

Public Comment by Edmond “Buddy” Miller Asking The Legislative Commission To Require The Nevada Secretary of State To Amend Adopted Regulation R200-22A Before The Commission Considers Its Approval

September 26, 2023

TO: The Honorable Senator Nicole Cannizzaro, Chair
The Honorable Senator Dallas Harris, Vice Chair
Nevada Legislative Commission (the “Commission”)

FROM: Edmond “Buddy” Miller

RE: LCB File No. R200-22A, A REGULATION establishing requirements for conducting a hand count of ballots, including hand counting of ballots during the 2024 election cycle¹ (hereinafter “R200-22A” or the “Adopted Regulation”)²

My Position: DEFER ACTION ON R200-22A UNTIL AMENDED AS REQUESTED BELOW

COMMISSION

MEETING DATE: September 28, 2023 10:00 a.m.

Via Email: jordan.haas@lcb.state.nv.us

Dear Chair Cannizzaro, Vice Chair Harris and Members of the Commission:

My name is Edmond “Buddy” Miller and I am a practicing attorney in Reno, Nevada.³ I am participating in this Legislative Commission Meeting as a private citizen and Washoe County registered voter residing in Senate District 13 and Assembly District 24.

I am requesting that the Commission defer consideration of R200-22A until the SoS addresses the issues below and revises the Adopted Regulation.

Thanks to all of you for your service.

¹ The 2024 election cycle includes the February 6, 2024 Nevada presidential primary, the June 11, 2024 Nevada state primary and the November 5, 2024 general election.

² See the Adopted Regulation at either link [https://www.leg.state.nv.us/Register/RegsReviewed/\\$R200-22A.PDF](https://www.leg.state.nv.us/Register/RegsReviewed/$R200-22A.PDF) or <https://www.leg.state.nv.us/Register/2022Register/R200-22A.pdf> .

³ I have been a volunteer poll observer for the Nevada Democratic Party since 2004, except the 2006, 2010 and 2022 midterms. During the 2022 mid-term general election, I was a Special Deputy Voter Protection Director for Nevada Democrats focusing on ballot counting and other post-election matters.

1. General Remarks

For the sake of full disclosure, I oppose the hand counting of ballots, unless it is part of a good post-election audit,⁴ because of widespread concern and existing studies that the hand counting of ballots is very complicated (in part because of the many races on the ballot), slow, highly inaccurate and a step backwards from efficient and more accurate machine tabulation.⁵

The 2022 mid-term general election in Nye County was a cautionary tale. During the 2022 general election Nye County considered hand counting ballots. It switched to all paper ballots, except for a touch screen Dominion voting machine at each voting location for ADA compliance. Meanwhile, the former Nevada SoS was forced to adopt a last-minute regulation identified as T002-22 (the “2022 Temporary Regulation” or “T002-22”) for conducting the hand count of the ballots. But Nye County decided instead to rely upon a mechanical tabulator in Tonopah as its primary and official method of tallying all the paper ballots for the election for both in-person voting and mail ballots.

Nye County then proceeded with what its Interim County Clerk, Mr. Mark Kampf, first referred to as a “parallel” hand count of the paper ballots, and later as a “100% audit” of the already mechanically tabulated paper ballots. Nevertheless, the hand counting of ballots was highly disruptive of the voting procedures in Nye County even though Nye County had an official count of the ballots from the tabulation machine. The Nevada Supreme Court generated four unpublished rulings, two that together had the practical effect of halting the hand count of any more ballots until after election day, and two that otherwise allowed hand counting to proceed post-election day. Before the November 18 deadline to canvass and certify the vote, Nye County hand counted only 17,700 of the 20,890 ballots cast. In addition to the problems

⁴ Hand counts are an important tool in post-election audits, where officials count small samples to verify machine-tallied results.

⁵ See analysis by Brennan Center for Justice, Alice Clapman and Ben Goldstein, November 23, 2022, “Hand-Counting Votes: A Proven Bad Idea” at <https://www.brennancenter.org/our-work/analysis-opinion/hand-counting-votes-proven-bad-idea>. See also NPR news broadcast by Miles Parks dated October 7, 2022, 5:01 AM ET, “Hand-counting ballots may sound nice. It’s actually less accurate and more expensive,” at <https://www.npr.org/2022/10/07/1126796538/voting-explainer-hand-counting-ballots-accuracy-cost>. See also Roman Battaglia’s report for NPR dated September 3, 2023 8:04 AM ET, “A county in California swapped Dominion’s electronic voting machines for hand counting” regarding the difficulty in hand counting, the costs and the delayed results at <https://www.npr.org/2023/09/03/1197461096/a-county-in-california-swapped-dominions-electronic-voting-machines-for-hand-cou>. See finally the article by Jane C. Timm, NBC News, dated Aug. 2, 2023, 7:14 PM PDT, titled “Arizona Republicans wanted to hand-count ballots. Then they saw the price tag — and the errors,” at <https://www.nbcnews.com/politics/elections/arizona-republicans-hand-count-ballots-price-tag-errors-mojave-county-rcna97769>. In Mohave County, Arizona, the Elections Department conducted a mock election this past June 2023 to prepare a plan requested by the Board of Supervisors for hand counting ballots for the elections in 2024. Seven part-time experienced election workers over 3-day period counted 850 ballots from a test deck used in the 2022 General Election Logic and Accuracy Tests. Four full-time experienced staff monitored the hand count of the ballots. There were 36 races per ballot, for a total of 30,600 races counted. The election workers used a counting system similar to the Adopted Regulation, except it had a reading clerk who publicly announced the races instead of R200-22A’s silent system. Nevertheless, this “dream team” made errors in 46 races. See the attached county report after a mock election detailing the problems, also available at <https://lfportal.mohavecounty.us/bos/0/doc/2038269/Page1.aspx>. The report should be a template for the issues county and city clerks should address.

identified above, observers for the Democrats were concerned that Nye County may have put the security of the paper ballots at risk in the way that staff and volunteers handled the ballots at the hand counting locations. This and more revealed the many practical, logistical and legal problems with the hand counting of ballots.

In light of the foregoing, any regulation of the hand counting of ballots must hold the hand counting tally teams to a level of performance and accuracy similar to that of voting machines and tabulators. Advocates for the hand counting of ballots frequently cite the fallibility and untrustworthiness of voting machines and tabulators. However, they fail to compare and consider the alternative, the fallibility of individuals engaged in a mind-numbing hand count of the ballots.⁶ The Adopted Regulation must address these and related issues.

2. The SoS Should Amend R200-22A To Clarify How To Correct Mismatching Tallies And Other Procedures.

R200-22A governs the tallying of paper ballots by hand counting, or in other words, without the use of a tabulator or other mechanical voting system.⁷ As set forth in Section 4.1, ballots are hand counted by the hand count tally teams, which consist of 4 election board officers who are not all the same political party. The team includes a reviewing clerk to review the conduct of the team, a verification clerk to ensure that the ballots are tallied correctly, and two tally clerks to separately record the votes on the appropriate tally form.

