

July 1, 2024

From: Saints of Almighty God and the People of Arizona
P.O. Box 1925
Litchfield Park, AZ 85340-9998

Message from Daniel Wood regarding election machines:
<https://www.facebook.com/share/v/PfsN5E77JajuysDC/?mibextid=WC7FNe>

Re: Letter from Adrain Fontes to Navajo County Board of Supervisors, dated May 23, 2024, Re: Legality of the Hand Tabulation of Ballots and Expanding the Hand Count Audit.

Dear Mr. Fontes,

You wrote, addressing the Navajo County Board of Supervisors:

“Dear Supervisors:

Recently, so called voter-integrity groups appeared at your Board of Supervisor meeting to advocate for the abandonment of electronic voting equipment. I write today to express my concerns regarding any plan that fails to adhere to federal and state law as well as Election Procedures Manual requirements.”

Mr. Fontes, you immediately cast an intentional shadow of doubt over the motivation and character of those who came to the Navajo County Board of Supervisors to encourage the BOS to think about election options. You say- “So called voter-integrity groups” Why is it necessary for you, in your Secretary of State position, to openly belittle a group of People who have strongly held beliefs that conflict with your own **opinions**?

Both the Arizona Declaration of Rights, Article 2, and the United States Constitution Amendment 1, state that the People, those who are responsible for maintaining a republican form of government, may write and speak on **anything** that concerns them. Please see: United States Constitution, Amendment 1; Arizona Constitution, Article 2, sections 1, 2, 3, 12, 13, 21, 32, 33. All of these citations speak to the inherent rights of the People to speak, remonstrate, instruct, or otherwise require the People’s wishes to be, not only heard, but acted upon.

The People have repeatedly expressed a complete lack of confidence or faith in the use of election machines- those machines you now adamantly, though incorrectly, defend. You also indicate, as your excuse for this behavior, that you are hiding behind federal and state law. The Election Procedures Manual is neither federal nor state law and must therefore have no impact on your proposed discussion.

You indicate that you have four concerns:

“**First**, the Help America Vote Act of 2002 (HAVA) requires a state plan and certification of compliance with applicable laws and requirements. The voting systems that a state adopts and uses under HAVA allow votes to be cast and counted, among other things, by those systems.”

Your first problem highlights the People’s first problem, which you helpfully bring to our attention- The Help America Vote Act of 2002 (HAVA). Perhaps you are unaware that, in Amendment X of the United States Constitution, we find the following: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or

to the people.” One of the rights reserved to the states is that of elections. United States Constitution Amendment IX also states: “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others **retained by the people.**” [Emphasis added]

The Congress of the United States, in creating and passing the HAVA, overstepped their constitutional boundaries and stepped into that territory which belongs to only the states and to the People. Therefore Mr. Fontes, you are not bound to obey unconstitutional federal law.

The Arizona Constitution verifies this in Article 2 Section 3 which states:

“Supreme law of the land; **authority to exercise sovereign authority against federal action**; use of government personnel and financial resources.

- A. The Constitution of the United States is the supreme law of the land to which all government, state and federal, is subject.
- B. **To protect the people's freedom and to preserve the checks and balances of the United States Constitution**, this state may exercise its sovereign authority to **restrict the actions of its personnel and the use of its financial resources to purposes that are consistent with the constitution** by doing any of the following:
 1. Passing an initiative or referendum pursuant to Article IV, Part 1, Section 1.
 2. Passing a bill pursuant to Article IV, Part 2 and Article V, Section 7.
 3. Pursuing any other available legal remedy.
- C. If the people or their representatives exercise their authority pursuant to this section, **this state and all political subdivisions of this state are prohibited from using any personnel or financial resources to enforce, administer or cooperate with the designated federal action or program.**” [Emphasis Added]

Please understand that this clearly states you, not only may, but must, refuse any federal action that interferes with the rights of the states and especially the rights of the People! Again, part C states: **this state and all political subdivisions of this state are prohibited from using any personnel or financial resources to enforce, administer or cooperate with the designated federal action or program.**” [Emphasis Added]

Charles Weisman's, Maxims of Law, #71j. “The welfare of the people is the supreme law. *McInerney v. Ervin*, (Fla.) 46 So.2d 458, 463; Bacon, *Max. reg.* 12; 13 *Coke*, 139

You, Mr. Fontes, would have the Navajo BOS believe that you have the best interest of the People as your guiding motive; but, that has been proven wrong by your own words found in your own letter.

