

Senate Bill 212

By: Senators Crotts of the 17th, Lamutt of the 21st, Ladd of the 41st, Gingrey of the 37th, Harp of the 16th and others

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 elections, so as to comprehensively revise the provisions for voting; to provide that all future
3 primaries and elections shall be conducted by paper ballot or optical scan voting systems; to
4 provide for the provision of such optical scan voting systems by the Secretary of State; to
5 provide for revisions to methods and procedures for conducting elections; to provide for
6 related matters; to provide effective dates; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to elections, is
10 amended by striking paragraphs (1), (2), (4), (18), (19), (37), (38), (40), and (41) of Code
11 Section 21-2-2, relating to definitions, in their entirety and inserting in lieu thereof new
12 paragraphs (1), (2), (4), (18), (19), (37), (38), (40), and (41) to read as follows:

13 ~~"(1) 'Ballot card' means the tabulating or punch card upon which an elector records his~~
14 ~~or her vote by the use of a vote recorder. 'Ballot card' also means a ballot upon which an~~
15 elector records his or her vote for tabulation by an optical scan tabulating machine.

16 (2) ~~'Ballot labels' means the cards, paper, or other material placed on the front of a voting~~
17 ~~machine or vote recorder containing the names of offices and candidates and statements~~
18 ~~of questions to be voted on. Reserved.~~"

19 "(4) 'Custodian' means the person charged with the duty of testing and preparing the
20 ~~voting machine or vote recorder~~ optical scan voting system for the primary or election
21 ~~and with instructing the poll officers in the use of same."~~

22 "(18) 'Official ballot' means a paper ballot which is furnished by the superintendent or
23 governing authority in accordance with Code Section 21-2-280; Official ballot shall also
24 include ~~including~~ ballots read by optical scanning scan tabulators.

25 (19) ~~'Official ballot label' means a ballot label prepared in accordance with Article 9 of~~
26 ~~this chapter and delivered by the superintendent to the poll officers in accordance with~~

1 ~~Code Sections 21-2-328 and 21-2-360.~~ 'Optical scan vote counting system' means a
 2 system by which a voter casts his or her vote by filling in an oval or square on a ballot
 3 which is then read and recorded by an optical scan tabulating machine in the voter's
 4 precinct. Optical scan vote counting system shall include the precinct tabulating
 5 machine, the programming devices for the memory packs for the tabulating systems, the
 6 voting compartment or booths, and all related equipment necessary for the operation of
 7 such optical scan system. Optical scan vote counting system shall not include ballots or
 8 ballots cards, return sheets, tally sheets, or other forms used in an election."

9 ~~"(37) 'Tabulating machine' means any data processing~~ optical scan device or machine
 10 used in counting ballot cards and tabulating votes thereon.

11 ~~(38) 'Vote recorder' means a device into which a ballot card may be inserted so that an~~
 12 ~~elector may record his or her vote for any candidate and for or against any question by~~
 13 ~~punching or marking the ballot card.~~ Reserved."

14 ~~"(40) 'Voting machine' shall not include a vote recorder or tabulating machine.~~ Reserved.

15 (41) 'Write-in ballot' means ~~the paper or other material on which a vote~~ that is cast for
 16 persons whose names do not appear on the official ballot ~~or ballot labels."~~

17 SECTION 2.

18 Said chapter is further amended by striking subsection (c) of Code Section 21-2-45, relating
 19 to authorization to create joint county-municipal boards of elections and boards of elections
 20 and registration, in its entirety and inserting in lieu thereof a new subsection (c) to read as
 21 follows:

22 "(c) The governing authority of any municipality may authorize any county within which
 23 that municipality wholly or partially lies to conduct any or all elections held pursuant to
 24 this chapter. In the event a municipality shall by ordinance authorize such county to
 25 conduct elections, such municipality may request such county to perform any or all of the
 26 functions:

27 (1) That the county shall perform all duties as superintendent of elections as specified
 28 under this chapter; or

29 (2) That the county shall perform all duties as superintendent of elections as specified
 30 under this chapter, with the exception of the qualification of candidates; ~~or~~

31 ~~(3) That the county shall lease or loan any or all of its election equipment to the~~
 32 ~~municipality for the purpose of conducting municipal elections without any responsibility~~
 33 ~~on the part of the county for the actual conduct of the municipal election.~~

34 With reference to any election, such municipality shall pay such county all costs incurred
 35 in performing those functions which the municipality has requested the county to perform;
 36 and, unless otherwise authorized, such county shall only perform those functions

1 specifically enumerated in the contract. Such county shall have authority to conduct
 2 elections in any and all counties in which any part of such municipality may lie."

3 **SECTION 3.**

4 Said chapter is further amended by striking paragraphs (13) and (14) of Code Section
 5 21-2-50, relating to the powers and duties of the Secretary of State, in their entirety and
 6 inserting in lieu thereof new paragraphs (13), (14), and (15) to read as follows:

7 "(13) To prepare and furnish information for citizens on voter registration and voting;
 8 and

9 (14) To maintain the official list of registered voters for this state and the list of inactive
 10 voters required by this chapter; and

11 (15) To provide precinct count optical scan vote counting systems to all counties for use
 12 in elections, including precinct tabulating machines, programming devices, memory
 13 packs, voting booths, and all related equipment for the conduct of elections in this state.
 14 Said equipment shall be uniform throughout the state and shall comply with the
 15 provisions of this chapter."

16 **SECTION 4.**

17 Said chapter is further amended by striking paragraph (5) of Code Section 21-2-70, relating
 18 to the powers and duties of superintendents, in its entirety and inserting in lieu thereof a new
 19 paragraph (5) to read as follows:

20 "~~(5) To purchase, except voting machines and vote recorders, preserve, store, and~~
 21 ~~maintain election equipment of all kinds, including voting booths and ballot boxes~~
 22 furnished by the state and to procure ballots and all other supplies for primaries and
 23 elections;"

24 **SECTION 5.**

25 Said chapter is further amended by striking Code Section 21-2-71, relating to the payment
 26 by county or municipality of superintendent's expenses, in its entirety and inserting in lieu
 27 thereof a new Code Section 21-2-71 to read as follows:

28 "21-2-71.

29 The governing authority of each county or municipality shall appropriate annually and
 30 from time to time, to the superintendent of such county or municipality, the funds that it
 31 shall deem necessary for the conduct of primaries and elections in such county or
 32 municipality and for the performance of his or her other duties under this chapter,
 33 including:

- 1 (1) Compensation of the poll officers, custodians, and other assistants and employees
 2 provided for in this chapter;
- 3 (2) Expenditures and contracts for expenditures by the superintendent for polling places;
- 4 (3) Purchase or printing, under contracts made by the superintendent, of all ballots and
 5 other election supplies required by this chapter, or which the superintendent shall
 6 consider necessary to carry out the provisions of this chapter;
- 7 (4) Maintenance of ~~voting machines, vote recorders, and of all other primaries and~~
 8 election equipment required by this chapter; or which the superintendent shall consider
 9 necessary to carry out this chapter; and
- 10 (5) All other expenses arising out of the performance of his or her duties under this
 11 chapter."

12 **SECTION 6.**

13 Said chapter is further amended by striking Code Section 21-2-72 of the Official Code of
 14 Georgia Annotated, relating to primary and election records to be open to the public, in its
 15 entirety and inserting in lieu thereof a new Code Section 21-2-72 to read as follows:

16 "21-2-72.

17 Except when otherwise provided by law or court order, the primary and election records
 18 of each governing authority, superintendent, registrar, and committee of a political party
 19 or body, including registration statements, nomination petitions, affidavits, certificates,
 20 tally papers, returns, accounts, contracts, reports, and other documents in official custody;
 21 ~~except the contents of voting machines,~~ shall be open to public inspection and may be
 22 inspected and copied by any elector of the county during usual business hours at any time
 23 when they are not necessarily being used by the custodian or his or her employees having
 24 duties to perform in reference thereto; provided, however, that such public inspection shall
 25 only be in the presence of the custodian or his or her employee and shall be subject to
 26 proper regulation for the safekeeping of such documents and subject to the further
 27 provisions of this chapter. The custodian shall also, upon request, if photocopying
 28 equipment is available in the building in which the records are housed, make and furnish
 29 to any member of the public copies of any of such records upon payment of the actual cost
 30 of copying the records requested."

31 **SECTION 7.**

32 Said chapter is further amended by striking Code Section 21-2-99, relating to instruction of
 33 poll officers as to use of voting machines or vote recorders, in its entirety and inserting in lieu
 34 thereof a new Code Section 21-2-99 to read as follows:

1 "21-2-99.
 2 In precincts in which ~~voting machines or vote recorders~~ optical scan vote counting systems
 3 are to be used, the superintendent, the custodians appointed by him or her, or a qualified
 4 poll officer shall give instructions regarding the use of the ~~voting machines or vote~~
 5 ~~recorders~~ an optical scan vote counting system, and regarding their duties in connection
 6 therewith, to all poll officers who are to serve at the primary or election and who have not
 7 been previously instructed and found qualified. Upon successful completion of such
 8 instruction, the superintendent shall give to each poll officer a certificate to the effect that
 9 such poll officer has been found qualified to conduct such primary or election ~~with the~~
 10 ~~voting machine or vote recorder~~. For the purpose of giving such instructions, the
 11 superintendent shall call such meeting or meetings of poll officers as shall be necessary.
 12 Each poll officer shall, upon notice, attend such meeting or meetings called for his or her
 13 instruction and receive such instructions as shall be necessary for the proper conduct of the
 14 primary or election ~~with voting machines or vote recorders~~. No poll officer shall serve at
 15 any primary or election at which a ~~voting machine or vote recorder~~ an optical scan vote
 16 counting system is used unless he or she shall have received such instructions, shall have
 17 been found qualified to perform his or her duties in connection with the ~~machine or~~
 18 ~~recorder~~ election, and shall have received a certificate to that effect from the
 19 superintendent; provided, however, that this shall not prevent the appointment of a poll
 20 officer to fill a vacancy arising on the day of primary or election or on the preceding day."

21 **SECTION 8.**

22 Said chapter is further amended by striking subsection (f) of Code Section 21-2-110, relating
 23 to filing of registration statements by political parties or bodies with the Secretary of State,
 24 in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

25 "(f) A political party, body, or municipal executive committee failing to file a registration
 26 statement as required by subsection (a) or (b) of this Code section at least 60 days before
 27 any primary or election at which it shall seek to have candidates on the ballot shall not have
 28 its name or the names of its candidates placed on any nomination petition; or ballot, ~~or~~
 29 ~~ballot label.~~"

30 **SECTION 9.**

31 Said chapter is further amended by striking subsection (a) of Code Section 21-2-135, relating
 32 to the designation of the specific office sought where office has multiple officeholders with
 33 same title, in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

34 "(a)(1) In the case of a public office having multiple officeholders with the same title,
 35 each candidate, including write-in candidates, shall designate the specific office he or she

1 is seeking, name the person such candidate is seeking to succeed, and give such other
 2 appropriate designation as may be required by the Secretary of State or election
 3 superintendent each time such candidate qualifies with his or her party in the case of a
 4 primary, files a notice of candidacy in the case of an election or a nonpartisan primary,
 5 or files a notice of candidacy as a write-in candidate. The designation of the specific
 6 office and the name of the person whom a candidate is seeking to succeed in the case of
 7 a public office having multiple officeholders shall be entered on the ballot ~~and ballot~~
 8 ~~labels~~ in such manner that in the ensuing primary or election such candidate shall only
 9 oppose the other candidate or candidates, if any, who designated the same specific office
 10 and the same name.

11 (2) In the case of a candidate, including a write-in candidate, seeking one of two or more
 12 municipal public offices, each having the same title and each being filled at the same
 13 election by the vote of the same electors, the applicable municipal charter or ordinance
 14 provisions shall govern whether such candidate shall designate the specific office he or
 15 she is seeking. If required to designate the specific office, the candidate shall name his
 16 or her incumbent or give other appropriate designation as specified in the charter or
 17 ordinance. Such designation shall be entered on the ballot ~~and ballot labels~~ in such
 18 manner that in the ensuing municipal primary or election such candidate shall only
 19 oppose the other candidate or candidates, if any, designating the same specific office."

