus

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

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

38 ~~C.~~ ~~Except as otherwise provided in this article, the presidential~~  
39 ~~preference election shall be conducted and canvassed in the same manner as~~  
40 ~~prescribed in this title for the primary election held pursuant to section~~  
41 ~~16-201. All provisions of other laws that govern elections and that are~~  
42 ~~not in conflict with this article apply to a presidential preference~~  
43 ~~election, including laws relating to registration and qualifications of~~  
44 ~~electors.~~

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

7 ~~E. Every act that is an offense pursuant to the election laws of~~  
8 ~~this state is an offense for purposes of a presidential preference~~  
9 ~~election, and a person is subject to the penalties prescribed by those~~  
10 ~~laws.~~

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

13 16-242. Qualifications for ballot; nomination paper

14 A. A person seeking nomination as a candidate for the office of  
15 president of the United States shall sign and cause to be filed with the  
16 secretary of state a nomination paper that contains the following  
17 information:

18 1. The name, residence address and mailing address of the  
19 candidate.

20 2. The name of the recognized political party from which the person  
21 seeks nomination.

22 3. The name and address of the chairman of the candidate's state  
23 committee.

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

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

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

41 D. Nomination petitions shall conform to the requirements of  
42 section 16-314.

43 E. In lieu of the petition requirements of this section, a  
44 candidate may qualify to appear on the presidential preference ~~election~~  
45 CAUCUS ballot of the candidate's political party by filing with the



1 secretary of state during the time period prescribed by subsection B of  
2 this section a notice of candidacy signed by the candidate and evidence  
3 that by the filing deadline the candidate's name is qualified to appear on  
4 the presidential preference ~~election~~ CAUCUS ballot of the candidate's  
5 political party in at least two other states.

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

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

12 16-243. National convention delegates; vote for candidates

13 A. The OPERATION OF THE CAUCUSES AND THE selection of delegates to  
14 the political party national conventions shall be as provided in the  
15 bylaws of each state party, EXCEPT THAT PERSONS WHO ARE REGISTERED AS  
16 INDEPENDENT OR NO PARTY PREFERENCE SHALL BE ALLOWED TO PARTICIPATE AND  
17 VOTE IN A POLITICAL PARTY CAUCUS.

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

30 Sec. 7. Repeal

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

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

35 16-602. Removal of ballots from ballot boxes; designated  
36 margin; hand counts; vote count verification  
37 committee

38 A. For any primary, special or general election in which the votes  
39 are cast on an electronic voting machine or tabulator, the election judge  
40 shall compare the number of votes cast as indicated on the machine or  
41 tabulator with the number of votes cast as indicated on the poll list and  
42 the number of provisional ballots cast and that information shall be noted  
43 in a written report prepared and submitted to the officer in charge of  
44 elections along with other tally reports.

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

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

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

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

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

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

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

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

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

19 ~~3. For the presidential preference election, select by lot two~~  
20 ~~percent of the polling places designated and used pursuant to section~~  
21 ~~16-248 and perform the hand count of those ballots.~~

22 ~~4.~~ 3. For the purposes of this section, a write-in candidacy in a  
23 race does not constitute a contested race.

24 ~~5.~~ 4. In elections in which there are candidates for president,  
25 the presidential race shall be added to the four categories of hand  
26 counted races.

27 ~~6.~~ 5. Each county chairman of a political party that is entitled  
28 to continued representation on the state ballot or the chairman's designee  
29 shall select by lot the individual races to be hand counted pursuant to  
30 this section.

31 ~~7.~~ 6. The county chairman of each political party shall designate  
32 and provide the number of election board members as designated by the  
33 county officer in charge of elections who shall perform the hand count  
34 under the supervision of the county officer in charge of elections. For  
35 each precinct that is to be audited, the county chairmen shall designate  
36 at least two board workers who are registered members of any or no  
37 political party to assist with the audit. Any qualified elector from this  
38 state may be a board worker without regard to party designation. The  
39 county election officer shall provide for compensation for those board  
40 workers, not to include travel, meal or lodging expenses. If there are  
41 less than two persons for each audited precinct available to participate  
42 on behalf of each recognized political party, the recorder or officer in  
43 charge of elections, with the approval of at least two county party  
44 chairpersons in the county in which the shortfall occurs, shall substitute  
45 additional individual electors who are provided by any political party

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

21 ~~8.~~ 7. If a political party is not represented by a designated  
22 chairperson within a county, the state chairperson for that political  
23 party, or a person designated by the state chairperson, may perform the  
24 actions required by the county chairperson as specified in this section.

25 C. If the randomly selected races result in a difference in any  
26 race that is less than the designated margin when compared to the  
27 electronic tabulation of those same ballots, the results of the electronic  
28 tabulation constitute the official count for that race. If the randomly  
29 selected races result in a difference in any race that is equal to or  
30 greater than the designated margin when compared to the electronic  
31 tabulation of those same ballots, a second hand count of those same  
32 ballots and races shall be performed. If the second hand count results in  
33 a difference in any race that is less than the designated margin when  
34 compared to the electronic tabulation for those same ballots, the  
35 electronic tabulation constitutes the official count for that race. If  
36 the second hand count results in a difference in any race that is equal to  
37 or greater than the designated margin when compared to the electronic  
38 tabulation for those same ballots, the hand count shall be expanded to  
39 include a total of twice the original number of randomly selected  
40 precincts. Those additional precincts shall be selected by lot without  
41 the use of a computer.

42 D. In any expanded count of randomly selected precincts, if the  
43 randomly selected precinct hand counts result in a difference in any race  
44 that is equal to or greater than the designated margin when compared to  
45 the electronic tabulation of those same ballots, the final hand count

1 shall be extended to include the entire jurisdiction for that race. If  
2 the jurisdictional boundary for that race would include any portion of  
3 more than one county, the final hand count shall not be extended into the  
4 precincts of that race that are outside of the county that is conducting  
5 the expanded hand count. If the expanded hand count results in a  
6 difference in that race that is less than the designated margin when  
7 compared to the electronic tabulation of those same ballots, the  
8 electronic tabulation constitutes the official count for that race.

9 E. If a final hand count is performed for an entire jurisdiction  
10 for a race, the final hand count shall be repeated for that race until a  
11 hand count for that race for the entire jurisdiction results in a count  
12 that is identical to one other hand count for that race for the entire  
13 jurisdiction and that hand count constitutes the official count for that  
14 race.

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

1 difference between any manual count of early ballots is less than the  
2 designated margin when compared to the electronic tabulation of those  
3 ballots, the electronic tabulation shall be included in the canvass and no  
4 further manual audit of the early ballots shall be conducted.

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

8 H. Notwithstanding any other law, the county officer in charge of  
9 elections shall retain custody of the ballots for purposes of performing  
10 any required hand counts and the officer shall provide for security for  
11 those ballots.

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

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

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

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

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

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

41 4. The vote count verification committee shall meet and establish  
42 one or more designated margins to be used in reviewing the hand counting  
43 of votes as required pursuant to this section. The committee shall review  
44 and consider revising the designated margins every two years for use in  
45 the applicable elections. The committee shall provide the designated

1 margins to the secretary of state at least ten days before the primary  
2 election and at least ten days before the general election, and the  
3 secretary of state shall make that information publicly available on the  
4 secretary of state's website.

5       5. Members of the vote count verification committee are not  
6 eligible to receive compensation but are eligible for reimbursement of  
7 expenses pursuant to title 38, chapter 4, article 2. The committee is a  
8 public body and its meetings are subject to title 38, chapter 3, article  
9 3.1 and its reports and records are subject to title 39, chapter 1.