

The House Committee on Governmental Affairs offers the following substitute to SB 403:

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 that direct recording electronic voting systems shall not be used in primaries  
4 or elections in this state after January 1, 2024; to provide for definitions; to provide for ballot  
5 marking devices and standards and procedures for such devices; to provide for audits of  
6 election results and procedures therefor; to provide for the certification time for election  
7 results; to provide methods for recounts; to provide for conforming changes; to provide for  
8 related matters; to provide for an effective date; to repeal conflicting laws; and for other  
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

11 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and  
12 elections generally, is amended by revising paragraphs (2), (4.1), and (18) of Code  
13 Section 21-2-2, relating to definitions, and adding new paragraphs to read as follows:

14 "(3) 'Automatic tabulating equipment' means apparatus, including ballot scanning  
15 machines, that are utilized to ascertain the manner by which paper ballots have been  
16 marked by electors, whether by hand or by means of electronic ballot markers, and that  
17 count the votes marked on such ballots."

18 "(2) 'Ballot labels marking device' means the cards, paper, or other material placed on the  
19 front of a voting machine containing the names of offices and candidates and statements  
20 of questions to be voted on a pen, pencil, or similar writing tool, or an electronic device  
21 designed for use in marking paper ballots so that its elector readable and verifiable mark  
22 may be detected as a vote so cast and then counted by automatic tabulating equipment.

23 (2.1) 'Ballot scanner' means an electronic recording device which receives an elector's  
24 ballot and tabulates the votes on the ballot by its own devices; also known as a 'tabulating  
25 machine.'  
26

27 "(4.1) 'Direct recording electronic' or 'DRE' voting equipment means a computer driven  
 28 unit for casting and counting votes on which an elector touches a video screen or a button  
 29 adjacent to a video screen to cast his or her vote. Such term shall not encompass ballot  
 30 marking devices or electronic ballot markers."

31 "(7.1) 'Electronic ballot marker' means an electronic device that does not compute or  
 32 retain votes; may integrate components such as a ballot scanner, printer, touch screen  
 33 monitor, audio output, and a navigational keypad; and uses electronic technology to  
 34 independently and privately mark a paper ballot at the direction of an elector, interpret  
 35 ballot selections, communicate such interpretation for elector verification, and print an  
 36 elector-verifiable paper ballot."

37 "(18) 'Official ballot' means a ballot, whether paper, mechanical, or electronic, which is  
 38 furnished by the superintendent or governing authority in accordance with Code  
 39 Section 21-2-280, including ballots read by optical scanning tabulators human readable  
 40 marks or text that may be elector verified and counted as votes so cast by ballot scanners;  
 41 provided, however, that, after January 1, 2024, an official ballot shall only be a durable,  
 42 voter-verifiable and readable scanning ballot. An electronic image of a scanning ballot  
 43 shall not be considered an official ballot."

44 "(19.1) 'Optical scanning voting system' means a system employing paper ballots on  
 45 which electors cast votes with a ballot marking device or electronic ballot marker after  
 46 which votes are counted by automatic tabulating equipment."

47 "(28.1) 'Precinct ballot scanner' is a ballot scanner."

48 "(32.1) 'Scanning ballot' means a printed paper ballot designed to be marked by an  
 49 elector with a ballot marking device or electronic ballot marker or durable blank paper  
 50 designed to be used in a ballot marking device or electronic ballot marker, which is then  
 51 inserted for casting into a ballot scanner."

## 52 **SECTION 2.**

53 Said chapter is further amended by revising paragraph (15) of subsection (a) of Code  
 54 Section 21-2-50, relating to the powers and duties of the Secretary of State and prohibition  
 55 against serving in a fiduciary capacity, as follows:

56 "(15) To develop, program, build, and review ballots for use by counties and  
 57 municipalities on ~~direct recording electronic (DRE)~~ voting systems in use in the state."

