

1 Unless restricted by the context, the provisions of this
2 chapter ~~shall apply~~ applies to every general, primary and special
3 election in which candidates are nominated or elected or in which
4 voters pass upon any public question submitted to them, except that
5 the provisions hereof shall be construed to be operative in
6 municipal elections only in those instances in which they are made
7 expressly so applicable.

8 Unless the context clearly requires a different meaning, as
9 herein used:

10 "Voter" ~~shall mean~~ means any person who possesses the
11 statutory and Constitutional qualifications for voting;

12 "Independent" means any registered voter who declined to state
13 a preference for party affiliation on their voter registration or
14 who listed a party affiliation which is not qualified as a
15 political party as defined in section eight, article one of this
16 chapter.

17 "Election" ~~shall mean~~ means the procedures whereby the voters
18 of this state or any subdivision thereof elect persons to fill
19 public offices, or elect members of a Constitutional convention, or
20 vote on public questions;

21 "Any election" or "all elections" ~~shall include~~ includes every
22 general, primary or special election held in this state, or in any
23 of its subdivisions, for the purpose of nominating or electing
24 federal or state officers, or county, city, town or village

1 officers of any subdivision now existing or hereafter created, or
 2 for the purpose of electing members of a Constitutional convention,
 3 or for voting upon any public question submitted to the people of
 4 the state or any of the aforesaid subdivisions;

5 "Office" shall be construed to mean "public office" which
 6 shall include: (1) Any elective office provided for by the
 7 Constitution or laws of the United States or of this state to which
 8 a salary or other compensation attaches; and (2) membership in a
 9 Constitutional convention.

10 "Candidate" ~~shall mean~~ means any person to be voted for at an
 11 election;

12 "Public question" ~~shall mean~~ means any issue or proposition,
 13 now or hereafter required by the governing body of this state or
 14 any of its subdivisions to be submitted to the voters of the state
 15 or subdivision for decision at elections;

16 The term "minor" as used in article four, section one of the
 17 State Constitution and as used in this chapter ~~shall mean~~ means a
 18 person who has not become eighteen years of age.

19 **ARTICLE 4. VOTING MACHINES.**

20 **§3-4-18. Conducting voting machine elections generally; duties of**
 21 **election officials.**

22 (1) The election officers shall constantly and diligently
 23 maintain a watch in order to see that ~~no a person votes~~ does not
 24 vote more than once and to prevent any voter from occupying the

1 voting machine for more than three minutes.

2 (2) In primary elections before a voter is permitted to use
3 the voting machine, the election officer representing the party ~~to~~
4 of which the voter belongs shall adjust the machine so that the
5 voter will be able to vote only for the candidates who are seeking
6 nomination on the ticket of the party with which the voter is
7 affiliated,

8 ~~(3) If the machine is so constructed as to require adjustment~~
9 ~~after one person has voted before another person can vote, the~~
10 ~~election officers shall so adjust it after each person has voted.~~

11 ~~(4) The election officers shall issue to each voter when he~~
12 ~~signs the poll book a card or ticket numbered to correspond to the~~
13 ~~number on the poll book of such voter, and in the case of a unless~~
14 ~~the voter requests an alternative ballot of a political party which~~
15 ~~has determined such a voter may participate in its primary election~~
16 ~~voting. indicating the party affiliation of such voter, which~~
17 ~~numbered card or ticket shall be presented to the election officer~~
18 ~~in charge of the machine~~

19 **§3-4-19. "Independent" voting in primary elections.**

20 If at any primary elections nonpartisan candidates for office
21 and public questions are submitted to the voters and on which
22 candidates and questions persons registered as "independent" are
23 entitled to vote, as provided in section ~~eighteen~~ five(b)(3) of
24 article two of this chapter, the election officers shall adjust the

1 voting machines, if mechanically possible to do so, so that such
2 "independent" voters may vote only those portions of the voting
3 machine ballot relating to the nonpartisan candidates and the
4 public questions submitted, unless the voter requests an
5 alternative ballot of a political party which has determined such
6 a voter may participate in its primary election voting.

