

1 As used in this article, unless otherwise specified:

2 (1) "Automatic tabulating equipment" means all apparatus
3 necessary to electronically count votes recorded on ballots, ~~and~~
4 tabulate the results and produce necessary reports;

5 (2) "Ballot" means ~~an electronic image or paper on which votes~~
6 ~~may be recorded by means of perforating or marking with~~
7 ~~electronically sensible ink or pencil or a screen upon which votes~~
8 ~~may be recorded by means of a stylus or by means of touch~~ a logical
9 or physical device that presents races, candidates, and contests
10 and facilitates the capture of the voter's choices or intent;

11 (3) "Central counting center" means a facility equipped with
12 suitable and necessary automatic tabulating equipment, selected by
13 the county commission, for the electronic counting of votes
14 recorded on ballots;

15 (4) "Electronic poll book" means an electronic device
16 containing ~~the same~~ voter registration information ~~maintained by~~
17 ~~the county clerk in a printed poll book~~ for the purpose of
18 facilitating voting at the precinct.

19 (5) "Electronic voting system" is ~~a means of conducting an~~
20 ~~election whereby votes are recorded on ballots by means of an~~
21 ~~electronically sensible marking ink, by perforating or are recorded~~
22 ~~on equipment that registers votes on a computer disk, or by~~
23 ~~touching a screen with a stylus or by means of touch, and votes are~~

1 ~~subsequently counted by automatic tabulating equipment at the~~
 2 ~~central counting center~~ one or more integrated devices that utilize
 3 an electronic component for the following functions: Ballot
 4 presentation, vote capture, vote recording and tabulation;

5 (6) "Standard validation test deck" means a group of ballots
 6 wherein all voting possibilities which can occur in an election are
 7 represented; and

8 (7) "Vote-recording device" means equipment ~~in which ballots~~
 9 ~~are placed to allow a voter to record his or her vote by~~
 10 ~~electronically sensible ink, or pencil, or a screen upon which~~
 11 ~~votes may be recorded by means of a stylus or by means of touch~~
 12 that captures and records voter intent by marking a screen to
 13 record selections or by using electronically sensible ink to mark
 14 selections.

15 (8) "Voter verified paper audit trail" means a physical
 16 printout on which the voter's ballot choices, as registered by a
 17 direct recording device, are recorded. This shall be visible to the
 18 voter and shall be securely locked to avoid tampering.

19 **§3-4A-8. Approval of electronic voting system by State Election**
 20 **Commission; expenses; compensation of persons**
 21 **examining system.**

22 (a) Any person or corporation owning or interested in any
 23 electronic voting system may apply to the State Election Commission

1 so that the system may be examined and a report be made on its
2 accuracy, efficiency, capacity and safety. Upon the written
3 application of any vendor tendered to the Secretary of State or to
4 any clerks in his or her office in charge of receiving filings for
5 any purpose, the Secretary of State shall fix a date, time and
6 place, not more than thirty days after the receipt of the
7 application, for a meeting of the State Election Commission for
8 mutual consideration of the application. The Secretary of State
9 shall mail notice of the hearing by certified mail to each member
10 of the commission.

11 (b) The State Election Commission shall appoint two qualified
12 computer experts who are not members of the same political party to
13 examine the system and make full reports on the system to the
14 commission within ~~thirty~~ ninety days from the date the State
15 Election Commission approves the consideration of the application.
16 They shall state in the report whether the examined system complies
17 with the requirements of this article and the federal agency
18 responsible for certifying voting systems and can be safely used by
19 voters at elections under the conditions prescribed in this
20 article. If the report is in the affirmative on that question, the
21 commission may approve the system and adopt a system of its make
22 and design for use at elections as provided in this article:
23 *Provided*, That under no circumstances may a system be approved that

1 is not capable of accurately tabulating returns based upon all
2 possible combinations of voting patterns ~~including, but not limited~~
3 ~~to, crossover voting and in accordance with section five, article~~
4 ~~six of this chapter.~~ The vendor of the approved system shall
5 provide the State Election Commission with a report, due on January
6 1, of each even-numbered year, that outlines any problem that has
7 been experienced with the equipment by any jurisdiction in the
8 state or in any jurisdiction outside the state that uses the same
9 or a similar version of the equipment that has been certified for
10 use in this state.

