

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2100

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 16, chapter 1.1, article 1, Arizona Revised
3 Statutes, is amended by adding section 16-194, to read:

4 16-194. Primary and general elections; requirements

5 A. NOTWITHSTANDING ANY OTHER LAW, ALL PRIMARY AND GENERAL ELECTIONS
6 IN THIS STATE SHALL BE CONDUCTED IN STRICT ADHERENCE TO THE FOLLOWING:

7 1. A VOTER MAY NOT RECEIVE OR VOTE A BALLOT UNLESS THE VOTER HAS
8 PRESENTED VALID STATE-ISSUED IDENTIFICATION.

9 2. EXCEPT FOR ABSENTEE BALLOTS AS PRESCRIBED BY SECTION 16-541:

10 (a) ALL VOTING SHALL OCCUR ON ELECTION DAY ONLY.

11 (b) ALL BALLOTS SHALL BE CAST IN PERSON BY THE VOTER AT THE VOTER'S
12 ELECTION PRECINCT POLLING PLACE.

13 3. ALL BALLOTS SHALL BE COUNTED BY HAND AND CANVASSED AND THE
14 RETURNS MADE WITHIN TWENTY-FOUR HOURS AFTER THE POLLS ARE CLOSED.

15 B. EXCEPT AS REQUIRED BY SUBSECTION A OF THIS SECTION, ALL PRIMARY
16 AND GENERAL ELECTIONS SHALL BE CONDUCTED AS OTHERWISE PROVIDED BY LAW.

17 Sec. 2. Section 16-448, Arizona Revised Statutes, is amended to
18 read:

19 16-448. Write-in votes; instructions

20 ~~Whenever ballots are to be counted by electronic data processing~~
21 ~~equipment, TO BE COUNTED, all write-in votes for candidates, to be counted,~~
22 shall be marked by the voter in the space provided opposite the names of
23 the write-in candidates. The instructions to voters printed on the ballots

1 shall instruct the voter that the vote will not be counted unless the voter
2 properly marks the ballot when writing in a candidate's name.

3 Sec. 3. Section 16-602, Arizona Revised Statutes, is amended to
4 read:

5 16-602. Paper ballots; report

6 ~~A.~~ For any primary, special or general election ~~in which the votes~~
7 ~~are cast on an electronic voting machine or tabulator~~, the election judge
8 shall compare the number of votes cast as indicated ~~on the machine or~~
9 ~~tabulator~~ FROM THE PAPER BALLOTS with the number of votes cast as indicated
10 on the poll list and the number of provisional ballots cast and that
11 information shall be noted in a written report prepared and submitted to
12 the officer in charge of elections along with other tally reports. ALL
13 BALLOTS SHALL BE COUNTED BY HAND.

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

30 1. ~~At least two percent of the precincts in that county, or two~~
31 ~~precincts, whichever is greater, shall be selected at random from a pool~~
32 ~~consisting of every precinct in that county. The county political party~~

~~chairman for each political party that is entitled to continued representation on the state ballot or the chairman's designee shall conduct the selection of the precincts to be hand counted. The precincts shall be selected by lot without the use of a computer, and the order of selection by the county political party chairmen shall also be by lot. The selection of the precincts shall not begin until all ballots voted in the precinct polling places have been delivered to the central counting center. The unofficial vote totals from all precincts shall be made public before selecting the precincts to be hand counted. Only the ballots cast in the polling places and ballots from direct recording electronic machines shall be included in the hand counts conducted pursuant to this section. Provisional ballots, conditional provisional ballots and write-in votes shall not be included in the hand counts and the early ballots shall be grouped separately by the officer in charge of elections for purposes of a separate manual audit pursuant to subsection F of this section.~~

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

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

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

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

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

1 ~~(e) If there are fewer than four contested races resulting from the~~
2 ~~selections made pursuant to subdivisions (a) through (d) of this section~~
3 ~~and if there are additional contested federal, statewide or legislative~~
4 ~~races or ballot measures, additional contested races shall be selected by~~
5 ~~lot not using a computer until four races have been selected or until no~~
6 ~~additional contested federal, statewide or legislative races or ballot~~
7 ~~measures are available for selection.~~

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

10 ~~3. For the presidential preference election, select by lot two~~
11 ~~percent of the polling places designated and used pursuant to section~~
12 ~~16-248 and perform the hand count of those ballots.~~

