

House Bill 1256

By: Representatives Park of the 107th, Roberts of the 52nd, Holcomb of the 81st, Clark of the 108th, and Hugley of the 141st

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to
2 primaries and elections generally, so as to provide for uniform election equipment in this
3 state; to provide for definitions; to provide for voter privacy; to provide for ballot marking
4 devices and standards and procedures for such devices; to provide for testing of voting
5 equipment and software; to provide for audits of election results and procedures therefor; to
6 require the promulgation of certain rules and regulations by the State Election Board; to
7 provide for minimum requirements and form of information on electronic ballot markers; to
8 provide for access to ballot images; to provide for the time for certifying elections; to provide
9 for precertification audits; to provide for entitlement to and methods for recounts; to provide
10 for sanctions for certain election violations; to provide for conforming changes; to provide
11 for related matters; to provide for an effective date; to repeal conflicting laws; and for other
12 purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

14

15 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and
16 elections generally, is amended by revising paragraphs (2), (7.1), and (32.1) of Code
17 Section 21-2-2, relating to definitions, as follows:

18 "(2) 'Ballot marking device' means a pen, ~~pencil~~, or similar writing tool; or an electronic
19 device designed for use in marking paper ballots in a manner that is detected as a vote so
20 cast and then counted by ballot scanners."

21 "(7.1) 'Electronic ballot marker' means an electronic device that does not compute or
22 retain votes; may integrate components such as a ~~ballot scanner~~, printer, touch screen
23 monitor, audio output, and navigational keypad; and uses electronic technology to
24 independently and privately mark a paper ballot at the direction of an elector, interpret
25 ballot selections, communicate such interpretation for elector verification, and print an
26 elector verifiable paper ballot."

27 "(32.1) 'Scanning ballot' means a printed paper ballot designed to be marked by an
28 elector with a ballot marking device or electronic ballot marker or a blank sheet of paper
29 designed to be used in a ~~ballot marking device~~ or an electronic ballot marker, which is
30 then inserted for casting into a ballot scanner."

SECTION 2.

31

32 Said chapter is further amended by revising subsection (a) of Code Section 21-2-267, relating
33 to equipment, arrangement, and storage at polling places, as follows:

34 "(a) The governing authority of each county and municipality shall provide and the
35 superintendent shall cause all rooms used as polling places to be provided with suitable
36 heat and light and, in precincts in which ballots are used, with a sufficient number of voting
37 compartments or booths with proper supplies in which the electors may conveniently mark
38 their ballots, ~~with a curtain, screen, or door in the upper part of the front of each~~
39 ~~compartment or booth~~ so that in the marking thereof ~~they~~ their votes may be screened from

40 the observation of others. ~~A curtain, screen, or door shall not be required, however, for the~~
41 ~~self-contained units used as voting booths in which direct recording electronic (DRE)~~
42 ~~voting units or electronic ballot markers are located if such booths have been designed so~~
43 ~~as to ensure the privacy of the elector.~~ When practicable, every polling place shall consist
44 of a single room, every part of which is within the unobstructed view of those present
45 therein and shall be furnished with a guardrail or barrier closing the inner portion of such
46 room, which guardrail or barrier shall be so constructed and placed that only such persons
47 as are inside such rail or barrier can approach within six feet of the ballot box and voting
48 compartments, or booths, or voting machines, as the case may be. The ballot box and
49 voting compartments or booths shall be so arranged in the voting room within the enclosed
50 space as to be in full view of those persons in the room outside the guardrail or barrier.
51 The voting machine or machines shall be placed in the voting rooms within the enclosed
52 space so that, unless its construction shall otherwise require, the ballot labels on the face
53 of the machine can be plainly seen by the poll officers when the machine is not occupied
54 by an elector. In the case of direct recording electronic (DRE) voting units or electronic
55 ballot markers, the devices shall be arranged in such a manner as to ensure the privacy of
56 the elector while voting on such devices, to allow monitoring of the devices by the poll
57 officers and poll watchers while the polls are open, and to permit the public to observe the
58 voting without affecting the privacy of the electors as they vote."

59

SECTION 3.