The procedure required for each hand count tally team to tally the votes is as follows: the ballots are sorted by precincts then divided into stacks of 25 ballots, with each stack tallied separately. See Section 5.4(c). Ballots must be tallied not less than two times for each contest on the ballot, and if the results do not match exactly, the ballots must be hand counted again until the results match one of the previous tallies. See Section 5.3. Each tally clerk uses the five-hash mark system (4 perpendicular lines and one horizontal) to tally the votes, and they both tally the same stack of 25 ballots. The hand count tally teams are positioned around a workspace and are allowed to talk, “but must not read out loud the votes to be tallied or discuss information concerning the tallied number of votes.” Section 4.4. In other words, the tally clerks

⁶ See article by Brett Forrest of Channel 3 News in Las Vegas, Nevada, dated Saturday, November 12th 2022, 2:24 PM PST and titled “Nye County clerk tempers hand count expectations, calls it a ‘test’” at <https://news3lv.com/news/local/nye-county-clerk-tempers-hand-count-expectations-calls-it-a-test>.

⁷ Under the Adopted Regulation, Section 7 of R200-22A amends the definitions in NAC 293.010 to add and define the term “hand count” as follows:

3. “Hand count” means the process of determining the results of an election where the **primary method** of counting the votes cast for each candidate or ballot question does not involve the use of a mechanical voting system.

(Emphasis added.) See also NRS 293B.033 which provides that “‘Mechanical voting system’ means a system of voting whereby a voter may cast a vote:

1. On a device which mechanically or electronically compiles a total of the number of votes cast for each candidate and for or against each measure voted on; or
2. By marking a paper ballot which is subsequently counted on an electronic tabulator, counting device or computer.”

are required to do the counting silently.⁸ Then the verification clerk must review the tally sheets of the two tally clerks. If there are any discrepancies on the tally sheets regarding the total of all votes or the total votes in any of the races or ballot questions, then “the reason for the discrepancy must be identified and corrected before the hand count tally team may continue tallying.” Section 5.4(f)(2).

The silent counting method is one of the significant changes⁹ made in the Adopted Regulation, because there is no longer a reading clerk to announce the race and the candidate that received the vote.¹⁰ This necessary change came after the workshop hearing and was mentioned at adoption hearing in order to comply with the Nevada Supreme Court’s ruling in ACLU Nevada. The tally clerks both take turns tallying the same ballot on their separate tally sheets, and then do the same for each of the ballots in the stack.

But there is a problem. This section of the regulation does not prescribe a methodology for identifying and making the correction, which is a serious issue, given that the Adopted

⁸ The SoS recently modified R200-22A to require “silent counting” because Nevada law bars disclosure of election results before the polls close and all the ballots cast. Although Nevada law allows a county clerk or registrar to begin counting the received mail ballots 15 days before the polls close on election day, NRS 293.269931(1) requires the counting of the ballots to be done publicly, and NRS 293.269935(3) forbids disclosing election results before the polls close and all votes have been cast on the election day. Any person who disseminates to the public in any way information pertaining to the count of mail ballots before all polling places are closed and all votes have been cast is guilty of a misdemeanor. *Id.* The clerk is also obliged to develop a procedure to ensure that each mail ballot is kept secret. NRS 293.269935(2).

⁹ The other major change by SoS that is commendable is the requirement in Section 3 to file a plan for conducting the hand count in 90, and no longer 30, days before election day.

¹⁰ During the 2022 general election, the hand counting procedure at that time was for a “reading clerk” to announce audibly the contests on the ballot and the voter’s selections while two tally clerks tallied the results. See T002-22 Section 5(4)(c). However, the Nevada Supreme Court ruled in *American Civil Liberties Union of Nevada v. County of Nye* that NRS 293.269935 must be strictly construed and held that Nye County’s duty to prevent disclosure of “any election results” meant that Nye County must “ensure public observers do not prematurely learn any election results.” See the unpublished “Order Granting In Part Petition For Writ Of Mandamus” in *American Civil Liberties Union of Nevada v. County of Nye*, 519 P.3d 36 (Table, October 21, 2022) 2022 WL 14285458, and a subsequent unpublished “Order Granting Motion For Clarification” entered October 27, 2022 in the same case. (For a PDF version of the October 21, 2022 Order view document #22-33248 at Nevada Supreme Court Case No. 85507 at the following link: <https://caseinfo.nvsupremecourt.us/public/caseView.do?csIID=65075>. For the PDF version of the October 27, 2022 Order view document #22-33945 in Nevada Supreme Court Case No. 85507 at the following link: <https://caseinfo.nvsupremecourt.us/public/caseView.do?csIID=65075>.) See also the Associated Press article by Gabe Stern, October 26, 2022 (corrected October 28), “Nevada officials begin unprecedented hand count of ballots,” at <https://apnews.com/article/2022-midterm-elections-nevada-voting-las-vegas-617fc7a37e9cd8d1a512e4fb7be77574>. The Court found that the ability of even observers or the general public to hear the read-aloud selections on ballots violated NRS 293.269935(3). Therefore, observers may not be positioned so as to become privy to the ballot selections and room tallies. *Id.* After only two days of hand counting ballots in Nye County, the SoS halted the hand count because Nye County’s procedures did not meet the Nevada Supreme Court’s requirements before the polls closed. Once the polls close and the ballots are all cast, however, NRS 293.269935 no longer applies and “silent counting” is not required. (Note: although both rulings are unpublished, “[a] party may cite for its persuasive value, if any, an unpublished disposition issued by the Supreme Court on or after January 1, 2016[,]” Nevada Rule Of Appellate Procedure 36(c)(3). So, the rulings may continue to influence the Nevada Supreme Court in the future.)

Regulation also provides that the “[h]and count tally teams are allowed to talk, but must not read out loud the votes to be tallied or discuss information concerning the tallied number of votes,” Section 4.4., and given Nevada Supreme Court's ruling prior to election day in ACLU Nevada. Section 5.4(f)(2) of the Adopted Regulation also does not explain in any further detail how the tally team identifies and corrects the tally without verbal interaction. (The tally and verification clerks could pass notes to one another.) In addition, the clerks are required to identify and correct the discrepancy before they may continue tallying, which might disrupt their counting of a new stack of ballots by the time the verification clerk determines there is a discrepancy. Finally, per Section 5.3 the tally clerks are supposed to count the ballots twice and the results must match the previous count. Do they do the second count before or after handing the batch of 25 ballots over to the verification clerk?

Many of these are simple questions but without clarification and revision likely to bedevil the tally teams until they and the county or city clerks come up with their own protocols and procedures. I therefore ask the Commission to require the Nevada Secretary of State to amend Adopted Regulation R200-22A before the Commission considers its approval.

3. The SoS Should Amend R200-22A To Require A County or City Clerk To Employ Tally Team Staff Or Volunteers With Minimum Physical And Cognitive Standards And To Continuously Measure The Team And Its Members' Performance.

Candidates for the tally team must have minimum physical and cognitive abilities to provide consistently accurate ballot counting results. The Commission should insist that the SoS amend R200-22A to require the county or city clerks to address these standards for the tally team members, and specifically the performance by the tally clerks when recording the voter choices, especially when compared to mechanical tabulation.

Mechanical systems of voting, of course, must meet minimum standards. See *e.g.*, NRS 293B.104 (The Secretary of State shall not approve any mechanical voting system which does not meet or exceed the standards for voting systems established by the United States Election Assistance Commission.) There should also be minimum requirements for the hand counting teams. Absent an evaluation of the physical and cognitive abilities of hand counting employees or volunteers, the ballot counting process may lose accuracy and speed. Candidates with impaired eyesight or hearing that is not correctible when performing the work, candidates lacking stamina to work a two, four or eight-hour shifts, or candidates that easily lose attention or focus may not be candidates for hire. Candidates with illegible handwriting or other issues leading to an inaccurate recording of election results will disrupt the efficiency of the process.