20 SECTION 10.

21 Said chapter is further amended by striking subsection (b) of Code Section 21-2-153.1,
 22 relating to qualification of candidates for party nomination in a municipal primary, in its
 23 entirety and inserting in lieu thereof a new subsection (b) to read as follows:

24 "(b) After the expiration of the applicable qualification deadline prescribed in
 25 subsection (a) of this Code section, each candidate for nomination to a municipal office,
 26 having no opposing candidates within his or her own political party, shall automatically
 27 become the nominee of his or her party for such office if the applicable city charter or
 28 ordinance does not provide to the contrary. The name of such an unopposed candidate and
 29 the title of the nomination he or she is seeking shall not be placed upon the primary ballots
 30 ~~or ballot labels~~. The proper officials of his or her political party shall certify the candidate
 31 as the party nominee for the office involved for the purpose of having his or her name
 32 placed upon the election ballots ~~or ballot labels~~. In applying Code Sections 21-2-131
 33 through 21-2-134, such an unopposed municipal candidate shall be deemed to have been
 34 nominated in a primary held by his or her political party."

1 the guardrail or barrier. ~~The voting machine or machines shall be placed in the voting~~
 2 ~~rooms within the enclosed space so that, unless its construction shall otherwise require, the~~
 3 ~~ballot labels on the face of the machine can be plainly seen by the poll officers when the~~
 4 ~~machine is not occupied by an elector."~~

5 SECTION 13.

6 Said chapter is further amended by striking Code Section 21-2-280, relating to the
 7 requirement as to the conduct of primaries and elections by ballot, in its entirety and inserting
 8 in lieu thereof a new Code Section 21-2-280 to read as follows:

9 "21-2-280.

10 (a) All primaries and elections in this state shall be conducted by ballot optical scan vote
 11 counting systems, except when ~~voting machines or vote recorders~~ paper ballots are used
 12 as provided by law. All ballots used in any primary or election shall be provided by the
 13 superintendent or governing authority in accordance with this article, and only official
 14 ballots furnished by the superintendent or governing authority shall be cast or counted in
 15 any primary or election in any precinct in which ballots are used.

16 (b) On and after January 1, 2002, all counties and municipalities in this state shall conduct
 17 all primaries, elections, and run-off primaries and elections using optical scan vote
 18 counting systems, except as otherwise provided in this chapter. Prior to January 1, 2002,
 19 the Secretary of State shall evaluate, purchase, and provide optical scan vote counting
 20 systems which comply with the provisions of this chapter to all counties in the state for use
 21 in primaries and elections occurring after that date."

22 SECTION 14.

23 Said chapter is further amended by striking Code Section 21-2-281, relating to voting by
 24 paper ballot when use of voting machine impossible or impracticable, in its entirety and
 25 inserting in lieu thereof a new Code Section 21-2-281 to read as follows:

26 "21-2-281.

27 In any primary or election in which the use of ~~voting machines~~ an optical scan vote
 28 counting system is impossible or impracticable, for the reasons set out in Code Section
 29 ~~21-2-334~~ 21-2-325, the primary or election may be conducted by paper ballot in the manner
 30 provided in Code Section ~~21-2-334~~ 21-2-325."

31 SECTION 15.

32 Said chapter is further amended by striking Code Section 21-2-282, relating to voting by
 33 paper ballot when use of vote recorders impossible or impracticable, in its entirety and
 34 inserting in lieu thereof a new Code Section 21-2-282 to read as follows:

1 "21-2-282.

2 ~~In any primary or election in which the use of vote recorders is impossible or~~
 3 ~~impracticable, for the reasons set out in Code Section 21-2-364, the primary or election~~
 4 ~~may be conducted by paper ballot in the manner provided in Code Section 21-2-364.~~

5 Reserved."

6 **SECTION 16.**

7 Said chapter is further amended by striking Code Section 21-2-283, relating to printing and
 8 safekeeping of ballots and labels by superintendent, in its entirety and inserting in lieu
 9 thereof a new Code Section 21-2-283 to read as follows:

10 "21-2-283.

11 In any primary or election, the superintendent or governing authority shall cause all the
 12 ballots ~~and ballot labels~~ to be printed accurately and in the form prescribed by this chapter,
 13 and the superintendent or governing authority shall be responsible for the safekeeping of
 14 the same while in his or her or its possession or that of his or her or its agent. The
 15 superintendent or governing authority shall keep a record of the number of official ballots
 16 printed and furnished to each precinct at each primary and election, and the number of
 17 stubs, unused ballots, and canceled ballots subsequently returned therefrom."

18 **SECTION 17.**

19 Said chapter is further amended by striking subsection (b) of Code Section 21-2-284, relating
 20 to form of official primary ballot, in its entirety and inserting in lieu thereof a new subsection
 21 (b) to read as follows:

22 "(b) Immediately under this caption, the following directions shall be printed: 'Place a
 23 cross (X) or check (✓) mark in the square opposite the name of each candidate for whom
 24 you choose to vote. If you spoil your ballot, do not erase, but ask for a new ballot. Use only
 25 pen or pencil. Failure to follow these instructions may result in your vote not being
 26 counted."

27 **SECTION 18.**

28 Said chapter is further amended by striking subsection (a) of Code Section 21-2-284.1,
 29 relating to the form of the nonpartisan primary ballot, in its entirety and inserting in lieu
 30 thereof a new subsection (a) to read as follows:

31 "(a) The names of all candidates seeking nomination in a nonpartisan primary conducted
 32 in conjunction with a partisan primary shall be printed on the ballot of each political party;
 33 and insofar as practicable such offices to be filled in a nonpartisan primary shall be
 34 separated from the names of political party candidates by being listed last on each political

1 party ballot, with the top of that portion of the ballot relating to the nonpartisan primary to
2 have printed in prominent type the words 'OFFICIAL NONPARTISAN PRIMARY
3 BALLOT.' Immediately under this caption the following directions shall be printed: 'Place
4 a cross (X) or check (✓) mark in the square opposite the name of each nonpartisan
5 candidate for whom you choose to vote. If you spoil your ballot, do not erase, but ask for
6 a new ballot. Use only pen or pencil. Failure to follow these instructions may result in your
7 vote not being counted.' Immediately under the directions, the names of the nonpartisan
8 candidates shall in all cases be arranged under the title of the office for which they are
9 candidates and be printed thereunder in alphabetical order. No party designation or
10 affiliation shall appear beside the name of any candidate for nonpartisan office. The
11 incumbency of a nonpartisan candidate seeking nomination for the public office he or she
12 then holds shall be indicated on the ballots by printing the word 'Incumbent' beside his or
13 her name. Under the title of each office shall be placed a direction as to the number of
14 nonpartisan candidates to be voted for. The votes cast for each nonpartisan candidate listed
15 on all political party ballots shall be combined to determine the total number of votes
16 received by each candidate in the nonpartisan primary. In the event that a candidate in such
17 nonpartisan primary does not receive a majority of the total votes cast for such office, there
18 shall be a nonpartisan primary runoff between the candidates receiving the two highest
19 numbers of votes for such office; and the names of such candidates shall be placed on each
20 political party ballot at the general primary runoff in the same nonpartisan portion as
21 prescribed in this Code section. If no political party runoff is required, the form of the
22 ballot for the nonpartisan primary runoff shall be prescribed by the Secretary of State or
23 election superintendent in essentially the same format prescribed for nonpartisan primaries.
24 The candidate receiving a majority of the total votes cast in the nonpartisan primary or the
25 candidate receiving the highest number of votes cast in the nonpartisan primary runoff shall
26 be the only candidate for such office to have his or her name placed on the nonpartisan
27 election ballot, and such person may be referred to as the nominee for such office or as the
28 candidate nominated for such office."

29 **SECTION 19.**

30 Said chapter is further amended by striking subsection (b) of Code Section 21-2-285, relating
31 to the form of the official election ballot, in its entirety and inserting in lieu thereof a new
32 subsection (b) to read as follows:

33 "(b) Immediately under this caption on a ballot presenting the names of candidates for
34 election to office, the following directions shall be printed, insofar as the same may be
35 appropriate for the election involved:

1 ~~(1)~~ To vote for presidential electors, mark a cross (X) or check (✓) mark in the square
 2 opposite the names of the candidates of the party or body for the offices of President and
 3 Vice President you choose to vote for. Place a cross (X) or check (✓) mark in the square
 4 opposite the name of each candidate you choose to vote for. To vote for a person whose
 5 name is not on the ballot, manually write his or her name, accompanied by the title of the
 6 office involved, in the write-in column. If you spoil your ballot, do not erase, but ask for
 7 a new ballot. Use only pen or pencil. Failure to follow these instructions may result in
 8 your vote not being counted.'

9 ~~(2)~~ Marks made in violation of these directions shall be disregarded in the counting of
 10 the votes cast. The names of persons inserted on the ballot by the elector shall be
 11 manually written only within the write-in column and the insertion of such names outside
 12 such column or by the use of a sticker, paster, stamp, or other printed or written matter
 13 is prohibited."

14 **SECTION 20.**

15 Said chapter is further amended by striking Code Section 21-2-285.1, relating to the form of
 16 the nonpartisan election ballot, in its entirety and inserting in lieu thereof a new Code Section
 17 21-2-285.1 to read as follows:

18 "21-2-285.1.

19 The names of all candidates nominated in the nonpartisan primary shall be printed on each
 20 official election ballot; and insofar as practicable such offices to be filled in the nonpartisan
 21 election shall be separated from the names of candidates for other offices by being listed
 22 last on each ballot, with the top of that portion of each official election ballot relating to the
 23 nonpartisan election to have printed in prominent type the words 'OFFICIAL
 24 NONPARTISAN ELECTION BALLOT.' Immediately under this caption the following
 25 directions shall be printed: 'Place a cross (X) or check (✓) mark in the square opposite the
 26 name of each nonpartisan candidate for whom you choose to vote. To vote for a person
 27 whose name is not on the ballot, manually write his or her name, accompanied by the title
 28 of the office involved, in the write-in column. If you spoil your ballot, do not erase, but ask
 29 for a new ballot. Use only pen or pencil. Failure to follow these instructions may result in
 30 your vote not being counted.' Immediately under the directions, the name of each
 31 nonpartisan candidate shall be arranged under the title of the office for which such
 32 candidate was nominated in the official nonpartisan primary. No party designation or
 33 affiliation shall appear beside the name of any candidate for nonpartisan office. An
 34 appropriate space shall also be placed on the ballot for the casting of write-in votes for such
 35 offices. In the event that no candidate in such nonpartisan election receives a plurality of
 36 the total votes cast for such office, there shall be a nonpartisan election runoff between the

1 candidates receiving the two highest numbers of votes; and the names of such candidates
 2 shall be placed on the official ballot at the general election runoff in the same manner as
 3 prescribed in this Code section for the nonpartisan election. In the event that only
 4 nonpartisan candidates are to be placed on a run-off ballot, the form of the ballot shall be
 5 as prescribed by the Secretary of State or election superintendent in essentially the same
 6 format as prescribed for the nonpartisan election. The candidate having a plurality of the
 7 votes cast in the nonpartisan election or the candidate receiving the highest number of votes
 8 cast in the nonpartisan election runoff shall be declared duly elected to such office."

9 **SECTION 21.**

10 Said chapter is further amended by striking Article 9, relating to voting machines and vote
 11 recorders generally, and inserting in lieu thereof a new Article 9 to read as follows:

12 "ARTICLE 9

13 21-2-310.

