COMMITTEE OF CONFERENCE SUBSTITUTE TO SB 258

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, so as to remove vote recorders as authorized voting systems in this state and convert to direct recording electronic (DRE) voting systems; to comply with the provisions of the federal Help America Vote Act; to require the State Election Board to define by rule and regulation what constitutes a vote; to provide for complaint procedures; to provide for the confidentiality of certain registration information; to provide procedures for absentee balloting for uniformed services and overseas voters; to provide for reports concerning voting by such uniformed services and overseas voters; to require voters who register to vote by mail for the first time in this state to provide identification prior to voting for the first time; to provide for exceptions; to provide for the designation of such voters on the electors list; to provide for the arrangement of polling places where DRE units are used; to prohibit certain persons from providing assistance in voting; to provide for at least one handicapped accessible DRE unit in each precinct; to provide that the instructions for absentee voting shall include information on the effect of overvotes and how to correct errors on the ballot or obtain a replacement ballot; to provide that the state shall accept the absentee ballot oath promulgated by the Presidential designee in accordance with the Help America Vote Act; to provide for sample ballots; to provide for certain poll watchers; to provide additional items of acceptable identification; to provide for the review of overvoted ballots; to provide that, when poll hours are extended by court order, all voters who vote after the normal poll closing time shall vote by provisional ballot; to provide that such ballots shall be kept separate from other ballots; to provide for the storage of certain election materials; to clarify the definition of precinct; to authorize the Secretary of State to develop, program, and build ballots for use by counties and municipalities using direct recording electronic (DRE) voting systems; to require election superintendents to complete a certification program; to provide for content of such program; to change the requirements concerning the electronic filing of election returns by precinct; to provide that governments employing superintendents and chief registrars may be fined by the State Election Board for failing to have such employees complete certain training and certification;

to provide for waivers of certification in certain instances; to revise the procedure for the calculation of qualifying fees for certain county officials; to change the information required on candidate affidavits; to change certain provisions relating to qualification of candidates for party nomination in a state or county primary; to change the qualifications of county registrars and deputy registrars; to revise the rules for determining residence for voter registration and candidate qualifying; to provide that persons shall not vote in a primary runoff held by any other party for offices to be filled in the same election; to provide for the electronic transmission of voter registration applications from designated voter registration agencies; to change the time for challenging the right of certain persons to vote; to remove the limitation on how often the Secretary of State can compare the electors list to the change of address data base of the United States Postal Service; to provide for the arrangement of polling places where DRE units are used; to authorize the use of colored stripes or blocks to distinguish primary ballots; to authorize the precinct designation on absentee ballots to be printed or stamped; to authorize counties to contract with municipalities for the use of DRE voting systems; to repeal the provisions of law establishing the Twenty-first Century Voting Commission and the pilot projects for electronic voting; to provide that the ovals appearing on optical scanning ballots may be printed in red ink; to provide that the names of presidential electors shall not appear on the ballot on DRE units and optical scanning ballots; to provide for testing of DRE units prior to a run-off primary or run-off election; to provide for the transfer of the zero tapes, results tapes, and memory cards to the superintendent; to prohibit distribution of absentee ballot applications under certain circumstances; to change the qualifications to vote by absentee ballot; to provide for the use of DRE voting systems for voting by absentee ballot in certain circumstances; to require that absentee ballots returned too late to be counted shall be delivered to the appropriate clerk for storage as provided by law; to provide for the storage of absentee ballot applications; to require certain poll officers to be present at least one hour prior to the opening of the polls; to prohibit certain persons from providing assistance in voting; to prohibit candidates from going to a polling place except to vote; to provide an exception for probate judges who serve as the election superintendent; to change the time to request a recount under certain circumstances; to authorize the Secretary of State to correct election returns when errors are found in the certified returns or in the tabulation, computation, or canvassing of the returns; to authorize the extension of deadlines to certify returns under certain circumstances; to clarify when a runoff is required and when such runoff shall be held; to require that appeals of election contests be heard by the Supreme Court; to require that DRE memory cards be returned to the proper officials after an election; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, is amended by striking paragraphs (4) and (28) of Code Section 21-2-2, relating to definitions, and inserting in lieu thereof new paragraphs (4) and (28) to read as follows:

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

"(28) 'Precinct' is synonymous with the term 'voting precinct' and means a geographical area, established in accordance with this chapter, ~~within~~ from which all electors vote at one polling place."

SECTION 2.

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

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

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

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

SECTION 3.

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

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

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

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

SECTION 4.

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

"21-2-50.2.

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

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

(c) Election related complaints filed with the Secretary of State alleging violations of Title III of the federal Help America Vote Act of 2002 shall not be subject to hearing procedures of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' but shall be resolved pursuant to rules and regulations promulgated under subsection (b) of this Code section whereby the Secretary of State shall have the authority to issue a final order for complaints filed under the federal Help America Vote Act of 2002."

SECTION 5.

Said chapter is further amended by striking paragraphs (5), (13), and (14) of Code Section 21-2-70, relating to powers and duties of election superintendents, and inserting in lieu thereof new paragraphs (5), (13), (14), and (15) to read as follows:

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

"(13) To conduct all elections in such manner as to guarantee the secrecy of the ballot and to perform such other duties as may be prescribed by law; ~~and~~

(14) To become certified by satisfactorily completing a certification program approved by the Secretary of State no later than January 1, 2007. Such program may include instruction on, and may require the superintendent to demonstrate proficiency in, the operation of the state´s direct recording electronic voting equipment and in state and federal law and procedures related to elections. In the case of boards of elections or boards of elections and registration, this requirement may be satisfied either by the certification of the members of the board or the board´s designee; and

~~(14)~~(15) To take an oath in the following form:

I, _____, do swear (or affirm) that I will as superintendent duly attend the ensuing election (or primary) during the continuance thereof, that I will

to the best of my ability prevent any fraud, deceit, or abuse in carrying on the same, that I will make a true and perfect return of the said election (or primary), and that I will at all times truly, impartially, and faithfully perform my duties in accordance with Georgia laws to the best of my judgment and ability.″

SECTION 6.