Channel 3 Las Vegas News reported on how Nye County wrestled with these issues during the hand counting of the ballots:

However, on day one at least, Kampf admitted the process wasn't smooth. He blamed many of the hiccups on the age of those counting. Had he had months to prepare, he said he could've interviewed more people and selected a more varied demographic of counters.

“We took the volunteers we had and put them to work. Unfortunately, you get a lot of mistakes when you get people in our demographic,” he said. “In this town, 85% of the

people are 56 years and older. Sometimes even I make mistakes, you know, my ripe age of 68. So we had to send back a lot of votes for ballots for recount. But again, that's part of the quality control process is to make sure that we get the vote right.”

See article by Brett Forrest of Channel 3 News in Las Vegas, Nevada, dated Saturday, November 12th 2022, 2:24 PM PST “Nye County clerk tempers hand count expectations, calls it a ‘test’” at <https://news3lv.com/news/local/nye-county-clerk-tempers-hand-count-expectations-calls-it-a-test>. Later in the interview Mr. Kampf thoughtfully pointed out that Nye County needed months to select and prepare staff. At a minimum, R200-22A needs to require the county or city clerks to identify the physical and mental requirements for the tally team jobs, adequate training and continuing supervision and performance monitoring.

Hiring staff with the physical and cognitive abilities to perform the hand counting of ballots is not just an issue in Nye County. In a story by Roman Battaglia for NPR Weekend Edition Sunday, he reported that the board of supervisors in Shasta County in Northern California voted to begin counting ballots by hand when they overhauled their voting system based on unproven claims of election fraud. The county had been preparing for months for its first major hand-count since 1972, including training temporary staff this August to count ballots entirely by hand. As the temporary staff were wrapping up their mock hand count of the ballots, one of the trainees, Julie Brammer, says she already understands why this work is “exhausting.” “If your mind wanders for a second, you just - you know, you could check the wrong box or - I don't know. You really got to pay attention.”¹¹

As part of the hiring or on-boarding process the candidates or new hires should be required to tally ballots for one or more hours to determine their ability to perform.

Similarly, the Adopted Regulation should require the county or city clerk to continuously monitor the performance of the tally teams and their members. Mechanical systems of voting are periodically tested for accuracy. See, e.g., NRS 293B.140-293B.170. Election board staff can likewise be evaluated. See, e.g., NAC 293.336(2), which provides:

2. The county clerk shall perform periodic audits of each employee in the office of the county clerk whose regular duties include checking signatures on mail ballots. If the county clerk finds that an employee has an irregular acceptance or rejection rate, the county clerk must retrain the employee or prohibit the employee from checking signatures on mail ballots.

NAC 293.336(2).

When it comes to hand counting ballots, it appears that even the best trained staff make mistakes. In the mock election this past June 2023 in Mohave County, Arizona, the “dream team” made errors in 46 races, as noted earlier. According to a report,¹² some of the observed

¹¹ See Roman Battaglia’s report for NPR dated September 3, 2023 8:04 AM ET, “A county in California swapped Dominion’s electronic voting machines for hand counting” at <https://www.npr.org/2023/09/03/1197461096/a-county-in-california-swapped-dominions-electronic-voting-machines-for-hand-cou>.

¹² See the Executive Summary, PDF page 2, and the section titled “Accuracy Of Results” at page 4, PDF page 6, of the attached Report by the Mohave County Elections Department.

errors included: bored and/or tired staffers whose lost focus or concentration, marking a vote for an incorrect candidate or skipping a race, and illegible tally marking causing incorrect tally totaling.

That said, observers of the hand counting in Nye County during the 2022 mid-terms noticed that there was frequently one or two tally team members who made more frequent mistakes than the rest of the team, but that hurt the entire team's performance. See the Public Comment of Kim Upham and John Monahan.

To track the team and individual performances, the team should record each time a member makes a mistake along with a running tally of the total discrepancies. A supervisor should continuously monitor those numbers to identify the tally clerks that are performing poorly. If there are discrepancies in the tally of a stack of ballots the team should be required not only to identify the discrepancy but identify who made the mistake, and then record that event.

Accordingly, I request that the Commission require the Nevada Secretary of State to amend Adopted Regulation R200-22A before the Commission considers its approval and require the county and city clerks to employ tally team staff or volunteers with minimum physical and cognitive standards and to continuously measure the team and its members' performance.

4. The SoS Should Amend R200-22A To Require A County Or City Clerk To Include A Protocol And Require Training For The Tally Team To Manage Damaged Or Defective Ballots And To Determine Voter Intent.

The Commission should require the Nevada Secretary of State to amend the Adopted Regulation before the Commission considers approval and require the county and city clerks to provide a protocol and require training for the tally teams on damaged or defective ballots and voter intent.

When the mechanical tabulator in Tonopah tabulated the ballots and counted the official vote, the staff told the observer for the Democrats that they, and not the hand counting operation, would manage damaged or defective ballots and whether to refer the ballots to a vote adjudication board. See NAC 293B.015 (vote adjudication board). The same was true for ballots where the voter's intent was not obvious from the mark on the ballot, including an overvote. In that event the staff in Tonopah would manage the ballot and determine whether it should be referred to a vote adjudication board. See NAC 293B.015 (vote adjudication board).

It appears the tally teams did not have to deal with damaged ballots or voter intent issues. But this was clearly a top concern in Mohave County for the Elections Department, which wrote the following in its Ballot Hand Tally Analysis Report:

This training will entail, amongst other things, how to determine voter's intent. Voter's intent means to determine what the voter intended to select when they make an unclear, imperfect, or unorthodox mark on the ballot. Three people from each group will have to determine the voter's intent. This is not unlike the current process when ballots are tabulated on voting tabulation equipment and these same discrepancies occur. Currently, groups of three trained election staff members determine voter intent. They

acquire expertise because the same three people work together in a group every day to determine the voter intent on every ballot out-stacked by the tabulation machine. Tabulation machines out-stack ballots when an inconsistency of a voter's mark is recognized. The out-stacking requires trained election staff members to review each of the out-stacked ballots and adjudicate voter's intent. The consistency will be very different when approximately one hundred people are interpreting voter intent during a hand count. See Exhibit A, Adjudication/ Duplication - Voter Intent Examples.

See section titled "Elections Department Staff Members, Tally Board Members, and Security Guards" at page 6, PDF page 7, of the attached Report by the Mohave County Elections Department.

R200-22A should require the county or city clerks to determine the protocol for managing issues of voter intent and damaged ballots, and who will make those determinations. Perhaps the staff preparing the ballots to be counted will be the first to encounter a damaged or defective ballot, but the tally teams should be trained to recognize the issue and turn the ballot over to a supervisor.

The same is true for ballots where the voter's intent is not obvious from the mark on the ballot, including an overvote. In that event the ballot should be turned over to a supervisor for possible referral to a vote adjudication board. See NAC 293B.015 (vote adjudication board).

5. The SoS Should Amend R200-22A To Change The Definition Of "Hand Count" To Help Eliminate Secondary Hand Counts.

The Commission should require the Nevada Secretary of State to amend the Adopted Regulation to change the definition of "hand count" to help eliminate secondary hand counts.