14 No optical scan vote counting system shall be adopted or used unless it shall, at the time,
 15 satisfy the following requirements:

16 (1) It shall provide facilities for voting for such candidates as may be nominated and
 17 upon such questions as may be submitted;

18 (2) It shall permit each elector, in one operation per ballot, to vote for all the candidates
 19 of one party or body for presidential electors;

20 (3) Except as provided in paragraph (2) of this Code section for presidential electors, it
 21 shall permit each elector, at other than primaries, to vote a ticket selected from the
 22 nominees of any and all parties or bodies, from independent nominations, and from
 23 persons not in nomination;

24 (4) It shall permit each elector to vote, at any election, for any person and for any office
 25 for whom and for which he or she is lawfully entitled to vote, whether or not the name
 26 of such person or persons appears upon a ballot as a candidate for election; to vote for as
 27 many persons for an office as he or she is entitled to vote for; and to vote for or against
 28 any question upon which he or she is entitled to vote;

29 (5) An optical scan tabulator shall preclude the counting of votes for any candidate or
 30 upon any question for whom or upon which an elector is not entitled to vote; shall
 31 preclude the counting of votes for more persons for any office than he or she is entitled
 32 to vote for; and shall preclude the counting of votes for any candidate for the same office
 33 or upon any question more than once;

1 (6) It shall permit voting in absolute secrecy so that no person can see or know for whom
2 any other elector has voted or is voting, save an elector whom he or she has assisted or
3 is assisting in voting, as prescribed by law;

4 (7) It shall be constructed of material of good quality in a neat and workmanlike manner;

5 (8) It shall, when properly operated, record correctly and accurately every vote cast;

6 (9) It shall be so constructed that an elector may readily learn the method of operating
7 it;

8 (10) It shall be safely transportable;

9 (11) It shall record votes by having the voter fill in an oval or square adjacent to the
10 name of the candidate or answer to a question for which the voter desires to vote; and

11 (12) The optical scan tabulator shall count the votes at the precinct.

12 21-2-311.

13 (a) In each precinct in which optical scan vote counting systems are used, there shall be
14 at least one voting booth or compartment for each 200 electors therein, or fraction thereof.

15 (b) The Secretary of State shall provide each county with optical scan vote counting
16 systems in good working order and of sufficient capacity to accommodate the names of a
17 reasonable number of candidates for all party offices and nominations and public offices
18 which, under the provisions of existing laws and party rules, are likely to be voted for at
19 any primary or election.

20 21-2-312.

21 (a) In selecting and purchasing an optical scan vote counting system for use in this state,
22 the Secretary of State shall examine the optical scan vote counting system to ensure that
23 such system is in compliance with the provisions of this chapter and shall so certify prior
24 to the purchase of such system. Any ten or more electors of this state may, at any time,
25 request the Secretary of State to reexamine the optical scan vote counting system to ensure
26 that it may be safely and accurately used in the state and that it is in compliance with the
27 provisions of this chapter. Before any such examination or reexamination, the person,
28 persons, or organization requesting such examination or reexamination shall pay to the
29 Secretary of State the reasonable expenses of such examination. The Secretary of State
30 may, at any time, in his or her discretion, reexamine the optical scan vote counting system.
31 The Secretary of State shall thereupon reexamine such optical scan vote counting system
32 and shall make and file in his or her office a report, attested by his or her signature and the
33 seal of his or her office, stating whether, in his or her opinion, the kind of optical scan vote
34 counting system so examined can be safely and accurately used by electors at primaries and
35 elections as provided in this chapter. If this report states that the optical scan vote counting

1 system can be so used, the optical scan vote counting system shall continue to be used at
2 primaries and elections as provided in this chapter. If, upon the reexamination of the
3 optical scan vote counting system, it shall appear that the optical scan vote counting system
4 so reexamined can no longer be safely and accurately used by electors at primaries or
5 elections or is not in compliance with the provisions of this chapter, the Secretary of State
6 shall immediately discontinue the use of such system in this state and shall examine and
7 purchase a new optical scan vote counting system for use in this state that does meet the
8 requirements of this chapter and which can be safely and accurately used in primaries and
9 elections.

10 (b) When an optical scan vote counting system has been so examined and certified, no
11 improvement or change that does not impair its accuracy, efficiency, or capacity shall
12 render necessary any examination or reexamination of the system.

13 (c) The Secretary of State, any of his or her staff or consultants, nor any other person
14 involved in the examination process shall have any pecuniary interest in any optical scan
15 vote counting system or in the manufacture or sale thereof.

16 21-2-313.

17 In any primary or election, the superintendent or governing authority shall cause all the
18 ballots to be printed accurately and in the form prescribed by this chapter, and the
19 superintendent or governing authority shall be responsible for the safekeeping of the same
20 while in his or her or its possession or that of his or her or its agent. The superintendent or
21 governing authority shall keep a record of the number of official ballots printed and
22 furnished to each precinct at each primary and election, and the number of stubs, unused
23 ballots, and canceled ballots subsequently returned therefrom.

24 21-2-314.

25 (a) In each primary separate official ballots shall be prepared for the political party holding
26 the primary. At the top of each ballot shall be printed in prominent type the words
27 'OFFICIAL PRIMARY BALLOT OF _____ PARTY FOR,'
28 followed by the designation of the precinct for which it is prepared and the name and date
29 of the primary.

30 (b) Immediately under this caption, the following directions shall be printed: 'Completely
31 fill in the oval or the square opposite the name of each candidate for whom you choose to
32 vote. If you spoil your ballot, do not erase, but ask for a new ballot. Use only pen or pencil.
33 Failure to follow these instructions may result in your vote not being counted.'

34 (c) Immediately under the directions, the names of all candidates who have qualified with
35 the party in accordance with this chapter and party rules and who have been certified to the

1 superintendent or Secretary of State as having so qualified shall be printed on the ballots,
2 except unopposed candidates in municipal primaries where the municipal charter or
3 ordinance does not prohibit the omission of such candidates' names from the ballot. The
4 names of the candidates shall in all cases be arranged under the title of the office for which
5 they are candidates and be printed thereunder in alphabetical order. The incumbency of a
6 candidate seeking party nomination for the public office he or she then holds shall be
7 indicated on the ballots. Under the title of each office shall be placed a direction as to the
8 number of candidates to be voted for.

9 (d) If at any general primary a political party shall submit to its members any matter or
10 question to be voted upon, the party shall by the deadline for certifying candidates for the
11 primary election certify the wording of said question to the superintendent, if to be voted
12 on by one county only, or to the Secretary of State, if to be voted on by more than one
13 county; and the superintendent or Secretary of State shall have such language printed on
14 the ballot form. To the left of each question there shall be placed the words 'Yes' and 'No'
15 together with appropriate ovals or squares to the left of each for the voter to cast his or her
16 vote for or against each question. If at any municipal primary a political party shall submit
17 to its members any matter or question to be voted upon, the party shall have printed on the
18 ballots the necessary language to guide the elector in the expression of his or her choice as
19 to such matter or question.

20 (e) Each ballot shall have printed thereon the following:

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

24 (f) The ballots shall vary in form only as the names of precincts, offices, candidates, color
25 of ballot cards, or this chapter may require.

26 21-2-315.

27 (a) The names of all candidates seeking nomination in a nonpartisan primary conducted
28 in conjunction with a partisan primary shall be printed on the ballot of each political party;
29 and insofar as practicable such offices to be filled in a nonpartisan primary shall be
30 separated from the names of political party candidates by being listed last on each political
31 party ballot, with the top of that portion of the ballot relating to the nonpartisan primary to
32 have printed in prominent type the words 'OFFICIAL NONPARTISAN PRIMARY
33 BALLOT.' Immediately under this caption the following directions shall be printed:
34 'Completely fill in the oval or the square opposite the name of each nonpartisan candidate
35 for whom you choose to vote. If you spoil your ballot, do not erase, but ask for a new
36 ballot. Use only pen or pencil. Failure to follow these instructions may result in your vote

1 not being counted.' Immediately under the directions, the names of the nonpartisan
 2 candidates shall in all cases be arranged under the title of the office for which they are
 3 candidates and be printed thereunder in alphabetical order. No party designation or
 4 affiliation shall appear beside the name of any candidate for nonpartisan office. The
 5 incumbency of a nonpartisan candidate seeking nomination for the public office he or she
 6 then holds shall be indicated on the ballots by printing the word 'Incumbent' beside his or
 7 her name. Under the title of each office shall be placed a direction as to the number of
 8 nonpartisan candidates to be voted for. The votes cast for each nonpartisan candidate listed
 9 on all political party ballots shall be combined to determine the total number of votes
 10 received by each candidate in the nonpartisan primary. In the event that a candidate in such
 11 nonpartisan primary does not receive a majority of the total votes cast for such office, there
 12 shall be a nonpartisan primary runoff between the candidates receiving the two highest
 13 numbers of votes for such office; and the names of such candidates shall be placed on each
 14 political party ballot at the general primary runoff in the same nonpartisan portion as
 15 prescribed in this Code section. If no political party runoff is required, the form of the
 16 ballot for the nonpartisan primary runoff shall be prescribed by the Secretary of State or
 17 election superintendent in essentially the same format prescribed for nonpartisan primaries.
 18 The candidate receiving a majority of the total votes cast in the nonpartisan primary or the
 19 candidate receiving the highest number of votes cast in the nonpartisan primary runoff shall
 20 be the only candidate for such office to have his or her name placed on the nonpartisan
 21 election ballot, and such person may be referred to as the nominee for such office or as the
 22 candidate nominated for such office.

23 (b) In the case of nonpartisan municipal primaries, the form of the official nonpartisan
 24 primary ballot shall conform insofar as practicable to the form of the official primary ballot
 25 as detailed in Code Section 21-2-314, except that:

26 (1) The following shall be printed at the top of each ballot in prominent type:

27 'OFFICIAL NONPARTISAN PRIMARY BALLOT OF

28 _____
 29 (Name of municipality)';

30 (2) There shall be no name or designation of any political organization nor any words,
 31 designation, or emblems descriptive of a candidate's political affiliation printed under or
 32 after any candidate's name which is printed on the ballot; and

33 (3) The incumbency of a candidate seeking election for the public office he or she then
 34 holds shall be indicated on the ballot.

35 21-2-316.

1 (a) At the top of each ballot for an election shall be printed in prominent type the words
2 'OFFICIAL BALLOT,' followed by the designation of the precinct for which it is prepared
3 and the name and date of the election.

4 (b) Immediately under this caption on a ballot presenting the names of candidates for
5 election to office, the following directions shall be printed, insofar as the same may be
6 appropriate for the election involved: 'To vote for presidential electors, completely fill in
7 the oval or the square opposite the names of the candidates of the party or body for the
8 offices of President and Vice President you choose to vote for. Completely fill in the oval
9 or the square opposite the name of each candidate you choose to vote for. To vote for a
10 person whose name is not on the ballot, manually write his or her name, accompanied by
11 the title of the office involved, in the write-in column. If you spoil your ballot, do not erase,
12 but ask for a new ballot. Use only pen or pencil. Failure to follow these instructions may
13 result in your vote not being counted.' Marks made in violation of these directions shall
14 be disregarded in the counting of the votes cast. The names of persons inserted on the ballot
15 by the elector shall be manually written only within the write-in space and the insertion of
16 such names outside such space or by the use of a sticker, paster, stamp, or other printed or
17 written matter is prohibited.

18 (c) Immediately under the directions, the names of all candidates who have been
19 nominated in accordance with the requirements of this chapter shall be printed on the ballot
20 and the names of the candidates shall in all cases be arranged under the titles of the
21 respective offices they are seeking. In a primary or special election, said names shall be
22 arranged alphabetically by last name under the title of the office. The incumbency of a
23 candidate seeking election for the public office he or she then holds shall be indicated on
24 the ballot. In a general election, the names of candidates who are nominees of a political
25 party shall be listed with the name of their party. Under the title of each office, the names
26 of the candidates of political parties shall be printed first in the descending order of the
27 totals of votes cast for candidates of the political parties for Governor at the last
28 gubernatorial election. Following these candidates, parties having no candidate for
29 Governor on the ballot at the last gubernatorial election shall be arranged alphabetically
30 according to the party name. Following these candidates, the names of candidates of
31 political bodies shall be arranged alphabetically according to the body name. Finally, the
32 names of all independent candidates shall be printed on the ballot under the designation
33 'Independent.' In the case of two or more independent candidates seeking the same office,
34 their names shall be arranged in alphabetical order. After the name of all of the candidates
35 shall be printed a space sufficient for the insertion of write-in votes. To the left or the right
36 of the name of every candidate thereon shall be an oval or a square which the voter may
37 complete in order to cast his or her vote for the candidate of his or her choice.