Said chapter is further amended by adding a new subsection (c) to Code Section 21-2-70.1, relating to municipal election superintendents, to read as follows:

″(c) As prescribed and directed by the Secretary of State, the municipal superintendent or, in the case of a board of elections or board of elections and registration, its designee shall satisfactorily complete a certification program approved by the Secretary of State no later than January 1, 2007. Such program may include instruction on, and may require the superintendent to demonstrate proficiency in, the operation of the voting equipment used in such superintendent´s municipality and in state and federal law and procedures related to elections.″

SECTION 7.

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

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

SECTION 8.

Said chapter is further amended by striking subsection (b) of Code Section 21-2-77, relating to electronic election returns, and inserting in lieu thereof a new subsection (b) to read as follows:

″(b) Beginning with the election cycle in the year 2002, the superintendent of elections of each county shall provide electronically to the Secretary of State, within ~~45~~ seven days after the close of voting, election returns divided by precinct for each precinct in their respective counties for all primaries, elections, special primaries, special elections, and runoffs for such elections for federal, state, ~~or~~ and county offices held in that year or any following year.″

SECTION 9.

Said chapter is further amended by adding a new Code Section 21-2-101 to read as follows:

"21-2-101.

(a) All election superintendents or, in the case of a board of elections or a board of elections and registration, the designee of such board charged with the daily operations of such board shall become certified by completing a certification program approved by the Secretary of State by no later than January 1, 2007. Such program may include instruction on, and may require the superintendent to demonstrate proficiency in, the operation of the state´s direct recording electronic voting equipment and in state and federal law and procedures related to elections. The local government employing the superintendent or designee shall cover the costs, if any, incurred by such superintendent or designee´s participation in the certification program. Such certification programs shall be offered by the Secretary of State on multiple occasions before January 1, 2007, and shall not exceed 64 hours of classroom, online, and practical instruction as authorized and approved by the Secretary of State.

(b) A waiver of the certification requirement, either in whole or in part, may be granted by the Secretary of State, in the discretion of the Secretary of State, upon the presentation of evidence by the election superintendent or board that the individual was unable to complete such training due to medical disability, providential cause, or other reason deemed sufficient by the Secretary of State.

(c) A superintendent and the governing authority which employs the superintendent may be fined by the State Election Board for failure to attain the certification required in this Code section."

SECTION 10.

Said chapter is further amended by striking paragraph (1) of subsection (a) of Code Section 21-2-131, relating to qualifying fees, and inserting in lieu thereof a new paragraph (1) to read as follows:

"(1)(A) The governing authority of any county or municipality, not later than February 1 of any year in which a general primary, nonpartisan election, or general election is to be held, and at least 35 days prior to the special primary or election in the case of a special primary or special election, shall fix and publish a qualifying fee for each county or municipal office to be filled in the upcoming primary or election. ~~Such~~ Except as otherwise provided in subparagraph (B) of this paragraph, such fee shall be 3 percent of the total gross salary of the office paid in the preceding calendar year including all supplements authorized by law if a salaried office.~~; provided, however, that for~~

(B) For the offices of clerk of the superior court, judge of the probate court, sheriff, tax commissioner, and magistrate, the qualifying fee shall be 3 percent of the minimum

salary ~~provided by general law for the office~~ specified in subsection (a) of Code Section 15-6-88, paragraph (1) of subsection (a) of Code Section 15-9-63, subsection (a) of Code Section 15-10-23, paragraph (1) of subsection (a) of Code Section 15-16-20, and paragraph (1) of subsection (b) of Code Section 48-5-183, exclusive of supplements, cost-of-living increases, and longevity increases. For the office of members of the county governing authority, the qualifying fee shall be 3 percent of the base salary established by local Act of the General Assembly or by Code Section 36-5-25 as adjusted pursuant to Code Section 36-5-24, if applicable, exclusive of compensation supplements for training provided for in Code Section 36-5-27 and cost-of-living adjustments pursuant to Code Section 36-5-28. If not a salaried office, a reasonable fee shall be set by the governing authority of such county or municipality, such fee not to exceed 3 percent of the income derived from such county office by the person holding the office for the preceding year or more than $35.00 for a municipal office;″.

SECTION 11.

Said chapter is further amended by striking subsection (f) of Code Section 21-2-132, relating to filing notice of candidacy, nomination petition, and affidavit, and inserting in lieu thereof a new subsection (f) to read as follows:

″(f) Each candidate required by this Code section to file a notice of candidacy shall accompany his or her notice of candidacy with an affidavit stating:

(1) His or her full name and the name as the candidate desires it to be listed on the ballot;

~~(1)~~(2) His or her residence, with street and number, if any, and his or her post office address;

~~(2)~~(3) His or her profession, business, or occupation, if any;

~~(3)~~(4) The name of his or her precinct;

~~(4)~~(5) That he or she is an elector of the county or municipality of his or her residence eligible to vote in the election in which he or she is a candidate;

~~(5)~~(6) The name of the office he or she is seeking;

~~(6)~~(7) That he or she is eligible to hold such office;

~~(7)~~(8) That the candidate has never been convicted and sentenced in any court of competent jurisdiction for fraudulent violation of primary or election laws, malfeasance in office, or felony involving moral turpitude or conviction of domestic violence under the laws of this state or any other state or of the United States, or that the candidate´s civil rights have been restored and that at least ten years have elapsed from the date of the completion of the sentence without a subsequent conviction of another felony involving moral turpitude; ~~and~~

~~(8)~~(9) That he or she will not knowingly violate this chapter or rules and regulations adopted under this chapter; and

(10) Any other information as may be determined by the Secretary of State to be necessary to comply with federal and state law.

