

Senate Bill 258

By: Senators Unterman of the 45th, Mullis of the 53rd, Hill of the 4th and Meyer von Bremen of the 12th

AS PASSED SENATE

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to
2 primaries and elections generally, so as to remove vote recorders as authorized voting
3 systems in this state and convert to direct recording electronic (DRE) voting systems; to
4 comply with the provisions of the federal Help America Vote Act; to require the State
5 Election Board to define by rule and regulation what constitutes a vote; to provide for
6 complaint procedures; to provide for the confidentiality of certain registration information;
7 to provide procedures for absentee balloting for uniformed services and overseas voters; to
8 provide for reports concerning voting by such uniformed services and overseas voters; to
9 require voters who register to vote by mail for the first time in this state to provide
10 identification prior to voting for the first time; to provide for exceptions; to provide for the
11 designation of such voters on the electors list; to provide for the arrangement of polling
12 places where DRE units are used; to prohibit certain persons from providing assistance in
13 voting; to provide for at least one handicapped accessible DRE unit in each precinct; to
14 provide that the instructions for absentee voting shall include information on the effect of
15 overvotes and how to correct errors on the ballot or obtain a replacement ballot; to provide
16 that the state shall accept the absentee ballot oath promulgated by the Presidential designee
17 in accordance with the Help America Vote Act; to provide for sample ballots; to provide for
18 certain poll watchers; to provide additional items of acceptable identification; to provide for
19 the review of overvoted ballots; to provide that, when poll hours are extended by court order,
20 all voters who vote after the normal poll closing time shall vote by provisional ballot; to
21 provide that such ballots shall be kept separate from other ballots; to provide for the storage
22 of certain election materials; to provide for related matters; to repeal conflicting laws; and
23 for other purposes.

1 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

2 **SECTION 1.**

3 Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and
4 elections generally, is amended by striking paragraph (4) of Code Section 21-2-2, relating
5 to definitions, and inserting in lieu thereof a new paragraph (4) to read as follows:

6 "(4) 'Custodian' means the person charged with the duty of testing and preparing ~~the~~
7 voting ~~machine or vote recorder~~ equipment for the primary or election and with
8 instructing the poll officers in the use of same."

9 **SECTION 2.**

10 Said chapter is further amended by striking paragraphs (7) and (8) of Code Section 21-2-31,
11 relating to the duties of the State Election Board, and inserting in lieu thereof new paragraphs
12 (7), (8), and (9) to read as follows:

13 "(7) To promulgate rules and regulations to define uniform and nondiscriminatory
14 standards concerning what constitutes a vote and what will be counted as a vote for each
15 category of voting system used in this state;

16 (8) To employ such assistants as may be necessary; and

17 ~~(8)~~ (9) To take such other action, consistent with law, as the board may determine to be
18 conducive to the fair, legal, and orderly conduct of primaries and elections."

19 **SECTION 2A.**

20 Said chapter is further amended by inserting a new Code Section 21-2-50.2 to read as
21 follows:

22 "21-2-50.2.

23 (a) The Secretary of State, as the chief election official designated under the federal Help
24 America Vote Act of 2002, shall be responsible for coordinating the obligations of the
25 state under the federal Help America Vote Act of 2002.

26 (b) As the chief election official, the Secretary of State is authorized to promulgate rules
27 and regulations to establish administrative complaint procedures as required under
28 Section 402 of Title IV of the federal Help America Vote Act of 2002, which prescribes
29 a process to remedy only those grievances filed under Title III of such federal act.

30 (c) Election related complaints filed with the Secretary of State alleging violations of
31 Title III of the federal Help America Vote Act of 2002 shall not be subject to hearing
32 procedures of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," but
33 shall be resolved pursuant to rules and regulations promulgated under subsection (b) of

1 this Code section whereby the Secretary of State shall have the authority to issue a final
2 order for complaints filed under the federal Help America Vote Act of 2002."

3 **SECTION 3.**

4 Said chapter is further amended by striking paragraph (5) of Code Section 21-2-70, relating
5 to powers and duties of election superintendents, and inserting in lieu thereof a new
6 paragraph (5) to read as follows:

7 "(5) To purchase, except voting machines ~~and vote recorders~~, preserve, store, and
8 maintain election equipment of all kinds, including voting booths and ballot boxes and
9 to procure ballots and all other supplies for primaries and elections;".

10 **SECTION 4.**

11 Said chapter is further amended by striking paragraph (4) of Code Section 21-2-71, relating
12 to payment by county or municipality of superintendent's expenses, and inserting in lieu
13 thereof a new paragraph (4) to read as follows:

14 "(4) Maintenance of all voting machines, ~~vote recorders, and of all other primaries and~~
15 ~~election~~ equipment required by this chapter, or which the superintendent shall consider
16 necessary to carry out this chapter; and".