## 58 **SECTION 3.**

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

61 "(a) The governing authority of each county and municipality shall provide and the  
 62 superintendent shall cause all rooms used as polling places to be provided with suitable  
 63 heat and light and, in precincts in which ballots are used, with a sufficient number of voting  
 64 compartments or booths with proper supplies in which the electors may conveniently mark  
 65 their ballots, with a curtain, screen, or door in the upper part of the front of each  
 66 compartment or booth so that in the marking thereof they may be screened from the  
 67 observation of others. A curtain, screen, or door shall not be required, however, for the  
 68 self-contained units used as voting booths in which direct recording electronic (DRE)  
 69 voting units or electronic ballot markers are located if such booths have been designed so  
 70 as to ensure the privacy of the elector. When practicable, every polling place shall consist  
 71 of a single room, every part of which is within the unobstructed view of those present  
 72 therein and shall be furnished with a guardrail or barrier closing the inner portion of such  
 73 room, which guardrail or barrier shall be so constructed and placed that only such persons  
 74 as are inside such rail or barrier can approach within six feet of the ballot box and voting  
 75 compartments, or booths, or voting machines, as the case may be. The ballot box and  
 76 voting compartments or booths shall be so arranged in the voting room within the enclosed  
 77 space as to be in full view of those persons in the room outside the guardrail or barrier.  
 78 The voting machine or machines shall be placed in the voting rooms within the enclosed  
 79 space so that, unless its construction shall otherwise require, the ballot labels on the face  
 80 of the machine can be plainly seen by the poll officers when the machine is not occupied  
 81 by an elector. In the case of direct recording electronic (DRE) voting units or electronic  
 82 ballot markers, the ~~units~~ devices shall be arranged in such a manner as to ensure the privacy  
 83 of the elector while voting on such ~~units~~ devices, to allow monitoring of the ~~units~~ devices  
 84 by the poll officers while the polls are open, and to permit the public to observe the voting  
 85 without affecting the privacy of the electors as they vote."

86 **SECTION 4.**

87 Said chapter is further amended by revising Code Section 21-2-293, relating to correction of  
 88 mistakes and omissions on ballots, as follows:

89 "21-2-293.

90 (a) If the election superintendent discovers that a mistake or omission has occurred in the  
 91 printing of official ballots or in the programming of the display of the official ballot on  
 92 DRE voting equipment or electronic ballot markers for any primary or election, the  
 93 superintendent is authorized on his or her own motion to take such steps as necessary to  
 94 correct such mistake or omission if the superintendent determines that such correction is  
 95 feasible and practicable under the circumstances; provided, however, that the

96 superintendent gives at least 24 hours notice to the Secretary of State and any affected  
 97 candidates of the mistake or omission prior to making such correction.  
 98 (b) When it is shown by affidavit that a mistake or omission has occurred in the printing  
 99 of official ballots or in the programming of the display of the official ballot on DRE voting  
 100 equipment or electronic ballot markers for any primary or election, the superior court of  
 101 the proper county may, upon the application of any elector of the county or municipality,  
 102 require the superintendent to correct the mistake or omission or to show cause why he or  
 103 she should not do so."

104 **SECTION 5.**

105 Said chapter is further amended by revising subsection (a) of Code Section 21-2-300, relating  
 106 to provision of new voting equipment by state, contingent upon appropriations, county  
 107 responsibilities, education, and county and municipal contracts for equipment, as follows:

108 ~~"(a)(1) The Provided that the General Assembly specifically appropriates funding to the~~  
 109 ~~Secretary of State to implement this subsection, the equipment used for casting and~~  
 110 ~~counting votes in county, state, and federal elections shall, by the July, 2004, primary~~  
 111 ~~election and afterwards, be the same in each county in this state and shall be provided to~~  
 112 ~~each county by the state, as determined by the Secretary of State. Notwithstanding any~~  
 113 ~~provision of law to the contrary, on and after January 1, 2024, only optical scanning~~  
 114 ~~voting system equipment shall be used in federal, state, and county primaries and~~  
 115 ~~elections in the State of Georgia.~~

116 (2) Not later than September 15, 2018, using selection criteria approved by the State  
 117 Election Board, the Secretary of State shall issue a competitive public solicitation to  
 118 select optical scanning voting system equipment and supporting services for use in  
 119 primaries and elections in each county in this state. Prior to conducting such solicitation,  
 120 the Secretary of State shall conduct public meetings and technical inquiries regarding  
 121 county requirements, cybersecurity considerations, and fraud prevention practices to be  
 122 included in such solicitation. A vendor selection shall be made, price and contract  
 123 negotiations shall be completed, and the selection shall be announced not later than  
 124 March 15, 2019.

125 (3) Provided that the General Assembly specifically appropriates funding to implement  
 126 this subsection by not later than July 1, 2019, the Secretary of State shall provide optical  
 127 scanning voting equipment to counties in Georgia for use in federal, state, and county  
 128 primaries and elections by not later than the 2020 presidential preference primary.

