



1 **§3-4A-2. Definitions.**

2 As used in this article, unless otherwise specified:

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

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

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

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

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

1 ~~touching a screen with a stylus or by means of touch, and votes are~~  
2 ~~subsequently counted by automatic tabulating equipment at the~~  
3 ~~central counting center one or more integrated devices that utilize~~  
4 ~~an electronic component for the following functions: Ballot~~  
5 ~~presentation, vote capture, vote recording and tabulation;~~

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

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

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

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

23 (a) Any person or corporation owning or interested in any

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

12 (b) The State Election Commission shall appoint two qualified  
13 computer experts who are not members of the same political party to  
14 examine the system and make full reports on the system to the  
15 commission within ~~thirty~~ ninety days from the date the State  
16 Election Commission approves the consideration of the application.  
17 They shall state in the report whether the examined system complies  
18 with the requirements of this article and the federal agency  
19 responsible for certifying voting systems and can be safely used by  
20 voters at elections under the conditions prescribed in this  
21 article. If the report is in the affirmative on that question, the  
22 commission may approve the system and adopt a system of its make  
23 and design for use at elections as provided in this article:

1 *Provided*, That under no circumstances may a system be approved that  
2 is not capable of accurately tabulating returns based upon all  
3 possible combinations of voting patterns ~~including, but not limited~~  
4 ~~to, crossover voting and in accordance with section five, article~~  
5 ~~six of this chapter~~. The vendor of the approved system shall  
6 provide the State Election Commission with a report, due on January  
7 1, of each even-numbered year, that outlines any problem that has  
8 been experienced with the equipment by any jurisdiction in the  
9 state or in any jurisdiction outside the state that uses the same  
10 or a similar version of the equipment that has been certified for  
11 use in this state.

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

1 application for certification.

2 **§3-4A-23. Persons prohibited about voting booths; penalties.**

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

22 **§3-4A-27. Proceedings at the central counting center.**

23       (a) All proceedings at the central counting center are to be

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

23 (b) All persons who are engaged in processing and counting the

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

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

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

22 (2) In systems using ballots in which votes are recorded upon  
23 screens with a stylus or by means of touch, the ~~personalized~~

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

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

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

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

1           (6) Official write-in candidates are those who have filed a  
2 write-in candidate's certificate of announcement and have been  
3 certified according to the provisions of section four-a, article  
4 six of this chapter.

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

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

1 precinct by precinct.

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

7 (g) As soon as possible after the completion of the count, the  
8 clerk of the county commission shall have the vote recording  
9 devices properly boxed or securely covered and removed to a proper  
10 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.