Based on unconstitutional mandates, HAVA coming down from the federal government, the Arizona legislature inappropriately, and unconstitutionally, implemented unlawful state statutes found in A.R.S. Title 16, addressing various aspects of elections. A great deal of money was bound up in this wrong decision.

Charles Weisman's, Maxims of Law, #105a. One wrong does not justify another. Broom, *Max.* 395. A wrong does not excuse a wrong. 11 *Exch.* 822; Branch, *Prine.*

Based on the wrong HAVA and the wrong Title 16 Arizona statutes, you are not required to adhere

to, as you state: "a state plan and certification of compliance with applicable laws and requirements. The voting systems that a state adopts and uses under HAVA allow votes to be cast and counted, among other things, by those systems."

You, Mr. Fontes, also attempt to indicate that these unlawful, unconstitutional systems: "enabled all jurisdictions in Arizona to quickly and accurately count voters' ballots and provide election results in a timely and efficient manner." This is, of course, a patently incorrect and misguided statement. There is no fact, only fiction, in your comment. Maricopa County and the state of Arizona in general, have become the laughingstock of the United States. Weeks after the election, we still did not have "timely and efficient" election results.

You, Mr. Fontes, make an inaccurate claim: "[I]f greater speed in reporting election results is the goal, changing to solely a hand count would not be taking us in the right direction." You also indicate something little known to the population at large. States that complied with the HAVA, received federal money for their compliance. The following totals are obtained from the federal government's own HAVA site:

Arizona 2003-2020

Year/Grant	Federal Funding
Total Section 101 Funds Awarded:	\$5,451,369
Total Section 102 Funds Awarded:	\$1,564,188
Total Section 251 Funds Awarded:	\$45,516,688
Total Election Security Funds Awarded:	\$15,860,974
Total CARES Funds Awarded:	\$7,874,848
Total Federal Funds Awarded:	\$76,268,067 [Emphasis added]

Your second stated concern: "Second, even prior to HAVA, Arizona had a history of secure and efficient vote tabulation due to our own state laws and the Election Procedures Manual, which was bolstered by the new federal requirements and funding."

You, Mr. Fontes, wishing to deflect attention away from the dismal failure of the election system, persist in saying the "elections are secure and accurate." You mention the "logic and accuracy" testing as if that ought to give the People confidence in the failing system. What you fail to share is that this testing is not done on **all** machines but simply a **few** which may or may not be used among the many during an election. You also fail to mention that there are A.R.S. Title 16 statutes which are routinely and conveniently overlooked based on a technicality from the HAVA.

A.R.S. § 16-442 clearly states that machines must be tested and certified by an accredited, approved, laboratory. No such laboratory exists! Instead, the federal government has created their own "laboratory," the Election Assistance Commission, (EAC), that will purportedly test and certify the machines. How is that done at the state level? Every machine must be inspected and certified. Has that happened since 2018? The answer is a resounding, NO! Instead, the EAC has established "voluntary" guidelines for the states to follow. Following your example, Mr. Fontes, even the mainstream news purports to have more information than the People.

See: ***It's not true that zero voting machines will be certified before the next presidential election (msn.com)***

Federal law does not require voting machines to be certified in order for them to be used in elections. But voting machines can receive certification from the U.S. Election Assistance Commission, a federal agency created in 2002.

States decide the majority of election laws, including for the administration of presidential elections. Some require their voting machines be certified by the EAC, others do not.

To be certified by the EAC, machines have to meet a set of standards called the Voluntary Voting System Guidelines and be approved by special testing labs.

The problem, of course, is that there are no "special testing labs." Therefore, Mr. Fontes, you may not have it both ways. You either follow the statutes religiously or do not follow them at all. The statutes are clearly unconstitutional, as they are based on unconstitutional federal law; but that aside, you are not even adhering to these statutes. No machine may be certified, therefore, no machine may be used in an election.