60 Said chapter is further amended by revising subsection (a) of Code Section 21-2-300, relating
61 to provision of new voting equipment by state, uniform system for all elections to be
62 conducted with the use of scanning ballots marked by electronic ballot markers, pilot
63 programs, county responsibilities, education, and county and municipal contracts for
64 equipment, as follows:

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65 "(a)(1) The equipment used for casting and counting votes in county, state, and federal
66 elections shall be the same in each county in this state and shall be provided to each
67 county by the state, as determined by the Secretary of State.

68 (2) ~~As soon as possible, once such equipment is certified by the Secretary of State as safe~~
69 ~~and practicable for use~~ For elections conducted on and after May 1, 2024, all federal,
70 state, and county general primaries and general elections as well as runoff elections,
71 special primaries, and special elections in the State of Georgia shall be conducted with
72 the use of scanning ballots marked by ~~electronic ballot markers~~ hand by pen or other
73 writing instrument and tabulated by using ballot scanners for voting at the polls and for
74 absentee ballots cast in person, unless otherwise authorized by law; provided, however,
75 that electronic ballot markers shall be supplied for use as accessibility units for any
76 elector who requests to vote using such device. For elections conducted on and after
77 November 1, 2024, ~~such~~ electronic ballot markers shall produce paper ballots with
78 official votes which are marked with the elector's choices in a format readable by the
79 elector or the person legally providing assistance in voting to the elector.

80 (3) The state shall furnish a uniform system of electronic ballot markers and ballot
81 scanners for use in each county as soon as possible. ~~Such equipment~~ All voting system
82 equipment used in any election shall be certified by the United States Election Assistance
83 Commission prior to purchase, lease, or acquisition, including software and hardware
84 updates. At its own expense, the governing authority of a county may purchase, lease,
85 or otherwise acquire additional electronic ballot markers and ballot scanners of the type
86 furnished by the state, if the governing authority so desires. Additionally, at its own
87 expense, the governing authority of a municipality may choose to acquire its own
88 electronic ballot markers and ballot scanners by purchase, lease, or other procurement
89 process.

90 (4) Notwithstanding any provision of law to the contrary, the Secretary of State is
91 authorized to conduct pilot programs to test and evaluate the use of electronic ballot

92 markers and ballot scanners or related software and hardware in primaries and elections
93 in this state so long as such equipment or software is certified by the United States
94 Election Assistance Commission."

95 **SECTION 4.**

96 Said chapter is further amended by revising paragraph (5) of Code Section 21-2-365, relating
97 to requirements for use of optical scanning voting systems, as follows:

98 "(5) A ballot scanner shall preclude the counting of votes ~~for any candidate or upon any~~
99 ~~question for whom or upon which an elector is not entitled to vote; shall preclude the~~
100 ~~counting of votes~~ for more persons for any office than he or she is entitled to vote for; and
101 shall preclude the counting of votes for any candidate for the same office or upon any
102 question more than once;"

103 **SECTION 5.**

104 Said chapter is further amended by revising Code Section 21-2-367, relating to installation
105 of systems, number of systems, and good working order, as follows:

106 "21-2-367.

107 (a) When the use of optical scanning voting systems has been authorized in the manner
108 prescribed in this part, such optical scanning voting systems shall be installed, either
109 simultaneously or gradually, within the county or municipality.

110 (b)(1) In each precinct in which optical scanning voting systems are used in a state-wide
111 general election, the county election superintendent shall provide at least one voting
112 booth or enclosure for each 250 electors therein, or fraction thereof.

113 (2) For any other primary, election, or runoff, the county or municipal election
114 superintendent may provide a greater or lesser number of voting booths or enclosures if,
115 after a thorough consideration of the type of election, expected turnout, the number of
116 electors who have already voted by advance voting or absentee ballot, and other relevant

117 factors that inform the appropriate amount of equipment needed, such superintendent
118 determines that a different amount of equipment is needed or sufficient. Such
119 determination shall be subject to the provisions of Code Section 21-2-263.

120 ~~(c) Reserved.~~

121 ~~(d) The county or municipal governing authority, as appropriate, shall provide optical~~
122 ~~scanning voting systems in good working order and of sufficient capacity to accommodate~~
123 ~~the names of a reasonable number of candidates for all party offices and nominations and~~
124 ~~public offices which, under the provisions of existing laws and party rules, are likely to be~~
125 ~~voted for at any future primary or election."~~

126 **SECTION 6.**

127 Said chapter is further amended by revising subsections (a) and (b) of Code
128 Section 21-2-374, relating to proper programming, proper order, testing, and supplies, as
129 follows:

130 "(a) The superintendent of each county or municipality shall order the proper
131 programming, as provided by the Secretary of State, to be placed in each ballot scanner
132 used in any precinct or central tabulating location.