11 (c) No electronic voting system may be used at any election
12 unless it has been approved under this section or its former
13 provisions and by the appropriate agency of the federal government
14 whose purpose is to review and issue a certificate of approval.
15 Each of the two qualified computer experts appointed by the
16 commission are entitled to reasonable compensation and expenses in
17 making the examination and report, to be paid in advance of the
18 examination required by subsection (b) of this section by the
19 person or corporation applying for the examination. This sum shall
20 be the sole compensation to be received by any expert for any work
21 performed pursuant to this section. The State Election Commission
22 shall determine the compensation at the time of approving the
23 application for certification.

1 **§3-4A-23. Persons prohibited about voting booths; penalties.**

2 Excepting election officials acting under authority of
3 sections nineteen, twenty ~~twenty-one~~ and twenty-two of this article
4 in the conduct of the election, and qualified persons assisting
5 voters pursuant to section twenty-two of this article, no person
6 other than the voter may be in, about or within five feet of the
7 voting booth during the time the voter is voting at any election.
8 While the voter is voting, no person may communicate with the voter
9 in any manner and the voter may not communicate with any other
10 person or persons. No person may enter a voting booth with any
11 recording or electronic device in order to record or interfere with
12 the voting process. Any conduct or action of an election official
13 about or around the voting booth while the voter is in the process
14 of voting, except as expressly provided in this article, is a
15 violation of this section. Any person violating the provisions of
16 this section is guilty of a misdemeanor and, upon conviction
17 thereof, shall be fined not more than \$1,000 or be sentenced to
18 imprisonment in ~~the county~~ jail for a period not more than twelve
19 months or, in the discretion of the court, shall be subject to both
20 such fine and imprisonment.

21 **§3-4A-27. Proceedings at the central counting center.**

22 (a) All proceedings at the central counting center are to be
23 under the supervision of the clerk of the county commission and are

1 to be conducted under circumstances which allow observation from a
2 designated area by all persons entitled to be present. The
3 proceedings shall take place in a room of sufficient size and
4 satisfactory arrangement to permit observation. Those persons
5 entitled to be present include all candidates whose names appear on
6 the ballots being counted or if a candidate is absent, a
7 representative of the candidate who presents a written
8 authorization signed by the candidate for the purpose and two
9 representatives of each political party on the ballot who are
10 chosen by the county executive committee chairperson. A reasonable
11 number of the general public is also freely admitted to the room.
12 In the event all members of the general public desiring admission
13 to the room cannot be admitted at one time, the county commission
14 shall provide for a periodic and convenient rotation of admission
15 to the room for observation, to the end that each member of the
16 general public desiring admission, during the proceedings at the
17 central counting center, is to be granted admission for reasonable
18 periods of time for observation: *Provided*, That no person except
19 those authorized for the purpose may touch any ballot ~~or ballot~~
20 ~~card~~ or other official records and papers utilized in the election
21 during observation.

22 (b) All persons who are engaged in processing and counting the
23 ballots are to work in teams consisting of two persons of opposite

1 political parties, and are to be deputized in writing and take an
2 oath that they will faithfully perform their assigned duties.
3 These deputies are to be issued an official badge or identification
4 card which is assigned an identity control number and the deputies
5 are to prominently wear on his or her outer garments the issued
6 badge or identification card. Upon completion of the deputies'
7 duties, the badges or identification cards are to be returned to
8 the county clerk.