129 (4) Notwithstanding any provision of law to the contrary, the Secretary of State is  
 130 authorized to conduct pilot programs to test and evaluate the use of optical scanning  
 131 voting systems and voter-verifiable ballots in primaries and elections in this state."

132 **SECTION 6.**

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

135 ~~"(5) An optical scanning tabulator~~ A ballot scanner shall preclude the counting of votes  
136 for any candidate or upon any question for whom or upon which an elector is not entitled  
137 to vote; shall preclude the counting of votes for more persons for any office than he or  
138 she is entitled to vote for; and shall preclude the counting of votes for any candidate for  
139 the same office or upon any question more than once;".

140 **SECTION 7.**

141 Said chapter is further amended by revising subsection (a) of Code Section 21-2-369, relating  
142 to printing of ballots and arrangement, as follows:

143 "(a) The ballots shall be printed in black ink upon clear, white, or colored material, of such  
144 size and arrangement as will suit the construction of the ~~optical~~ ballot scanner, and in plain,  
145 clear type so as to be easily readable by persons with normal vision; provided, however,  
146 that red material shall not be used except that all ovals appearing on the ballot to indicate  
147 where a voter should mark to cast a vote may be printed in red ink."

148 **SECTION 8.**

149 Said chapter is further amended by revising Code Section 21-2-372, relating to ballot  
150 description, as follows:

151 "21-2-372.

152 Ballots shall be of suitable design, size, and stock to permit processing by a ~~tabulating~~  
153 ~~machine~~ ballot scanner and shall be printed in black ink on clear, white, or colored  
154 material. ~~In counties using a central count tabulating system, a serially numbered strip~~  
155 ~~shall be attached to each ballot in a manner and form similar to that prescribed in this~~  
156 ~~chapter for paper ballots."~~

157 **SECTION 9.**

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

161 "21-2-374.

162 (a) The superintendent of each county or municipality shall order the proper programming  
163 to be placed in each ~~tabulator~~ ballot scanner used in any precinct or central tabulating  
164 location.

165 (b) On or before the third day preceding a primary or election, including special primaries,  
 166 special elections, and referendum elections, the superintendent shall have the ~~optical~~  
 167 ~~scanning tabulators~~ ballot scanners tested to ascertain that they will correctly count the  
 168 votes cast for all offices and on all questions. Public notice of the time and place of the test  
 169 shall be made at least five days prior thereto; provided, however, that, in the case of a  
 170 runoff, the public notice shall be made at least three days prior thereto. Representatives of  
 171 political parties and bodies, candidates, news media, and the public shall be permitted to  
 172 observe such tests. The test shall be conducted by processing a preaudited group of ballots  
 173 so marked as to record a predetermined number of valid votes for each candidate and on  
 174 each question and shall include for each office one or more ballots which are improperly  
 175 marked and one or more ballots which have votes in excess of the number allowed by law  
 176 in order to test the ability of the ~~optical scanning tabulator~~ ballot scanner to reject such  
 177 votes. The ~~optical scanning tabulator~~ ballot scanner shall not be approved unless it  
 178 produces an errorless count. If any error is detected, the cause therefor shall be ascertained  
 179 and corrected; and an errorless count shall be made before the ~~tabulator~~ ballot scanner is  
 180 approved. The superintendent shall cause the pretested ~~tabulators~~ ballot scanners to be  
 181 placed at the various polling places to be used in the primary or election. The  
 182 superintendent shall require that each ~~optical scanning tabulator~~ ballot scanner be  
 183 thoroughly tested and inspected prior to each primary and election in which it is used and  
 184 shall keep such tested material as certification of an errorless count on each ~~tabulator~~ ballot  
 185 scanner. In counties using central count ~~optical scanning tabulators~~ ballot scanners, the  
 186 same test shall be repeated immediately before the start of the official count of the ballots  
 187 and at the conclusion of such count. Precinct ~~tabulators~~ ballot scanners shall produce a  
 188 zero tape prior to any ballots being inserted on the day of any primary or election."

#### 189 SECTION 10.

190 Said chapter is further amended by revising Code Section 21-2-375, relating to delivery of  
 191 equipment to polling places, protection for equipment, and required accessories, as follows:  
 192 "21-2-375.