7 If the voting machines cannot be so adjusted for the
8 "independent" voters, then such "independent" voters, under the
9 close supervision of two commissioners of the election of different
10 political party affiliation, shall be permitted to use the voting
11 machines for voting only those parts of the ballot relating to such
12 nonpartisan candidates and public questions so submitted to the
13 voters, unless the voter requests an alternative ballot of a
14 political party which has determined such a voter may participate
15 in its primary election.

16 In lieu of using the voting machines, such "independent"
17 voters may request official printed ballots. ~~relating to such~~
18 ~~nonpartisan candidates and public questions. Such~~ These ballots,
19 when signed on the back by the poll clerks as in other elections,
20 shall be voted and folded by the "independent" voter and shall be
21 delivered to one of the election commissioners who shall secure
22 same in a sealed or locked container until canvassed and counted in
23 the same manner as provided for handling and recording absent voter
24 ballots as provided in the section next hereafter.

1 **ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.**

2 **§3-4A-9. Minimum requirements of electronic voting systems.**

3 An electronic voting system of particular make and design may
4 not be approved by the State Election Commission or be purchased,
5 leased or used by any county commission unless it meets the
6 following requirements:

7 (1) It secures or ensures the voter absolute secrecy in the
8 act of voting or, at the voter's election, provides for open
9 voting;

10 (2) It is constructed to ensure that ~~no~~ a person, except in
11 instances of open voting as provided in this section, ~~can~~ may not
12 see or know for whom any voter has voted or is voting;

13 (3) It permits each voter to vote at any election for all
14 persons and offices for whom and which he or she is lawfully
15 entitled to vote, whether or not the name of any person appears on
16 a ballot or ballot label as a candidate; and it permits each voter
17 to vote for as many persons for an office as he or she is lawfully
18 entitled to vote for; and to vote for or against any question upon
19 which he or she is lawfully entitled to vote. The automatic
20 tabulating equipment used in electronic voting systems is to reject
21 choices recorded on any ballot if the number of choices exceeds the
22 number to which a voter is entitled;

23 (4) It permits each voter to deposit, write in, affix upon a
24 ballot, card, envelope or other medium to be provided for that

1 purpose, ballots containing the names of persons for whom he or she
2 desires to vote whose names do not appear upon the ballots or
3 ballot labels;

4 (5) It permits each voter to change his or her vote for any
5 candidate and upon any question appearing upon the ballots or
6 ballot labels up to the time when his or her ballot is deposited in
7 the ballot box or his or her ballot is cast by electronic means;

8 (6) It contains a program deck consisting of cards that are
9 sequentially numbered or consisting of a computer program disk,
10 diskette, tape or other programming media containing sequentially
11 numbered program instructions and coded or otherwise protected from
12 tampering or substitution of the media or program instructions ~~by~~
13 of unauthorized persons and capable of tabulating all votes cast in
14 each election;

15 (7) It contains two standard validation test decks approved as
16 to form and testing capabilities by the State Election Commission;

17 (8) It correctly records and counts accurately all votes cast
18 ~~each~~ for the candidate and for and against each question appearing
19 upon the ballots or ballot labels;

20 (9) It permits each voter at any election other than primary
21 ~~elections~~ by one mark or punch to vote a straight party ticket, as
22 provided in section five, article six of this chapter;

23 (10) It permits each voter in primary elections to vote only
24 for the candidates of the party for which he or she is legally

1 permitted to vote and precludes him or her from voting for any
2 candidate seeking nomination by any other political party unless
3 that political party has determined such a voter may participate in
4 its primary election voting, permits him or her to vote for the
5 candidates, if any, for nonpartisan ~~nomination~~ nominations or
6 election and permits him or her to vote on public questions;

7 (11) It, where applicable, is provided with means for sealing
8 or electronically securing the vote recording device to prevent its
9 use and to prevent ~~tampering with ballot labels, both before the~~
10 ~~polls are open or before the~~ operation of the vote recording device
11 for an election is begun and immediately after the polls are closed
12 ~~at~~ after the operation of the vote recording device for an election
13 is completed;

14 (12) It has the capacity to contain the names of candidates
15 constituting the tickets of at least nine political parties and
16 accommodates the wording of at least fifteen questions;

17 (13) (A) Direct recording electronic voting machines must
18 generate a paper copy of each voter's ~~votes~~ vote that will be
19 automatically kept within a storage container, that is locked,
20 closely attached to the direct recording electronic voting machine,
21 and inaccessible to all but authorized voting officials, who will
22 handle such storage containers and such paper copies contained
23 therein in accordance with section nineteen of this article.