9 (c) Ballots are to be handled and tabulated and the write-in
10 votes tallied according to procedures established by the Secretary
11 of State, subject to the following requirements:

12 (1) In systems using ballots marked with electronically
13 sensible ink, ballots are to be removed from the ballot boxes and
14 stacked for the tabulator which separates ballots containing marks
15 for a write-in position. Immediately after tabulation, the valid
16 write-in votes are to be tallied. No write-in vote may be counted
17 for an office unless the voter has entered the name of an official
18 write-in candidate for that office on the line provided; ~~either by~~
19 ~~writing, affixing a sticker or placing an ink-stamped impression~~
20 ~~thereon;~~

21 (2) In systems using ballots in which votes are recorded upon
22 screens with a stylus or by means of touch, the ~~personalized~~
23 ~~electronic~~ ballots are to be ~~removed from the containers and~~

1 ~~stacked for the tabulator~~ tabulated according to the processes of
2 the system. Systems using ballots in which votes are recorded upon
3 screens with a stylus or by means of touch are to tally write-in
4 ballots simultaneously with the other ballots;

5 (3) When more than one person is to be elected to an office
6 and the voter desires to cast write-in votes for more than one
7 official write-in candidate for that office, ~~a single punch or~~
8 ~~mark, as~~ the voter shall mark the location appropriate for the
9 voting system, in the write-in location for that office. ~~is~~
10 ~~sufficient for all write-in choices.~~ When there are multiple
11 write-in votes for the same office and the combination of choices
12 for candidates on the ballot and write-in choices for the same
13 office exceed the number of candidates to be elected, the ballot is
14 to be duplicated or hand counted, with all votes for that office
15 rejected;

16 (4) Write-in votes for nomination for any office and write-in
17 votes for any person other than an official write-in candidate are
18 to be disregarded;

19 (5) When a voter casts a straight ticket vote and also marks
20 the location for a write-in vote for an office, the straight ticket
21 vote for that office is to be rejected, whether or not a vote can
22 be counted for a write-in candidate; and

23 (6) Official write-in candidates are those who have filed a

1 write-in candidate's certificate of announcement and have been
2 certified according to the provisions of section four-a, article
3 six of this chapter.

4 (d) If any ballot ~~card~~ is damaged or defective so that it
5 cannot properly be counted by the automatic tabulating equipment,
6 a true duplicate copy is to be made of the damaged ballot ~~card~~ in
7 the presence of representatives of each political party on the
8 ballot and substituted for the damaged ballot ~~card~~. All duplicate
9 ~~ballot cards~~ ballots are to be clearly labeled "duplicate" and are
10 to bear a serial number which is recorded on the damaged or
11 defective ballot ~~card~~ and on the replacement ballot. ~~card~~.

12 (e) The returns printed by the automatic tabulating equipment
13 at the central counting center, to which have been added write-in
14 and other valid votes, are, when certified by the clerk of the
15 county commission, to constitute the ~~official~~ unofficial
16 preliminary returns of ~~each precinct or election district~~ the
17 county. ~~Further, all the returns are to be printed on a precinct~~
18 ~~basis. Periodically throughout and upon.~~ Upon completion of the
19 count, the returns are to be open to the public by posting a
20 summary of the returns as have been tabulated ~~precinct by precinct~~
21 at the central counting center. Upon completion of the canvass,
22 the returns are to be posted ~~in the same manner~~ as tabulated
23 precinct by precinct.

1 (f) If for any reason it becomes impracticable to count all or
2 a part of the ballots with tabulating equipment, the county
3 commission may direct that they be counted manually, following as
4 far as practicable the provisions governing the counting of paper
5 ballots.

6 (g) As soon as possible after the completion of the count, the
7 clerk of the county commission shall have the vote recording
8 devices properly boxed or securely covered and removed to a proper
9 and secure place of storage.

NOTE: The purpose of this bill is to update the article relating to electronic voting systems by updating and clarifying the definitions related to electronic voting systems; updating language related to approval of electronic voting systems; correcting internal references; and updating and clarifying language related to proceedings at the central counting center.

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