The affidavit shall contain such other information as may be prescribed by the officer with whom the candidate files his or her notice of candidacy."

SECTION 12.

Said chapter is further amended by striking paragraph (1) of subsection (c) of Code Section 21-2-153, relating to qualification of candidates for party nomination in a state or county primary, and inserting in lieu thereof the following:

"(c)(1) In the case of a general state or county primary, the candidates or their agents shall commence qualifying at 9:00 A.M. on the fourth Monday in April immediately prior to the state or county primary and shall cease qualifying at 12:00 Noon on the Friday following the fourth Monday in April, notwithstanding the fact that any such days may be legal holidays; provided, however, that, in the case of a general primary held in the even-numbered year immediately following the official release of the United States decennial census data to the states for the purpose of redistricting of the legislatures and the United States House of Representatives, the candidates or their agents for political party nomination to county offices shall commence qualifying at 9:00 A.M. on the third Wednesday in June immediately prior to such primary and shall cease qualifying at 12:00 Noon on the Friday following the third Wednesday in June, notwithstanding the fact that any such days may be legal holidays, and provided, further, that candidates for political party nomination to federal and state offices in a general primary shall commence qualifying at 9:00 A.M. on the third Wednesday in June immediately prior to such primary and shall cease qualifying at 12:00 Noon on the Friday following the third Wednesday in June, notwithstanding the fact that any such days may be legal holidays, and shall qualify in person or~~, in the case of illness or other providential cause as may be defined and determined by rule or regulation by the Secretary of State,~~ by their agents with their respective political party in the state capitol under such rules and regulations as the Secretary of State may promulgate and provided, further, that all qualifying for federal and state offices on the last day of the qualifying period shall be conducted in the chamber of the House of Representatives in the state capitol. In the case of a special primary, the candidate shall qualify no earlier than the date of the call for the special primary and no later than 25 days prior to the date of such primary, and such qualifying period shall be open for a minimum of two and one-half days."

SECTION 13.

Said chapter is further amended by striking subsection (e) of Code Section 21-2-153, relating to qualification of candidates for party nomination in a state or county primary, and inserting in lieu thereof a new subsection (e) to read as follows:

"(e) Each candidate for party nomination described in subsection (a) of this Code section shall file an affidavit with the political party at the time of his or her qualifying stating:

(1) His or her full name and the name as the candidate desires it to be listed on the ballot;

~~(1)~~(2) His or her residence, with street and number, if any, and his or her post office address;

~~(2)~~(3) His or her profession, business, or occupation, if any;

~~(3)~~(4) The name of his or her precinct;

~~(4)~~(5) That he or she is an elector of the county of his or her residence eligible to vote in the primary election in which he or she is a candidate for nomination;

~~(5)~~(6) The name of the office he or she is seeking;

~~(6)~~(7) That he or she is eligible to hold such office;

~~(7)~~(8) That the candidate has never been convicted and sentenced in any court of competent jurisdiction for fraudulent violation of primary or election laws, malfeasance in office, or felony involving moral turpitude under the laws of this state or any other state or of the United States, or that the candidate´s civil rights have been restored and that at least ten years have elapsed from the date of the completion of the sentence without a subsequent conviction of another felony involving moral turpitude; ~~and~~

~~(8)~~(9) That he or she will not knowingly violate this chapter or rules or regulations adopted under this chapter; and

(10) Any other information as may be determined by the Secretary of State to be necessary to comply with federal and state law."

SECTION 14.

Said chapter is further amended by striking subsection (f) of Code Section 21-2-153, relating to qualification of candidates for party nomination in a state or county primary, and inserting in lieu thereof the following:

"(f) Candidates for the office of presidential elector or their agents who have been nominated in accordance with the rules of a political party shall qualify beginning at 9:00 A.M. on the fourth Monday in April in the year in which a presidential election shall be held and shall cease qualifying at 12:00 Noon on the Friday following the fourth Monday in April, notwithstanding the fact that any such days may be legal holidays; provided, however, that, for presidential elections held in the even-numbered year immediately following the official release of the United States decennial census data to the states for the

purpose of redistricting of the legislatures and the United States House of Representatives, candidates for the office of presidential elector who have been nominated in accordance with the rules of a political party shall commence qualifying beginning at 9:00 A.M. on the third Wednesday in June immediately prior to such election and shall cease qualifying at 12:00 Noon on the Friday following the third Wednesday in June, notwithstanding the fact that any such days may be legal holidays, and shall qualify in person or~~, in the case of illness or other providential cause as may be defined and determined by rule or regulation by the Secretary of State,~~ by their agents with their respective political party in the state capitol under such rules and regulations as the Secretary of State may promulgate.″

SECTION 15.

Said chapter is further amended by striking subsection (a) of Code Section 21-2-214, relating to qualifications of registrars and deputy registrars, and inserting in lieu thereof a new subsection (a) to read as follows:

″(a) ~~County registrars and deputy registrars~~ Members of the board of registrars shall be electors of the state and county in which they serve, and any deputy registrars shall be electors of the state. All registrars shall be able to read, write, and speak the English language. Municipal registrars shall be registered Georgia voters and shall be able to read, write, and speak the English language. Registrars and deputy registrars shall have never been convicted of a felony or of any crime involving fraud or moral turpitude, and the appointing authority shall be authorized to investigate the applicant´s criminal history before making such appointment.″

SECTION 16.

Said chapter is further amended by striking Code Section 21-2-217, relating to rules for determining residence, and inserting in lieu thereof a new Code Section 21-2-217 to read as follows:

″21-2-217.