133 (b) On or before the third day preceding a primary or election, including special primaries,
134 special elections, and referendum elections, the superintendent shall have the ballot
135 scanners tested to ascertain that they will correctly count the votes cast for all offices and
136 on all questions. Public notice of the time and place of the test shall be made at least five
137 days prior thereto; provided, however, that, in the case of a runoff, the public notice shall
138 be made at least three days prior thereto. Representatives of political parties and bodies,
139 candidates, news media, and the public shall be permitted to observe such tests in a manner
140 that provides reasonable visual access to the testing and test documents so that observers
141 may determine if errors or irregularities are encountered. The test shall be conducted by
142 processing a preaudited group of ballots so marked as to record a predetermined number

143 of valid votes for each candidate and on each question and shall include for each office and
 144 each ballot style multiple ~~one or more~~ ballots which are improperly marked and ~~one or~~
 145 ~~more~~ multiple ballots for each ballot style which have votes in excess of the number
 146 allowed by law in order to test the ability of the ballot scanner to reject such votes. Each
 147 contest and ballot style shall be tested for accurate recording of undervotes. The ballot
 148 scanner shall not be approved for use in the election unless it produces an errorless count.
 149 If any error is detected, the cause therefor shall be ascertained and corrected; and an
 150 errorless count shall be made before the ballot scanner is approved. The superintendent
 151 shall cause the pretested ballot scanners to be placed at the various polling places to be
 152 used in the primary or election. The superintendent shall require that each ballot scanner
 153 be thoroughly tested and inspected prior to each primary and election in which it is used
 154 and shall keep such tested material as certification of an errorless count on each ballot
 155 scanner which shall be retained for 24 months and shall be subject to public inspection.
 156 In counties using central count ballot scanners, the same test shall be repeated immediately
 157 before the start of the official count of the ballots and at the conclusion of such count.
 158 Precinct ballot scanners shall produce a zero tape prior to any ballots being inserted on the
 159 day of any primary or election and at the start of absentee in-person voting."

160

SECTION 7.

161 Said chapter is further amended by revising subsection (c) of Code Section 21-2-375, relating
 162 to delivery of equipment to polling places, protection for equipment, and required
 163 accessories, as follows:

164 "(c) The superintendent shall at least one hour before the opening of the polls:

165 (1) Provide sufficient lighting to enable electors, while in the voting booth, to read the
 166 ballot, which lighting shall be suitable for the use of poll officers in examining the booth;
 167 and such lighting shall be in good working order before the opening of the polls;

- 168 (2) Prominently post directions for voting within the voting booth and post within the
169 enclosed space signs reminding electors to verify their ballot choices on ballot cards
170 created by electronic ballot markers prior to inserting the ~~scanning~~ ballot into the ballot
171 scanner and stating that sample ballots are available for review upon request; at least two
172 sample ballots in use for the primary or election shall be posted prominently outside the
173 enclosed space within the polling place and additional sample ballots shall be available
174 upon request;
- 175 (3) Ensure that the precinct count ballot scanner shall have a seal securing the memory
176 ~~pack~~ cards in use throughout the election day; such seal shall not be broken unless the
177 ballot scanner is replaced due to malfunction; and
- 178 (4) Provide such other materials and supplies as may be necessary or as may be required
179 by law."

180 **SECTION 8.**

181 Said chapter is further amended by revising subsection (b) of Code Section 21-2-377, relating
182 to custody and storage when not in use, as follows:

183 "(b) All ballot scanners, when not in use, shall be properly covered, secured, and stored in
184 a suitable place or places. No later than 90 days following the effective date of this Code
185 section, the State Election Board shall promulgate rules and regulations specifying the
186 security requirements for ballot scanners, including sealing and seal documentation
187 requirements, video monitoring, and chain of custody documentation."

188 **SECTION 9.**

189 Said chapter is further amended by revising Code Section 21-2-379.22, relating to
190 requirements for electronic ballot marking, as follows:

191 "21-2-379.22.