17 **SECTION 5.**

18 Said chapter is further amended by striking subsection (d) of Code Section 21-2-219, relating
19 to registration by members of the armed forces or merchant marine and permanent overseas
20 citizens, and inserting in lieu thereof new subsections (d), (f), (g), and (h) to read as follows:

21 "(d) A properly executed registration card submitted under the provisions of subsection (b)
22 of this Code section, ~~if submitted within 180 days of a primary or election in which the~~
23 ~~registrant is entitled to vote~~, shall be considered to be an application for an absentee ballot
24 under Code Section 21-2-381, or a special absentee ballot under Code Section 21-2-381.1,
25 as appropriate. Such card, subject to the limitations of subsection (c) of this Code section,
26 shall constitute a request for an absentee ballot for the period beginning upon the receipt
27 of such card and extending through the second regularly scheduled general election in
28 which federal candidates are on the ballot for all elections for federal offices held during
29 such period."

30 "(f) The office of the Secretary of State is designated as the office, under the federal Help
31 America Vote Act, to be responsible for providing information on registration and absentee
32 ballot procedures for use by absent uniformed services and overseas voters, including the
33 use of the federal write-in absentee ballot."

1 (g) The registrars of each county shall report to the Secretary of State within 60 days after
 2 a general election in which federal candidates were on the ballot the combined number of
 3 absentee ballots transmitted to absent uniformed services and overseas voters in such
 4 election and the combined number of such ballots that were returned by such voters and
 5 cast in such election.

6 (h) The Secretary of State shall within 90 days after a general election in which federal
 7 candidates were on the ballot report to the federal Election Assistance Commission, on
 8 such form as may be prescribed by such commission, the combined number of absentee
 9 ballots transmitted to absent uniformed services and overseas voters in such election and
 10 the combined number of such ballots that were returned by such voters and cast in such
 11 election."

12 SECTION 6.

13 Said chapter is further amended by striking Code Section 21-2-220, relating to application
 14 for registration, and inserting in lieu thereof a new Code Section 21-2-220 to read as follows:

15 "21-2-220.

16 (a) Any person desiring to register as an elector shall apply to do so by making application
 17 to a registrar or deputy registrar of such person's county of residence in person, by
 18 submission of the federal post card application form as authorized under Code Section
 19 21-2-219, by making application through the Department of ~~Public~~ Motor Vehicle Safety
 20 as provided in Code Section 21-2-221, by making application through designated offices
 21 as provided in Code Section 21-2-222, or by making application by mail as provided in
 22 Code Section 21-2-223.

23 (b) Notwithstanding any other provision of this title, whenever a person makes application
 24 to register in person or through the means specified in this Code section, the person
 25 authorized to offer registration shall inquire as to whether the individual seeking
 26 registration is a citizen of the United States, and the person offering registration shall not
 27 be required to offer registration to an individual who answers such inquiry with a negative
 28 response.

29 (c) Except as otherwise provided in this subsection, electors who register to vote for the
 30 first time in this state by mail must present current and valid identification either when
 31 registering to vote by mail or when voting for the first time after registering to vote by
 32 mail. The current and valid identification shall be one or more of those forms of
 33 identification provided in Code Section 21-2-417 or a legible copy thereof. The registrars
 34 shall make copies of any original forms of identification submitted by applicants and return
 35 the originals to the applicants. The requirement to submit identification shall not apply to:

1 (1) Persons who submit identifying information with their applications that the registrars
 2 are able to match to information contained on a state database available to such registrars
 3 containing the same number, name, and date of birth as contained in the application;

4 (2) Persons who are entitled to vote by absentee ballot under the federal Uniformed and
 5 Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff, et seq.; or

6 (3) Persons who are entitled to vote otherwise than in person under any other federal law.

7 ~~(c)~~(d) If an applicant fails to provide all of the required information on the application for
 8 voter registration with the exception of current and valid identification, the board of
 9 registrars shall notify the registrant in writing of the missing information. The board of
 10 registrars shall not determine the eligibility of the applicant until and unless all required
 11 information is supplied by the applicant. If the initial application is received prior to the
 12 close of voter registration prior to an election, if the applicant supplies the necessary
 13 information on or prior to the date of the election, and if the applicant is found eligible to
 14 vote, the applicant shall be added to the list of electors and shall be permitted to vote in the
 15 election and any run-off elections resulting therefrom and subsequent elections; provided,
 16 however, that voters who registered to vote for the first time in this state by mail must
 17 supply current and valid identification when voting for the first time as required in
 18 subsection (c) of this Code section. In the event the elector does not respond to the request
 19 for the missing information within 30 days, the application shall be rejected.

20 ~~(d)~~(e) If an applicant submits false information, the board of registrars shall reject the
 21 application and shall refer the application to the district attorney of the county for criminal
 22 prosecution. If the false information is not discovered until after the applicant's application
 23 has been approved and the applicant's name added to the list of electors, the giving of such
 24 false information shall be cause to challenge the applicant's right to remain on the list of
 25 electors, which, if sustained, shall result in such applicant's name being removed from the
 26 list and the application being submitted to the district attorney of the county for criminal
 27 prosecution.

28 ~~(e)~~(f) A person registering to vote who is disabled or illiterate may request assistance from
 29 any other person in completing the form for registration, but the person offering assistance
 30 shall sign the voter registration form in the space provided to identify the person offering
 31 assistance.