A.R.S. § 16-442(B)- "Machines or devices used at any election for federal, state or county offices may only be certified for use in this state and may only be used in this state if they comply with the help America vote act of 2002 and **if those machines or devices have been tested and approved by a laboratory that is accredited pursuant to the help America vote act of 2002.**"

A.R.S. § 16-442(C)- "After consultation with the committee prescribed by subsection A of this section, the secretary of state shall adopt standards that specify the criteria for loss of certification for equipment that was used at any election for federal, state or county offices and that was previously certified for use in this state. **On loss of certification, machines or devices used at any election may not be used for any election for federal, state or county offices in this state unless recertified for use in this state.**"

A.R.S. § 16-442(F)- "The secretary of state or the governing body **may provide for the experimental use of a voting system or device without a final adoption of the voting system or device, and its use at the election is as valid as if the machines had been permanently adopted.**" [Emphasis added]

Your third stated concern: "Third, county boards of supervisors have only those powers "expressly conferred by statute," and the Board "may exercise no powers except those specifically granted by statute and in the manner fixed by statute." *Hancock v. McCarroll*, 188 Ariz. 492,498 (App. 1996) (quotations omitted)."

Hancock v. McCarroll, 188 Ariz. 492,498 (App. 1996)," also stated, "The board of supervisors' power to repeal its own ordinances has been limited by the legislature to **matters necessary to conducting county business.**

A.R.S. section 11-251.05(A)(1) provides:

A. The board of supervisors may: 1. In the conduct of **county business**, adopt, amend and repeal all ordinances necessary or proper to carry out the duties, responsibilities and functions of the county which are not otherwise specifically limited by § 11-251 or any other law or in conflict with any rule or law of this state.[Emphasis added]

11-251. Powers of board- (1)(2)(3) The board of supervisors, under such limitations and restrictions as are prescribed by law, may:

1. Supervise the official conduct of all county officers and officers of all districts and other subdivisions of the county charged with assessing, collecting, safekeeping, managing or disbursing the public revenues, see that the officers faithfully perform their duties and direct prosecutions for delinquencies, and, when necessary, require the officers to renew their official bonds, make reports and present their books and accounts for inspection.
2. Divide the counties into districts or precincts as required by law, change the districts or precincts and create others as convenience requires.
3. Establish, abolish and change election precincts, appoint inspectors and judges of elections, canvass election returns, declare the result and issue certificates thereof.

The county Boards of Supervisors may contract with companies to accomplish the business of the county. Likewise, they may choose not to contract with companies of questionable value to the People of the county. The County Boards of Supervisors are not dependent upon statutes or an Election Manual for their guidance, but may rely upon the United States and Arizona Constitution for their **mandate** regarding elections. They may not lawfully certify elections for which they do not have absolute confidence in the count.

United States Constitution Article 1 Section 4 states:

“The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof;...” [Emphasis added]

United States Constitution Article 4 Section 4 states:

The United States shall guarantee to every State in this Union a **Republican Form of Government, and shall protect each of them against Invasion**; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic Violence.” [Emphasis added]

United States Constitution Article 6 clause 3 states:

“The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, **shall be bound by Oath or Affirmation, to support this Constitution**; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.” [Emphasis added]

Their oath of office requires the BOS in each county to uphold the Constitutions rather than unconstitutional and unlawful statutes.

The evidence within the Arizona Constitution overwhelmingly allows the People, thus the BOS, to determine whether to do a hand count or not.

Arizona Constitution Article 2 Section 2- Political Power; Purpose of Government

“**All political power is inherent in the people**, and governments derive their just powers from the consent of the governed, and are **established to protect and maintain individual rights.**” [Emphasis added]

Arizona Constitution Article 2 Section 12- Liberty of Conscience

"The liberty of conscience secured by the provisions of this constitution shall not be so construed as to excuse acts of licentiousness, or **justify practices inconsistent with the peace and safety of the state....**" [Emphasis added]

While the BOS is attempting to do what their hearts and conscience require, you, Mr. Fontes are acting licentiously. You are participating in practices which are "**inconsistent with the peace and safety of the state.**"

Arizona Constitution Article 2 Section 21- Free and Equal Elections

"All elections shall be **free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.**" [Emphasis added]

Again, Mr. Fontes, it is you, not the BOS who is interfering "**to prevent the free exercise of the right of suffrage.**"

Arizona Constitution Article 2 Section 32- Constitutional Provisions Mandatory

The provisions of this Constitution are mandatory, unless by express words they are declared to be otherwise.

Arizona Constitution Article 2 Section 33- Reservation of Rights

"The enumeration in this Constitution of certain rights shall not be construed to deny others retained by the people."

Now, Mr. Fontes, please see what the Arizona Constitution directly says about voting.

Arizona Constitution Article 7 Section 1- Method of Voting; Secrecy

"All elections **by the people** shall be by ballot, or by such other method as may be prescribed by law; Provided, that **secrecy in voting** shall be preserved." [Emphasis added]

Notice that the elections are to be "by the People." There must be secrecy in voting which is eliminated by the use of the machines.