1 (d) Unless a candidate has filed with his or her nominating petition a certificate from a
2 political party or body attesting that such candidate is the nominee of such party by virtue
3 of having been nominated in a duly constituted party convention, the candidate's name
4 shall appear on the ballot as an independent candidate.

5 (e) When presidential electors are to be elected, the names of the nominees of each
6 political party or body for such offices shall be arranged alphabetically under the names of
7 the candidates of the party or body for President and Vice President of the United States.

8 (f) When proposed constitutional amendments or other questions are submitted to a vote
9 of the electors, each amendment or other question so submitted may be printed upon the
10 ballot after the groups of candidates for the various offices. Proposed constitutional
11 amendments so submitted shall be printed in brief form as directed by the General
12 Assembly and, in the event of a failure to so direct, the form shall be determined by the
13 Secretary of State. Unless otherwise provided by law, any other state-wide questions so
14 submitted shall be printed in brief form as directed by the General Assembly and, in the
15 event of a failure to so direct, the form shall be determined by the Secretary of State; any
16 local questions so submitted shall be printed in brief form as directed by the General
17 Assembly and, in the event of a failure to so direct, the form shall be determined by the
18 superintendent. To the left or the right of each question there shall be placed the words
19 'Yes' and 'No' together with appropriate ovals or squares to the left of each which the voter
20 may complete in order to cast his or her vote for approval or rejection of said question,
21 unless otherwise directed by the General Assembly.

22 (g) When proposed questions are submitted to a vote of municipal electors, each question
23 so submitted may be printed upon the ballot below the groups of candidates for the various
24 offices. To the left or the right of each question there shall be placed the words 'Yes' and
25 'No' together with appropriate ovals or squares to the left of each which the voter may
26 complete in order to cast his or her vote for the approval or rejection of said question,
27 unless otherwise directed by the General Assembly.

28 (h) Each ballot shall have printed thereon the following:

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

32 (i) The ballots shall vary in form only as the names of precincts, offices, candidates, or this
33 chapter may require.

34 (j) Any other provision of law to the contrary notwithstanding, in the event there is no
35 opposed candidate in a precinct in a general or special municipal election, no election shall
36 be held in such precinct unless a write-in candidate has qualified as provided by law or
37 unless there are issues to be submitted to the electorate within a precinct.

1 (k) When, pursuant to subsection (j) of this Code section, no election is to be conducted,
2 the municipality shall provide notice reasonably calculated to inform the affected electorate
3 that no election is to be conducted. Each such unopposed candidate shall be deemed to
4 have voted for himself or herself. The superintendent shall certify such unopposed
5 candidate as elected in the same manner as he or she certifies other candidates as elected
6 pursuant to Code Section 21-2-502.

7 21-2-317.

8 The names of all candidates nominated in the nonpartisan primary shall be printed on each
9 official election ballot; and insofar as practicable such offices to be filled in the nonpartisan
10 election shall be separated from the names of candidates for other offices by being listed
11 last on each ballot, with the top of that portion of each official election ballot relating to the
12 nonpartisan election to have printed in prominent type the words 'OFFICIAL
13 NONPARTISAN ELECTION BALLOT.' Immediately under this caption the following
14 directions shall be printed: 'Completely fill in the oval or the square opposite the name of
15 each nonpartisan candidate for whom you choose to vote. To vote for a person whose name
16 is not on the ballot, manually write his or her name, accompanied by the title of the office
17 involved, in the write-in column. If you spoil your ballot, do not erase, but ask for a new
18 ballot. Use only pen or pencil. Failure to follow these instructions may result in your vote
19 not being counted.' Immediately under the directions, the name of each nonpartisan
20 candidate shall be arranged under the title of the office for which such candidate was
21 nominated in the official nonpartisan primary. No party designation or affiliation shall
22 appear beside the name of any candidate for nonpartisan office. An appropriate space shall
23 also be placed on the ballot for the casting of write-in votes for such offices. In the event
24 that no candidate in such nonpartisan election receives a plurality of the total votes cast for
25 such office, there shall be a nonpartisan election runoff between the candidates receiving
26 the two highest numbers of votes; and the names of such candidates shall be placed on the
27 official ballot at the general election runoff in the same manner as prescribed in this Code
28 section for the nonpartisan election. In the event that only nonpartisan candidates are to be
29 placed on a run-off ballot, the form of the ballot shall be as prescribed by the Secretary of
30 State or election superintendent in essentially the same format as prescribed for the
31 nonpartisan election. The candidate having a plurality of the votes cast in the nonpartisan
32 election or the candidate receiving the highest number of votes cast in the nonpartisan
33 election runoff shall be declared duly elected to such office.

34 21-2-318.

1 (a) The ballots shall be printed in black ink upon clear, white, or colored material, of such
2 size and arrangement as will suit the construction of the optical scanner, and in plain, clear
3 type so as to be easily readable by persons with normal vision.

4 (b) The form and arrangement of ballots shall be prescribed by this article and prepared
5 by the superintendent.

6 21-2-319.

7 (a) If ballots for a precinct at which an optical scan vote counting system is to be used shall
8 not be delivered to the poll officers as required by this chapter, the chief manager of such
9 precinct shall cause other ballots to be prepared, printed, or written, as nearly in the form
10 of official ballots as practicable; and the poll officers shall cause the ballots, so substituted,
11 to be used at the primary or election, in the same manner, as nearly as may be, as the
12 official ballots. Such ballots, so substituted, shall be known as unofficial ballots.

13 (b) If any optical scan vote counting system being used in any primary or election shall
14 become out of order during such primary or election, it shall, if possible, be repaired or
15 another optical scan vote counting system substituted by the custodian or superintendent
16 as promptly as possible, for which purpose the Secretary of State may purchase as many
17 extra optical scan vote counting systems as he or she may deem necessary; but, in case such
18 repair or substitution cannot be made, the ballots may be voted manually.

19 21-2-320.

20 In elections, electors shall be permitted to cast write-in votes. The design of the ballot shall
21 permit the superintendents, in counting the write-in votes, to determine readily whether an
22 elector has cast any write-in vote not authorized by law. The Secretary of State, in
23 specifying the form of the ballot, and the State Election Board, in promulgating rules and
24 regulations respecting the conduct of elections, shall provide for ballot secrecy in
25 connection with write-in votes.

26 21-2-321.

27 (a) The superintendent of each county or municipality shall order the proper programming
28 to be placed in each tabulator used in any precinct.

29 (b) On or before the third day preceding a primary or election, the superintendent shall
30 have the optical scan tabulators to be used in the primary or election tested to ascertain that
31 they will correctly count the votes cast for all offices and on all questions. Public notice of
32 the time and place of the test shall be made at least five days prior thereto. Representatives
33 of political parties and bodies, candidates, news media, and the public shall be permitted
34 to observe such tests. The test shall be conducted by processing a preaudited group of

1 ballots so marked as to record a predetermined number of valid votes for each candidate
2 and on each question and shall include for each office one or more ballots which are
3 improperly marked and one or more ballots which have votes in excess of the number
4 allowed by law in order to test the ability of the optical scan tabulator to reject such votes.
5 The optical scan tabulator shall not be approved unless it produces an errorless count. If
6 any error is detected, the cause therefor shall be ascertained and corrected; and an errorless
7 count shall be made before the tabulator is approved. The superintendent shall cause the
8 pretested tabulators to be placed at the various polling places to be used in the primary or
9 election. The superintendent shall require that each optical scan tabulator be thoroughly
10 tested and inspected prior to each primary and election in which it is used and shall keep
11 such tested material as certification of an errorless count on each tabulator. The optical
12 scan tabulators shall produce a zero tape prior to any ballots being inserted on the day of
13 any primary or election.

14 (c) In every primary or election, the superintendent shall furnish, at the expense of the
15 county or municipality, all ballots, forms of certificates, and other papers and supplies
16 required under this chapter and which are not furnished by the Secretary of State, all of
17 which shall be in the form and according to the specifications prescribed, from time to
18 time, by the Secretary of State.

19 21-2-322.

20 (a) The superintendent shall deliver the proper optical scan tabulator to the polling places
21 at least one hour before the time set for opening of the polls at each primary or election and
22 shall cause each to be set up in the proper manner for use in voting.

23 (b) The superintendent shall provide ample protection against molestation of and injury
24 to the optical scan tabulator and, for that purpose, shall call upon any law enforcement
25 officer to furnish such assistance as may be necessary; and it shall be the duty of the law
26 enforcement officer to furnish such assistance when so requested by the superintendent.

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

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

32 (2) Prominently post directions for voting on the optical scan ballot within the voting
33 booth or compartment; at least two sample ballots in use for the primary or election shall
34 be posted prominently outside the enclosed space within the polling place;

1 (3) Ensure that the optical scan tabulator shall have a seal securing the memory pack in
2 use throughout the election day; such seal shall not be broken unless the tabulator is
3 replaced due to malfunction; and

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

6 21-2-323.

7 During the 30 days next preceding a general primary or election or during the ten days next
8 preceding a special primary or election, the superintendent shall place on public exhibition,
9 in such public places and at such times as he or she may deem most suitable for the
10 information and instruction of the electors, one or more sets of sample ballots that will be
11 used in such election. The sample ballots shall show the offices and questions to be voted
12 upon, the names and arrangements of parties and bodies, and the names and arrangements
13 of the candidates to be voted for. Such ballots shall be under the charge and care of a
14 person competent as an instructor.

15 21-2-324.

16 (a) The superintendent shall designate a person or persons who shall have custody of the
17 optical scan tabulators of the county or municipality when they are not in use at a primary
18 or election and shall provide for his or her compensation and for the safe storage and care
19 of the optical scan tabulators.

20 (b) All optical scan tabulators, when not in use, shall be properly covered and stored in a
21 suitable place or places.

22 21-2-325.

23 If a method of nomination or election for any candidate or office, or of voting on any
24 question is prescribed by law, in which the use of optical scan vote counting systems is not
25 possible or practicable, or in case, at any primary or election, the number of candidates
26 seeking nomination or nominated for any office renders the use of optical scan vote
27 counting systems for such office at such primary or election impracticable, or if, for any
28 other reason, at any primary or election the use of optical scan vote counting systems
29 wholly or in part is not practicable, the superintendent may arrange to have the voting for
30 such candidates or offices or for such questions conducted by paper ballots as prescribed
31 by this chapter. In such cases, appropriate ballots shall be printed for such candidates,
32 offices, or questions, and the primary or election shall be conducted by the poll officers,
33 and the ballots shall be counted and return thereof made in the manner required by law."

34 **SECTION 22.**

1 Said chapter is further amended by striking Code Section 21-2-383, relating to preparation
2 and deliver of absentee ballots, in its entirety and inserting in lieu thereof a new Code Section
3 21-2-383 to read as follows:

4 "21-2-383.

5 Ballots for use by absentee electors shall be prepared sufficiently in advance by the
6 superintendent and shall be delivered to the board of registrars or absentee ballot clerk as
7 provided in Code Section 21-2-384. Such ballots shall be marked 'Official Absentee Ballot'
8 and shall be in substantially the form for optical scan ballots required by Article ~~8~~ 9 of this
9 chapter, except that, in counties using ~~voting machines or vote recorders~~ paper ballots, the
10 ballots may be in substantially the form for the ~~ballot labels~~ ballots required by Article ~~9~~
11 8 of this chapter ~~or in such form as will allow the ballot to be machine tabulated~~. Every
12 such ballot shall have printed with other instructions thereon the following:

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

16 The form for either ballot shall be determined and prescribed by the Secretary of State,
17 except in municipal primaries or elections, in which the form of absentee ballots ~~which~~
18 ~~follows the paper ballot format~~ shall be determined and prescribed by the superintendent."