32 (g) The registrars shall note on their records and the electors list any elector who registers
 33 by mail for the first time in this state and does not provide the identification required by
 34 subsection (c) of this Code section."

SECTION 7.

Said chapter is further amended by striking subsection (g) of Code Section 21-2-224, relating to official list of electors, and inserting in lieu thereof a new subsection (g) to read as follows:

"(g) The official list of electors and the official list of inactive electors prepared and distributed to the poll officers of each precinct shall include only the elector's name, address, ZIP code, date of birth, voter identification number, a designation of whether the elector registered for the first time in this state by mail and is required to comply with Code Sections 21-2-220 and 21-2-417, congressional district, state Senate district, state House district, county commission district, if any, county or independent board of education district, if any, and municipal governing authority district designations, if any, and such other voting districts, if any. The official list of electors and the official list of inactive electors prepared and distributed to the poll officers of each precinct may also include codes designating that an elector has voted by absentee ballot, has been challenged, or has been sent mail by the registrars which has been returned marked undeliverable. No person whose name does not appear on the official list of electors shall vote or be allowed to vote at any election, except as otherwise provided in this article."

SECTION 8.

Said chapter is further amended by striking subsection (b) of Code Section 21-2-225, relating to confidentiality of original registration applications, and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) All data collected and maintained on electors whose names appear on the list of electors maintained by the Secretary of State pursuant to this article shall be available for public inspection with the exception of bank statements submitted pursuant to Code Section 21-2-417(b) and the social security numbers of the electors and the locations at which the electors applied to register to vote which shall remain confidential and be used only for voter registration purposes; provided, however, that social security numbers of electors may be made available to other state agencies if the agency is authorized to maintain information by social security number and the information is used only to identify the elector on the receiving agency's data base and is not disseminated further and remains confidential."

SECTION 9.

Said chapter is further amended by striking subsection (a) of Code Section 21-2-235, relating to inactive list of electors, and inserting in lieu thereof a new subsection (a) to read as follows:

1 "(a) In addition to the official list of electors, the Secretary of State shall also maintain an
 2 inactive list of electors. Notwithstanding any other provision of law to the contrary, the
 3 names of electors on the inactive list of electors shall not be counted in computing the
 4 number of ballots required for an election, the number of voting ~~machines or vote recorders~~
 5 devices needed for a precinct, the number of electors required to divide or constitute a
 6 precinct, or the number of signatures needed on any petition. However, any elector whose
 7 name appears on the inactive list shall be eligible to sign a petition and such petition
 8 signature, if valid, shall be sufficient to return the elector to the official list of electors if
 9 the elector still resides at the address listed on the elector's registration records and shall
 10 be grounds to proceed under Code Section 21-2-234 to confirm the change of address of
 11 the elector if the elector provides a different address from the address which appears on the
 12 elector's registration records."

13 SECTION 10.

14 Said chapter is further amended by striking subsection (a) of Code Section 21-2-267, relating
 15 to equipment at polling places, and inserting in lieu thereof a new subsection (a) to read as
 16 follows:

17 "(a) The governing authority shall provide and the superintendent shall cause all rooms
 18 used as polling places to be provided with suitable heat and light and, in precincts in which
 19 ballots are used, with a sufficient number of voting compartments or booths with proper
 20 supplies in which the electors may conveniently mark their ballots, with a curtain, screen,
 21 or door in the upper part of the front of each compartment or booth so that in the marking
 22 thereof they may be screened from the observation of others. A curtain, screen, or door
 23 shall not be required, however, for the self-contained units used as voting booths in which
 24 ~~vote recorders~~ direct recording electronic (DRE) voting units are located if such booths
 25 have been designed so as to ensure the privacy of the elector. When practicable, every
 26 polling place shall consist of a single room, every part of which is within the unobstructed
 27 view of those present therein and shall be furnished with a guardrail or barrier closing the
 28 inner portion of such room, which guardrail or barrier shall be so constructed and placed
 29 that only such persons as are inside such rail or barrier can approach within six feet of the
 30 ballot box and voting compartments, or booths, or voting machines, as the case may be.
 31 The ballot box and voting compartments or booths shall be so arranged in the voting room
 32 within the enclosed space as to be in full view of those persons in the room outside the
 33 guardrail or barrier. The voting machine or machines shall be placed in the voting rooms
 34 within the enclosed space so that, unless its construction shall otherwise require, the ballot
 35 labels on the face of the machine can be plainly seen by the poll officers when the machine
 36 is not occupied by an elector. In the case of direct recording electronic voting units, the

1 units shall be arranged in such a manner as to ensure the privacy of the elector while voting
 2 on such units, to allow monitoring of the units by the poll officers while the polls are open,
 3 and to permit the public to observe the voting without affecting the privacy of the electors
 4 as they vote."