Under the Adopted Regulation, Section 7 of R200-22A amends the definitions in NAC 293.010 to add and define the term "hand count" as follows:

3. "Hand count" means the process of determining the results of an election where the primary method of counting the votes cast for each candidate or ballot question does not involve the use of a mechanical voting system.¹³

As indicated earlier, R200-22A's definition of the term "hand count" is identical to its predecessor Section 7 in the 2022 Temporary Regulation. Therefore, if a county or city clerk, in consultation with the Board of County Commissioners, decides that "the primary method" of counting votes cast for each candidate or ballot question for an upcoming election will be the hand counting of paper ballots, then the county will be subject to the Adopted Regulation

¹³ NRS 293B.033 "Mechanical voting system" means a system of voting whereby a voter may cast a vote:

1. On a device which mechanically or electronically compiles a total of the number of votes cast for each candidate and for or against each measure voted on; or
2. By marking a paper ballot which is subsequently counted on an electronic tabulator, counting device or computer.

because the primary method of counting the votes cast will “not involve the use of a mechanical voting system.”

Like the 2022 Temporary Regulation, the Adopted Regulation assumes, without requiring, that the county or city will convert to almost all paper ballots (for in-person voting since mail ballots are already paper.) The Adopted Regulation also assumes, without specifically requiring, that the county and city will comply with the American with Disabilities Act, Help America Vote Act, and Nevada’s Effective Absentee System for Elections (EASE).¹⁴

But the definition of “hand count” in Section 7 of the Adopted Regulation would still permit an unregulated secondary hand count and create a risk to already voted paper ballots before certification, recount and possible election contests. If a county decides that the primary method of counting the ballots will be a mechanical voting system, then the county is not bound by the Adopted Regulation and may use this provision as a loophole to engage in a secondary hand count of ballots already cast and tabulated. This is what happened in 2022 in Nye County.

Section 7 of 2022 Temporary Regulation amended the definitions in NAC 293.010 to add and define the term “hand count” as follows:

3. “Hand count” means the process of determining the results of an election where the **primary method of counting** the votes cast for each candidate or ballot question **does not involve the use of a mechanical voting system**.

(Emphasis added.)¹⁵

During the 2022 general election the primary method of counting the votes in Nye County was through the use of a tabulating machine to count the paper ballots, that is, a “mechanical voting system.”¹⁶ Accordingly, Nye County did not meet the 2022 Temporary Regulation definition of conducting a hand count. Even though Nye County was not subject to any of the requirements of the 2022 Temporary Regulation, it was permitted to go forward with a secondary hand count of almost all the paper ballots, subject only to the other requirements of Title 24. This hand count was completely unregulated, or at least not subject to any of the regulatory requirements of 2022 Temporary Regulation regarding the conduct of the hand count.

¹⁴ Nevada’s Effective Absentee System for Elections, or EASE, is an online application that seamlessly integrates voter registration and electronic ballot delivery and marking. EASE is available to members of the United States Armed Forces, their spouses and dependents, Nevada voters who reside outside of the country and Nevada residents with a disability. The system is available for all state, county, and municipal elections no less than 45 days before election day and can be accessed at NVEASE.gov. See, <https://www.nvsos.gov/sos/elections/voters/uniformed-overseas-citizens/ease-overview>.

¹⁵ As noted earlier, Nye County also converted to almost all paper ballots, except for a touch screen Dominion voting machine at each voting location for ADA compliance.

¹⁶ See acknowledgement by the Nye County Clerk that “Tabulation was primary method for determining election results” during his 2022 General Election Review presentation at the January 18, 2023 Nye County Commissioners meeting, Item # 9 on the agenda. Here is the link to video: https://nyecounty.granicus.com/player/clip/1759?view_id=4&redirect=true&h=4e9176393ae10b791a1425fbe9da1a15 at 1:32:35 to 1:35:56; here is the link to slides 8 and 9 at <https://www.nyecountynv.gov/DocumentCenter/View/42686/Item9>.

After that mechanical tabulation of the votes, Nye County then conducted the secondary hand count of the paper ballots (what the Nye County Clerk characterized as the “100% audit”). Although Nye County was not able to count all 20,890 of the ballots cast during the secondary hand count of all the ballots, it was able to hand count 17,700 of the ballots already voted and tabulated, which is a significant amount, all of which had to be transported after the tabulation from Tonopah to the counting centers in Pahrump, temporarily stored, turned over to the tally teams within the voting centers, moved to different staging areas and be subject to the physical handling by the tally teams, the ballot control persons and the ballot control runners. It is not known if the paper ballots were secure from the risk of fire, but that should be a part of the Section 3 plan filed 90 days before the election, specifically Section 3.7(a).

During the secondary hand count the paper ballots themselves were at risk. As already mentioned, observers in Pahrump at the Nye County offices (for the pre-election day hand counting of the ballots) and at the Valley Electric Conference Center (for the post-election day hand counting of the ballots) have noted in detail the problems with the handling, tracking, staging and storage of the ballots, despite the good intentions of staff and volunteers. See the Public Comment of Kim Upham and John Monahan.

At the time that the secondary hand count was taking place and the already voted paper ballots were at risk, the vote had not yet been certified by the County Commissioners for all local and state races in Nye County, as provided in NRS 293.393. Nor had the Nevada Supreme Court certified the vote for the non-local races in Nye County, that is, United States Senator, the Representative in Congress for the 4th congressional district, the members of the Nevada Legislature, state officers who are statewide or by district, district judges of the Fifth Judicial District encompassing both Nye and Esmeralda Counties, district officers whose districts include area in more than one county, and finally ballot questions submitted. See NRS 293.395(2). Additionally, losing candidates had not yet had an opportunity to exercise their post-election legal rights, including demanding a recount (NRS 293.403-NRS 293.405) or an election contest (NRS 293.407-NRS 293.435), all of which would include a re-examination of the paper ballots for their respective races.

The Legislature, by statute, and the SoS, by regulation, determine the manner and method of any audits. The “100% audit” or secondary hand count did not meet the technical requirements of permissible audits under Nevada’s election law. A “risk limiting audit” of election results, as authorized by NRS 293.394 and NAC 293.485, is a statistically based audit technique designed to limit the risk of certifying an incorrect election outcome by, among other things, adjusting the sample size of selected races based on how close the contest is and if discrepancies are found. A “post-election certification audit” under NAC 293.255 of the “voter verifiable paper audit trail printer” or “VVPAT” *i.e.*, the back-up paper record of the votes cast by the voter on the voting machine that allows the voter to visually verify that her votes were accurately recorded prior to casting the ballot electronically. Neither of these permissible audits authorize a “100% audit” or a secondary hand count of all the paper ballots that were counted the first time by a mechanical tabulator. There is no statute that authorizes a county or city clerk to improvise an audit of voting results, especially an attempt to audit 100% of the ballots by hand count.¹⁷

¹⁷ The security and preservation of voted ballots, including voted paper ballots, is a one of the highest policy priorities. NRS 293.391(1) directs that after canvass of the votes by the board of county

In light of the foregoing, the definition of “hand count” in the Adopted Regulation should be revised as follows:

3. “Hand count” means the process of determining the results of an election where the method of counting any of the votes cast on paper ballots, whether mail ballots or ballots voted in person at a polling place or vote center for each candidate or ballot question in an election, does not involve the use of mechanical voting systems, as defined in NRS 293B.033, except as otherwise required by the American with Disabilities Act, Help America Vote Act, Nevada’s Effective Absentee System for Elections or other existing law.

(This revised version of Section 7 of R200-22A will hereafter be referred to as “Revised Section 7.”)

My Revised Section 7 drops from its definition of “hand count” the qualification that Section 7 of the Adopted Regulation does not apply to any hand count by a county if the “primary method” of counting involves the use of a mechanical voting system. For example, had Revised Section 7 had been applied to Nye County during the general election in 2022, Nye County would have been bound in all respects by the predecessor Temporary Regulation, and any unregulated secondary hand counting prohibited.