24 (B) The paper copy of the voter's vote shall be generated at

1 the time the voter is at the voting station using the direct
2 recording electronic voting machine.

3 (C) The voter may examine the paper copy visually or through
4 headphone readout, and may accept or reject the printed copy.

5 (D) The voter may not touch, handle or manipulate the printed
6 copy manually in any way.

7 (E) Once the printed copy of the voter's votes is accepted by
8 the voter as correctly reflecting the voter's intent, but not
9 before, it will automatically be stored for recounts or random
10 checks and the electronic vote will be cast within the computer
11 mechanism of the direct recording electronic voting machine.

12 (F) Direct recording electronic voting machines with a
13 mandatory paper copy shall be approved by the Secretary of State.
14 The Secretary of State may promulgate rules and emergency rules to
15 implement or enforce this subsection pursuant to the provisions of
16 section five, article three, chapter twenty-nine-a of this code.

17 (14) Where vote recording devices are used, they shall:

18 (A) Be durably constructed of material of good quality and in
19 a workmanlike manner and in a form which makes it safely
20 transportable;

21 (B) Be constructed with frames for the placing of ballot labels
22 that the labels upon which are printed the names of candidates and
23 their respective parties, titles of ~~offices~~ office and wording of
24 questions are reasonably protected from mutilation, disfigurement

1 or disarrangement or are constructed to ensure that the screens upon
2 which appear the names of the candidates and their respective
3 parties, titles of offices and wording of questions are reasonably
4 protected ~~any~~ from modification;

5 (C) Bear a number that will identify it or distinguish it from
6 any other machine;

7 (D) Be constructed to ensure that a voter may easily learn the
8 method of operating it and may expeditiously cast his or her vote
9 for all candidates of his or her choice and upon any public
10 question;

11 (E) Be accompanied by a mechanically or electronically operated
12 instruction model which shows the arrangement of ballot labels,
13 party columns or rows, and questions;

14 (F) For electronic voting systems that utilize a screen upon
15 which votes may be recorded by means of a stylus or by means of
16 touch: ~~be constructed to provide for the direct electronic
17 recording and tabulating of votes cast in a system specifically
18 designed and engineered for the election application;~~

19 (i) Be constructed to provide for the direct electronic
20 recording and tabulating of votes cast in a system specifically
21 designed and engineered for the election application;

22 ~~(G) For electronic voting systems that utilize a screen upon
23 which votes may be recorded by means of a stylus or by means of
24 touch,~~ (ii) Be constructed to prevent any voter from voting for more

1 than the allowable number of candidates for any office, to include
2 an audible or visual signal, or both, warning any voter who attempts
3 to vote for more than the allowable number of candidates for any
4 office or who attempts to cast his or her ballot prior to its
5 completion and are constructed to include a visual or audible
6 confirmation, or both, to the voter upon completion and casting of
7 the ballot;

8 ~~(H) For electronic voting systems that utilize a screen upon~~
9 ~~which votes may be recorded by means of a stylus or by means of~~
10 ~~touch,~~ (iii) Be constructed to present the entire ballot to the
11 voter, in a series of sequential pages, and to ensure that the voter
12 sees all of the ballot options on all pages before completing his
13 or her vote and to allow the voter to review and change all ballot
14 choices prior to completing and casting his or her ballot;

15 ~~(I) For electronic voting systems that utilize a screen upon~~
16 ~~which votes may be recorded by means of a stylus or by means of~~
17 ~~touch,~~ (iv) Be constructed to allow election commissioners to spoil
18 a ballot where a voter fails to properly cast his or her ballot, has
19 departed the polling place and cannot be recalled by a poll clerk
20 to complete his or her ballot;