5 **SECTION 11.**

6 Said chapter is further amended by striking subsection (d) of Code Section 21-2-379.7,
 7 relating to preparation of polling places, and inserting in lieu thereof a new subsection (d) to
 8 read as follows:

9 "(d) The superintendent shall, at least one hour prior to the opening of the polls:

10 (1) Provide sufficient lighting to enable electors, if needed in the voting booth, to read
 11 the ballot and which shall be suitable for the use of the poll officers in examining the
 12 booth and conducting their responsibilities;

13 (2) Provide directions for voting on the DRE units which shall be prominently posted
 14 within each voting booth and at least two sample ballots for the primary or election which
 15 shall be prominently posted outside the enclosed space within the polling place;

16 (3) Ensure that each DRE unit's tabulating mechanism is secure throughout the day
 17 during the primary or election; and

18 (4) Provide at least one DRE unit accessible to disabled electors at each precinct; and

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

20 **SECTION 12.**

21 Said chapter is further amended by striking paragraph (1) of subsection (a) of Code Section
 22 21-2-381, relating to making of application for absentee ballot, and inserting in lieu thereof
 23 a new paragraph (1) to read as follows:

24 "(1) ~~Not~~ Except as otherwise provided in Code Section 21-2-219, not more than 180 days
 25 prior to the date of the primary or election, or runoff of either, in which the elector desires
 26 to vote, any absentee elector may make, either by mail, by facsimile transmission, or in
 27 person in the registrar's or absentee ballot clerk's office, an application for an official
 28 ballot of the elector's precinct to be voted at such primary, election, or runoff. In the case
 29 of an elector residing temporarily out of the county or municipality or a physically
 30 disabled elector residing within the county or municipality, the application for the
 31 elector's absentee ballot may, upon satisfactory proof of relationship, be made by such
 32 elector's mother, father, grandparent, aunt, uncle, sister, brother, spouse, son, daughter,
 33 niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law,
 34 brother-in-law, or sister-in-law of the age of 18 or over. The application shall be in
 35 writing and shall contain sufficient information for proper identification of the elector;

1 the permanent or temporary address of the elector to which the absentee ballot shall be
 2 mailed; the identity of the primary, election, or runoff in which the elector wishes to vote;
 3 the reason for requesting the absentee ballot; and the name and relationship of the person
 4 requesting the ballot if other than the elector. Except in the case of physically disabled
 5 electors residing in the county or municipality, no absentee ballot shall be mailed to an
 6 address other than the permanent mailing address of the elector as recorded on the
 7 elector's voter registration record or a temporary out-of-county or out-of-municipality
 8 address. Relatives applying for absentee ballots for electors must also sign an oath stating
 9 that facts in the application are true. If the elector is unable to fill out or sign such
 10 elector's own application because of illiteracy or physical disability, the elector shall
 11 make such elector's mark, and the person filling in the rest of the application shall sign
 12 such person's name below it as a witness. One timely and proper application for an
 13 absentee ballot for use in a primary or election shall be sufficient to require the mailing
 14 of the absentee ballot for such primary or election as well as for any runoffs resulting
 15 therefrom and for ~~the election for which such primary shall nominate candidates and any~~
 16 ~~runoffs resulting therefrom~~ all primaries and elections for federal offices and any runoffs
 17 therefrom, including presidential preference primaries, held during the period beginning
 18 upon the receipt of such absentee ballot application and extending through the second
 19 regularly scheduled general election in which federal candidates are on the ballot
 20 occurring thereafter to an eligible absentee elector who lives outside the county or
 21 municipality in which the election is held and is also a member of the armed forces of the
 22 United States, a member of the merchant marine of the United States, or a spouse or
 23 dependent of a member of the armed forces or the merchant marine residing with or
 24 accompanying said member or overseas citizen. Any elector meeting criteria of advanced
 25 age or disability specified by rule or regulation of the Secretary of State may request in
 26 writing on one application a ballot for a primary as well as for any runoffs resulting
 27 therefrom and for the election for which such primary shall nominate candidates as well
 28 as any runoffs resulting therefrom. If not so requested by such person a separate and
 29 distinct application shall be required for each primary, run-off primary, election, and
 30 run-off election. ~~Notwithstanding the foregoing~~ Except as otherwise provided in this
 31 paragraph, a separate and distinct application for an absentee ballot shall always be
 32 required for the presidential preference primary held pursuant to Article 5 of this chapter
 33 and for any special election or special primary."

SECTION 13.

1 Said chapter is further amended by striking Code Section 21-2-383, relating to preparation
2 and delivery of ballots, and inserting in lieu thereof a new Code Section 21-2-383 to read as
3 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 ballots required by Article 8 of this chapter,
9 except that in counties using voting machines or ~~vote recorders~~ direct recording electronic
10 (DRE) units the ballots may be in substantially the form for the ballot labels required by
11 Article 9 of this chapter ~~or in such form as will allow the ballot to be machine tabulated.~~
12 Every 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 14.