Accordingly, the SoS should adopt and include in the Adopted Regulation the suggested changes as set forth in Revised Section 7.

6. Conclusion.

I request that the Commission defer consideration of R200-22A until the Secretary of State addresses the issues described above and revises the Adopted Regulation.

commissioners the voted ballots, including paper ballots, must be deposited in the vaults of the county clerk along with other records.

MOHAVE COUNTY REQUEST FOR BOARD ACTION FORM

FROM: Allen Tempert
CONTACT/EXT: x4096
DATE: July 20, 2023
BOS MEETING DATE: August 1, 2023

ATA

FORMAL ACTION:
CONSENT
RESOLUTION
OTHER
INFORMATION ONLY

SUMMARIZE THE ISSUE & DESIRED ACTION CLEARLY/ATTACH BACKUP MATERIAL:

On June 5, 2023, the Board of Supervisors directed staff to review and develop a plan for tabulating the 2024 elections by hand. Between June 22, 2023, and June 26, 2023, the Mohave County Elections Department carried out a study to test the feasibility and best practices of carrying out a full-hand tabulation of the 2024 elections.

The Mohave County Elections Department has developed a plan for tabulating the 2024 elections by hand, which plan is attached.

RECOMMENDED MOTION:

Discussion and possible action RE: Review the proposed plan for hand tabulating the ballots for the 2024 elections, and adopt, modify, or reject the proposed plan.

ATTACHMENT(S):

Ballot Hand Tally Executive Summary
Ballot Hand Tally Analysis

County Attorney *ATA* Reviewed and Approved By: *BT* *ATA*
Human Resources Finance County Manager

Board Action Taken:
Approved as Requested No Action Taken Disapproved
Continued to _____ Approved with the following changes:

Acknowledged receipt and referred to: _____

Filing Information and Retrieval

Filed Bid _____ Filed Agreement Elections
BOS Resolution _____ Filed Yearly Correspondence _____
Filed Petition _____ Filed Dedication _____
Filed Land Sold _____ Filed Land Acquired _____
Filed Franchise _____ ID Resolution _____
Filed Improvement District _____ Filed Other _____

Date Routed:
Additional Information:
XC:



2024 BALLOT HAND TALLY EXECUTIVE SUMMARY

On June 5, 2023, the Mohave County Board of Supervisors directed the Mohave County Elections Department to form a plan to hand count the 2024 Elections and return the plan to the Board of Supervisors for approval.

From June 22, 2023 thru June 26, 2023, a group of seven (7) part-time elections staff conducted a hand tally study of 850 ballots used for the 2022 General Election Logic and Accuracy test. The time to count the 850 ballots was three (3) days, at eight (8) hours per day. The process for the hand tally included:

- Seven (7) experienced part-time election staff members who tallied the ballot sample group.
- Four (4) experienced full-time election staff members who monitored the process, time to tally, and errors during the tallying process.

CONFIDENTIALITY, TIMELINESS, ACCURACY, AND COST MUST BE CONSIDERED FOR THIS PROCESS.

Confidentiality of the Tally Prior to Election Day

A.R.S. §16-551(C) states in part: “Partial or complete tallies of the early election board shall not be released or divulged before all precincts have been reported or one hour after the closing of the polls on election day, whichever occurs first. Any person who unlawfully releases information regarding vote tallies or who possesses a tally sheet or summary without authorization from the recorder or officer in charge of elections is guilty of a class 6 felony.”

Timeliness of Results

In 2024, Mohave County will administer the Presidential Preference Election (PPE), the Primary Election, and the General Election.

- Primary Election: All ballots shall be counted, the results certified (canvassed), and delivered to the Arizona Secretary of State’s Office within fourteen (14) days after the Primary Election. [A.R.S. §16-645(B)].
- Presidential Preference Election: “... the Presidential Preference Election shall be conducted and canvassed in the same manner” as the Primary Election. [A.R.S. §16-241(C)].
- General Election: “The governing body holding an election shall meet and canvass the election not less than six days nor more than twenty days following the election.” [16-642(A)].

Accuracy of Results

The test deck of 850 ballots had approximately 36 races per ballot, for approximately 30,600 races. There were 46 race errors that occurred during the tallying process. In an election, to rectify any errors election workers would have to retally the votes for each of the races. The time to re-tally races was not included in the tally study time.

Estimated Cost of the Hand Tally Process

Costs associated with hand tallying ballots include a venue large enough to accommodate the hand tally boards, network infrastructure suitable for live streaming tallying activities and recording the event, compensation for part-time and additional full-time elections staff, and security guards that will be present during the hand tallying process.



**2024
MOHAVE COUNTY
BALLOT HAND TALLY ANALYSIS**

On June 5, 2023, the Mohave County Board of Supervisors (Board) directed the Mohave County Elections Department to form a plan to hand count the 2024 Elections and return the plan to the Board of Supervisors for approval.

To fulfill the Board's directive, the Elections Department conducted a hand tally study. The Department conducted the study from June 22-26, 2023. The study consisted of the 850 ballot test deck used in the 2022 General Election Logic and Accuracy Tests, seven (7) part-time elections staff, and four (4) full-time elections staff members. This portion of the study took three (3) workdays to complete. Hand tally board members and staff monitoring the process worked 8 hours per day to complete the tallying of all the ballots. The process was generally as follows:

- The seven (7) member hand count board consist of one person calling (caller) out the race and candidates' names; two people watching (watchers) making sure the "caller" calls out the information correctly; two people marking (markers) the race on their separate tally sheets; and two "watchers" making sure each "marker" marks the race correctly. This board is made up of an equal number of people from the two major parties and/or parties not designated.
- Staff selected the 2022 General Election Logic and Accuracy test deck as the sample study because staff was already familiar with the deck, and the deck had already been tested and shown to be completely accurate. For the 2022 election both the Secretary of State staff and the Election Department staff had certified the vote tallies for each candidate, for each race, and for each voting precinct as true and correct in both the pre-election and post-election Logic and Accuracy public tests.
- The Department selected seven (7) experienced part-time election staff members to hand tally the ballot sample group.
- Experienced full-time election staff members monitored the hand tallying process. Time to tally ballots and errors that occurred during the tallying process were both documented.
- Prior to hand tallying all the ballots they were sorted by precinct, which is required for the election canvass. [A.R.S. §16-643]. Verifying the ballots were sorted correctly is required before tallying begins.
- Staff created tally sheets specific to each precinct to account for special district races, such as school districts, water districts, fire districts, etc. This was necessary to simplify the tally process and to reduce errors by the persons tallying ballots.

Throughout this study: tally means count, a tallier refers to the workers tallying (counting) ballots, and a tally board is a seven-person group tallying ballots.

Four major factors were considered in this study: (1) confidentiality of the tally prior to Election Day, (2) timeliness of results, (3) accuracy of results, and (4) the estimated cost of the hand tally process.

CONFIDENTIALITY OF THE TALLY PRIOR TO ELECTION DAY

A.R.S. §16-551(C) states in part: “Partial or complete tallies of the early election board shall not be released or divulged before all precincts have been reported or one hour after the closing of the polls on election day, whichever occurs first. Any person who unlawfully releases information regarding vote tallies or who possesses a tally sheet or summary without authorization from the recorder or officer in charge of elections is guilty of a class 6 felony.”

