

PROPOSED  
SENATE AMENDMENTS TO S.B. 1288  
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Repeal

3 Section 16-449, Arizona Revised Statutes, is repealed.

4 Sec. 2. Title 16, chapter 4, article 4, Arizona Revised Statutes, is  
5 amended by adding a new section 16-449, to read:

6 16-449. Required tests; logic and accuracy; notice; accuracy  
7 board; violation; classification

8 A. ALL ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEMS SHALL BE  
9 THOROUGHLY TESTED AT THE CONCLUSION OF ALL MAINTENANCE AND PROGRAMMING.  
10 TESTS SHALL BE SUFFICIENT TO DETERMINE THAT THE VOTING SYSTEM IS PROPERLY  
11 PROGRAMMED, THE ELECTION IS CORRECTLY DEFINED ON THE VOTING SYSTEM AND ALL  
12 OF THE VOTING SYSTEM INPUT, OUTPUT AND COMMUNICATION DEVICES ARE WORKING  
13 PROPERLY.

14 B. NOT MORE THAN TWENTY-FIVE DAYS BEFORE THE COMMENCEMENT OF EARLY  
15 VOTING AS PROVIDED IN SECTION 16-542, THE COUNTY OFFICER IN CHARGE OF  
16 ELECTIONS SHALL PUBLICLY TEST THE AUTOMATIC TABULATING EQUIPMENT TO  
17 ASCERTAIN THAT THE EQUIPMENT WILL CORRECTLY COUNT THE VOTES CAST FOR ALL  
18 OFFICES AND ON ALL MEASURES. IF THE BALLOTS TO BE USED AT THE POLLING  
19 PLACE ON ELECTION DAY ARE NOT AVAILABLE AT THE TIME OF THE TESTING, THE  
20 COUNTY OFFICER IN CHARGE OF ELECTIONS MAY CONDUCT AN ADDITIONAL TEST NOT  
21 MORE THAN TEN DAYS BEFORE ELECTION DAY AND SHALL PROVIDE PUBLIC NOTICE OF  
22 THE TIME AND PLACE OF THE TEST AT LEAST FORTY-EIGHT HOURS BEFORE THE TEST  
23 BY PUBLICATION ON THE COUNTY WEBSITE, ON THE COUNTY OFFICER IN CHARGE OF  
24 ELECTIONS' WEBSITE OR ONCE IN ONE OR MORE NEWSPAPERS OF GENERAL CIRCULATION  
25 IN THE COUNTY. IF THE APPLICABLE WEBSITE BECOMES UNAVAILABLE OR IF THERE