193 (a) In counties using precinct count ~~optical scanning tabulators~~ ballot scanners, the  
 194 superintendent shall deliver the proper ~~optical scanning tabulator~~ ballot scanner to the  
 195 polling places at least one hour before the time set for opening of the polls at each primary  
 196 or election and shall cause each to be set up in the proper manner for use in voting.

197 (b) The superintendent shall provide ample protection against molestation of and injury  
 198 to the ~~optical scanning tabulator~~ ballot scanner and, for that purpose, shall call upon any  
 199 law enforcement officer to furnish such assistance as may be necessary; and it shall be the

200 duty of the law enforcement officer to furnish such assistance when so requested by the  
201 superintendent.

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

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

206 (2) Prominently post directions for voting ~~on the optical scanning ballot~~ within the voting  
207 booth; at least two sample ballots in use for the primary or election shall be posted  
208 prominently outside the enclosed space within the polling place;

209 (3) Ensure that the precinct count ~~optical scanning tabulator~~ ballot scanner shall have a  
210 seal securing the memory pack in use throughout the election day; such seal shall not be  
211 broken unless the ~~tabulator~~ ballot scanner is replaced due to malfunction; and

212 (4) Provide such other materials and supplies as may be necessary or as may be required  
213 by law."

214 **SECTION 11.**

215 Said chapter is further amended by revising Code Section 21-2-377, relating to custody and  
216 storage when not in use, as follows:

217 "21-2-377.

218 (a) The superintendent shall designate a person or persons who shall have custody of the  
219 ~~optical scanning tabulators~~ ballot scanners of the county or municipality when they are not  
220 in use at a primary or election and shall provide for his or her compensation and for the  
221 safe storage and care of the ~~optical scanning tabulators~~ ballot scanners.

222 (b) All ~~optical scanning tabulators~~ ballot scanners, when not in use, shall be properly  
223 covered and stored in a suitable place or places."

224 **SECTION 12.**

225 Said chapter is further amended by revising Part 5 of Article 9, relating to electronic  
226 recording voting systems, by repealing the part and inserting in lieu thereof the following:

227 "Part 6

228 21-2-379.21.

229 Each polling place in this state utilizing optical scanning voting systems shall be equipped  
230 with at least one electronic ballot marker that meets the requirements as set forth in this  
231 part.

232 21-2-379.22.

233 No electronic ballot marker shall be adopted or used in primaries or elections in this state  
 234 unless it shall, at the time, satisfy the following requirements:

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

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

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

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

248 (5) Permit voting in absolute secrecy so that no person can see or know for whom any  
 249 other elector has voted or is voting, save an elector whom he or she has assisted or is  
 250 assisting in voting, as prescribed by law;

251 (6) Be constructed of material of good quality in a neat and workmanlike manner;

252 (7) When properly operated, mark correctly and accurately every vote cast;

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

254 (9) Be safely transportable.

255 21-2-379.23.

256 (a) Any person or organization owning, manufacturing, or selling, or being interested in  
 257 the manufacture or sale of, any electronic ballot marker may request that the Secretary of  
 258 State examine the device. Any ten or more electors of this state may, at any time, request  
 259 that the Secretary of State reexamine any such device previously examined and approved  
 260 by him or her. Before any such examination or reexamination, the person, persons, or  
 261 organization requesting such examination or reexamination shall pay to the Secretary of  
 262 State the reasonable expenses of such examination or reexamination. The Secretary of  
 263 State shall publish and maintain on his or her website the cost of such examination or  
 264 reexamination. The Secretary of State may, at any time, in his or her discretion, reexamine  
 265 any such device.

266 (b) The Secretary of State shall thereupon examine or reexamine such device and shall  
 267 make and file in his or her office a report, attested by his or her signature and the seal of



268 his or her office, stating whether, in his or her opinion, the kind of device so examined can  
269 be safely and accurately used by electors at primaries and elections as provided in this  
270 chapter. If this report states that the device can be so used, the device shall be deemed  
271 approved, and devices of its kind may be adopted for use at primaries and elections as  
272 provided in this chapter.

273 (c) Any device that is not so approved shall not be used at any primary or election and if,  
274 upon the reexamination of any such device previously approved, it shall appear that the  
275 device can no longer be safely or accurately used by electors at primaries or elections as  
276 provided in this chapter because of an inability to accurately record votes, the approval of  
277 the same shall immediately be revoked by the Secretary of State, and no such device shall  
278 thereafter be purchased for use or be used in this state.