20 Said chapter is further amended by striking subsections (b) and (c) of Code Section 21-2-384,
21 relating to oath of absentee electors, and inserting in lieu thereof new subsections (b) and (c)
22 to read as follows:

23 "(b) In addition to the mailing envelope, the superintendent, board of registrars, or absentee
24 ballot clerk shall provide two envelopes for each official absentee ballot, of such size and
25 shape as shall be determined by the Secretary of State, in order to permit the placing of one
26 within the other and both within the mailing envelope. On the smaller of the two envelopes
27 to be enclosed in the mailing envelope shall be printed the words 'Official Absentee Ballot'
28 and nothing else. On the back of the larger of the two envelopes to be enclosed within the
29 mailing envelope shall be printed the form of oath of the elector and the oath for persons
30 assisting electors, as provided for in Code Section 21-2-409, and the penalties provided for
31 in Code Sections 21-2-568, 21-2-573, 21-2-579, and 21-2-599 for violations of oaths; and
32 on the face of such envelope shall be printed the name and address of the board of
33 registrars or absentee ballot clerk. The mailing envelope addressed to the elector shall
34 contain the two envelopes, the official absentee ballot, and the uniform instructions for the
35 manner of preparing and returning the ballot, in form and substance as provided by the
36 Secretary of State and nothing else. The uniform instructions shall include information

1 specific to the voting system used for absentee voting concerning the effect of overvoting
 2 or voting for more candidates than one is authorized to vote for a particular office and
 3 information concerning how the elector may correct errors in voting the ballot before it is
 4 cast including information on how to obtain a replacement ballot if the elector is unable to
 5 change the ballot or correct the error.

6 (c)(1) The oaths referred to in subsection (b) of this Code section shall be in substantially
 7 the following form:

8 I, the undersigned, do swear (or affirm) that I am a citizen of the United States and of
 9 the State of Georgia; that my residence address is _____ County, Georgia; that
 10 I possess the qualifications of an elector required by the laws of the State of Georgia;
 11 that I am entitled to vote in the precinct containing my residence in the primary or
 12 election in which this ballot is to be cast; that I am eligible to vote by absentee ballot;
 13 that I have not marked or mailed any other absentee ballot, nor will I mark or mail
 14 another absentee ballot for voting in such primary or election; nor shall I vote therein
 15 in person; and that I have read and understand the instructions accompanying this
 16 ballot; and that I have carefully complied with such instructions in completing this
 17 ballot. I understand that the offer or acceptance of money or any other object of value
 18 to vote for any particular candidate, list of candidates, issue, or list of issues included
 19 in this election constitutes an act of voter fraud and is a felony under Georgia law.

20 _____	_____
21 Elector’s Residence	Elector’s Place of Birth
22 Address	
23 _____	
24 Month and Day of	
25 Elector’s Birth	
26 _____	_____
27	Signature or Mark of Elector

28 Oath of Person Assisting Elector (if any):

29 I, the undersigned, do swear (or affirm) that I assisted the above-named elector in
 30 marking such elector’s absentee ballot as such elector personally communicated such
 31 elector’s preference to me; that I am satisfied that such elector presently possesses the
 32 disability noted below; and that by reason of such disability such elector is entitled to
 33 receive assistance in voting under provisions of subsection (a) of Code Section
 34 21-2-409.

35 This, the _____ day of _____.

 Signature of Person Assisting
 Elector -- Relationship

Reason for assistance (Check appropriate square):

() Elector is unable to read the English language.

() Elector has following physical disability _____.

The forms upon which such oaths are printed shall contain the following information:

Georgia law provides, in subsection (b) of Code Section 21-2-409, that no person shall assist more than ten electors in any primary or election.

Georgia law further provides that any person who knowingly falsifies information so as to vote illegally by absentee ballot or who illegally gives or receives assistance in voting, as specified in Code Section 21-2-568, 21-2-573, or 21-2-579, shall be guilty of a misdemeanor.

(2) In the case of absent uniformed services or overseas voters, if the Presidential designee under Section 705(b) of the federal Help America Vote Act promulgates a standard oath for use by such voters, the Secretary of State shall be required to use such oath on absentee ballot materials for such voters and such oath shall be accepted in lieu of the oath set forth in paragraph (1) of this subsection."

SECTION 15.

Said chapter is further amended by striking subsection (a) of Code Section 21-2-385, relating to procedure for voting by absentee ballot, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) At any time after receiving an official absentee ballot, but before the day of the primary or election, except electors who are confined to a hospital on the day of the primary or election, the elector shall vote his or her absentee ballot, then fold the ballot and enclose and securely seal the same in the envelope on which is printed 'Official Absentee Ballot.' This envelope shall then be placed in the second one, on which is printed the form of the oath of the elector, the name, relationship, and oath of the person assisting, if any, and other required identifying information. The elector shall then fill out, subscribe, and swear to the oath printed on such envelope. Such envelope shall then be securely sealed and the elector shall then mail or personally deliver same to the board of registrars or absentee ballot clerk, provided that delivery by a physically disabled elector may be made by any adult person upon satisfactory proof that such adult person is such elector's mother, father, grandparent, aunt, uncle, brother, sister, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, or an individual residing in the household of such disabled elector. An elector

1 who is confined to a hospital on a primary or election day to whom an absentee ballot is
 2 delivered by the registrar or absentee ballot clerk shall then and there vote the ballot, seal
 3 it properly, and return it to the registrar or absentee ballot clerk. If the elector registered
 4 to vote for the first time in this state by mail and has not previously provided the
 5 identification required by Code Section 21-2-220 and votes for the first time by absentee
 6 ballot and fails to provide the identification required by Code Section 21-2-220 with such
 7 absentee ballot, such absentee ballot shall be treated as a provisional ballot and shall be
 8 counted only if the registrars are able to verify the identification and registration of the
 9 elector during the time provided pursuant to Code Section 21-2-419."