1 IS NO NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY, THE NOTICE MUST BE  
2 POSTED IN AT LEAST FOUR CONSPICUOUS PLACES IN THE COUNTY. AT THE TIME OF  
3 QUALIFYING, THE COUNTY OFFICER IN CHARGE OF ELECTIONS MAY GIVE WRITTEN  
4 NOTICE OF THE TIME AND LOCATION OF THE PUBLIC PREELECTION TEST TO EACH  
5 CANDIDATE WHO IS QUALIFIED AS A CANDIDATE FOR THAT ELECTION AND OBTAIN A  
6 SIGNED RECEIPT THAT THE NOTICE HAS BEEN GIVEN. THE SECRETARY OF STATE  
7 SHALL GIVE WRITTEN NOTICE TO EACH STATEWIDE CANDIDATE AT THE TIME OF  
8 QUALIFYING OR IMMEDIATELY AT THE END OF QUALIFYING THAT THE VOTING  
9 EQUIPMENT WILL BE TESTED AND ADVISE EACH CANDIDATE TO CONTACT THE COUNTY  
10 OFFICER IN CHARGE OF ELECTIONS AS TO THE TIME AND LOCATION OF THE PUBLIC  
11 PREELECTION TEST. AT LEAST THIRTY DAYS BEFORE THE COMMENCEMENT OF EARLY  
12 VOTING AS PROVIDED IN SECTION 16-542, THE COUNTY OFFICER IN CHARGE OF  
13 ELECTIONS SHALL SEND WRITTEN NOTICE BY CERTIFIED MAIL TO THE COUNTY PARTY  
14 CHAIRPERSON OF EACH POLITICAL PARTY AND TO ALL CANDIDATES FOR OTHER THAN  
15 STATEWIDE OFFICE WHOSE NAMES APPEAR ON THE BALLOT IN THE COUNTY AND WHO DID  
16 NOT RECEIVE WRITTEN NOTIFICATION FROM THE COUNTY OFFICER IN CHARGE OF  
17 ELECTIONS AT THE TIME OF QUALIFYING THAT STATES THE TIME AND LOCATION OF  
18 THE PUBLIC PREELECTION TEST OF THE AUTOMATIC TABULATING EQUIPMENT. AN  
19 ACCURACY BOARD SHALL CONVENE, AND EACH MEMBER OF THE ACCURACY BOARD SHALL  
20 CERTIFY TO THE ACCURACY OF THE TEST. FOR THE TEST, THE ACCURACY BOARD MAY  
21 DESIGNATE ONE MEMBER TO REPRESENT THE BOARD. THE TEST SHALL BE OPEN TO  
22 REPRESENTATIVES OF THE POLITICAL PARTIES, THE PRESS AND THE PUBLIC. EACH  
23 POLITICAL PARTY MAY DESIGNATE ONE PERSON WITH EXPERTISE IN THE TECHNOLOGY  
24 FIELD OR ELECTION MANAGEMENT SYSTEMS OR ELECTIONS PROCEDURES WHO SHALL BE  
25 ALLOWED IN THE CENTRAL COUNTING ROOM WHEN ALL TESTS ARE BEING CONDUCTED AND  
26 WHEN THE OFFICIAL VOTES ARE BEING COUNTED. THE DESIGNEE MAY NOT INTERFERE  
27 WITH THE NORMAL OPERATION OF THE ACCURACY BOARD.

28 C. FOR ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEMS CONFIGURED TO  
29 TABULATE VOTE BY MAIL BALLOTS AT A CENTRAL OR REGIONAL SITE, THE PUBLIC  
30 TESTING SHALL BE CONDUCTED BY PROCESSING A PREAUDITED GROUP OF BALLOTS  
31 PRODUCED SO AS TO RECORD A PREDETERMINED NUMBER OF VALID VOTES FOR EACH  
32 CANDIDATE AND ON EACH MEASURE AND TO INCLUDE ONE OR MORE BALLOTS FOR EACH

1 OFFICE THAT HAS ACTIVATED VOTING POSITIONS IN EXCESS OF THE NUMBER ALLOWED  
2 BY LAW IN ORDER TO TEST THE ABILITY OF THE AUTOMATIC TABULATING EQUIPMENT  
3 TO REJECT SUCH VOTES. IF ANY ERROR IS DETECTED, THE CAUSE SHALL BE  
4 CORRECTED AND AN ERRORLESS COUNT SHALL BE MADE BEFORE THE AUTOMATIC  
5 TABULATING EQUIPMENT IS APPROVED. THE TEST SHALL BE REPEATED AND ERRORLESS  
6 RESULTS ACHIEVED IMMEDIATELY BEFORE THE START OF THE OFFICIAL COUNT OF THE  
7 BALLOTS AND AGAIN AFTER THE COMPLETION OF THE OFFICIAL COUNT. THE PROGRAMS  
8 AND BALLOTS USED FOR TESTING SHALL BE SEALED AND RETAINED UNDER THE CUSTODY  
9 OF THE ACCURACY BOARD.