19

SECTION 23.

20 Said chapter is further amended by striking subsection (b) of Code Section 21-2-386, relating
21 to safekeeping, certification, and validation of absentee ballots, in its entirety and inserting
22 in lieu thereof a new subsection (b) to read as follows:

23 "(b) As soon as practicable after 12:00 Noon on the day of the primary or election, in
24 ~~precincts other than those in which vote recorders or optical scanning tabulators are used,~~
25 a registrar or absentee ballot clerk shall deliver the official absentee ballot of each certified
26 absentee elector, each rejected absentee ballot, applications for such ballots, and copies of
27 the numbered lists of certified and rejected absentee electors to the manager in charge of
28 the absentee ballot precinct of the county, which shall be located in the ~~precincts containing~~
29 ~~the county courthouse or polling place designated by the municipal superintendent. In those~~
30 ~~precincts in which vote recorders or optical scanning tabulators are used, such absentee~~
31 ~~ballots shall be taken to the tabulation center or other place designated by the~~
32 ~~superintendent, and the official receiving such absentee ballots shall issue his or her receipt~~
33 ~~therefor.~~ In no event shall the counting of the ballots begin before the polls close."

34

SECTION 24.

1 Said chapter is further amended by striking subsections (b) and (c) of Code Section 21-2-400,
 2 relating to duties of superintendent, in its entirety and inserting in lieu thereof a new
 3 subsection (b) to read as follows:

4 "(b) As an aid to electors, sample ballots ~~or ballot labels~~ may be printed and published in
 5 any newspaper generally and regularly circulated within the county or municipality, so long
 6 as the facsimile is labeled 'Sample Ballot' and is at least 25 percent larger or smaller than
 7 the official ballot. Reprints of such newspaper printings may be procured and distributed
 8 by any elector. Election officials may also prepare and distribute sample ballots ~~or ballot~~
 9 ~~labels~~ or portions thereof, provided they are labeled 'Sample Ballot' and are of a different
 10 color and at least 25 percent larger or smaller than the official ballot ~~or ballot label~~.

11 ~~(c) In those counties and municipalities which employ the use of vote recorders or voting~~
 12 ~~machines, the superintendent shall prepare sample or facsimile ballot labels for each~~
 13 ~~general election which shall contain each question and the candidates who are offering for~~
 14 ~~election for each office which will be voted upon in the county or municipality. The~~
 15 ~~superintendent shall maintain such sample or facsimile ballot labels at the county~~
 16 ~~courthouse for distribution upon request to interested electors. Such sample or facsimile~~
 17 ~~ballot labels shall comply with Code Section 21-2-575."~~

18 SECTION 25.

19 Said chapter is further amended by striking subsection (a) of Code Section 21-2-401, relating
 20 to the delivery of forms and supplies to the precincts, in its entirety and inserting in lieu
 21 thereof a new subsection (a) to read as follows:

22 "(a) The cards of instruction, return sheets, tally sheets, oaths of poll officers, affidavits,
 23 and other forms and supplies required for use in each precinct; and, ~~in precincts in which~~
 24 ~~ballots are used~~, the official ballots prepared for use therein shall be packed by the
 25 superintendent in separate sealed packages for each precinct, marked on the outside so as
 26 to designate clearly the precincts for which they are intended and, ~~in the case of precincts~~
 27 ~~in which ballots are used~~, the number of ballots enclosed. They shall then be delivered by
 28 the superintendent, together with the ballot box which shall bear the designation of the
 29 precinct, to the managers in the several precincts prior to the hour appointed for opening
 30 the polls. In primaries when using paper ballots, the parties shall decide whether to use the
 31 same ballot box or to use separate ballot boxes. The managers of the respective precincts
 32 shall, on delivery to them of such packages, return receipts therefor to the superintendent,
 33 who shall keep a record of the time when and the manner in which the several packages are
 34 delivered. The superintendent may, in the superintendent's discretion, require the managers
 35 of the respective precincts to call at the superintendent's office to obtain such packages."

SECTION 28.

Said chapter is further amended by striking subsection (a) of Code Section 21-2-409, relating to the assistance of electors who cannot read English or who have physical disabilities, in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) No elector shall receive any assistance in voting at any primary or election unless he or she is unable to read the English language or he or she has a physical disability which renders him or her unable to see or mark the ballot ~~or operate the voting machine or vote recorder~~ or to enter the voting compartment or booth without assistance and the poll officers are satisfied that he or she suffers from the disability. Except for a blind elector, before an elector shall be permitted to receive assistance, the elector shall take an oath which shall be administered to him or her and placed in writing by a manager, giving the reason why the elector requires assistance. The name of each person assisting the elector shall be endorsed on the oath. An elector who declares that by reason of blindness he or she is unable to cast a vote as he or she wishes and who in the judgment of a manager is blind may receive assistance on the basis of the blind elector's declaration without the necessity of an oath. The name of each person assisting a blind elector shall be shown on the declaration."

SECTION 29.

Said chapter is further amended by striking subsections (a), (b), and (e) of Code Section 21-2-413, relating to conduct of voters, campaigners, and others at polling places generally, in their entirety and inserting in lieu thereof new subsections (a), (b), and (e) to read as follows:

"(a) No elector shall be allowed to occupy a voting compartment or ~~voting machine~~ booth already occupied by another except when giving assistance as permitted by this chapter.

(b) No elector shall remain in a voting compartment or ~~voting machine~~ booth an unreasonable length of time; and, if such elector shall refuse to leave after such period, he or she shall be removed by the poll officers."

"(e) All persons except poll officers, poll watchers, persons in the course of voting and such persons' children under 12 years of age accompanying such persons, persons lawfully giving assistance to electors, duly authorized investigators of the State Election Board, and peace officers when necessary for the preservation of order, must remain outside the enclosed space during the progress of the voting. Notwithstanding any other provision of this chapter, any elector shall be permitted to be accompanied into the enclosed area and into a voting compartment or ~~voting machine~~ booth while voting by such elector's child or children under 12 years of age unless the poll manager or an assistant manager determines in his or her sole discretion that such child or children are causing a disturbance

1 or are interfering with the conduct of voting. Children accompanying an elector in the
 2 enclosed space pursuant to this subsection shall not in any manner mark or handle any
 3 ballot ~~nor operate any function of a voting machine or vote recorder~~ under any
 4 circumstances."

5 SECTION 30.

6 Said chapter is further amended by striking Code Section 21-2-430, relating to opening of
 7 ballot boxes, in its entirety and inserting in lieu thereof a new Code Section 21-2-430 to read
 8 as follows:

9 "21-2-430.

10 In precincts in which paper ballots are used, the poll officers shall, after taking the oath,
 11 publicly open the ballot boxes which have been furnished to them and shall, prior to
 12 opening of the polls, totally destroy any ballots and other papers which they may find
 13 therein which are not intended for use in such primary or election. When the polling place
 14 is opened, the ballot box shall be securely locked and shall not be opened until the close
 15 of the polls, as provided in Code Section 21-2-436. At the opening of the polls, the seals
 16 of the packages furnished by the superintendent shall be publicly broken and such packages
 17 shall be opened by the chief manager. The cards of instruction shall be immediately posted
 18 in each voting compartment. Not less than three such cards and notices of penalties shall
 19 be immediately posted in or about the voting room outside the enclosed space; and such
 20 cards of instruction and notices of penalties shall be given to any elector at his or her
 21 request so long as there are any on hand."

22 SECTION 31.

23 Said chapter is further amended by striking subsection (a) of Code Section 21-2-431, relating
 24 to the execution of a voter's certificate, in its entirety and inserting in lieu thereof a new
 25 subsection (a) to read as follows:

26 "(a) At every primary and election at which paper ballots are used, each elector who
 27 desires to vote shall first execute a voter's certificate and hand the same to the poll officer
 28 in charge of the electors list. When an elector has been found entitled to vote, the poll
 29 officer who examined his or her voter's certificate shall sign his or her name or initials on
 30 the voter's certificate and shall, if the voter's signature is not readily legible, print such
 31 voter's name under his or her signature. As each elector is found to be qualified and votes,
 32 the poll officers shall check off the elector's name on the electors list and shall enter the
 33 number of the stub of the ballot issued to him or her, ~~or his or her number in the order of~~
 34 ~~admission to the voting machines~~, on the voter's certificate of such elector. As each elector

1 votes, his or her name in the order of voting shall be recorded in the numbered list of voters
2 provided for that purpose."

3 **SECTION 32.**

4 Said chapter is further amended by striking subsection (b) of Code Section 21-2-433, relating
5 to the admission of electors to the enclosed space, in its entirety and inserting in lieu thereof
6 a new subsection (b) to read as follows:

7 "(b) As soon as an elector has been admitted within the enclosed space, the poll officer
8 having charge of the ballots in precincts in which paper ballots are used shall detach a
9 ballot from the stub and give it to the elector, first folding it so that the words and figures
10 printed on the face shall not be visible, and no ballots shall be deposited in the ballot box
11 unless folded in the same manner. If an elector's right to vote has been challenged for cause
12 under Code Section 21-2-230, the poll officer shall write the word 'Challenged' and the
13 alleged cause of challenge on the back of the ballot. Not more than one ballot shall be
14 detached from its stub in any book of ballots at any one time. Not more than one ballot
15 shall be given to an elector; but, if an elector inadvertently spoils a ballot, such elector may
16 obtain another upon returning the spoiled one. The ballots thus returned shall be
17 immediately canceled and at the close of the polls shall be enclosed in an envelope, which
18 shall be sealed and returned to the superintendent."

19 **SECTION 33.**

20 Said chapter is further amended by striking subsections (a) and (c) of Code Section 21-2-435,
21 relating to the procedure as to marking and depositing of ballots, in its entirety and inserting
22 in lieu thereof new subsections (a) and (c) to read as follows:

23 "(a) In precincts in which paper ballots are used, the elector, after receiving his or her
24 ballot, shall retire to one of the voting compartments and draw the curtain or shut the screen
25 or door and shall then prepare his or her ballot; provided, however, that an elector may,
26 before entering the voting booth, ask for instructions concerning the manner of voting, and
27 a poll officer shall give him or her such instructions; but no person giving an elector such
28 instructions shall in any manner request, suggest, or seek to persuade or induce any such
29 elector to vote any particular ticket or for any particular candidate or for or against any
30 particular question. After giving such instructions and before the elector closes the booth
31 or votes, the poll officer shall retire and the elector shall forthwith vote."

32 "(c) At elections, the elector shall prepare his or her ballot in the following manner:

33 (1) He or she may vote for the candidates of his or her choice for each office to be filled
34 according to the number of persons to be voted for by him or her for each office, by
35 making a cross (X) or check (✓) mark in the square opposite the name of the candidate;

1 (2) He or she may write, in the blank space provided therefor, any name not already
 2 printed on the ballot, and such insertion shall count as a vote without the marking of a
 3 cross (X) or check (✓) mark;

4 ~~(3) If he or she desires to vote for every candidate of a political party or body (except its
 5 candidates for the offices of presidential electors), he or she may make a cross (X) or
 6 check (✓) mark in the square opposite the name of the party or body of his or her choice
 7 in the party or body column on the left of the ballot, and every such cross (X) or check
 8 (✓) mark shall be equivalent to and be counted as a vote for every candidate of a party
 9 or body so marked, except its candidates for the offices of presidential electors;~~

10 ~~(4) If he or she desires to vote for the presidential electors nominated by any party or
 11 body, he or she may make a cross (X) or check (✓) mark in the appropriate square at the
 12 left of the names of the candidates for President and Vice President of such party or body;~~

13 and

14 ~~(5)~~(4) In case of a question submitted to the vote of the electors, he or she may make a
 15 cross (X) or check (✓) mark in the appropriate square opposite the answer which he or
 16 she desires to give."