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

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

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

22 ~~7. The county chairman of each political party shall designate and~~
23 ~~provide the number of election board members as designated by the county~~
24 ~~officer in charge of elections who shall perform the hand count under the~~
25 ~~supervision of the county officer in charge of elections. For each~~
26 ~~precinct that is to be audited, the county chairmen shall designate at~~
27 ~~least two board workers who are registered members of any or no political~~
28 ~~party to assist with the audit. Any qualified elector from this state may~~
29 ~~be a board worker without regard to party designation. The county election~~
30 ~~officer shall provide for compensation for those board workers, not to~~
31 ~~include travel, meal or lodging expenses. If there are less than two~~
32 ~~persons for each audited precinct available to participate on behalf of~~

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

25 ~~8. If a political party is not represented by a designated~~
26 ~~chairperson within a county, the state chairperson for that political~~
27 ~~party, or a person designated by the state chairperson, may perform the~~
28 ~~actions required by the county chairperson as specified in this section.~~

29 ~~6. If the randomly selected races result in a difference in any race~~
30 ~~that is less than the designated margin when compared to the electronic~~
31 ~~tabulation of those same ballots, the results of the electronic tabulation~~
32 ~~constitute the official count for that race. If the randomly selected~~

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

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

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

30 ~~F. After the electronic tabulation of early ballots and at one or~~
31 ~~more times selected by the chairman of the political parties entitled to~~
32 ~~continued representation on the ballot or the chairman's designee, the~~

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

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

4 ~~H. Notwithstanding any other law, the county officer in charge of~~
5 ~~elections shall retain custody of the ballots for purposes of performing~~
6 ~~any required hand counts and the officer shall provide for security for~~
7 ~~those ballots.~~

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

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

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

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

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

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

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

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

19 Sec. 4. Section 16-621, Arizona Revised Statutes, is amended to
20 read:

21 16-621. Proceedings at the counting center

22 A. All proceedings at the counting center shall be under the
23 direction of the board of supervisors or other officer in charge of
24 elections and shall be conducted ~~in accordance with the approved~~
25 ~~instructions and procedures manual issued pursuant to section 16-452~~ under
26 the observation of representatives of each political party and the public.
27 The proceedings at the counting center may also be observed by up to three
28 additional people representing a candidate for nonpartisan office, or
29 representing a political committee in support of or in opposition to a
30 ballot measure, proposition or question. A draw by lot shall determine
31 which three groups or candidates shall have representatives participate in
32 the observation at the counting center. Persons representing a candidate

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

31 ~~B. If the counting center automatic tabulating equipment includes an~~
32 ~~electronic vote adjudication feature that has been certified for use as~~

1 ~~prescribed by section 16-442 and the board of supervisors or officer in~~
2 ~~charge of elections authorizes the use of this feature at the counting~~
3 ~~center, all of the following apply:~~

4 ~~1. The electronic vote adjudication feature shall be included in the~~
5 ~~tabulation system logic and accuracy testing prescribed by section 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 is~~
12 ~~clear on a portion or all of the ballot, or any portion of any ballot as~~
13 ~~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 adjudication~~
19 ~~feature that includes a serial number on the digital image that can be used~~
20 ~~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. If for any reason it becomes impracticable to count all or a part~~
27 ~~of the ballots with tabulating equipment, the officer in charge of~~
28 ~~elections may direct that they be counted manually, following as far as~~
29 ~~practicable the provisions governing the counting of paper ballots.~~

30 ~~D. B.~~ B. For any statewide, county or legislative election, the county
31 recorder or officer in charge of elections shall provide for a live video
32 recording of the custody of all ballots while the ballots are present in a

1 tabulation room in the counting center. The live video recording shall
2 include date and time indicators and shall be linked to the secretary of
3 state's website. The secretary of state shall post links to the video
4 coverage for viewing by the public. The county recorder or officer in
5 charge of elections shall record the video coverage of the ballots at the
6 counting center and shall retain those recordings as a public record for at
7 least as long as the challenge period for the general election. If the
8 live video feed is disrupted or disabled, the recorder or officer in charge
9 of elections is not liable for the disruption but shall attempt to
10 reinstate video coverage as soon as is practicable. Any disruption in
11 video coverage shall not affect or prevent the continued tabulation of
12 ballots. This subsection is contingent on legislative appropriation.

13 ~~F.~~ C. The county recorder or other officer in charge of elections
14 shall maintain records that record the chain of custody for all election
15 equipment and ballots during ~~early~~ ABSENTEE voting through the completion
16 of provisional voting tabulation.

17 Sec. 5. Section 16-663, Arizona Revised Statutes, is amended to
18 read:

19 16-663. Recount of votes

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

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

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

7 Sec. 6. Repeal

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

9 Amend title to conform

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C: MR