10 D. FOR ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEMS CONFIGURED TO  
11 INCLUDE ELECTRONIC OR ELECTROMECHANICAL TABULATION DEVICES THAT ARE  
12 DISTRIBUTED TO THE PRECINCTS OR VOTE CENTERS, ALL OR A SAMPLE OF THE  
13 DEVICES TO BE USED IN THE ELECTION SHALL BE PUBLICLY TESTED. IF A SAMPLE  
14 IS TO BE TESTED, THE SAMPLE SHALL CONSIST OF A RANDOM SELECTION OF AT LEAST  
15 FIVE PERCENT OR TEN OF THE DEVICES FOR AN OPTICAL SCAN SYSTEM, WHICHEVER IS  
16 GREATER. FOR TOUCHSCREEN SYSTEMS USED FOR VOTERS HAVING A DISABILITY, A  
17 SAMPLE OF AT LEAST TWO PERCENT OF THE DEVICES MUST BE TESTED. THE TEST  
18 SHALL BE CONDUCTED BY PROCESSING A GROUP OF BALLOTS, CAUSING THE DEVICE TO  
19 GENERATE RESULTS FOR THE BALLOTS PROCESSED AND COMPARING THE RESULTS  
20 GENERATED TO THE RESULTS EXPECTED FOR THE BALLOTS THAT ARE PROCESSED. THE  
21 GROUP OF BALLOTS SHALL BE PRODUCED SO AS TO RECORD A PREDETERMINED NUMBER  
22 OF VALID VOTES FOR EACH CANDIDATE AND ON EACH MEASURE AND TO INCLUDE FOR  
23 EACH OFFICE ONE OR MORE BALLOTS THAT HAVE ACTIVATED VOTING POSITIONS IN  
24 EXCESS OF THE NUMBER ALLOWED BY LAW IN ORDER TO TEST THE ABILITY OF THE  
25 TABULATING DEVICE TO REJECT SUCH VOTES.

26 E. IF ANY TESTED TABULATING DEVICE IS FOUND TO HAVE AN ERROR IN  
27 TABULATION, IT SHALL BE DEEMED UNSATISFACTORY. FOR EACH DEVICE DEEMED  
28 UNSATISFACTORY, THE ACCURACY BOARD SHALL TAKE STEPS TO DETERMINE THE CAUSE  
29 OF THE ERROR, SHALL ATTEMPT TO IDENTIFY AND TEST OTHER DEVICES THAT COULD  
30 REASONABLY BE EXPECTED TO HAVE THE SAME ERROR AND SHALL TEST A NUMBER OF  
31 ADDITIONAL DEVICES SUFFICIENT TO DETERMINE THAT ALL DEVICES ARE  
32 SATISFACTORY. ON DEEMING ANY DEVICE UNSATISFACTORY, THE ACCURACY BOARD MAY

1 REQUIRE ALL DEVICES TO BE TESTED OR MAY DECLARE THAT ALL DEVICES ARE  
2 UNSATISFACTORY.

3 F. IF THE OPERATION OR OUTPUT OF ANY TESTED TABULATION DEVICE IS IN  
4 ERROR, SUCH AS SPELLING OR THE ORDER OF CANDIDATES ON A REPORT, THAT ERROR  
5 SHALL BE REPORTED TO THE ACCURACY BOARD. THE ACCURACY BOARD SHALL THEN  
6 DETERMINE IF THE REPORTED PROBLEM WARRANTS DEEMING THE DEVICE  
7 UNSATISFACTORY.

8 G. AFTER TESTING IS COMPLETED UNDER THIS SECTION, THE ACCURACY BOARD  
9 OR ITS REPRESENTATIVE, THE REPRESENTATIVES OF THE POLITICAL PARTIES, AND  
10 THE CANDIDATES OR THEIR REPRESENTATIVES WHO ATTENDED THE TEST SHALL WITNESS  
11 THE RESETTING OF EACH DEVICE THAT PASSED TO A PREELECTION STATE OF  
12 READINESS AND THE SEALING OF EACH DEVICE THAT PASSED SO AS TO SECURE ITS  
13 STATE OF READINESS UNTIL THE OPENING OF THE POLLS. A PERSON WHO TAMPERS  
14 WITH, OPENS, BREAKS OR OTHERWISE REMOVES THE SEALS AND REPROGRAMS THE  
15 DEVICE WITHOUT AN ADDITIONAL LOGIC AND ACCURACY TEST CONDUCTED AS  
16 PRESCRIBED BY THIS SECTION IS GUILTY OF A CLASS 4 FELONY.