10 SECTION 16.

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

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

26 SECTION 17.

27 Said chapter is further amended by striking subsection (c) of Code Section 21-2-400, relating
 28 to duty of superintendent to obtain cards of instruction, blank forms of oaths, and other forms
 29 and supplies, and inserting in lieu thereof a new subsection (c) to read as follows:

30 "~~(c) In those counties and municipalities which employ the use of vote recorders or voting~~
 31 ~~machines, the~~ The superintendent shall prepare sample or facsimile ballots or ballot labels,
 32 as the case may be, for each general election which shall contain each question and the
 33 candidates who are offering for election for each office which will be voted upon in the
 34 county or municipality. The superintendent shall maintain such sample or facsimile ballots

1 or ballot labels at the county courthouse for distribution upon request to interested electors.
 2 Such sample or facsimile ballots or ballot labels shall comply with Code Section 21-2-575."

3 **SECTION 18.**

4 Said chapter is further amended by striking subsection (c) of Code Section 21-2-408, relating
 5 to poll watchers, and inserting in lieu thereof a new subsection (c) to read as follows:

6 "(c) In counties or municipalities using ~~vote recorders~~ direct recording electronic (DRE)
 7 voting systems or optical scanning voting systems, each political party may appoint two
 8 poll watchers in each primary or election, each political body may appoint two poll
 9 watchers in each election, each nonpartisan candidate may appoint one poll watcher in each
 10 nonpartisan election, and each independent candidate may appoint one poll watcher in each
 11 election to serve in the locations designated by the superintendent within the tabulating
 12 center. Such designated locations shall include the check-in area, the computer room, the
 13 duplication area, and such other areas as the superintendent may deem necessary to the
 14 assurance of fair and honest procedures in the tabulating center. The poll watchers provided
 15 for in this subsection shall be appointed and serve in the same manner as other poll
 16 watchers."

17 **SECTION 19.**

18 Said chapter is further amended by striking subsection (a) and paragraph (2) of subsection
 19 (b) of Code Section 21-2-409, relating to assisting electors who cannot read English or have
 20 physical disabilities, and inserting in lieu thereof a new subsection (a) and paragraph (2) of
 21 subsection (b) to read as follows:

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

1 Said chapter is further amended by striking Code Section 21-2-417, relating to presentation
 2 of identification to poll workers, and inserting in lieu thereof a new Code Section 21-2-417
 3 to read as follows:

4 "21-2-417.

5 (a) Each elector shall present proper identification to a poll worker at or prior to
 6 completion of a voter's certificate at any polling place and prior to such person's admission
 7 to the enclosed space at such polling place. Proper identification shall consist of any one
 8 of the following:

9 (1) A valid Georgia driver's license;

10 (2) A valid identification card issued by a branch, department, agency, or entity of the
 11 State of Georgia, any other state, or the United States authorized by law to issue personal
 12 identification;

13 (3) A valid United States passport;

14 (4) A valid employee identification card containing a photograph of the elector and
 15 issued by any branch, department, agency, or entity of the United States government, this
 16 state, or any county, municipality, board, authority, or other entity of this state;

17 (5) A valid employee identification card containing a photograph of the elector and
 18 issued by any employer of the elector in the ordinary course of such employer's business;

19 (6) A valid student identification card containing a photograph of the elector from any
 20 public or private college, university, or postgraduate technical or professional school
 21 located within the State of Georgia;

22 (7) A valid Georgia license to carry a pistol or revolver;

23 (8) A valid pilot's license issued by the Federal Aviation Administration or other
 24 authorized agency of the United States;

25 (9) A valid United States military identification card;

26 (10) A certified copy of the elector's birth certificate;

27 (11) A valid social security card;

28 (12) Certified naturalization documentation; or

29 (13) A certified copy of court records showing adoption, name, or sex change;

30 (14) A current utility bill, or a legible copy thereof, showing the name and address of the
 31 elector;

32 (15) A bank statement, or a legible copy thereof, showing the name and address of the
 33 elector;

34 (16) A government check or paycheck, or a legible copy thereof, showing the name and
 35 address of the elector; or

36 (17) A government document, or a legible copy thereof, showing the name and address
 37 of the elector.

1 (b) If an elector is unable to produce any of the items of identification listed in
 2 subsection (a) of this Code section, he or she shall sign a statement under oath in a form
 3 approved by the Secretary of State, separate and distinct from the elector's voter certificate,
 4 swearing or affirming that he or she is the person identified on the elector's voter
 5 certificate. Such person shall be allowed to vote without undue delay; provided, however,
 6 that an elector who registered for the first time in this state by mail and did not provide one
 7 of the forms of identification set forth in subsection (a) of this Code section at the time of
 8 registration and who is voting for the first time may vote a provisional ballot pursuant to
 9 Code Section 21-2-418 upon swearing or affirming that the elector is the person identified
 10 in the elector's voter certificate. Such provisional ballot shall only be counted if the
 11 registrars are able to verify current and valid identification of the elector as provided in this
 12 Code section within the time period for verifying provisional ballots pursuant to Code
 13 Section 21-2-419. Falsely swearing or affirming such statement under oath shall be
 14 punishable as a felony, and the penalty shall be distinctly set forth on the face of the
 15 statement."