21 ~~(J) For electronic voting systems that utilize a screen upon~~
22 ~~which votes may be recorded by means of a stylus or by means of~~
23 ~~touch,~~ (v) Be constructed to allow election commissioners, poll
24 clerks, or both, to designate, mark or otherwise record provisional

1 ballots;

2 ~~(K) For electronic voting systems that utilize a screen upon~~
3 ~~which votes may be recorded by means of a stylus or by means of~~

4 ~~touch,~~ (vi) Consist of devices which are independent, nonnetworked
5 voting systems in which each vote is recorded and retained within
6 each device's internal nonvolatile electronic memory and contain an
7 internal security, the absence of which prevents substitution of any
8 other device;

9 ~~(L) For electronic voting systems that utilize a screen upon~~
10 ~~which votes may be recorded by means of a stylus or by means of~~

11 ~~touch,~~ (vii) Store each vote in no fewer than three separate,
12 independent, nonvolatile electronic memory components and that each
13 device contains comprehensive diagnostics to ensure that failures
14 do not go undetected;

15 ~~(M) For electronic voting systems that utilize a screen upon~~
16 ~~which votes may be recorded by means of a stylus or by means of~~

17 ~~touch,~~ (viii) Contain a unique, embedded internal serial number for
18 auditing purposes for each device used to activate, retain and
19 record votes;

20 ~~(N) For electronic voting systems that utilize a screen upon~~
21 ~~which votes may be recorded by means of a stylus or by means of~~

22 ~~touch,~~ (ix) Be constructed to record all preelection, election and
23 post-election activities, including all ballot images and system
24 anomalies, in each device's internal electronic memory and are to

1 be accessible in electronic or printed form;

2 ~~(O) For electronic voting systems that utilize a screen upon~~
3 ~~which votes may be recorded by means of a stylus or by means of~~

4 ~~touch,~~ (x) Be constructed with a battery backup system in each
5 device to, at a minimum, prevent the loss of any votes, as well as
6 all preelection, election and post-election activities, including
7 all ballot images and system anomalies, stored in the device's
8 internal electronic memory and to allow voting to continue for two
9 hours of uninterrupted operation in case of an electrical power
10 failure; and

11 ~~(P) For electronic voting systems that utilize a screen upon~~
12 ~~which votes may be recorded by means of a stylus or by means of~~

13 ~~touch,~~ (xi) Be constructed to prevent the loss of any votes, as well
14 as all preelection, election and post-election activities, including
15 all ballot images and system anomalies, stored in each device's
16 internal electronic memory even in case of an electrical and battery
17 power failure.

18 **§3-4A-20. "Independent" voting in primary elections.**

19 If at any primary elections, nonpartisan candidates for office
20 and public questions are submitted to the voters on which persons
21 registered as "independent" are entitled to vote, as provided in
22 section ~~eighteen~~ five(b)(3), article two of this chapter, the
23 election officers shall provide a vote recording device, where
24 applicable, or the appropriate ballot to be marked by an

1 electronically sensible pen or ink, or by means of a stylus or by
2 means of touch, so that "independent" voters may vote only those
3 portions of the ballot relating to the nonpartisan candidates and
4 the public questions submitted, or shall provide a ballot containing
5 only provisions for voting for those candidates and upon those
6 issues submitted common to the ballots provided to all voters
7 regardless of political party affiliation, or both, unless the voter
8 requests an alternative ballot of a political party which has
9 determined such a voter may participate in its primary election.

10 In counties utilizing electronic voting systems in which votes
11 are recorded by perforating, if vote recording devices are not
12 available for the "independent" voters, provisions are to be made
13 for sealing the partisan section or sections of the ballot or ballot
14 labels on a vote recording device using temporary seals, thus
15 permitting the independent voter to vote for the nonpartisan section
16 or sections of the ballot or ballot labels, unless the voter
17 requests an alternative ballot of a political party which has
18 determined such a voter may participate in its primary election.
19 After the "independent" voter has voted, the temporary seals may be
20 removed and the device may then be used by partisan voters.

NOTE: The purpose of this bill is to bring older contradicting language still remaining in the code into conformity with current code sections and to reestablish a definition for "independent

voter" as the presently cited definition is no longer in the code.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.