17 H. THE ACCURACY BOARD OR ITS REPRESENTATIVE SHALL EXECUTE A WRITTEN  
18 STATEMENT SETTING FORTH THE TABULATION DEVICES TESTED, THE RESULTS OF THE  
19 TESTING, THE PROTECTIVE COUNTER NUMBERS OF EACH TABULATION DEVICE, IF  
20 APPLICABLE, THE NUMBER OF THE SEAL SECURING EACH TABULATION DEVICE AT THE  
21 CONCLUSION OF TESTING, ANY PROBLEMS REPORTED TO THE BOARD AS A RESULT OF  
22 THE TESTING AND WHETHER EACH DEVICE TESTED IS SATISFACTORY OR  
23 UNSATISFACTORY.

24 I. ANY TABULATING DEVICE DEEMED UNSATISFACTORY SHALL BE RECODED,  
25 REPAIRED OR REPLACED AND SHALL BE MADE AVAILABLE FOR RETESTING. THAT  
26 DEVICE MUST BE DETERMINED BY THE ACCURACY BOARD OR ITS REPRESENTATIVE TO BE  
27 SATISFACTORY BEFORE IT MAY BE USED IN ANY ELECTION. THE ACCURACY BOARD OR  
28 ITS REPRESENTATIVE SHALL ANNOUNCE AT THE CLOSE OF THE FIRST TESTING THE  
29 DATE, PLACE AND TIME THAT ANY UNSATISFACTORY DEVICE WILL BE RETESTED OR, AT  
30 THE OPTION OF THE BOARD, MAY NOTIFY BY TELEPHONE EACH PERSON WHO WAS  
31 PRESENT AT THE FIRST TESTING AS TO THE DATE, PLACE AND TIME THAT THE  
32 RETESTING WILL OCCUR.

1           J. THE COUNTY OFFICER IN CHARGE OF ELECTIONS SHALL KEEP RECORDS OF  
2 ALL PREELECTION TESTING OF ELECTRONIC OR ELECTROMECHANICAL TABULATION  
3 DEVICES USED IN ANY ELECTION. THESE RECORDS ARE TO BE PRESENT AND  
4 AVAILABLE FOR INSPECTION AND REFERENCE DURING PUBLIC PREELECTION TESTING BY  
5 ANY PERSON IN ATTENDANCE DURING SUCH TESTING. THE NEED OF THE ACCURACY  
6 BOARD FOR ACCESS TO SUCH RECORDS DURING THE TESTING TAKES PRECEDENCE OVER  
7 THE NEED OF OTHER ATTENDEES TO ACCESS THOSE RECORDS SO THAT THE WORK OF THE  
8 ACCURACY BOARD WILL NOT BE DELAYED OR HINDERED. RECORDS OF TESTING MUST  
9 INCLUDE FOR EACH DEVICE THE NAME OF EACH PERSON WHO TESTED THE DEVICE AND  
10 THE DATE, PLACE, TIME AND RESULTS OF EACH TEST. THE COUNTY OFFICER IN  
11 CHARGE OF ELECTIONS SHALL RETAIN THE RECORDS OF TESTING AS PART OF THE  
12 OFFICIAL RECORDS OF THE ELECTION IN WHICH ANY DEVICE WAS USED.

13           K. ANY TESTS CONDUCTED PURSUANT TO THIS SECTION THAT INVOLVE BALLOTS  
14 SHALL EMPLOY TEST BALLOTS CREATED BY THE COUNTY OFFICER IN CHARGE OF  
15 ELECTIONS USING ACTUAL BALLOTS THAT HAVE BEEN PRINTED FOR THE ELECTION. IF  
16 BALLOT-ON-DEMAND BALLOTS WILL BE USED IN THE ELECTION, THE COUNTY OFFICER  
17 IN CHARGE OF ELECTIONS SHALL ALSO CREATE TEST BALLOTS USING THE  
18 BALLOT-ON-DEMAND TECHNOLOGY THAT WILL BE USED TO PRODUCE BALLOTS IN THE  
19 ELECTION, USING THE SAME PAPER STOCK AS WILL BE USED FOR BALLOTS IN THE  
20 ELECTION."

21 Amend title to conform

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