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

285 (e) When a device has been so approved, no improvement or change that does not impair  
286 its accuracy, efficiency, or capacity shall render necessary a reexamination or reapproval  
287 of such device, or of its kind.

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

292 21-2-379.24.

293 (a) The superintendent of each county or municipality shall cause the proper ballot design  
294 and style to be programmed for each electronic ballot marker which is to be used in any  
295 precinct within such county or municipality, cause each such device to be placed in proper  
296 order for voting, and examine each unit before it is sent to a polling place for use in a  
297 primary or election to verify that each device is properly recording votes and producing  
298 proper ballots.

299 (b) The superintendent may appoint, with the approval of the county or municipal  
300 governing authority, as appropriate, a custodian of the electronic ballot markers, and deputy  
301 custodians as may be necessary, whose duty shall be to prepare the devices to be used in  
302 the county or municipality at the primaries and elections to be held therein. Each custodian  
303 and deputy custodian shall receive from the county or municipality such compensation as

304 shall be fixed by the governing authority of such county or municipality. Such custodian  
 305 shall, under the direction of the superintendent, have charge of and represent the  
 306 superintendent during the preparation of the devices as required by this chapter. The  
 307 custodian and deputy custodians shall serve at the pleasure of the superintendent. Each  
 308 custodian and deputy custodian shall take an oath of office prepared by the Secretary of  
 309 State before each primary or election which shall be filed with the superintendent.

310 (c) On or before the third day preceding a primary or election, including special primaries,  
 311 special elections, and referendum elections, the superintendent shall have each electronic  
 312 ballot marker tested to ascertain that it will correctly record the votes as marked for all  
 313 offices and on all questions and produce a ballot reflecting such choices of the elector in  
 314 a manner that the State Election Board shall prescribe by rule or regulation. Public notice  
 315 of the time and place of the test shall be made at least five days prior thereto; provided,  
 316 however, that, in the case of a runoff, the public notice shall be made at least three days  
 317 prior thereto. Representatives of political parties and bodies, news media, and the public  
 318 shall be permitted to observe such tests.

319 21-2-379.25.

320 (a) All electronic ballot markers and related equipment, when not in use, shall be properly  
 321 stored and secured under conditions as shall be specified by the Secretary of State.

322 (b) The superintendent shall store the devices and related equipment under his or her  
 323 supervision or shall designate a person or entity who shall provide secure storage of such  
 324 devices and related equipment when it is not in use at a primary or election. The  
 325 superintendent shall provide compensation for the safe storage and care of such devices and  
 326 related equipment if the devices and related equipment are stored by a person or entity  
 327 other than the superintendent."

### 328 **SECTION 13.**

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

331 "(e) No person shall use photographic or other electronic monitoring or recording devices,  
 332 cameras, or cellular telephones while such person is in a polling place while voting is  
 333 taking place; provided, however, that a poll manager, in his or her discretion, may allow  
 334 the use of photographic devices in the polling place under such conditions and limitations  
 335 as the election superintendent finds appropriate, and provided, further, that no photography  
 336 shall be allowed of a ballot or the face of a voting machine or DRE unit or electronic ballot  
 337 marker while an elector is voting such ballot or machine or DRE unit or using such  
 338 electronic ballot marker and no photography shall be allowed of an electors list, electronic

339 electors list, or the use of an electors list or electronic electors list. This subsection shall  
 340 not prohibit the use of photographic or other electronic monitoring or recording devices,  
 341 cameras, or cellular telephones by poll officials for official purposes."

342 **SECTION 14.**

343 Said chapter is further amended by revising Code Section 21-2-482, relating to absentee  
 344 ballots for precincts using optical scanning voting equipment, as follows:

345 "21-2-482.

346 Ballots in a precinct using optical scanning voting equipment for ~~use~~ voting by absentee  
 347 electors shall be prepared sufficiently in advance by the superintendent and shall be  
 348 delivered to the board of registrars as provided in Code Section 21-2-384. Such ballots  
 349 shall be marked 'Official Absentee Ballot' and shall be in substantially the form for ballots  
 350 required by Article 8 of this chapter, except that in counties or municipalities using voting  
 351 machines, direct recording electronic (DRE) units, or ~~optical~~ ballot scanners, the ballots  
 352 may be in substantially the form for the ballot labels required by Article 9 of this chapter  
 353 or in such form as will allow the ballot to be machine tabulated. Every such ballot shall  
 354 have printed on the face thereof the following:

355 'I understand that the offer or acceptance of money or any other object of value to vote  
 356 for any particular candidate, list of candidates, issue, or list of issues included in this  
 357 election constitutes an act of voter fraud and is a felony under Georgia law.'