(a) In determining the residence of a person desiring to register to vote or to qualify to run for elective office, the following rules shall be followed so far as they are applicable:

(1) The residence of any person shall be held to be in that place in which such person´s habitation is fixed, without any present intention of removing therefrom~~, and to which, whenever such person is absent, such person intends to return~~;

(2) A person shall not be considered to have lost such person´s residence who leaves such person´s home and goes into another state or county or municipality in this state, for temporary purposes only, with the intention of returning, unless such person shall register

to vote or perform other acts indicating a desire to change such person´s citizenship and residence;

(3) A person shall not be considered to have gained a residence in any county or municipality of this state into which such person has come for temporary purposes only without the intention of making such county or municipality such person´s permanent place of abode;

(4) If a person removes to another state with the intention of making it such person´s residence, such person shall be considered to have lost such person´s residence in this state;

(4.1) If a person removes to another county or municipality in this state with the intention of making it such person´s residence, such person shall be considered to have lost such person´s residence in the former county or municipality in this state;

(5) If a person removes to another state with the intention of remaining there an indefinite time and making such state such person´s place of residence, such person shall be considered to have lost such person´s residence in this state, notwithstanding that such person may intend to return at some indefinite future period;

(6) If a person removes to another county or municipality within this state with the intention of remaining there an indefinite time and making such other county or municipality such person´s place of residence, such person shall be considered to have lost such person´s residence in the former county or municipality, notwithstanding that such person may intend to return at some indefinite future period;

(7) The residence for voting purposes of a person shall not be required to be the same as the residence for voting purposes of his or her spouse;

(8) No person shall be deemed to have gained or lost a residence by reason of such person´s presence or absence while enrolled as a student at any college, university, or other institution of learning in this state;

(9) The mere intention to acquire a new residence, without the fact of removal, shall avail nothing; neither shall the fact of removal without the intention;

(10) No member of the armed forces of the United States shall be deemed to have acquired a residence in this state by reason of being stationed on duty in this state;

(11) If a person removes to the District of Columbia or other federal territory, another state, or foreign country to engage in government service, such person shall not be considered to have lost such person´s residence in this state during the period of such service; and the place where the person resided at the time of such person´s removal shall be considered and held to be such person´s place of residence;

(12) If a person is adjudged mentally ill and is committed to an institution for the mentally ill, such person shall not be considered to have gained a residence ~~for voting~~

~~purposes~~ in the county in which the institution to which such person is committed is located;

(13) If a person goes into another state and while there exercises the right of a citizen by voting, such person shall be considered to have lost such person´s residence in this state; ~~and~~

(14) The specific address in the county or municipality in which a person has declared a homestead exemption, if a homestead exemption has been claimed, shall be deemed the ~~county or municipality of the~~ person´s residence address; and

(15) For voter registration purposes, the board of registrars and, for candidacy residency purposes, the Secretary of State, election superintendent, or hearing officer may consider evidence of where the person receives significant mail such as personal bills and any other evidence that indicates where the person resides.

(b) In determining a voter´s qualification to register and vote, the registrars to whom such application is made shall consider, in addition to the applicant´s expressed intent, any relevant circumstances determining the applicant´s residence. The registrars taking such registration may consider the applicant´s financial independence, business pursuits, employment, income sources, residence for income tax purposes, age, marital status, residence of parents, spouse, and children, if any, leaseholds, sites of personal and real property owned by the applicant, motor vehicle and other personal property registration, and other such factors that the registrars may reasonably deem necessary to determine the qualification of an applicant to vote in a primary or election. The decision of the registrars to whom such application is made shall be presumptive evidence of a person´s residence for voting purposes.″

SECTION 17.

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

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

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

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

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

SECTION 18.

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

"21-2-220.

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

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

(c) Except as otherwise provided in this subsection, electors who register to vote for the first time in this state by mail must present current and valid identification either when registering to vote by mail or when voting for the first time after registering to vote by mail. The current and valid identification shall be one or more of those forms of

identification provided in Code Section 21-2-417 or a legible copy thereof. The registrars shall make copies of any original forms of identification submitted by applicants and return the originals to the applicants. The requirement to submit identification shall not apply to:

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

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

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

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

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

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

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

SECTION 19.

Said chapter is further amended by adding a new subsection (l) to Code Section 21-2-222, relating to designated voter registration agencies, to read as follows:

"(l) The Secretary of State shall have the authority to promulgate rules and regulations to provide for the transmission of voter registration applications and signatures electronically from public assistance offices, offices which provide state funded programs primarily engaged in providing services to persons with disabilities, and recruitment offices of the armed forces of the United States located within this state. Such electronically transmitted signatures shall be valid as signatures on the voter registration application and shall be treated in all respects as a manually written original signature and shall be recognized as such in any matter concerning the voter registration application."

SECTION 20.

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, <u>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,</u> 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 21.

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 <u>bank statements submitted pursuant to Code Section 21-2-417(b) and</u> 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 22.

Said chapter is further amended by striking subsection (a) of Code Section 21-2-230, relating to challenge of persons on electors list by other persons, and inserting in lieu thereof a new subsection (a) to read as follows:

″(a) Any elector of the county or municipality may challenge the right of any other elector of the county or municipality, whose name appears on the list of electors, to vote in an election. Such challenge shall be in writing and specify distinctly the grounds of such challenge. Such challenge may be made at any time prior to the elector whose right to vote is being challenged voting at the elector´s polling place or, if such elector cast an absentee ballot, prior to 5:00 p.m. on ~~12:00 Noon on~~ the day ~~of~~ before the election.″

SECTION 23.

Said chapter is further amended by striking subsection (a) of Code Section 21-2-233, relating to comparison of change of address information supplied by the United States Postal Service with the electors list, and inserting in lieu thereof a new subsection (a) to read as follows:

″(a) The Secretary of State is authorized to cause at his or her discretion the official list of electors to be compared to the change of address information supplied by the United States Postal Service through its licensees periodically~~, but not more often than once each year,~~ for the purpose of identifying those electors whose addresses have changed.″

SECTION 24.