To assure confidentiality of the vote tally, staff recommends ballot tallying start after Election Day. Initial election results are not allowed to be released prior to 8:00 PM election night. For the General Election, all ballots will have to be tallied within three (3) weeks. For the Primary and Presidential Preference elections, the ballots will have to be tallied within two (2) weeks after the election.

For the General Election, in order to timely complete the elections, staff estimates the County must hire hundreds of people to tally the ballots. Staff anticipates many workers will not continue to work seven (7) days a week, eight (8) hours a day, for possibly three (3) weeks following Election Day. Many more people will have to be hired and trained to fill vacant positions, due to people not committing to the entire time, attrition, and other unforeseen circumstances.

Staff is concerned about the leakage of confidential ballot tallies and ballot information leading up to the election. For prior elections in which Election Department staff used machines for the tabulation of ballots, only two staff members, the Elections Director and the Deputy Director, were aware of the vote tallies, vote trends, and vote results leading up to the unofficial vote declarations. When a hand count is used to count votes, the number of people who know the vote tallies and vote trends grows exponentially because many more people are involved in the vote calculation. These workers will be counting the races, and they will learn, firsthand, who is winning and who is not. They will have knowledge leading up to the date the information can be released. This information can easily be leaked to the public, prior to 8:00 PM election night.

Given that many more people will have knowledge of the vote counts prior to the date that such information may be announced to the public, staff recommends shortening the timeframe for counting the ballots so there is less of an opportunity for these workers to give in to the temptation of divulging vote tallies. Staff recommends delaying the hand counting of ballots until after election day.

TIMELINESS OF RESULTS

In 2024 Mohave County will administer three statewide elections: the Presidential Preference Election (PPE) (March 19, 2024), the Primary Election (August 6, 2024), and the General Election (November 5, 2024).

All ballots shall be counted, the results certified (canvassed), and delivered to the Arizona Secretary of State's Office within fourteen (14) days after the Primary Election. [A.R.S. §16-645(B)]. "... the Presidential Preference Election shall be conducted and canvassed in the same manner" as the Primary Election. [A.R.S. §16-241(C)]. The General Election shall be canvassed not more than twenty (20) days following the election. [A.R.S. § 16-642(A)].

Early voting begins 27 days prior to the election. Approximately one week after the start of early voting a sufficient number of ballots are received by the Elections Department from the Recorder to start processing for the count. The current process entails a group of election part-time staff members, referred to as the Early Ballot Board, accounting for, opening, and preparing ballots to be counted on the tabulation equipment. This process runs daily once ballots are received. The Early Ballot Board will account for, open, and prepare ballots whether it is a machine count or a hand tally.

If the Board determines that confidentiality of the vote tallies can be preserved while tallying ballots, the above canvass requirements will allow the County to hand tally ballots for 20 days prior to the Primary and PPE elections plus 13 days after the election for a total of 33 days. If the Board agrees with staff's recommendation to delay the counting of ballots until after Election Day, there will only be 13 days after the election to complete the tally, leaving one day for the Board to canvass the results.

If the Board determines that confidentiality of the vote tallies can be preserved while tallying ballots, the above canvass requirements will allow the County to hand tally ballots for 20 days prior to the General election plus 19 days after the election for a total of 39 days. If the Board agrees with staff's recommendation to delay tallying the ballots until after Election Day, there will only be 19 days after the election to complete the tally, leaving one day for the Board to canvass the results.

The timelines above include tallying of ballots on weekends and holidays.

The study, performed by experienced staff, determined that it took up to three (3) minutes to hand tally a marked ballot from the 2022 General Election. This election, which is typical of a General Election, included an average of 36 races per ballot style. During the tally process all races need to be acknowledged, whether a vote was cast for one or more candidates in each race. There were 105,000 ballots cast in the 2020 General Election. It will take one group of seven (7) people 315,000 minutes, which equates to 5,250 work hours, 657 eight-hour days, to tally 105,000 ballots.

Staff anticipates more ballots for the 2024 General Election due to population growth.

The above calculation does not consider the time necessary for the tally boards to reconcile errors made during the counting of ballots. These errors must be resolved by recounting the same ballots for any race or races where the error(s) occurred.

Write-in candidates were not acknowledged in the above calculation. Recording of votes for write-in candidates is required to be a part of the canvass for local, state, and federal level offices. The 2020 General Election had 15,335 write-in votes. All write-in votes need to be acknowledged, regardless of

whether a qualified write-in candidate existed for the race or not. Only official write-in candidates are tallied.

Each of the 105,000 or more ballots that will be cast for the 2024 General Election will have to be reviewed a second time to capture and record the write-in information. It will take an average of 30 seconds per ballot to acknowledge write-in votes and tally official write-in candidates. This process could not be done at the same time as tallying votes for candidates whose names are officially printed on the ballot due to the high probability of errors that will occur. The tallying of write-in votes will take weeks to accomplish and require many people to be hired for write-in tally boards in addition to the hundreds of people needed to tally ballots.

For the General Election eighteen (18) additional people will have to be hired as a Write-in Board. Three (3) people are required for each board. For 105,000 ballots it will take 875 hours for one write-in board to complete. Write-in tallying would start right after Election Day.

[Approximately \$14 per hour times 18 people times 19 days times 8 hours per day per person. Total Cost: \$38,304.]

For the Primary Election twelve (12) additional people will have to be hired as a Write-in Board. Three people are required for each board. For 50,000 ballots it will take approximately 450 hours for one write-in board to complete. Write-in tallying would start right after Election Day.

[Approximately \$14 per hour times 12 people times 13 days times 8 hours per day per person. Total Cost: \$17,472.]

ACCURACY OF RESULTS

For the study, experienced election board workers hand tallied 850 ballots, consisting of approximately 30,600 races, over a 3-day period. The workers made forty-six (46) errors on races, meaning each of these forty-six (46) races would have to be retallied to get the correct vote total per candidate. While preparing the original 2022 General Election ballot test deck, consisting of 850 ballots, it took a substantial amount of time to correct errors. Knowing this, the time to retally races with errors was not part of the ballot tally time study.

Some of the observed errors included:

- Caller called the wrong candidate and both watchers failed to notice the incorrect call;
- Tally markers tried to work out inconsistencies while tallying;
- Tally markers marked a vote for an incorrect candidate and the watchers failed to notice the error;
- Caller calling too fast resulted in double marking a candidate or missed marking a candidate;
- Caller missed calling a vote for a candidate and both watchers failed to notice the omission;
- Watchers not watching the process due to boredom or fatigue;

- Illegible tally marking caused incorrect tally totaling;
- Enunciation of names caused incorrect candidate tally; and
- Using incorrect precinct tally sheets to tally ballots resulted in incorrect precinct level results.

In addition to all the processes above, the process of accumulating election results daily at a precinct level, for each race and each candidate, must be reported to the Secretary of State's Office in a format that is readable for their reporting system. To accomplish this, results must be accumulated by Election staff daily and verified prior to submission to the Secretary of State's Office. The accumulated results will have to be hand entered into the Election Management System. This process is prone to data entry error leading to possible incorrect results being reported to the Secretary of State's Office. Transmitting correct election results to the Secretary of State's Office is vital and must be performed by the Elections Director and his full-time staff. The security of the data being hand entered into the Election Management System and transmitted to the Secretary of State's office cannot be compromised by anyone else performing this function.

ESTIMATED COST OF THE HAND TALLY PROCESS

To determine the additional costs of hand tallying ballots versus using the current machine count process requires considering the costs of equipping a venue large enough to accommodate the staffing, equipment, and statutorily mandated technology, such as live streaming the process to the public. The cost of securing adequate staff to perform the hand tally is the greatest expense.