16 SECTION 22.

17 Said chapter is further amended by adding new subsections (d), (e), (f), and (g) to Code
 18 Section 21-2-418, relating to provisional ballots, to read as follows:

19 "(d) Notwithstanding any provision of this chapter to the contrary, in the event that the
 20 time for closing the polls at a polling place or places is extended by court order, all electors
 21 who vote during such extended time period shall vote by provisional ballot only. Such
 22 ballots shall be separated and held apart from other provisional ballots cast by electors
 23 during normal poll hours.

24 (e) The registrars shall establish a free access system, such as a toll-free telephone number
 25 or Internet website, by which any elector who casts a provisional ballot in a primary or
 26 election, or runoff of either, in which federal candidates are on the ballot may ascertain
 27 whether such ballot was counted and, if such ballot was not counted, the reason why such
 28 ballot was not counted. The registrars shall establish and maintain reasonable procedures
 29 necessary to protect the security, confidentiality, and integrity of personal information
 30 collected, stored, or otherwise used by such free access system. Access to such information
 31 about an individual provisional ballot shall be restricted to the elector who cast such ballot.

32 (f) At the time an elector casts a provisional ballot, the poll officers shall give the elector
 33 written information that informs the elector of the existence of the free access system
 34 required by subsection (e) of this Code section by which the elector will be able to
 35 ascertain if his or her ballot was counted and, if such ballot was not counted, the reason
 36 why such ballot was not counted.

1 (g) Failure to establish such free access system shall subject the registrars and the county
2 by which the registrars are employed to sanctions by the State Election Board."

3 **SECTION 23.**

4 Said chapter is further amended by striking subsection (c) of Code Section 21-2-438, relating
5 to ballots identifying voter, not marked, or improperly marked declared void, and inserting
6 in lieu thereof a new subsection (c) to read as follows:

7 "(c) Notwithstanding any other provisions of this chapter to the contrary and in accordance
8 with the rules and regulations of the State Election Board promulgated pursuant to
9 paragraph (7) of Code Section 21-2-31, if the elector has marked his or her ballot in such
10 a manner that he or she has indicated clearly and without question the candidate for whom
11 he or she desires to cast his or her vote, his or her ballot shall be counted and such
12 candidate shall receive his or her vote, notwithstanding the fact that the elector in indicating
13 his or her choice may have marked his or her ballot in a manner other than as prescribed
14 by this chapter."

15 **SECTION 24.**

16 Said chapter is further amended by repealing and reserving Part 4 of Article 11.

17 **SECTION 25.**

18 Said chapter is further amended by striking Code Section 21-2-482, relating to absentee
19 ballots for precincts using optical scanning voting equipment, and inserting in lieu thereof
20 a new Code Section 21-2-482 to read as follows:

21 "21-2-482.

22 Ballots in a precinct using optical scanning voting equipment for use by absentee electors
23 shall be prepared sufficiently in advance by the superintendent and shall be delivered to the
24 board of registrars as provided in Code Section 21-2-384. Such ballots shall be marked
25 'Official Absentee Ballot' and shall be in substantially the form for ballots required by
26 Article 8 of this chapter, except that in counties or municipalities using voting machines,
27 ~~vote recorders~~ direct recording electronic (DRE) units, or optical scanners, the ballots may
28 be in substantially the form for the ballot labels required by Article 9 of this chapter or in
29 such form as will allow the ballot to be machine tabulated. Every such ballot shall have
30 printed on the face thereof the following: 'I understand that the offer or acceptance of
31 money or any other object of value to vote for any particular candidate, list of candidates,
32 issue, or list of issues included in this election constitutes an act of voter fraud and is a
33 felony under Georgia law.' The form for either ballot shall be determined and prescribed
34 by the Secretary of State."

SECTION 26.

Said chapter is further amended by striking subsection (g) of Code Section 21-2-483, relating to the counting of ballots, and inserting in lieu thereof a new subsection (g) to read as follows:

"(g)(1) The precinct tabulator shall be programmed to return to the voter at the time that the voter inserts the ballot any ballot on which an overvote is indicated, along with any ballot that cannot be processed by the tabulator for reevaluation or correction or spoiling of the ballot, and a new ballot shall be issued if needed the voter desires to vote another ballot in order to correct mistakes, overvotes, or other problems.

(2)(A) The central tabulator shall be programmed to reject any ballot, including absentee ballots, on which an overvote is detected and any ballot so rejected shall be manually reviewed by the vote review panel described in this Code section to determine the voter's intent as described in subsection (c) of Code Section 21-2-438.