358 The form for either ballot shall be determined and prescribed by the Secretary of State."

359 **SECTION 15.**

360 Said chapter is further amended by revising subsection (k) of Code Section 21-2-493, relating  
 361 to computation, canvassing, and tabulation of returns; investigation of discrepancies in vote  
 362 counts; recount procedure; certification of returns; and change in returns, as follows:

363 "(k) As the returns from each precinct are read, computed, and found to be correct or  
 364 corrected as aforesaid, they shall be recorded on the blanks prepared for the purpose until  
 365 all the returns from the various precincts which are entitled to be counted shall have been  
 366 duly recorded; then they shall be added together, announced, and attested by the assistants  
 367 who made and computed the entries respectively and shall be signed by the superintendent.  
 368 The consolidated returns shall then be certified by the superintendent in the manner  
 369 required by this chapter. Such returns shall be certified by the superintendent not later than  
 370 5:00 P.M. on the ~~Monday~~ eighth day following the date on which such election was held  
 371 and such returns shall be immediately transmitted to the Secretary of State."

372

**SECTION 16.**

373 Said chapter is further amended by revising subsection (a) of Code Section 21-2-495, relating  
 374 to procedure for recount or recanvass of votes and losing candidate's right to a recount, and  
 375 adding a new subsection to read as follows:

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

392 "(e) In performing a recount under this Code section in precincts in which scanning ballots  
 393 have been used, the superintendent may, in his or her discretion, elect to recount the  
 394 scanning ballots electronically, by using automatic tabulating equipment or manually, by  
 395 using the actual scanning ballots."

396

**SECTION 17.**

397 Said chapter is further amended by revising Code Section 21-2-498, which was previously  
 398 reserved, as follows:

399 "21-2-498.

400 (a) As used in this Code section, the term 'risk-limiting audit' means an audit protocol that  
 401 makes use of statistical methods to limit to acceptable levels the risk of certifying a  
 402 preliminary election outcome that is inconsistent with the election outcome that would be  
 403 obtained by conducting a full, manual tally count.

404 (b) Beginning with the 2020 presidential preference primary, the Secretary of State in  
 405 conjunction with local election superintendents shall be authorized to conduct post-election  
 406 audits, including, but not limited to, manual tally audits or risk-limiting audits for any

407 primary, general, or special election, any runoffs of such elections, or any ballot question,  
 408 in accordance with requirements set forth by rule or regulation of the State Election Board.  
 409 (c) Upon implementation of an optical scan voting system in accordance with  
 410 subsection (a) of Code Section 21-2-300, the Secretary of State in conjunction with local  
 411 election superintendents shall conduct post-election audits for all federal and gubernatorial  
 412 primary and general elections, any runoffs of such elections, and any state-wide ballot  
 413 question, in accordance with requirements set forth by rule or regulation of the State  
 414 Election Board.  
 415 (d) In conducting each audit, the Secretary of State and local election superintendents  
 416 shall:  
 417 (1) Complete the audit prior to final certification of the contest;  
 418 (2) Ensure that all ballots are included in the audit, whether cast in person, by absentee  
 419 ballot, advance voting, provisional ballot, or otherwise;  
 420 (3) Ensure that some component of the audit includes a manual review of the paper  
 421 official ballots;  
 422 (4) Provide to the public a report of the unofficial final tabulated vote results for the  
 423 contest prior to conducting the audit;  
 424 (5) Complete the audit in public view; and  
 425 (6) Provide to the public details of the audit within 48 hours of completion.  
 426 (e) If the audit of any contest leads to a full manual tally count of the ballots cast, the  
 427 results of such manual tally count shall determine the official contest results.  
 428 (f) The State Election Board shall promulgate rules, regulations, and procedures to  
 429 implement and administer the provisions of this Code section. Reserved."