Venue

The Fairgrounds is the only suitable location in Kingman that is large enough to accommodate the number of people needed to perform the hand tally and provide enough spacing between groups to allow them to work in an environment free from distractions. All tallying must be done at one central location to control the validity of the process. Ballots will have to be transported between the Elections Department and the Fairgrounds multiple times per day. Vehicles will have to be acquired from Motor Pool, and security guards will have to be hired to transport the ballots throughout the day. Political party members should be available to accompany the transportation of ballots each time they are moved between the Elections Department and the Fairgrounds to ensure the chain of custody requirements are being met. A sworn, deputized member of the Elections Department must accompany the transportation of ballots.

Live video streaming will be necessary throughout one or more of the Fairgrounds building(s), requiring considerable computer network infrastructure improvements. The cost to perform these improvements is unknown at this point.

It will be necessary to purchase and install cameras throughout the Fairground's building(s) so that each group of ballots being tallied can be streamed to the public and recorded. A minimum of 40 cameras with adequate storage are required. An unofficial estimate to purchase and install a camera system that will meet these needs could cost between \$90,000 to \$100,000. An official cost estimate to meet these needs will take place near the end of July.

Elections Department Staff Members, Tally Board Members, and Security Guards

Elections Department Staff Members:

A new full-time Elections staff position will have to be created to recruit, hire, schedule background checks, train talliers, create tally sheets specific for each election for each precinct, process payment and timesheets for tally boards, and complete all necessary employment paperwork to keep hand tally boards full of qualified people from each of the major political parties as well as people registered as no party preference throughout the process. For a person to qualify as a tally board member, they will have to pass a background check, complete Mohave County's New Employee Orientation, and be registered to vote in Arizona. Estimated annual salary including benefits for this position will be approximately \$75,000.

Staff calculates that a minimum of 245 people will be required as hand tally members for the 2024 General Election. This will be the number of people needed if every person recruited participated in the process every day. This will not be the case. Therefore, it is estimated that at least twice the number of people needed will have to be recruited, hired, and trained to do the hand tallies. Training the core people as well as alternates will be a time consuming and expensive venture. Training will have to occur on a regular basis because new people will be coming in and out of the groups. The time to train the talliers on each person's first day will delay the counting process.

This training will entail, amongst other things, how to determine **voter's intent**. Voter's intent means to determine what the voter intended to select when they make an unclear, imperfect, or unorthodox mark on the ballot. Three people from each group will have to determine the voter's intent. This is not unlike the current process when ballots are tabulated on voting tabulation equipment and these same discrepancies occur. Currently, groups of three trained election staff members determine voter intent. They acquire expertise because the same three people work together in a group every day to determine the voter intent on every ballot out-stacked by the tabulation machine. Tabulation machines out-stack ballots when an inconsistency of a voter's mark is recognized. The out-stacking requires trained election staff members to review each of the out-stacked ballots and adjudicate voter's intent. The consistency will be very different when approximately one hundred people are interpreting voter intent during a hand count. See Exhibit A, Adjudication / Duplication – Voter Intent Examples.

Two (2) additional Early Board part-time staff will be required to sort ballots by precinct for all three (3) elections and, additionally, by party for the Primary and PPE, during the ballot tally process.

[Approximately \$14 per hour times 2 people times 75 days (20 days prior to all 3 elections and 5 days for late early ballots for all 3 elections) times 8 hours per day per person. Total Cost: \$16,800.]

Six (6) additional part-time staff members will be required to supervise the tally process as well as accumulate daily tallies. The accumulated tallies will have to be validated for accuracy before being sent to full-time election staff to prepare and transmit to the Secretary of State's Office.

[Approximately \$14 per hour times 6 people times 45 days (13 days after both the Primary and PPE and 19 days after the General) times 8 hours per day per person. Total Cost: \$30,240.]

Tally Board Members:

Staff does not foresee that a substantial and equal number of people from the major political parties will volunteer to count the ballots. It is unlikely to find the large number of people who have the time and dedication to voluntarily commit to the substantial time needed to complete this process. In fact, it will be challenging to find the total number of people who are willing to be compensated for the hand tallying. Given that money would be a motivating factor to find people willing to perform this work, staff recommends compensating the tally board members.

To assure accuracy and consistency of the tally process the same core group of people will have to commit the time necessary from start to finish. Using people who can only commit part-time will slow down the tallying process and will result in greater tallying errors. In addition, volunteers/workers will have to be of equal numbers from each of the major political parties in Mohave County.

One option is hiring hundreds of people through a temporary agency, at over \$20.00 per hour, assuming the temporary staffing services would be able to fill the county's needs.

A second option is to coordinate with Mohave County Human Resources Department to fill positions for a short time each election year. All people hired will have to be hired as temporary employees of the County. This group of people will have to meet all requirements for the position and must be able to pass background checks costing the County \$50.00 per person. The Human Resource Department will have to dedicate a staff member to help fill these positions. Recruiting for these positions will be required throughout 2024. Some people hired for one election may not return for other elections, requiring a continuous hiring process to keep positions filled.

It takes current Mohave County Elections staff the entire year before an election to recruit up to 400 people to work at the voting polls for only one day. There is a large turnover, approximately one-third, between General Election years requiring the department to continuously recruit new poll workers. Even with these efforts, it is common for a poll site to be understaffed. Although it is helpful for political parties to assist in recruiting poll workers a very small percentage of poll worker positions are filled in this manner. It takes all the efforts of a full-time Elections staff member, with the help of part time election staff members, to recruit the poll workers needed for a General Election cycle. Therefore, current full-time staff members are unable to recruit and hire hand tally board members.

Once identified and hired, Mohave County Elections Department must train these new tally workers. The training must take place prior to the elections and will be an added employee cost. The new tally workers must commit the time (and travel) to attend and participate in the training.

Security Guards:

A minimum of two (2) security guards are needed to be present at the Fairgrounds at all times while hand tallying is taking place. An additional security guard will be needed to transport ballots back and forth between the Fairgrounds and the Elections Department.

[Approximately \$26 per hour times 3 guards times 45 days (13 days after both the Primary and PPE and 19 days after the General) times 8 hours per day per guard. Total Cost: \$28,080.]

Transportation will be needed to transport personnel and ballots to and from the Fairgrounds. Approximately \$1,500.

Hand Tally Board Salary Cost for General Election

Starting the tally the day after the election:

Estimate for one 7-person tally board to tally 105,000 ballots

105,000 ballots times 3 minutes per ballot = 315,000 minutes

315,000 minutes divided by 60 min per hour = 5250 hours

5250 hours divided by 8 hours per day = 657 days

Estimate of number of groups and number of people required to tally ballots before the General Election canvass deadline, and salary calculation:

657 days divided by 19 days allowed for tallying = 35 groups

35 groups times 7 people per group = 245 people

245 people times \$14 per hour times 8 hours per day times 19 days = \$521,360

Hand Tally Board Salary Cost for Primary Election

Starting the tally the day after the election:

Estimate for one 7-person tally board to tally 50,000 ballots (estimate of 2024 ballots to be cast)

50,000 ballots times 3 minutes per ballot = 150,000 minutes

150,000 minutes divided by 60 min per hour = 2,500 hours

2,500 hours divided by 8 hours per day = 313 days

Estimate of number of groups and number of people required to tally ballots before the Primary Election canvass deadline, and salary calculation:

313 days divided by 13 days allowed for tallying = 25 groups

25 groups times 7 people per group = 175 people

175 people times \$14 per hour times 8 hours per day times 13 days = \$254,800

Whether talliers begin counting ballots as soon as they are received from the Recorder, approximately one week after Early voting begins, or whether tallying begins the day after the election, staff estimates that ballot tallier cost will be approximately the same amount. Total per person hours will be the same.