17 SECTION 34.

18 Said chapter is further amended by striking Code Section 21-2-436, relating to the duties of
 19 poll officers after the close of the polls, in its entirety and inserting in lieu thereof a new
 20 Code Section 21-2-436 to read as follows:

21 "21-2-436.

22 After the polls are closed and the last elector has voted in precincts in which paper ballots
 23 are used, at least two poll officers shall remain within the enclosed space. Before the ballot
 24 box is opened, the number of ballots issued to electors, as shown by the stubs, and the
 25 number of ballots, if any, spoiled and returned by electors and canceled, shall be announced
 26 to all present in the voting room and entered upon the general returns of votes cast at such
 27 primary or election. The poll officer shall then compare the number of electors voting as
 28 shown by the stubs with the number of names shown as voting by the electors list, voter's
 29 certificates, and the numbered list of voters, and shall announce the result, and shall enter
 30 on the general returns the number of electors who have voted, as shown by the voter's
 31 certificates. If any differences exist, they shall be reconciled, if possible; otherwise, they
 32 shall be noted on the general returns. The electors list, the voter's certificates, the numbered
 33 list of voters, and the stubs of all ballots used, together with all unused ballots, all spoiled
 34 and canceled ballots, and all rejected voter's certificates, shall then be placed in separate
 35 packages, containers, or envelopes and sealed before the ballot box is opened."

~~(b) At elections, any ballot marked by any other mark than a cross (X) or check (✓) mark in the spaces provided for that purpose shall be void and not counted; provided, however, that no vote recorded thereon shall be declared void because a cross (X) or check (✓) mark thereon is irregular in form. A cross (X) or check (✓) mark in the square opposite the names of the nominees of a political party or body for the offices of President and Vice President shall be counted as a vote for every candidate of that party or body for the offices of presidential electors. Any ballot indicating a write-in for any person whose name is not printed on the ballot and who properly gave notice of intent to run as a write-in candidate pursuant to Code Section 21-2-133 shall be counted as a vote for such person, if written in the proper space or spaces provided for that purpose, whether or not a cross (X) or check (✓) mark is placed before the name of such person.~~

~~(c) Notwithstanding any other provisions of this chapter to the contrary, if the elector has marked his or her ballot in such a manner that he or she has indicated clearly and without question the candidate for whom he or she desires to cast his or her vote, his or her ballot shall be counted and such candidate shall receive his or her vote, notwithstanding the fact that the elector in indicating his or her choice may have marked his or her ballot in a manner other than as prescribed by this chapter. Reserved.~~

SECTION 37.

Said chapter is further amended by striking Parts 3, 4, and 5 of Article 11, relating to the preparation for and conduct of primaries and elections, in their entirety and inserting in lieu thereof a new Part 3 to read as follows:

"Part 3

21-2-450.

In precincts using optical scan vote counting systems, the poll officers shall, after taking the oath, publicly open the ballot boxes which have been furnished to them and shall, prior to the opening of the polls, totally destroy any ballots and other papers which they may find therein which are not intended for use in such primary or election. When the polling place is opened, the ballot box and tabulating machine controls shall be securely locked and shall not be opened until the close of the polls. At the opening of the polls, the seals of the packages furnished by the superintendent shall be publicly broken and such packages shall be opened by the chief manager. The cards of instruction shall be immediately posted in each voting booth or compartment. Not less than three such cards and notices of penalties shall be immediately posted in or about the voting room outside the enclosed space; and

1 such cards of instruction and notices of penalties shall be given to any elector at his or her
2 request so long as there are any on hand.

3 21-2-451.

4 (a) At every primary and election, each elector who desires to vote shall first execute a
5 voter's certificate and hand the same to the poll officer in charge of the electors list. When
6 an elector has been found entitled to vote, the poll officer who examined his or her voter's
7 certificate shall sign his or her name or initials on the voter's certificate and shall, if the
8 voter's signature is not readily legible, print such voter's name under his or her signature.
9 As each elector is found to be qualified and votes, the poll officers shall check off the
10 elector's name on the electors list and shall enter the number of the stub of the ballot issued
11 to him or her on the voter's certificate of such elector. As each elector votes, his or her
12 name in the order of voting shall be recorded in the numbered list of voters provided for
13 that purpose.

14 (b) If any elector was unable to sign his or her name at the time of registration or if, having
15 been able to sign his or her name when registered, he or she subsequently shall have
16 become, through physical disability, unable to sign his or her name when he or she applies
17 to vote, he or she shall establish his or her identity to the satisfaction of the poll officers;
18 and in such case he or she shall not be required to sign a voter's certificate, but a certificate
19 shall be prepared for him or her by a poll officer, upon which the facts as to such disability
20 shall be noted and attested by the signature of such poll officer.

21 (c) Except as provided in Code Sections 21-2-218 and 21-2-386, no person shall vote at
22 any primary or election at any polling place outside the precinct in which such person
23 resides, nor shall such person vote in the precinct in which such person resides unless such
24 person has been registered as an elector and such person's name appears on the electors list
25 of such precinct.

26 21-2-452.

27 After each elector has been admitted to vote, his or her voter's certificate shall be inserted
28 in the binder provided therefor by the registrars, and known as the voter's certificate
29 binder, and such voter's certificates so bound shall constitute the official list of electors
30 voting at such primary or election. All voter's certificates prepared by persons applying to
31 vote whose applications to vote are refused by the poll officers shall be separately
32 preserved and returned to the superintendent with the other papers.

1 21-2-453.

2 (a) No elector shall enter the enclosed space behind the guardrail provided for in
3 subsection (a) of Code Section 21-2-267 until he or she is found entitled to vote.

4 (b) When an elector has been admitted into the enclosed space, the poll officer having
5 charge of the ballots shall detach a ballot from the stub and give it to the elector. If an
6 elector's right to vote has been challenged for cause under Code Section 21-2-230, the poll
7 officer shall write the word 'Challenged' and the alleged cause of challenge on the back of
8 the ballot. Not more than one ballot shall be detached from its stub in any book of ballots
9 at any one time. Not more than one ballot shall be given to an elector; but, if an elector
10 inadvertently spoils a ballot, such elector may obtain another upon returning the spoiled
11 one. The ballots thus returned shall be immediately canceled and at the close of the polls
12 shall be enclosed in an envelope, which shall be sealed and returned to the superintendent.

13 21-2-454.

14 No official ballot shall be taken or detached from its stub in any book of ballots, except by
15 a poll officer when a person desiring to vote has been found to be an elector entitled to
16 vote. No person other than the poll officers shall take or remove any ballot from the polling
17 place. Only official ballots shall be deposited in the tabulating machine and counted, except
18 as otherwise provided in this article. If any ballot appears to have been obtained otherwise
19 than from the superintendent as provided by this article, the same shall not be counted; and
20 the chief manager shall transmit such ballot to the district attorney without delay, together
21 with whatever information he or she may have regarding the same.

22 21-2-455.

23 (a) In precincts in which optical scan vote counting systems are used, the elector, after
24 receiving his or her ballot, shall retire to one of the voting booths or compartments and
25 shall then prepare his or her ballot; provided, however, that an elector may, before entering
26 the voting booth or compartment, ask for instructions concerning the manner of voting, and
27 a poll officer shall give him or her such instructions; but no person giving an elector such
28 instructions shall in any manner request, suggest, or seek to persuade or induce any such
29 elector to vote any particular ticket or for any particular candidate or for or against any
30 particular question. After giving such instructions and before the elector enters the booth
31 or compartment or votes, the poll officer shall retire and the elector shall forthwith vote.

32 (b) At primaries, the elector shall prepare his or her ballot in the following manner: he or
33 she shall vote for the candidates of his or her choice for nomination or election, according
34 to the number of persons to be voted for by him or her, for each office, by completely

1 filling in the oval or the square opposite the name of each candidate. No elector shall be
2 permitted to cast a write-in ballot in a primary.

3 (c) At elections, the elector shall prepare his or her ballot in the following manner:

4 (1) He or she may vote for the candidates of his or her choice for each office to be filled
5 according to the number of persons to be voted for by him or her for each office, by
6 completely filling in the oval or the square opposite the name of the candidate;

7 (2) He or she may write, in the blank space provided therefor, any name not already
8 printed on the ballot, and completely fill in the oval or the square opposite the write-in
9 space;

10 (3) If he or she desires to vote for the presidential electors nominated by any party or
11 body, he or she may completely fill in the oval or the square next to the names of the
12 candidates for President and Vice President of such party or body; and

13 (4) In case of a question submitted to the vote of the electors, he or she may completely
14 fill in the oval or the square opposite the answer which he or she desires to give.

15 (d) He or she shall then leave the compartment and shall immediately deposit the ballot
16 in the tabulating machine.

17 21-2-456.

18 (a) In primaries and elections in which optical scan vote counting systems are used, the
19 ballots shall be counted at the precinct.

20 (b) All proceedings at the precincts shall be open to the view of the public, but no person
21 except the superintendent, the superintendent's authorized deputy, a poll officer, or a poll
22 worker shall touch any ballot or ballot container.

23 (c) For any election for which there is a qualified write-in candidate, the feature on the
24 tabulating machine allowing separation of write-in votes shall be utilized. If any vote cast
25 on the write-in ballot in combination with the vote cast for the same office on the ballot
26 exceeds the allowed number for the office, the vote cast for that office only shall not be
27 counted. In the discretion of the superintendent, either a duplicate ballot shall be made on
28 which any invalid vote shall be omitted or the write-in ballot and the ballot shall be counted
29 in such manner as may be prescribed by State Election Board rules, omitting the invalid
30 vote.

31 (d) The tabulating machine shall be programmed to return to the voter at the time that the
32 voter inserts the ballot any ballot that cannot be processed by the tabulator for reevaluation
33 or correction or spoiling of the ballot, and a new ballot shall be issued if needed.

34 (e) The official returns of the votes cast on ballots at each polling place shall be printed by
35 the tabulating machine. The returns thus prepared shall be certified and promptly posted.

1 The unused ballots; voted ballots; ballots; spoiled, defective, and invalid ballots; and
2 returns shall be filed and retained as provided by law.

3 21-2-457.

4 After the polls are closed and the last elector has voted in precincts in which optical scan
5 vote counting systems are used, at least two poll officers shall remain within the enclosed
6 space. Before the ballot box is opened or the controls of the tabulating machine are
7 unlocked, the number of ballots issued to electors, as shown by the stubs, and the number
8 of ballots, if any, spoiled and returned by electors and canceled, shall be announced to all
9 present in the voting room and entered upon the general returns of votes cast at such
10 primary or election. The poll officers shall then compare the number of electors voting as
11 shown by the stubs with the number of names shown as voting by the electors list, voter's
12 certificates, and the numbered list of voters and shall announce the result and shall enter
13 on the general returns the number of electors who have voted, as shown by the voter's
14 certificates. If any differences exist, they shall be reconciled, if possible; otherwise, they
15 shall be noted on the general returns. The electors list, the voter's certificates, the numbered
16 list of voters, and the stubs of all ballots used, together with all unused ballots, all spoiled
17 and canceled ballots, and all rejected voter's certificates, shall then be placed in separate
18 packages, containers, or envelopes and sealed before the ballot box is opened or the
19 controls of the tabulating machine are unlocked.

20 21-2-458.

21 After completing the duties set forth in Code Section 21-2-457, the poll officers shall feed
22 the ballots from the auxiliary compartment of the ballot box which have not yet been
23 counted by the tabulating machine, if any, through the tabulating machine and, after all
24 such ballots have been fed through the tabulator, the poll officers shall cause the tabulating
25 machine to print out a tape with the total votes cast in each election. The poll officers shall
26 then identify all valid write-in votes and total all such votes. Such write-in votes shall be
27 counted and recorded in the manner in which they were written by the elector. The
28 superintendent, in computing the votes cast at any election, shall compute and certify only
29 those write-in votes properly cast for candidates who have given proper notice of intent to
30 be write-in candidates pursuant to Code Section 21-2-133 exactly as such names were
31 written by the elector."

SECTION 38.