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:

″(a) In addition to the official list of electors, the Secretary of State shall also maintain an inactive list of electors. Notwithstanding any other provision of law to the contrary, the names of electors on the inactive list of electors shall not be counted in computing the number of ballots required for an election, the number of voting ~~machines or vote recorders~~ devices needed for a precinct, the number of electors required to divide or constitute a precinct, or the number of signatures needed on any petition. However, any elector whose

name appears on the inactive list shall be eligible to sign a petition and such petition signature, if valid, shall be sufficient to return the elector to the official list of electors if the elector still resides at the address listed on the elector´s registration records and shall be grounds to proceed under Code Section 21-2-234 to confirm the change of address of the elector if the elector provides a different address from the address which appears on the elector´s registration records.″

SECTION 25.

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

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

SECTION 26.

Said chapter is further amended by striking paragraph (1) of subsection (b) of Code Section 21-2-286, relating to printing specifications, numbering, and binding of ballots, and inserting a new paragraph (1) to read as follows:

"(b)(1) Paper ballots other than those printed for optical scanning voting systems shall be at least six inches long and four inches wide and shall have a margin extending beyond any printing thereon. They shall be printed with the same kind of type, which shall not be smaller than the size known as 'brevier' or 'eight-point body,' upon white paper of uniform quality, without any impression or mark to distinguish one from another, and with sufficient thickness to prevent the printed matter from showing through, except that ballots being used in primaries held by more than one party may be of different colors <u>or may have colored stripes or blocks to distinguish the ballots</u> if the parties so agree. Each ballot shall be attached to a name stub, and all the ballots for the same precinct shall be bound together in books of 25, 50, or 100, in such manner that each ballot may be detached from its stub and removed separately. The ballots for each party to be used at a primary shall be bound separately. The name stubs of the ballots shall be consecutively numbered; and, in the case of primary ballots, the number shall be preceded by an initial or abbreviation designating the party name. The number and initial or abbreviation which appears upon the stub shall also be printed in the upper portion of the front of the ballot, separated from the remainder of the ballot by a horizontal perforated line so as to constitute a number strip and so prepared that the upper portion of the front of the ballot containing the number may be detached from the ballot before it is deposited in the ballot box. The number strip on the ballot shall also have the following words printed thereon: 'Tear off before depositing ballot in ballot box.'"

SECTION 27.

Said chapter is further amended by striking Code Section 21-2-287, relating to form of absentee ballots, and inserting in lieu thereof a new Code Section 21-2-287 to read as follows:

"21-2-287.

The form for the absentee ballot shall be in substantially the same form as the official ballots used in the precincts, except it shall be printed with only the name stub and without a number strip <u>and may have the precinct designation printed or stamped thereon</u>."

SECTION 28.

Said chapter is further amended by adding a new subsection (e) to Code Section 21-2-300, relating to provision of new voting equipment by state, to read as follows:

"(e)(1) Counties shall be authorized to contract with municipal governments for the use of such voting equipment in municipal elections under terms and conditions specified by the Secretary of State to assure that the equipment is properly used and kept secure.

(2) Notwithstanding the provisions of Code Section 21-2-45, counties may not levy a fee for use of state owned voting equipment but may require municipalities to reimburse the county for the actual expenses related to the election or elections that are subject to the county and municipal contract."

SECTION 29.

Said chapter is further amended by repealing Code Section 21-2-301, relating to a pilot program, which reads as follows:

"21-2-301.

(a) The Secretary of State is authorized to conduct a pilot project to test and evaluate the use of electronic recording voting systems during the 2001 municipal elections. The Secretary of State in his or her discretion may select a number of municipalities to participate in such pilot program.

(b) Electronic recording voting systems used in the pilot program shall meet the requirements contained in Part 5 of Article 9 of this chapter and shall have been certified by the Secretary of State as provided in Code Section 21-2-379.2. Such voting systems shall be required to have an independent audit trail for each vote cast.

(c) The Secretary of State shall furnish the electronic recording voting systems to the selected municipalities for use in the pilot project, provided that the municipalities provide polling places with adequate electrical outlets, telephone lines, and other facilities necessary to operate such electronic recording voting systems.

(d) The Secretary of State is authorized to use different types of electronic recording voting systems in the pilot project. However, the same type system must be used in all precincts within a municipality and there shall not be any other voting systems used in that municipality for voting at the polling places on election day unless there is an emergency declared by the Secretary of State due to the failure of the system or due to the inability for any reason of the electors to be able to cast their ballots on the system. In the event of such declared emergency situation, the Secretary of State may direct the use of any method of voting authorized by this chapter in the municipal election.

(e)(1) There is created the Twenty-first Century Voting Commission. The commission shall be composed of two members appointed by the Speaker of the House of Representatives, two members appointed by the Lieutenant Governor, two members appointed by the Governor, the chief information officer for the State of Georgia or his or her designee, eight members appointed by the Secretary of State of which six shall be

county or municipal election officials, the director of the Elections Division of the office of the Secretary of State, one member designated by each political body that qualified candidates in the 2000 November general election, and the Secretary of State, who shall be the chairperson of the commission. In appointing members to such commission, the Speaker of the House of Representatives, the President of the Senate, the Governor, and the Secretary of State shall ensure equal representation on the commission by each political party in their respective appointments; provided, however, that nothing contained herein shall prohibit the Secretary of State from appointing election officials to the commission who have no political party affiliation or who are nonpartisan. The commission shall coordinate and oversee the pilot project authorized by this Code section.

(2) The commission may work with the Board of Regents of the University System of Georgia and the Department of Education in seeking avenues and incentives to encourage student participation as poll workers and in other areas of the election process.

(3) The commission shall make a report to the Governor and the General Assembly by December 31, 2001, on the results of the pilot project and shall further advise the Secretary of State on the choice of voting equipment to be used state wide in all counties pursuant to Code Section 21-2-300.

(4) Any members of the General Assembly serving on the commission shall receive the allowances authorized for legislative members of interim legislative committees. The public members of the commission who are not public employees shall receive a daily expense allowance as provided in subsection (b) of Code Section 45-7-21. Any public employee serving on the commission shall receive no compensation but may be reimbursed for expenses.