192 No electronic ballot marker shall be adopted or used in primaries or elections in this state
193 unless it shall, at the time of use or adoption, satisfy the following requirements:

194 (1) Provide facilities for marking ballots for all candidates and for all referendums or
195 questions for which the elector shall be entitled to vote in a primary or election;

196 (2) Permit each elector, in one operation, to mark a vote for presidential electors for all
197 the candidates of one party or body for the office of presidential elector;

198 (3) Permit each elector to mark votes, at any election, for any person and for any office
199 for whom and for which he or she is lawfully entitled to vote, whether or not the name
200 of such person or persons appears as a candidate for election; to mark votes for as many
201 persons for an office as he or she is entitled to vote for; and to mark votes for or against
202 any question upon which he or she is entitled to vote;

203 (4) Preclude the marking of votes for any candidate or upon any question for whom or
204 upon which an elector is not entitled to vote; preclude the marking of votes for more
205 persons for any office than the elector is entitled to vote for; and preclude the marking of
206 votes for any candidate for the same office or upon any question more than once;

207 (5) Permit voting in absolute secrecy so that no person can see or know any other
208 elector's votes, except when he or she has assisted the elector in voting, as prescribed by
209 law;

210 (6) Produce a paper ballot for which the official vote to be tabulated is marked with the
211 elector's choices in a format readable by the elector;

212 (7) Be constructed of good quality material in a neat and workmanlike manner;

213 (8) When properly operated, mark correctly and accurately every vote cast;

214 (9) Be so constructed that an elector may readily learn the method of operating it; and

215 (10) Be safely transportable."

216 **SECTION 10.**

217 Said chapter is further amended by revising Code Section 21-2-379.23, relating to
218 requirements for ballot display, role of Secretary of State, printed paper ballot controls during
219 recount, and name and designation of precinct on ballot, as follows:

220 "21-2-379.23.

221 (a) The ballot display information and appearance on an electronic ballot marker shall
222 conform as nearly as practicable to Code Sections 21-2-379.4 and 21-2-379.5.

223 (b) The form and arrangement of ballots and votes marked and printed by an electronic
224 ballot marker shall be prescribed by the Secretary of State and in strict compliance with the
225 provisions of this chapter.

226 (c) Notwithstanding any other law to the contrary, ballots marked and printed by an
227 electronic ballot marker shall, at a minimum, contain:

228 (1) The words 'OFFICIAL BALLOT';

229 (2) The name and date of the election;

230 (3) The titles of the respective offices for which the elector is eligible to vote;

231 (4) Words identifying the topic of proposed constitutional amendments or other
232 questions for which the elector is eligible to vote;

233 (5) The name of the candidate and, for partisan offices, indication of the candidate's
234 political party or political body affiliation, or the answer to the proposed constitutional
235 amendment or other question for which the elector intends to vote; and

236 (6) Clear indication that the elector has not marked a vote for any particular office,
237 constitutional amendment, or other question.

238 (d) The filled space adjacent to the candidate's name or question on a paper ballot marked
239 and printed by the electronic ballot marker shall constitute the official ballot vote and shall
240 be used for, and govern the result in, any recount conducted pursuant to Code Section
241 21-2-495 and any audit conducted pursuant to Code Section 21-2-498.

242 (e) Each ballot printed by an electronic ballot marker shall include the name and
 243 designation of the precinct at the top."

244 **SECTION 11.**

245 Said chapter is further amended by revising Code Section 21-2-379.24, relating to
 246 examination of electronic ballot markers, revocation of approval, penalty to vendors for
 247 inappropriate sale, improvements or changes to devices, prohibition on pecuniary interest,
 248 and limitation on public inspection, as follows:

249 "21-2-379.24.

250 (a) Any person or organization owning, manufacturing, or selling, or being interested in
 251 the manufacture or sale of, any electronic ballot marker may request that the Secretary of
 252 State examine the device. Any ten or more electors of this state may, at any time, request
 253 that the Secretary of State reexamine any such device previously examined and approved
 254 by him or her. Before any such examination or reexamination, the person, persons, or
 255 organization requesting such examination or reexamination shall specifically identify the
 256 concerns that are to be addressed and pay to the Secretary of State the reasonable expenses
 257 of such examination or reexamination, which shall not exceed \$5,000.00. The Secretary
 258 of State shall publish and maintain on his or her website the cost of such examination or
 259 reexamination. The Secretary of State ~~may, at any time, in his or her discretion,~~ shall
 260 reexamine any such device.