Said chapter is further amended by striking subsections (c) through (l) of Code Section 21-2-493, relating to the computation, canvassing, and tabulation of returns, in their entirety and inserting in lieu thereof new subsections (c) through (i) to read as follows:

~~"(c) In precincts in which paper ballots or vote recorders have been used, the~~ The superintendent may require the production of the ballot box and the recount of the ballots contained in such ballot box, either generally or respecting the particular office, nomination, or question as to which the excess exists, in the discretion of the superintendent, and may require the correction of the returns in accordance with the result of such recount. If the ballot box is found to contain more ballots than there are electors registered in such precinct or more ballots than the number of voters who voted in such precinct at such primary or election, the superintendent may, in his or her discretion, exclude the poll of that precinct, either as to all offices, candidates, questions, or parties and bodies or as to any particular offices, candidates, questions, or parties and bodies, as to which such excess exists.

~~(d) In precincts in which voting machines have been used, the superintendent may require a recanvass of the votes recorded on the machines used in the precinct, as provided in Code Section 21-2-495.~~

~~(e) In precincts in which paper ballots or vote recorders have been used, the~~ The general returns made by the poll officers from the various precincts shall be read one after another in the usual order, slowly and audibly, by one of the assistants who shall, in each case of a return from a precinct in which ballots were used, read therefrom the number of ballots issued, spoiled, canceled, and cast, respectively, whereupon the assistant having charge of the records of the superintendent showing the number of ballots furnished for each precinct, including the number of stubs and unused ballots and spoiled and canceled ballots returned, shall publicly announce the number of the same respectively; and, unless it appears by such number or calculations therefrom that such records and such general return correspond, no further returns shall be read from the latter until all discrepancies are explained to the satisfaction of the superintendent.

~~(f) In precincts in which voting machines have been used, there shall be read from the general return the identifying number or other designation of each voting machine used and the numbers registered on the protective counter or device on each machine prior to the opening of the polls and immediately after the close of the same, whereupon the assistant having charge of the records of the superintendent showing the number registered on the protective counter or device of each voting machine prior to delivery at the polling place shall publicly announce the numbers so registered; and, unless it appears that such records~~

1 ~~and such general return correspond, no further returns shall be read from the latter until any~~
2 ~~and all discrepancies are explained to the satisfaction of the superintendent.~~

3 ~~(e)(g) In precincts in which paper ballots have been used, when~~ When the records agree
4 with such returns regarding the number of ballots and the number of votes recorded for
5 each candidate, such votes for each candidate shall be read by an assistant slowly, audibly,
6 and in an orderly manner from the general return which has been returned unsealed; and
7 the figures announced shall be compared by other assistants with the general return which
8 has been returned sealed. The figures announced for all precincts shall be compared by one
9 of the assistants with the tally papers from the respective precincts. If any discrepancies are
10 discovered, the superintendent shall examine all of the return sheets, tally papers, and other
11 papers in his or her possession relating to the same precinct. If the tally papers and sealed
12 general return sheet agree, the unsealed general return shall be immediately corrected to
13 conform thereto. In every other case the superintendent shall immediately cause the ballot
14 box of the precinct to be opened and the vote therein to be recounted in the presence of
15 interested candidates or their representatives; and, if the recount shall not be sufficient to
16 correct the error, the superintendent may summon the poll officers to appear immediately
17 with all election papers in their possession.

18 ~~(h) In precincts in which voting machines have been used, when the records agree with the~~
19 ~~returns regarding the number registered on the voting machine, the votes recorded for each~~
20 ~~candidate shall be read by an assistant slowly, audibly, and in an orderly manner from the~~
21 ~~general return sheet which has been returned unsealed, and the figures announced shall be~~
22 ~~compared by other assistants with the duplicate return sheet which has been returned~~
23 ~~sealed. If the voting machine is of the type equipped with a mechanism for printing paper~~
24 ~~proof sheets, such general and duplicate return sheets shall also be compared with such~~
25 ~~proof sheets, which have been returned as aforesaid. If any discrepancies are discovered,~~
26 ~~the superintendent shall examine all of the return sheets, proof sheets, and other papers in~~
27 ~~his or her possession relating to the same precinct. Such proof sheets shall be deemed to~~
28 ~~be prima-facie evidence of the result of the primary or election and to be prima facie~~
29 ~~accurate; and, if the proper proof sheets, properly identified, shall be mutually consistent~~
30 ~~and if the general and duplicate returns or either of such returns from such precinct shall~~
31 ~~not correspond with such proof sheets, they shall be corrected so as to correspond with~~
32 ~~such proof sheets in the absence of allegation of specific fraud or error proved to the~~
33 ~~satisfaction of the superintendent.~~

34 ~~(i)(f) If any error or fraud is discovered, the superintendent shall compute and certify the~~
35 ~~votes justly, regardless of any fraudulent or erroneous returns presented to him or her, and~~
36 ~~shall report the facts to the appropriate district attorney for action.~~

1 ~~(j)~~(g) The superintendent shall see that the votes shown by each absentee ballot are added
2 to the return received from the precinct of the elector casting such ballot.

3 ~~(k)~~(h) As the returns from each precinct are read, computed, and found to be correct or
4 corrected as aforesaid, they shall be recorded on the blanks prepared for the purpose until
5 all the returns from the various precincts which are entitled to be counted shall have been
6 duly recorded; then they shall be added together, announced, and attested by the assistants
7 who made and computed the entries respectively and shall be signed by the superintendent.
8 The consolidated returns shall then be certified by the superintendent in the manner
9 required by this chapter.

10 ~~(l)~~(i) In such case where the results of an election contest change the returns so certified,
11 a corrected return shall be certified and filed by the superintendent which makes such
12 corrections as the court orders."

13 SECTION 39.

14 Said chapter is further amended by striking Code Section 21-2-495, relating to the procedure
15 for recount or recanvass of votes, in its entirety and inserting in lieu thereof a new Code
16 Section 21-2-495 to read as follows:

17 "21-2-495.

18 (a) ~~In precincts where paper ballots or vote recorders have been used, the~~ The
19 superintendent may, either of his or her own motion or upon petition of any candidate or
20 political party, order the recount of all the ballots for a particular precinct or precincts for
21 one or more offices in which it shall appear that a discrepancy or error, although not
22 apparent on the face of the returns, has been made. Such recount may be held at any time
23 prior to the certification of the consolidated returns by the superintendent and shall be
24 conducted under the direction of the superintendent. Before making such recount, the
25 superintendent shall give notice in writing to each candidate and to the county or municipal
26 chairperson of each party or body affected by the recount. Each such candidate may be
27 present in person or by representative, and each such party or body may send two
28 representatives to be present at such recount. If upon such recount, it shall appear that the
29 original count by the poll officers was incorrect, such returns and all papers being prepared
30 by the superintendent shall be corrected accordingly.

31 (b) ~~In precincts where voting machines have been used, whenever it appears that there is~~
32 ~~a discrepancy in the returns recorded for any voting machine or machines or that an error,~~
33 ~~although not apparent on the face of the returns, exists, the superintendent shall, either of~~
34 ~~his or her own motion or upon the sworn petition of three electors of any precinct, order~~
35 ~~a recanvass of the votes shown on that particular machine or machines. Such recanvass~~
36 ~~may be conducted at any time prior to the certification of the consolidated returns by the~~

1 ~~superintendent. In conducting such recanvass, the superintendent shall summon the poll~~
2 ~~officers of the precinct, and such officers, in the presence of the superintendent, shall make~~
3 ~~a record of the number of the seal upon the voting machine or machines and the number~~
4 ~~of the protective counter or other device; shall make visible the registering counters of each~~
5 ~~such machine; and, without unlocking the machine against voting, shall recanvass the vote~~
6 ~~thereon. Before making such recanvass, the superintendent shall give notice in writing to~~
7 ~~the custodian of voting machines, to each candidate, and to the county or municipal~~
8 ~~chairperson of each party or body affected by the recanvass. Each such candidate may be~~
9 ~~present in person or by representative, and each of such parties or bodies may send two~~
10 ~~representatives to be present at such recanvass. If, upon such recanvass, it shall be found~~
11 ~~that the original canvass of the returns has been correctly made from the machine and that~~
12 ~~the discrepancy still remains unaccounted for, the superintendent, with the assistance of the~~
13 ~~custodian, in the presence of the poll officers and the authorized candidates and~~
14 ~~representatives, shall unlock the voting and counting mechanism of the machine and shall~~
15 ~~proceed thoroughly to examine and test the machine to determine and reveal the true cause~~
16 ~~or causes, if any, of the discrepancy in returns from such machine. Each counter shall be~~
17 ~~reset at zero before it is tested, after which it shall be operated at least 100 times. After the~~
18 ~~completion of such examination and test, the custodian shall then and there prepare a~~
19 ~~statement, in writing, giving in detail the result of the examination and test; and such~~
20 ~~statement shall be witnessed by the persons present and shall be filed with the~~
21 ~~superintendent. If, upon such recanvass, it shall appear that the original canvass of the~~
22 ~~returns by the poll officers was incorrect, such returns and all papers being prepared by the~~
23 ~~superintendent shall be corrected accordingly; provided, however, that in the case of~~
24 ~~returns from any precinct wherein the primary or election was held by the use of a voting~~
25 ~~machine equipped with a mechanism for printing paper proof sheets, such proof sheets, if~~
26 ~~mutually consistent, shall be deemed to be prima-facie evidence of the result of the primary~~
27 ~~or election and to be prima facie accurate; and there shall not be considered to be any~~
28 ~~discrepancy or error in the returns from any such precinct, such as to require a recanvass~~
29 ~~of the vote, if all available proof sheets, from the voting machine used therein, identified~~
30 ~~to the satisfaction of the superintendent and shown to his or her satisfaction to have been~~
31 ~~produced from proper custody, shall be mutually consistent; and, if the general and~~
32 ~~duplicate returns, or either of such returns from such precincts shall not correspond with~~
33 ~~such proof sheets, they and all other papers being prepared by the superintendent shall be~~
34 ~~corrected so as to correspond with such proof sheets in the absence of allegation of specific~~
35 ~~fraud or error proved to the satisfaction of the superintendent by the weight of the evidence;~~
36 ~~and only in such case shall the vote of such precinct be recanvassed under this Code~~
37 ~~section.~~

1 (e) Whenever the difference between the number of votes received by a candidate who has
 2 been declared nominated for an office in a primary election or who has been declared
 3 elected to an office in an election or who has been declared eligible for a run-off primary
 4 or election, and the number of votes received by any other candidate or candidates not
 5 declared so nominated or elected or eligible for a runoff shall be not more than 1 percent
 6 of the total votes which were cast for such office therein, any such candidate or candidates
 7 receiving a sufficient number of votes so that the difference between his or her vote and
 8 that of a candidate declared nominated, elected, or eligible for a runoff is not more than 1
 9 percent of the total votes cast, within a period of five days following the certification of the
 10 election results, shall have the right to a recount of the votes cast, if such request is made
 11 in writing by the losing candidate. If the office sought is a federal or state office voted upon
 12 by the electors of more than one county, the request shall be made to the Secretary of State
 13 who shall notify the superintendents of the several counties involved of the request. In all
 14 other cases, the request shall be made to the superintendent. The superintendent or
 15 superintendents shall order a recount of such votes to be made immediately. If, upon such
 16 recount, it is determined that the original count was incorrect, the returns and all papers
 17 prepared by the superintendent, the superintendents, or the Secretary of State shall be
 18 corrected accordingly and the results recertified.