(5) The commission shall continue its work through December 31, 2002, after which time it shall stand abolished unless reauthorized and continued by the General Assembly.

(6) The Commission shall have at least one meeting in North Georgia (outside of Atlanta), one meeting in Central Georgia and one meeting in South Georgia.″

SECTION 30.

Said chapter is further amended by striking subsection (a) of Code Section 21-2-369, relating to printing of optical scanning ballots, and inserting in lieu thereof a new subsection (a) to read as follows:

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

material shall not be used except that all ovals appearing on the ballot to indicate where a voter should mark to cast a vote may be printed in red ink."

SECTION 31.

Said chapter is further amended by striking subsection (e) of Code Section 21-2-379.5, relating to ballot information, and inserting in lieu thereof a new subsection (e) to read as follows:

"(e) When presidential electors are to be elected, the ballot shall not list the individual names of the candidates for presidential electors but shall list the names of each political party and body and the names of the political party or body candidates for the office of President and Vice President. The individual names or the nominees of each political party or body for such offices shall be posted at each polling place with the sample ballots required by subsection (d) of Code Section 21-2-379.7 arranged alphabetically under the names of the candidates of the party or body for President and Vice President of the United States. A vote for the candidates for President and Vice President of a political party or body shall be deemed to be a vote for each of the candidates for presidential electors of such political party or body."

SECTION 32.

Said chapter is further amended by striking subsection (c) of Code Section 21-2-379.6, relating to maintenance of voting systems and supplies, and inserting in lieu thereof a new subsection (c) to read as follows:

"(c) On or before the third day preceding a primary or election, including special primaries, special elections, and referendum elections, the superintendent shall have each DRE unit tested to ascertain that it will correctly count the votes cast for all offices and on all questions in a manner that the State Election Board shall prescribe by rule or regulation. On or before the third day preceding a primary runoff or election runoff, including special primary runoffs and special election runoffs, the superintendent shall test a number of DRE units at random to ascertain that the units will correctly count the votes cast for all offices. If the total number of DRE units in the county is 30 units or less, all of the units shall be tested. If the total number of DRE units in the county is more than 30 but not more than 100, then at least one-half of the units shall be tested at random. If there are more than 100 DRE units in the county, the superintendent shall test at least 15 percent of the units at random. In no event shall the superintendent test less than one DRE unit per precinct. All memory cards to be used in the runoff shall be tested. Public notice of the time and place of the test shall be made at least five days prior thereto. Representatives of political parties and bodies, news media, and the public shall be permitted to observe such tests."

SECTION 33.

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

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

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

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

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

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

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

SECTION 34.

Said chapter is further amended by striking Code Section 21-2-379.11, relating to procedure for tabulation of votes, and inserting in lieu thereof a new Code Section 21-2-379.11 to read as follows:

"21-2-379.11.

(a) In primaries and elections in which direct recording electronic (DRE) voting equipment is used, the ballots shall be counted at the precinct or tabulating center under the direction of the superintendent. All persons who perform any duties at the tabulating center shall be deputized by the superintendent and only persons so deputized shall touch any ballot, container, paper, or machine utilized in the conduct of the count or be permitted to be in the immediate area designated for officers deputized to conduct the count.

(b) All proceedings at the tabulating center and precincts shall be open to the view of the public, but no person except one employed and designated for the purpose by the superintendent or the superintendent´s authorized deputy shall touch any ballot, any DRE unit, or the tabulating equipment.

(c) After the polls have closed and all voting in the precinct has ceased, the poll manager shall shut down the DRE units and extract the election results from each unit as follows:

(1) The manager shall obtain the ~~tabulating~~ results tape from each DRE unit and verify that the number of ballots cast as recorded on the tape matches the public count number as displayed on the DRE unit;

(2) If a system is established by the Secretary of State, the poll manager shall first transmit the election results extracted from each DRE unit in each precinct via modem to the central tabulating center of the county; and

(3) The manager shall then extract the ~~ballot storage medium~~ memory card from each DRE unit.

(d) Upon completion of shutting down each DRE unit and extracting the election results, the manager shall cause to be completed and signed a ballot recap form, in sufficient counterparts, showing:

(1) The number of valid ballots;

(2) The number of spoiled and invalid ballots;

(3) The number of provisional ballots; and

(4) The number of unused provisional ballots and any other unused ballots.

The manager shall cause to be placed in the ballot supply container one copy of the recap form and any unused, defective, spoiled, and invalid ballots, each enclosed in an envelope.

(e) The manager shall ~~wrap~~ collect and retain the zero tape and the ~~tabulating~~ results tape for each DRE unit ~~around the ballot storage medium~~ and place such tapes with the memory card for ~~that~~ each unit and enclose all such items for all of the DRE units used in the precinct in ~~an~~ one envelope which shall be sealed and initialed by the manager so that it cannot be opened without breaking the seal. ~~One envelope shall be used for the documentation for each DRE unit and all envelopes from the polling place shall be placed in an envelope container which shall also be sealed so that it cannot be opened without breaking the seal.~~

(f) The manager and one poll worker shall then deliver the envelope ~~container~~ to the tabulating center for the county or municipality or to such other place designated by the superintendent and shall receive a receipt therefor. The copies of the recap forms, unused ballots, records, and other materials shall be returned to the designated location and retained as provided by law.

(g) Upon receipt of the sealed ~~envelopes~~ envelope containing the zero tapes, ~~tabulating~~ results tapes, and ~~ballot storage media~~ memory cards, the election superintendent shall verify the signatures on the envelope. Once verified, the superintendent shall break the seal of the envelope and remove its contents. The superintendent shall then download the results stored on the ~~ballot storage medium~~ memory card from each DRE unit into the election management system located at the central tabulation point of the county in order to obtain election results for certification.″

SECTION 35.