261 (b) The Secretary of State shall ~~thereupon~~ examine or reexamine such device and shall, no
 262 later than 60 days prior to the next primary or general election for state or federal office,
 263 make and file in his or her office a report, attested by his or her signature and the seal of
 264 his or her office, stating whether, in his or her opinion, the kind of device so examined can
 265 be safely, securely, and accurately, and legally used by electors at primaries and elections
 266 as provided in this chapter. If this report states that the device can be so used, the device
 267 shall be deemed approved, and devices of its kind may be adopted for use at primaries and

268 elections as provided in this chapter. The decision of the Secretary of State may be
269 appealed to the State Election Board within 7 days of the issuance of the Secretary of
270 State's report which shall review the request for examination or reexamination and the
271 Secretary of State's findings and supporting documentation and conduct a public hearing
272 within 21 days of the appeal.

273 (c) Any device that is not so approved shall not be used at any primary or election and if,
274 upon reexamination, a previously approved device appears to be no longer safe, secure, or
275 accurate, or legal for use by electors at primaries or elections as provided in this chapter
276 because of ~~an inability to~~ reasonable doubt of its ability to consistently, accurately, or
277 legally record votes, the approval of the same shall immediately be revoked by the
278 Secretary of State, and no such device shall thereafter be used or purchased for use in this
279 state.

280 (d) Any vendor who completes a sale of an electronic ballot marker that has not been
281 certified by the Secretary of State to a governmental body in this state shall be subject to
282 a penalty of \$100,000.00, payable to the State of Georgia, plus reimbursement of all costs
283 and expenses incurred by the governmental body in connection with the sale. The State
284 Election Board shall have the authority to impose such penalty upon a finding that such a
285 sale has occurred.

286 (e) When a device has been so approved, no improvement or change that does not impair
287 its accuracy, efficiency, or capacity shall render necessary a reexamination or reapproval
288 of such device, or of its kind so long as the change in the voting system has been certified
289 by the United States Election Assistance Commission.

290 (f) Neither the Secretary of State, nor any custodian, nor the governing authority of any
291 county or municipality or a member of such governing authority nor any other person
292 involved in the examination process shall have any pecuniary interest in any device or in
293 the manufacture or sale thereof.

294 (g) Documents or information that, if made public, would endanger the security of any
295 voting system used or being considered for use in this state, or any component thereof,
296 including, but not limited to, electronic ballot markers, DREs, ballot scanners, pollbooks,
297 and software or data bases used for voter registration, shall not be open for public
298 inspection except upon order of a court of competent jurisdiction."

299 **SECTION 12.**

300 Said chapter is further amended by revising Code Section 21-2-379.25, relating to
301 programming for ballot design and style, verification, appointment of custodians, role of
302 custodians, testing of electronic ballot marker, and public notice of testing, as follows:

303 "21-2-379.25.

304 (a) The superintendent of each county or municipality shall cause the proper ballot design
305 and style, as received in an election data base from the Secretary of State, to be
306 ~~programmed for~~ installed in each electronic ballot marker which is to be used in any
307 precinct within such county or municipality, shall cause each such device to be placed in
308 proper order for voting, and shall examine each device before it is sent to a polling place
309 for use in a primary or election, to verify that each device is properly recording votes and
310 producing proper ballots.

311 (b) The superintendent may appoint, with the approval of the county or municipal
312 governing authority, as appropriate, a custodian of the electronic ballot markers, and deputy
313 custodians as may be necessary, whose duty shall be to prepare the devices to be used in
314 the county or municipality at the primaries and elections to be held therein. Each custodian
315 and deputy custodian shall receive from the county or municipality such compensation as
316 shall be fixed by the governing authority of such county or municipality. Such custodian
317 shall, under the direction of the superintendent, have charge of and represent the
318 superintendent during the preparation of the devices as required by this chapter. The
319 custodian and deputy custodians shall serve at the pleasure of the superintendent and each

320 shall take an oath of office prepared by the Secretary of State before each primary or
321 election, which shall be filed with the superintendent.