(B) In a partisan election, the vote review panel shall be composed of the election superintendent or designee thereof and one person appointed by the county executive committee of each political party and body having candidates whose names appear on the ballot for such election, provided that, if there is no organized county executive committee for a political party or body, the person shall be appointed by the state executive committee of the political party or body. In a nonpartisan election, the panel shall be composed of the election superintendent or designee thereof and two electors of the county, in the case of a county election, or the municipality, in the case of a municipal election, appointed by the chief judge of the superior court of the county in which the election is held or, in the case of a municipality which is located in more than one county, of the county in which the city hall of the municipality is located. The panel shall manually review all ballots rejected by the tabulator under subparagraph (A) of this paragraph and shall determine by majority vote whether the elector's intent can be determined as described in subsection (c) of Code Section 21-2-438 and, if so, said vote shall be counted as the elector intended. In the event of a tie vote by the vote review panel, the vote of the election superintendent or designee thereof shall control."

SECTION 27.

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

"(c) In precincts in which paper ballots ~~or vote recorders~~ have been used, 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,

1 nomination, or question as to which the excess exists, in the discretion of the
 2 superintendent, and may require the correction of the returns in accordance with the result
 3 of such recount. If the ballot box is found to contain more ballots than there are electors
 4 registered in such precinct or more ballots than the number of voters who voted in such
 5 precinct at such primary or election, the superintendent may, in his or her discretion,
 6 exclude the poll of that precinct, either as to all offices, candidates, questions, or parties and
 7 bodies or as to any particular offices, candidates, questions, or parties and bodies, as to
 8 which such excess exists."

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

20 SECTION 28.

21 Said chapter is further amended by striking subsection (a) of Code Section 21-2-495, relating
 22 to procedure for recount or recanvass of votes, and inserting in lieu thereof a new subsection
 23 (a) to read as follows:

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

SECTION 29.

Said chapter is further amended by striking Code Section 21-2-500, relating to delivery of voting materials, 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 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~~ programming 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 for ballot tabulation programs,~~ and similar items or an
 4 electronic record of the program by which votes are to be recorded or tabulated, which is
 5 captured prior to the election, and which is stored on some alternative medium such as a
 6 CD-ROM or floppy disk simultaneously with the programming of the PROM or other
 7 memory storage device. Such ballots and other documents shall be preserved under seal in
 8 the office of the city clerk for at least 24 months; and then they may be destroyed unless
 9 otherwise provided by order of the mayor and council if a contest has been filed or by court
 10 order, provided that the electors list, voter's certificates, and duplicate oaths of assisted
 11 electors shall be immediately returned by the superintendent to the county or municipal
 12 registrar as appropriate."

13 SECTION 30.

14 Said chapter is further amended by striking paragraph (8) of Code Section 21-2-566, relating
 15 to interference with primaries and elections generally, and inserting in lieu thereof a new
 16 paragraph (8) to read as follows:

17 "(8) Willfully tampers with any electors list, voter's certificate, numbered list of voters,
 18 ballot box, voting machine, ~~vote recorder~~ direct recording electronic (DRE) equipment,
 19 or tabulating machine".

20 SECTION 31.

21 Said chapter is further amended by striking paragraph (3) of Code Section 21-2-579, relating
 22 to fraudulently allowing ballot, ballot card, or voting machine to be seen, and inserting in lieu
 23 thereof a new paragraph (3) to read as follows:

24 "(3) Without having made the affirmation under oath or declaration required by Code
 25 Section 21-2-409, or when the disability which he or she declared at the time of
 26 registration no longer exists, permits another to accompany him or her into the voting
 27 compartment or voting machine booth or to mark his or her ballot ~~or ballot card~~ or to
 28 register his or her vote on the voting machine or ~~vote recorder~~ direct recording electronic
 29 (DRE) equipment; or".

30 SECTION 32.

31 Said chapter is further amended by striking Code Section 21-2-582, relating to tampering
 32 with, damaging, or preventing of proper operation of vote recorders or tabulating machines,
 33 and inserting in lieu thereof the following:

34 "21-2-582.

1 Any person who tampers with or damages any ~~vote recorder~~ direct recording electronic
 2 (DRE) equipment or tabulating ~~machine~~ computer or device to be used or being used at or
 3 in connection with any primary or election or who prevents or attempts to prevent the
 4 correct operation of any ~~vote recorder~~ direct recording electronic (DRE) equipment or
 5 tabulating ~~machine~~ computer or device shall be guilty of a felony."

6 **SECTION 33.**

7 Said chapter is further amended by striking Code Section 21-2-582.1, relating to penalty for
 8 voting equipment modification, and inserting in lieu thereof a new Code Section 21-2-582.1
 9 to read as follows:

10 "21-2-582.1.

11 (a) For the purposes of this Code section, the term 'voting equipment' shall mean a voting
 12 machine, ~~vote recorder~~, tabulating machine, optical scanning voting system, or direct
 13 recording electronic recording voting system.

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

17 **SECTION 34.**

18 Said chapter is further amended by striking paragraph (6) of Code Section 21-2-587, relating
 19 to frauds by poll officers, and inserting in lieu thereof a new Code Section 21-2-587 to read
 20 as follows:

21 "(6) Tampers with any voting machine, ~~vote recorder~~ direct recording electronic (DRE)
 22 equipment, or tabulating ~~machine~~ computer or device;"

23 **SECTION 35.**

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