Arizona Constitution Article 7 Section 7- Highest Number of Votes Received as Determinative of Person Elected

"In all elections **held by the people in this state**, the person, or persons, receiving the highest number of legal votes shall be declared elected." [Emphasis added]

Only a true hand count will yield a true count of the "highest number of legal votes."

Arizona Constitution Article 7 Section 11- General Elections; Date

"There shall be a general election of representatives in congress, and of state, county, and precinct officers on the **first Tuesday after the first Monday in November** of the first even numbered year after the year in which Arizona is admitted to statehood and biennially thereafter." [Emphasis added]

Mr. Fontes, the HAVA helped institute early voting and mail in ballots which are in direct opposition to the Arizona Constitution as well as:

A.R.S. § 16-206. Election day- (A)- A. The biennial primary election day on the first Tuesday in August in the year the general election is held and the biennial general election day on the first Tuesday after the first Monday in November of every even-numbered year are not legal holidays.

Arizona Constitution Article 7 Section 12- Registration and Other Laws

“There shall be enacted registration and other laws to **secure the purity of elections and guard against abuses of the elective franchise.**” [Emphasis added]

Mr. Fontes, will your machines “**secure the purity of elections and guard against abuses of the elective franchise.**” The People think they will not!

Arizona Constitution Article 20 Seventh (part b)-

“The state shall **never enact any law restricting or abridging the right of suffrage** on account of race, color, or previous condition of servitude.” [Emphasis added]

Now, Mr. Fontes, though the present administration would prefer to ignore the Arizona Constitution, there is the matter of territorial law which remains in effect.

Arizona Constitution Article 22 Section 1- Existing rights, Actions, Suits, Proceedings, Contracts, Claims, or Demands; Process

“No rights, actions, suits, proceedings, contracts, claims, or demands, existing at the time of the admission of this State into the Union, shall be affected by a change in the form of government, from Territorial to State, but all shall continue as if no change had taken place; and all process which may have been issued under the authority of the Territory of Arizona, previous to its admission into the Union, **shall be as valid as if issued in the name of the State.**” [Emphasis added]

Arizona Constitution Article 22 Section 2- Territorial Laws

“All laws of the Territory of Arizona now in force, not repugnant to this Constitution, shall remain in force as laws of the State of Arizona until they expire by their own limitations or are altered or repealed by law; Provided, that wherever the word Territory, meaning the Territory of Arizona, appears in said laws, the word State shall be substituted.” [Emphasis added]

Arizona Constitution Article 22 Section 14- Initiative

“Any law which may be enacted by the Legislature under this Constitution may be enacted by the people under the Initiative. Any law which may not be enacted by the Legislature under this Constitution shall not be enacted by the people.”

Mr. Fontes, the evidence is overwhelming. You have accepted the case law and statutes as your guiding principles while fully ignoring the requirements of your oath of office and the mandates of both the United States and Arizona Constitutions. Quoting from or citing statutes and case law findings does not negate or cancel the requirements of your oath to uphold the Constitutions of both the United States and the state of Arizona.

Your final stated concern states: “Finally, courts in Arizona have settled the law that counties may not expand the hand count audit beyond the statutory and regulatory limits as directed by A.R.S. § 16-602. Cochise County attempted such a feat following the 2022 Election. The

Court of Appeals shot down this **frivolous notion** in the case *Arizona All. for Retired Americans, Inc. v. Crosby*. 256 Ariz.297119, 18 (App. 2023)." [Empasis added]

In response to your "frivolous" accusations and warnings, first, the case you cite concerns a recount rather than an actual hand count after an election. Therefore, this case is not applicable in this setting.

In addition, you demonstrate your disdain for both the People and the Constitutions by your condescending and derogatory comments. The fact remains that the People may choose to exercise a hand count if that is the will of the People. The fact also remains that you may be found in opposition to the constitutions, thus in insurrection and treason if you do not withdraw your objections to a hand count.

The People are available to speak to you should you wish to pursue a discussion about the merits of a hand count.

Sincerely,

Saints of Almighty God and the People of Arizona

Mark Del Maestro
Roger Piccoli
Tom Anderson
Roger Hestath
Jerry Roberts
Dawn Mound
Earl W. Kline
William Lejorove
Benjamin Bouch
Patricia Haper
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