430 **SECTION 18.**

431 Said chapter is further amended by revising paragraph (8) of Code Section 21-2-566, relating  
 432 to interference with primaries and elections generally, as follows:

433 "(8) Willfully tampers with any electors list, voter's certificate, numbered list of voters,  
 434 ballot box, voting machine, direct recording electronic (DRE) equipment, electronic  
 435 ballot marker, or tabulating machine"

436 **SECTION 19.**

437 Said chapter is further amended by revising paragraph (3) of Code Section 21-2-579, relating  
 438 to fraudulently allowing ballot or voting machine to be seen, casting unofficial ballot, and  
 439 receiving unauthorized assistance in voting, as follows:

440 "(3) Without having made the affirmation under oath or declaration required by Code  
 441 Section 21-2-409, or when the disability which he or she declared at the time of

442 registration no longer exists, permits another to accompany him or her into the voting  
 443 compartment or voting machine booth or to mark his or her ballot or to register his or her  
 444 vote on the voting machine or direct recording electronic (DRE) equipment or use an  
 445 electronic ballot marker; or"

446 **SECTION 20.**

447 Said chapter is further amended by revising Code Section 21-2-580, relating to tampering  
 448 with, damaging, improper preparation of, or prevention of proper operation of voting  
 449 machines, as follows:

450 "21-2-580.

451 Any person who:

452 (1) Unlawfully opens, tampers with, or damages any voting machine or electronic ballot  
 453 marker or tabulating machine to be used or being used at any primary or election;

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

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

458 shall be guilty of a felony."

459 **SECTION 21.**

460 Said chapter is further amended by revising Code Section 21-2-582, relating to tampering  
 461 with, damaging, or preventing of proper operation of direct recording electronic equipment  
 462 or tabulating device, as follows:

463 "21-2-582.

464 Any person who tampers with or damages any direct recording electronic (DRE)  
 465 equipment or electronic ballot marker or tabulating ~~computer~~ machine or device to be used  
 466 or being used at or in connection with any primary or election or who prevents or attempts  
 467 to prevent the correct operation of any direct recording electronic (DRE) equipment or  
 468 electronic ballot marker or tabulating ~~computer~~ machine or device shall be guilty of a  
 469 felony."

470 **SECTION 22.**

471 Said chapter is further amended by revising Code Section 21-2-582.1, relating to penalty for  
 472 voting equipment modification, as follows:

473 "21-2-582.1.

474 (a) For the purposes of this Code section, the term 'voting equipment' shall mean a voting  
475 machine, tabulating machine, optical scanning voting system, or direct recording electronic  
476 voting system, or electronic ballot marker.

477 (b) Any person or entity, including, but not limited to, a manufacturer or seller of voting  
478 equipment, who alters, modifies, or changes any aspect of such voting equipment without  
479 prior approval of the Secretary of State is guilty of a felony."

480 **SECTION 23.**

481 Said chapter is further amended by revising Code Section 21-2-587, relating to frauds by poll  
482 workers, as follows:

483 "21-2-587.

484 Any poll officer who willfully:

- 485 (1) Makes a false return of the votes cast at any primary or election;
- 486 (2) Deposits fraudulent ballots in the ballot box or certifies as correct a false return of  
487 ballots;
- 488 (3) Registers fraudulent votes upon any voting machine or certifies as correct a return  
489 of fraudulent votes cast upon any voting machine;
- 490 (4) Makes any false entries in the electors list;
- 491 (5) Destroys or alters any ballot, voter's certificate, or electors list;
- 492 (6) Tampers with any voting machine, direct recording electronic (DRE) equipment,  
493 electronic ballot marker, or tabulating computer machine or device;
- 494 (7) Prepares or files any false voter's certificate not prepared by or for an elector actually  
495 voting at such primary or election; or
- 496 (8) Fails to return to the officials prescribed by this chapter, following any primary or  
497 election, any keys of a voting machine; ballot box; general or duplicate return sheet;  
498 tally paper; oaths of poll officers; affidavits of electors and others; record of assisted  
499 voters; numbered list of voters; electors list; voter's certificate; spoiled and canceled  
500 ballots; ballots deposited, written, or affixed in or upon a voting machine; DRE,  
501 electronic ballot marker, or tabulating machine memory cards; or any certificate or any  
502 other paper or record required to be returned under this chapter  
503 shall be guilty of a felony and, upon conviction thereof, shall be sentenced to imprisonment  
504 for not less than one nor more than ten years or to pay a fine not to exceed \$100,000.00,  
505 or both."

506 **SECTION 24.**

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

509 **SECTION 25.**

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