Said chapter is further amended by striking Code Section 21-2-380, relating to definition of absentee elector, and inserting in lieu thereof a new Code Section 21-2-380 to read as follows:

"21-2-380.

(a) As used in this article, the term 'absentee elector' means an elector of this state or a municipality thereof who:

(1) Is required to be absent from his or her precinct during the time of the primary or election he or she desires to vote in;

(2) Will perform any of the official acts or duties set forth in this chapter in connection with the primary or election he or she desires to vote in;

(3) Because of physical disability or because of being required to give constant care to someone who is physically disabled, will be unable to be present at the polls on the day of such primary or election;

(4) Because the election or primary falls upon a religious holiday observed by such elector, will be unable to be present at the polls on the day of such primary or election;

(5) Is required to remain on duty in his or her place of employment for the protection of the health, life, or safety of the public during the entire time the polls are open when such place of employment is within the precinct in which the voter resides; or

(6) Is 75 years of age or older.

(b) An elector who casts an absentee ballot in person at the registrar´s office or absentee ballot clerk´s office during the period of Monday through Friday of the week immediately preceding the date of a primary, election, or run-off primary or election shall not be required to provide a reason as identified in subsection (a) of this Code section in order to cast an absentee ballot in such primary, election, or run-off primary or election."

SECTION 36.

Said chapter is further amended by striking paragraphs (1) and (3) of subsection (a) of Code Section 21-2-381, relating to making of application for absentee ballot, and inserting in lieu thereof new paragraphs (1) and (3) to read as follows:

"(1) ~~Not~~ Except as otherwise provided in Code Section 21-2-219, not more than 180 days prior to the date of the primary or election, or runoff of either, in which the elector desires to vote, any absentee elector may make, either by mail, by facsimile transmission, or in person in the registrar´s or absentee ballot clerk´s office, an application for an official ballot of the elector´s precinct to be voted at such primary, election, or runoff. In the case of an elector residing temporarily out of the county or municipality or a physically disabled elector residing within the county or municipality, the application for the

elector´s absentee ballot may, upon satisfactory proof of relationship, be made by such elector´s mother, father, grandparent, aunt, uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of the age of 18 or over. The application shall be in writing and shall contain sufficient information for proper identification of the elector; the permanent or temporary address of the elector to which the absentee ballot shall be mailed; the identity of the primary, election, or runoff in which the elector wishes to vote; the reason for requesting the absentee ballot; and the name and relationship of the person requesting the ballot if other than the elector. Except in the case of physically disabled electors residing in the county or municipality, no absentee ballot shall be mailed to an address other than the permanent mailing address of the elector as recorded on the elector´s voter registration record or a temporary out-of-county or out-of-municipality address. Relatives applying for absentee ballots for electors must also sign an oath stating that facts in the application are true. If the elector is unable to fill out or sign such elector´s own application because of illiteracy or physical disability, the elector shall make such elector´s mark, and the person filling in the rest of the application shall sign such person´s name below it as a witness. One timely and proper application for an absentee ballot for use in a primary or election shall be sufficient to require the mailing of the absentee ballot for such primary or election as well as for any runoffs resulting therefrom and for ~~the election for which such primary shall nominate candidates and any runoffs resulting therefrom~~ all primaries and elections for federal offices and any runoffs therefrom, including presidential preference primaries, held during the period beginning upon the receipt of such absentee ballot application and extending through the second regularly scheduled general election in which federal candidates are on the ballot occurring thereafter to an eligible absentee elector who lives outside the county or municipality in which the election is held and is also a member of the armed forces of the United States, a member of the merchant marine of the United States, or a spouse or dependent of a member of the armed forces or the merchant marine residing with or accompanying said member or overseas citizen. Any elector meeting criteria of advanced age or disability specified by rule or regulation of the Secretary of State may request in writing on one application a ballot for a primary as well as for any runoffs resulting therefrom and for the election for which such primary shall nominate candidates as well as any runoffs resulting therefrom. If not so requested by such person a separate and distinct application shall be required for each primary, run-off primary, election, and run-off election. ~~Notwithstanding the foregoing~~ Except as otherwise provided in this paragraph, a separate and distinct application for an absentee ballot shall always be

required for the presidential preference primary held pursuant to Article 5 of this chapter and for any special election or special primary."

"(3) All applications for an official absentee ballot that are distributed by a person, entity, or organization shall list thereon all of the legally acceptable categories of absentee electors contained in Code Section 21-2-380 and shall require the elector to select the category which qualifies the elector to vote by absentee ballot. No application for an official absentee ballot that is physically attached to a publication that advocates for or against a particular candidate, issue, political party, or political body shall be distributed by any person, entity, or organization."

SECTION 37.

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

"21-2-383.

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

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

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

(b) Notwithstanding any other provision of this Code section, direct recording electronic voting systems may be used for casting absentee ballots in person at a registrar´s office or in accordance with Code Section 21-2-382, providing for additional sites. In such cases, the absentee ballots shall be coded in such a way that the ballot of a challenged voter can be separated from other valid ballots at the time of tabulation until the challenge is resolved."

SECTION 38.

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

"(b) In addition to the mailing envelope, the superintendent, board of registrars, or absentee ballot clerk shall provide two envelopes for each official absentee ballot, of such size and shape as shall be determined by the Secretary of State, in order to permit the placing of one within the other and both within the mailing envelope. On the smaller of the two envelopes to be enclosed in the mailing envelope shall be printed the words 'Official Absentee Ballot' and nothing else. On the back of the larger of the two envelopes to be enclosed within the mailing envelope shall be printed the form of oath of the elector and the oath for persons assisting electors, as provided for in Code Section 21-2-409, and the penalties provided for in Code Sections 21-2-568, 21-2-573, 21-2-579, and 21-2-599 for violations of oaths; and on the face of such envelope shall be printed the name and address of the board of registrars or absentee ballot clerk. The mailing envelope addressed to the elector shall contain the two envelopes, the official absentee ballot, and the uniform instructions for the manner of preparing and returning the ballot, in form and substance as provided by the Secretary of State and nothing else. The uniform instructions shall include information specific to the voting system used for absentee voting concerning the effect of overvoting or voting for more candidates than one is authorized to vote for a particular office and information concerning how the elector may correct errors in voting the ballot before it is cast including information on how to obtain a replacement ballot if the elector is unable to change the ballot or correct the error.