Hand Tally Board for Presidential Preference Election

If both the Republican and Democratic parties participate in the 2024 Presidential Preference Election, staff estimates that there would be approximately 40,000 ballots cast. The cost to tally these ballots would be much less than the cost to tally the ballots for either the Primary or General Election. The cost is lower because only one race per party is tallied versus the 30 or more races that will be tallied for the Primary Election and General Election. There is no comparison of the processes needed to tally the Presidential Preference Election versus the Primary and General Election. Therefore, we will not submit a cost estimate for hand tally board members for the Presidential Preference Election.

Automatic Recounts

Recent legislative changes prior to the 2022 General election cycle have made it much more likely that recounts of races will occur. [A.R.S. §16-661].

If a recount is ordered by the court every ballot will have to be retallied for all races so ordered by the court.

For the General Election recount, thirty-five (35) people will be hired as recount hand talliers. Seven (7) people are required for each tally board. To retally 105,000 ballots it will take 210 hours at 500 ballots per hour for one group to complete the recount within five days.

[Approximately \$14 per hour times 35 people times 5 days times 8 hours per day per person. Total Cost: \$19,600.]

For the Primary Election recount, twenty-one (21) people will be hired as recount hand talliers. Seven (7) people are required for each tally board. To retally 50,000 ballots it will take 100 hours at 500 ballots per hour for one group to complete the recount within five days.

[Approximately \$14 per hour times 21 people times 5 days times 8 hours per day per person. Total Cost: \$11,760.]

The current Elections staff, consisting of four (4) people, using the ballot tabulators could recount all ballots for the General Election in four days incurring de minimis expense to the County.

Estimate of Additional Cost for all Three Elections

Fairgrounds Camera/Security System Installation Cost	\$100,000
New Full-time Elections Staff Member	\$75,000
Three Security Guards	\$28,080

Six Part-time Elections Staff Members at Tally Site	\$30,240
Two Additional Early Board Part-time Elections Staff Members	\$16,800
Hand Tally Board Members General Election	\$521,360
Hand Tally Board Members Primary Election	\$254,800
Board Members Presidential Preference Election	Not calculated
Background Checks - Approximately \$50 per check (500)	\$25,000
Write-In Boards General Election (3 persons per boards [\$16-531])	\$38,304
Write-In Boards Primary Election (3 persons per boards [\$16-531])	\$17,402
Transportation for ballots and personnel	\$1,500
Total Additional Estimated Cost to Hand Tally Three 2024 Elections	\$1,108,486

Estimate of Recount Cost if Required

Recount General Election	\$19,600
Recount Primary Election	\$11,760

These are the costs that are identified at this time. Other costs may be identified as the process proceeds.

CONCLUSION:

To successfully hand count the 2024 Primary and General Elections, the following additional steps must take place:

1. Hire new full and part-time staff necessary to recruit, observe, and train tally workers;
2. Recruit and hire a minimum of 245 tally workers to count ballots;
3. Recruit and hire a minimum of 30 people for Write-in board members for the Primary and General Elections;
4. Recruit and hire a minimum of 56 people for Recount board members for Primary and General Elections.
5. Prepare and secure the Mohave County Fairgrounds for the counting of ballots;
6. Secure the vehicles necessary to transport ballots between the Fairgrounds and the Elections Department;
7. Acquire a minimum of three security guards to ensure the security of the election;
8. Train tally workers prior to each election;
9. Procure video equipment to be used during the counting of ballots; and
10. Allocate approximately \$1,108,486, plus recount cost \$31,360 as outlined above to conduct the hand counts.

ADJUDICATION / DUPLICATION - VOTER INTENT EXAMPLES					= Vote Given
EXAMPLE 1 ● CANDIDATE 1 ○ CANDIDATE 2 ○ _____	EXAMPLE 2 ○ CANDIDATE 1 ● CANDIDATE 2 ○ _____	EXAMPLE 3 ● CANDIDATE 1 ● CANDIDATE 2 ○ _____	EXAMPLE 4 ○ CANDIDATE 1 ○ CANDIDATE 2 ○ _____	EXAMPLE 5 ● CANDIDATE 1 ● CANDIDATE 2 ○ _____	
EXAMPLE 6 ● CANDIDATE 1 ● CANDIDATE 2 ○ _____	EXAMPLE 7 ● CANDIDATE 1 ✕ CANDIDATE 2 ○ _____	EXAMPLE 8 ● CANDIDATE 1 ✕ CANDIDATE 2 ○ <i>Voter's Initials</i>	EXAMPLE 9 ● CANDIDATE 1 ● CANDIDATE 2 ● Eligible Write-In	EXAMPLE 10 ● XXXXX ● CANDIDATE 2 ○ _____	
EXAMPLE 11 ● <i>This one</i> CANDIDATE 1 ● CANDIDATE 2 ○ _____	EXAMPLE 12 ● CANDIDATE 1 ● CANDIDATE 2 ○ <i>Mistake</i>	EXAMPLE 13 ● CANDIDATE 1 ✕ CANDIDATE 2 ○ _____	EXAMPLE 14 ○ CANDIDATE 1 ○ CANDIDATE 2 ○ _____	EXAMPLE 15 ● <i>Wavy</i> CANDIDATE 1 ● CANDIDATE 2 ○ _____	
EXAMPLE 16 ● CANDIDATE 1 ● CANDIDATE 2 ○ _____	EXAMPLE 17 ○ CANDIDATE 1 ● CANDIDATE 2 ○ _____	EXAMPLE 18 ○ CAND 1 (REP) ○ CAND 2 (DEM) ○ _____	EXAMPLE 19 ○ CAND 1 (REP) ○ CAND 2 (DEM) ○ _____	EXAMPLE 20 ● CANDIDATE 1 ○ CANDIDATE 2 ● Candidate 1 - Write-In	

ADJUDICATION / DUPLICATION - VOTER INTENT EXAMPLES				
CANNOT DETERMINE ● CANDIDATE 1 ● CANDIDATE 2 ○ _____	CANNOT DETERMINE ● CANDIDATE 1 ○ CANDIDATE 2 ● Eligible Write-In	CANNOT DETERMINE ○ CANDIDATE 1 ○ CANDIDATE 2 ○ _____	CANNOT DETERMINE ✓ CANDIDATE 1 ○ CANDIDATE 2 ✕ Eligible Write-In	CANNOT DETERMINE ● CANDIDATE 1 ✕ CANDIDATE 2 ○ _____
CANNOT DETERMINE ○ CANDIDATE 1 ○ CANDIDATE 2 ● Ineligible Write-In	CANNOT DETERMINE ● CANDIDATE 1 ○ CANDIDATE 2 ● Ineligible Write-In	CANNOT DETERMINE ○ CANDIDATE 1 ○ CANDIDATE 2 ● Misspelled eligible Write-in	CANNOT DETERMINE ● CANDIDATE 1 ○ CANDIDATE 2 ● Misspelled eligible Write-in	CANNOT DETERMINE VOTER MARKED AN "X" OVER ENTIRE BALLOT INK MAY HAVE HIT A TARGET... ADJ/DUP ZERO VOTES

Exhibit A