322 (c) On or before the third day preceding a primary or election, including special primaries,
323 special elections, and referendum elections, the superintendent shall have each electronic
324 ballot marker tested to ascertain that it will correctly record the votes cast for all offices and
325 on all questions for each ballot style and produce a ballot reflecting such choices of the
326 elector in a manner that the State Election Board shall prescribe by rule or regulation within
327 60 days of the effective date of this Code section. Public notice of the time and place of
328 the test shall be made at least five days prior thereto; provided, however, that, in the case
329 of a runoff, the public notice shall be made at least three days prior thereto. The
330 superintendent of each county or municipality shall publish such notice on the homepage
331 of the county's or municipality's publicly accessible website associated with elections, if
332 the county or municipality maintains a publicly accessible website, and in a newspaper of
333 general circulation in the county or municipality and by posting in a prominent location in
334 the county or municipality. Such notice shall state the date, time, and place or places where
335 preparation and testing of the voting system components for use in the primary or election
336 will commence, that such preparation and testing shall continue from day to day until
337 complete, and that representatives of political parties and bodies, news media, and the
338 public shall be permitted to observe such tests in a manner that provides reasonable visual
339 access to ensure that errors and irregularities can be detected and observed by such persons.
340 The superintendent of the county or municipality shall also provide such notice to the
341 Secretary of State who shall publish on his or her website the information received from
342 superintendents stating the dates, times, and locations for preparation and testing of voting
343 system components. However, such representatives of political parties and bodies, news
344 media, and the public shall not in any manner interfere with the preparation and testing of
345 voting system components. The advertisement in the newspaper of general circulation

346 shall be prominently displayed, shall not be less than 30 square inches, and shall not be
347 placed in the section of the newspaper where legal notices appear."

348 **SECTION 13.**

349 Said chapter is further amended by revising subsection (e) of Code Section 21-2-413, relating
350 to conduct of voters, campaigners, and others at polling places generally, as follows:

351 "(e) No person shall use photographic or other electronic monitoring or recording devices,
352 cameras, or cellular telephones while such person is in a polling place while voting is
353 taking place; provided, however, that a poll manager, in his or her discretion, may allow
354 the use of photographic devices or cellular telephones in the polling place under such
355 conditions and limitations as the election superintendent finds appropriate, and provided,
356 further, that no photography shall be allowed of a ballot or the face of a voting machine or
357 DRE unit or electronic ballot marker while an elector is voting such ballot or machine or
358 DRE unit or using such electronic ballot marker, and no photography shall be allowed of
359 an electors list, electronic electors list, or the use of an electors list or electronic electors
360 list. This subsection shall not prohibit the use of photographic or other electronic
361 monitoring or recording devices, cameras, or cellular telephones by poll officials for
362 official purposes."

363 **SECTION 14.**

364 Said chapter is further amended by revising subsection (j.1) of Code Section 21-2-493,
365 relating to computation, canvassing, and tabulation of returns, investigation of discrepancies
366 in vote counts, recount procedure, pilot program for posting of digital images of scanned
367 paper ballots, certification of returns, and change in returns, as follows:

368 "(j.1)(1) The Secretary of State shall create a pilot program for the posting of digital
369 images of the scanned paper ballots created by the voting system.

370 (2) For primaries and elections conducted on or after May 1, 2024, the county election
371 superintendent shall provide public access to the voting system ballot images not less
372 than two days prior to the county election certification. The cost charged to the public
373 to obtain such images shall not exceed the cost of the media device on which the ballot
374 images are provided to the public."

375 **SECTION 15.**

376 Said chapter is further amended by revising subsections (a), (c), and (e) of Code
377 Section 21-2-495, relating to procedure for recount or recanvass of votes, losing candidate's
378 right to a recount, and rules and regulations, as follows:

379 "(a) In precincts where paper ballots or scanning ballots have been used, the superintendent
380 may, either of his or her own motion or upon petition of any candidate or political party,
381 and after a timely public meeting for consideration of the petition, order the a manual
382 recount of all the ballots for a particular precinct or precincts for one or more offices in
383 which it shall appear that a discrepancy or error, although not apparent on the face of the
384 returns, has been made. Such recount may be held at any time prior to the certification of
385 the consolidated returns by the superintendent and shall be conducted under the direction
386 of the superintendent. Before making such recount, the superintendent shall give notice
387 in writing to each candidate and to the county or municipal chairperson of each party or
388 body affected by the recount. Each such candidate may be present in person or by
389 representative, and each such party or body may send two representatives to be present at
390 such recount. If upon such recount, it shall appear that the original count by the poll
391 officers was incorrect, such returns and all papers being prepared by the superintendent
392 shall be corrected accordingly."