19 ~~(d)~~(c) Any other provision of this Code section to the contrary notwithstanding, a
 20 candidate for a federal or state office voted upon by the electors of more than one county
 21 may petition the Secretary of State for a recount ~~or canvass~~ of votes, ~~as appropriate~~, when
 22 it appears that a discrepancy or error, although not apparent on the face of the returns, has
 23 been made. The recount ~~or canvass~~ may be ordered in the discretion of the Secretary of
 24 State in any and all counties in which electors voted for such office, and said recount ~~or~~
 25 ~~canvass~~ may be held at any time prior to the certification of the consolidated returns by
 26 the Secretary of State. A recount ~~or canvass~~ shall be conducted by the appropriate
 27 superintendent or superintendents in the manner and pursuant to the procedures otherwise
 28 provided in this Code section for a recount ~~or canvass~~, ~~as appropriate~~. The petition
 29 pursuant to this Code section shall be in writing and signed by the person or persons
 30 requesting the recount ~~or canvass~~. A petition shall set forth the discrepancies or errors
 31 and any evidence in support of the petitioner's request for a recount ~~or canvass~~ and shall
 32 be verified. The Secretary of State may require the petitioner or other persons to furnish
 33 additional information concerning the apparent discrepancies or errors in the counting ~~or~~
 34 ~~canvassing~~ of votes."

SECTION 40.

Said chapter is further amended by striking Code Section 21-2-500, relating to delivery of voting materials, in its entirety and inserting in lieu thereof a new Code Section 21-2-500 to read as follows:

"21-2-500.

(a) Immediately upon completing the returns required by this article, in the case of elections other than municipal elections, the superintendent shall deliver in sealed containers to the clerk of the superior court or, if designated by the clerk of the superior court, to the county records manager or other office or officer under the jurisdiction of a county governing authority which maintains or is responsible for records, as provided in Code Section 50-18-99, the used and void ballots and the stubs of all ballots used; one copy of the oaths of poll officers; and one copy of each numbered list of voters, tally paper, ~~voting machine paper proof sheet~~, and return sheet involved in the primary or election. In addition, the superintendent shall deliver copies of the ~~voting machine and vote recorder ballot labels~~, computer chips containing ballot tabulation programs, copies of computer records of ballot design, computer programming ~~decks~~ disks for ballot tabulation programs, and similar items or an electronic record of the program by which votes are to be recorded or tabulated, which is captured prior to the election, and which is stored on some alternative medium such as a CD-ROM or floppy disk simultaneously with the burning of the PROM or other memory storage device. The clerk, county records manager, or the office or officer designated by the clerk shall hold such ballots and other documents under seal, unless otherwise directed by the superior court, for at least 24 months, after which time they shall be presented to the grand jury for inspection at its next meeting. Such ballots and other documents shall be preserved in the office of the clerk, county records manager, or officer designated by the clerk until the adjournment of such grand jury, and then they may be destroyed, unless otherwise provided by order of the superior court.

(b) The superintendent shall retain all unused ballots for 30 days after the election or primary and, if no challenge or contest is filed prior to or during that period that could require future use of such ballots, may thereafter destroy such unused ballots. If a challenge or contest is filed during that period that could require the use of such ballots, they shall be retained until the final disposition of the challenge or contest and, if remaining unused, may thereafter be destroyed.

(c) Immediately upon completing the returns required by this article, the municipal superintendent shall deliver in sealed containers to the city clerk the used and void ballots and the stubs of all ballots used; one copy of the oaths of poll officers; and one copy of each numbered list of voters, tally paper, ~~voting machine paper proof sheet~~, and return sheet involved in the primary or election. In addition, the municipal superintendent shall

1 deliver copies of the ~~voting machine and vote recorder ballot labels~~, computer chips
 2 containing ballot tabulation programs, copies of computer records of ballot design,
 3 computer programming ~~decks~~ disks for ballot tabulation programs, and similar items. Such
 4 ballots and other documents shall be preserved under seal in the office of the city clerk for
 5 at least 24 months; and then they may be destroyed unless otherwise provided by order of
 6 the mayor and council if a contest has been filed or by court order, provided that the
 7 electors list, voter's certificates, and duplicate oaths of assisted electors shall be
 8 immediately returned by the superintendent to the county or municipal registrar as
 9 appropriate."

10 **SECTION 41.**

11 Said chapter is further amended by striking Code Section 21-2-545, relating to procedure as
 12 to unopposed candidates, in its entirety and inserting in lieu thereof a new Code Section
 13 21-2-545 to read as follows:

14 "21-2-545.

15 Any other provision of law to the contrary notwithstanding, in the event there is no
 16 opposed candidate in a precinct in a special primary, no special primary shall be held in
 17 such precinct. The proper officials of the unopposed candidate's political party shall certify
 18 him or her as the party nominee for the office involved for the purpose of having his or her
 19 name placed upon the special election ballots ~~or ballot labels~~. Where feasible, the
 20 superintendent shall provide notice reasonably calculated to inform the affected electorate
 21 that no special primary election is to be conducted. Each such unopposed candidate shall
 22 be deemed to have voted for himself or herself. The superintendent shall certify any such
 23 unopposed candidate as nominated in the same manner as he or she certifies other
 24 candidates nominated pursuant to Code Section 21-2-493."

25 **SECTION 42.**

26 Said chapter is further amended by striking Code Section 21-2-566, relating to interference
 27 with primaries and elections generally, in its entirety and inserting in lieu thereof a new Code
 28 Section 21-2-566 to read as follows:

29 "21-2-566.

30 Any person who:

- 31 (1) Willfully prevents or attempts to prevent any poll officer from holding any primary
- 32 or election under this chapter;
- 33 (2) Uses or threatens violence to any poll officer or interrupts or improperly interferes
- 34 with the execution of his or her duty;
- 35 (3) Willfully blocks or attempts to block the avenue to the door of any polling place;

- 1 (4) Uses or threatens violence to any elector to prevent him or her from voting;
 2 (5) Willfully prepares or presents to any poll officer a fraudulent voter's certificate not
 3 signed by the elector whose certificate it purports to be;
 4 (6) Knowingly deposits fraudulent ballots in the ballot box; or
 5 (7) ~~Knowingly registers fraudulent votes upon any voting machine; or~~
 6 (8) Willfully tampers with any electors list, voter's certificate, numbered list of voters,
 7 ballot box, ~~voting machine, vote recorder,~~ or tabulating machine
 8 shall be guilty of a felony."

9 **SECTION 43.**

10 Said chapter is further amended by striking paragraphs (1) and (2) of Code Section 21-2-568,
 11 relating to entry into voting compartment or booth while another is voting, in their entirety
 12 and inserting in lieu thereof new paragraphs (1) and (2) to read as follows:

- 13 "(1) Goes into the voting compartment or ~~voting machine~~ booth while another is voting
 14 or marks the ballot or ballot card ~~or registers the vote~~ for another, except in strict
 15 accordance with this chapter;
 16 (2) Interferes with any elector marking his or her ballot or ballot card ~~or registering his or~~
 17 ~~her vote;~~"

18 **SECTION 44.**

19 Said chapter is further amended by striking Code Section 21-2-575, relating to counterfeit
 20 ballots, ballot cards, or ballot labels, in its entirety and inserting in lieu thereof a new Code
 21 Section 21-2-575 to read as follows:

22 "21-2-575.

- 23 (a) Any person who makes, constructs, or has in his or her possession any counterfeit of
 24 an official ballot, or ballot card, ~~or ballot label~~ shall be guilty of a felony.
 25 (b) This Code section shall not be applied to facsimile ballots printed and published as an
 26 aid to electors in any newspaper generally and regularly circulated within this state, so long
 27 as such facsimile ballot is at least 25 percent larger or smaller than the official ballot of
 28 which it is a facsimile. This Code section shall not be applied to any sample or facsimile
 29 ballots ~~or ballot labels~~ obtained under Code Section 21-2-400. Nothing in this Code section
 30 shall be so construed as to prohibit the procurement and distribution of reprints of the said
 31 newspaper printings; nor shall it be so construed as to prohibit the preparation and
 32 distribution by election officials of facsimile ballots ~~and ballot labels~~ or portions thereof,
 33 provided that they are of a different color and at least 25 percent larger or smaller than the
 34 official ballots ~~or ballot labels~~.

1 (c) Nothing in this Code section shall be so construed as to prohibit any person from
 2 procuring and distributing reprints or portions of reprints of any sample or facsimile ballots
 3 ~~or ballot labels~~ as provided in Code Section 21-2-400, provided such reprints or portions
 4 of reprints are of a different color and at least 25 percent larger or smaller than the official
 5 ballots ~~or ballot labels.~~"

6 SECTION 45.

7 Said chapter is further amended by striking Code Section 21-2-579, relating to fraudulently
 8 allowing ballot, ballot card, or voting machine to be seen, in its entirety and inserting in lieu
 9 thereof a new Code Section 21-2-579 to read as follows:

10 "21-2-579.

11 Any voter at any primary or election who:

12 (1) Allows his or her ballot; or ballot card; ~~or the face of the voting machine used by him~~
 13 ~~or her~~ to be seen by any person with the apparent intention of letting it be known for a
 14 fraudulent purpose how he or she is about to vote;

15 (2) Casts or attempts to cast any other than the official ballot or ballot card which has
 16 been given to him or her by the proper poll officer, or advises or procures another to do
 17 so;

18 (3) Without having made the affirmation under oath or declaration required by Code
 19 Section 21-2-409, or when the disability which he or she declared at the time of
 20 registration no longer exists, permits another to accompany him or her into the voting
 21 compartment or ~~voting machine~~ booth or to mark his or her ballot or ballot card ~~or to~~
 22 ~~register his or her vote on the voting machine or vote recorder;~~ or

23 (4) States falsely to any poll officer that because of his or her inability to read the English
 24 language or because of blindness, near-blindness, or other physical disability he or she
 25 cannot mark the ballot or ballot card ~~or operate the voting machine~~ without assistance
 26 shall be guilty of a misdemeanor."

27 SECTION 46.

28 Said chapter is further amended by striking Code Section 21-2-580, relating to tampering
 29 with, damaging, improper preparation of, or prevention of proper operation of voting
 30 machines, in its entirety and inserting in lieu thereof a new Code Section 21-2-580 to read
 31 as follows:

32 "21-2-580.

33 Any person who:

34 (1) Unlawfully opens, tampers with, or damages any ~~voting~~ tabulating machine to be
 35 used or being used at any primary or election;

- 1 (2) Willfully prepares a ~~voting~~ tabulating machine for use in a primary or election in
 2 improper order for voting; or
 3 (3) Prevents or attempts to prevent the correct operation of such machine
 4 shall be guilty of a felony."

5 **SECTION 47.**

6 Said chapter is further amended by striking Code Section 21-2-581, relating to unauthorized
 7 making or possession of voting machine key, in its entirety and inserting in lieu thereof a
 8 new Code Section 21-2-581 to read as follows:

9 "21-2-581.

10 Any unauthorized person who makes or knowingly has in his or her possession a key to a
 11 voting tabulating machine to be used or being used in any primary or election shall be
 12 guilty of a felony."

13 **SECTION 48.**

14 Said chapter is further amended by striking Code Section 21-2-582, relating to tampering
 15 with, damaging, or preventing of proper operation of vote recorders or tabulating machines,
 16 in its entirety and inserting in lieu thereof a new Code Section 21-2-582 to read as follows:

17 "21-2-582.

18 ~~Any person who tampers with or damages any vote recorder or tabulating machine to be~~
 19 ~~used or being used at or in connection with any primary or election or who prevents or~~
 20 ~~attempts to prevent the correct operation of any vote recorder or tabulating machine shall~~
 21 ~~be guilty of a felony. Reserved.~~"

22 **SECTION 49.**

23 Said chapter is further amended by striking Code Section 21-2-587, relating to frauds by poll
 24 officers, in its entirety and inserting in lieu thereof a new Code Section 21-2-587 to read as
 25 follows:

26 "21-2-587.

27 Any poll officer who willfully:

- 28 (1) Makes a false return of the votes cast at any primary or election;
 29 (2) Deposits fraudulent ballots or ballot cards in the ballot box or certifies as correct a
 30 false return of ballots or ballot cards;
 31 ~~(3) Registers fraudulent votes upon any voting machine or certifies as correct a return~~
 32 ~~of fraudulent votes cast upon any voting machine;~~
 33 ~~(4)~~ (4) Makes any false entries in the electors list;
 34 ~~(5)~~(4) Destroys or alters any ballot, ballot card, voter's certificate, or electors list;