393 "(c)(1) Whenever the difference between the number of votes received by a candidate
394 who has been declared nominated for an office in a primary election or who has been
395 declared elected to an office in an election or who has been declared eligible for a run-off

396 primary or election and the number of votes received by any other candidate or
397 candidates not declared so nominated or elected or eligible for a runoff shall be not more
398 than one-half of 1 percent of the total votes which were cast for such office therein, any
399 such candidate or candidates receiving a sufficient number of votes so that the difference
400 between his or her vote and that of a candidate declared nominated, elected, or eligible
401 for a runoff is not more than one-half of 1 percent of the total votes cast, within a period
402 of two business days following the certification of the election results, shall have the right
403 to a manual recount of the votes cast, if such request is made in writing by the losing
404 candidate. If the office sought is a federal or state office voted upon by the electors of
405 more than one county, the request shall be made to the Secretary of State who shall direct
406 that the recount be performed in all counties in which electors voted for such office and
407 notify the superintendents of the several counties involved of the request. In all other
408 cases, the request shall be made to the superintendent. The superintendent or
409 superintendents shall order a recount of such votes to be made immediately. If, upon
410 such recount, it is determined that the original count was incorrect, the returns and all
411 papers prepared by the superintendent, the superintendents, or the Secretary of State shall
412 be corrected accordingly and the results recertified.

413 (2) Whenever the difference between the number of votes for approval or rejection of a
414 constitutional amendment or binding referendum question shall be not more than one-half
415 of 1 percent of the total votes which were cast on such amendment or question therein,
416 within a period of two business days following the certification of the election results, the
417 Constitutional Amendments Publication Board shall be authorized in its discretion to call
418 for a recount of the votes cast with regard to such amendment or question. In the case of
419 a constitutional amendment or state-wide referendum question or a question voted upon
420 by the electors of more than one county, the board shall direct the Secretary of State to
421 cause a manual recount to be performed with regard to such amendment or question in
422 all counties involved and notify the superintendents of the recount. In the case of

423 questions voted upon by the electors of only one county or municipality, the board shall
 424 direct the Secretary of State to cause a manual recount to be conducted by the county or
 425 municipality involved and the Secretary of State shall notify the superintendent involved
 426 of the recount. Upon notification, the superintendent or superintendents shall order a
 427 recount of such votes to be made immediately. If, upon such recount, it is determined
 428 that the original count was incorrect, the returns and all papers prepared by the
 429 superintendent, the superintendents, or the Secretary of State shall be corrected
 430 accordingly and the results recertified."

431 "(e) Not later than 90 days following the effective date of this Code section, the The State
 432 Election Board shall ~~be authorized to~~ promulgate rules, regulations, and procedures to
 433 implement and administer the provisions of this Code section."

434 **SECTION 16.**

435 Said chapter is further amended by revising Code Section 21-2-498, relating to recertification
 436 tabulation audits, as follows:

437 "21-2-498.

438 (a) As used in this Code section, the term:

439 (1) 'Incorrect outcome' means the winner of a contest or the answer to a proposed
 440 constitutional amendment or question would be different from the results found in a
 441 manual recount of paper official ballots.

442 (2) 'Risk limit' means the largest statistical probability that an incorrect outcome is not
 443 detected or corrected in a risk-limiting audit.

444 (3) 'Risk-limiting audit' means an audit protocol that makes use of statistical methods and
 445 is designed to limit to acceptable levels the risk of certifying a ~~preliminary~~ an election
 446 outcome that constitutes an incorrect outcome.

447 (b) For primaries and elections conducted on or after May 1, 2024, local ~~Local~~ election
 448 superintendents shall conduct precertification ~~tabulation or~~ risk-limiting audits ~~on one~~

449 ~~contest following any~~ at the direction of the Secretary of State for any federal or state
450 general primary, general primary runoff, general election, ~~special election~~, general election
451 runoff, special election runoff, primary, special primary, primary runoff, or special primary
452 runoff with federal or state-wide contests in accordance with requirements set forth by rule
453 or regulation of the State Election Board. Audits performed under this Code section shall
454 be conducted by manual inspection of random samples of the paper official ballots. Each
455 federal, state, or county contest in which the margin is equal to or less than 15 percent shall
456 be audited. County election superintendents or the Secretary of State may order additional
457 precertification audits in their discretion.

458 (c) In conducting each audit, the local election superintendents shall:

459 (1) Complete the audit prior to final certification of the contest using the official original
460 ballots cast by the electors;

461 (2) Ensure that all types of ballots are included in the audit, whether cast in person, by
462 absentee ballot, advance voting, provisional ballot, or otherwise;

463 (3) Provide a report of the unofficial final tabulated vote results for the contest to the
464 public prior to conducting the audit;

465 (4) Complete the audit in public view; ~~and~~

466 (5) Provide details of the audit to the public within 48 hours of completion; and

467 (6) Conduct a complete manual recount of any contests for which the postelection audit
468 indicates that the preliminary results determined incorrect outcomes.

469 (d) The State Election Board shall ~~be authorized to~~ promulgate rules, regulations, and
470 procedures to implement and administer the provisions of this Code section not later than
471 90 days following the effective date of this Code section. The procedures prescribed by
472 the State Election Board shall include security procedures to ensure that collection of
473 validly cast ballots is complete, accurate, and trustworthy throughout the audit and that
474 public observation permits adequate visual access to monitor the accuracy of the audit
475 process."

476 **SECTION 17.**

477 Said chapter is further amended by revising Code Section 21-2-580, relating to tampering
478 with, damaging, improper preparation of, or prevention of proper operation of voting
479 machines or electronic ballot markers or tabulating machines, as follows:

480 "21-2-580.

481 Any person who:

482 (1) Unlawfully accesses, opens, or tampers with, ~~or damages~~ any voting machine or
483 electronic ballot marker or tabulating machine or distributes any electronic software to
484 be used or being used at any primary or election without express written permission from
485 the Secretary of State;

486 (2) Willfully prepares a voting machine or an electronic ballot marker or tabulating
487 machine for use in a primary or election in improper order for voting or tabulation; or

488 (3) Prevents or attempts to prevent the correct operation of such electronic ballot marker
489 or tabulating machine or voting machine

490 shall be guilty of a felony."

491 **SECTION 18.**

492 Said chapter is further amended by revising Code Section 21-2-582, relating to tampering
493 with, damaging, or preventing of proper operation of direct recording electronic equipment
494 or electronic ballot marker or tabulating machine or device, as follows:

495 "21-2-582.

496 Any person who tampers with or damages any direct recording electronic (DRE)
497 equipment, electronic pollbook equipment, or electronic ballot marker or tabulating
498 machine or device to be used or being used at or in connection with any primary or election
499 or who prevents or attempts to prevent the correct operation of any ~~direct recording~~
500 ~~electronic (DRE)~~ such equipment ~~or electronic ballot marker or tabulating machine~~ or
501 device shall be guilty of a felony."

502 **SECTION 19.**

503 Said chapter is further amended by revising Code Section 21-2-587, relating to frauds by poll
504 officers, as follows:

505 "21-2-587.

506 Any poll officer who willfully:

507 (1) Makes a false return of the votes cast or audited at any primary or election;

508 (2) Deposits fraudulent ballots in the ballot box or certifies as correct a false return of
509 ballots or a postelection audit;

510 (3) Registers fraudulent votes upon any voting machine or certifies as correct a return
511 of fraudulent votes cast upon any voting machine;

512 (4) Makes any false entries in the electors list;

513 (5) Destroys or alters any ballot, voter's certificate, or electors list;

514 (6) Tamper with any voting machine, direct recording electronic (DRE) equipment,
515 electronic ballot marker, or tabulating machine or device;

516 (7) Prepares or files any false voter's certificate not prepared by or for an elector actually
517 voting at such primary or election; or

518 (8) Fails to return to the officials prescribed by this chapter, following any primary or
519 election, any keys of a voting machine; ballot box; general or duplicate return sheet; tally
520 paper; oaths of poll officers; affidavits of electors and others; record of assisted voters;
521 numbered list of voters; electors list; voter's certificate; spoiled and canceled ballots;
522 ballots deposited, written, or affixed in or upon a voting machine; DRE, electronic ballot
523 marker, or tabulating machine memory cards; or any certificate or any other paper or
524 record required to be returned under this chapter

525 shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment
526 for not less than one nor more than ten years or to pay a fine not to exceed \$100,000.00,
527 or both."

528 **SECTION 20.**

529 This Act shall become effective upon its approval by the Governor or upon its becoming law
530 without such approval.

531 **SECTION 21.**

532 All laws and parts of laws in conflict with this Act are repealed.