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

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

_____ _____

Elector´s Residence Address | Elector´s Place of Birth

_____

Month and Day of Elector´s Birth

_____

Signature or Mark of Elector

Oath of Person Assisting Elector (if any):

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

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 39.

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

SECTION 40.

Said chapter is further amended by striking paragraph (1) of subsection (a) and subsections (b) and (e) of Code Section 21-2-386, relating to safekeeping, certification, and validation of absentee ballots, and inserting in lieu thereof a new paragraph (1) of subsection (a) and new subsections (b) and (e) to read as follows:

"(a)(1) The board of registrars or absentee ballot clerk shall keep safely and unopened all official absentee ballots received from absentee electors prior to the closing of the polls on the day of the primary or election except as otherwise provided in this subsection. Upon receipt of each ballot, a registrar or clerk shall write the day and hour

of the receipt of the ballot on its envelope. The registrar or clerk shall then compare the identifying information on the oath with the information on file in his or her office, shall compare the signature or mark on the oath with the signature or mark on the absentee elector´s application for absentee ballot or a facsimile of said signature or mark taken from said application, and shall, if the information and signature appear to be valid, so certify by signing or initialing his or her name below the voter´s oath. Each elector´s name so certified shall be listed by the registrar or clerk on the numbered list of absentee voters prepared for his or her precinct. If the elector has failed to sign the oath, or if the signature does not appear to be valid, or if the elector has failed to furnish required information or information so furnished does not conform with that on file in the registrar´s or clerk´s office, or if the elector is otherwise found disqualified to vote, the registrar or clerk shall write across the face of the envelope 'Rejected,' giving the reason therefor. The board of registrars or absentee ballot clerk shall promptly notify the elector of such rejection, a copy of which notification shall be retained in the files of the board of registrars or absentee ballot clerk for at least one year. Three copies of the numbered list of voters shall also be prepared for such rejected absentee electors, giving the name of the elector and the reason for the rejection in each case. Three copies of the numbered list of certified absentee voters and three copies of the numbered list of rejected absentee voters for each precinct shall be turned over to the poll manager in charge of counting the absentee ballots and shall be distributed as required by law for numbered lists of voters. All absentee ballots returned to the board or absentee ballot clerk after the closing of the polls on the day of the primary or election shall be safely kept unopened by the board or absentee ballot clerk and then transferred to the appropriate clerk for storage for the period of time required for the preservation of ballots used at the primary or election and shall then, without being opened, be destroyed in like manner as the used ballots of the primary or election. The board of registrars or absentee ballot clerk shall promptly notify the elector by first-class mail that the elector´s ballot was returned too late to be counted and that the elector will not receive credit for voting in the primary or election. All such late absentee ballots shall be delivered to the appropriate clerk and stored as provided in Code Section 21-2-390.″

″(b) As soon as practicable after 12:00 Noon on the day of the primary or election, in precincts other than those in which ~~vote recorders or~~ optical scanning tabulators are used, a registrar or absentee ballot clerk shall deliver the official absentee ballot of each certified absentee elector, each rejected absentee ballot, applications for such ballots, and copies of the numbered lists of certified and rejected absentee electors to the manager in charge of the absentee ballot precinct of the county or municipality, which shall be located in the precincts containing the county courthouse or polling place designated by the municipal

superintendent. In those precincts in which ~~vote recorders or~~ optical scanning tabulators are used, such absentee ballots shall be taken to the tabulation center or other place designated by the superintendent, and the official receiving such absentee ballots shall issue his or her receipt therefor. In no event shall the counting of the ballots begin before the polls close.″

″(e) If an absentee elector´s right to vote has been challenged for cause, a poll officer shall open the envelopes and write 'Challenged,' the elector´s name, and the alleged cause of challenge on the back of the ballot, without disclosing the markings on the face thereof, and shall deposit the ballot in the box; and it shall be counted as other challenged ballots are counted. In the case of absentee votes cast on direct recording electronic voting systems, the ballots shall be coded in such a way that the ballot of a challenged voter can be separated from other valid ballots at the time of tabulation and the challenged ballots shall be counted or rejected in accordance with Code Section 21-2-230. The board of registrars or absentee ballot clerk shall promptly notify the elector of such challenge.″

SECTION 41.

Said chapter is further amended by striking Code Section 21-2-390, relating to delivery of election materials to clerk of superior court or city clerk after primary or election, and inserting in lieu thereof a new Code Section 21-2-390 to read as follows:

″21-2-390.

All official absentee ballots~~, applications for such ballots,~~ and envelopes on which the forms of affidavits and jurats appear shall be delivered to the clerk of the superior court or the city clerk upon the conclusion of the primary or election and shall be safely kept by him or her for the period required by law and then shall be destroyed. The applications for such ballots shall be retained by the board of registrars or the municipal absentee ballot clerk for at least 24 months and then may be destroyed. On the day following the primary or election, the board of registrars or the municipal absentee ballot clerk shall transmit all canceled, spoiled, and rejected absentee ballots and copies of requests for cancellation of absentee ballots to the clerk of the superior court or the city clerk to be held with other election materials as provided in Code Section 21-2-500. The registrars or the municipal absentee ballot clerk shall also transmit an accounting of all absentee ballots, including the number furnished by the registrars or the municipal absentee ballot clerk, the number issued to electors, the number spoiled, and the number rejected.″

SECTION 42.

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

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

SECTION 43.

Said chapter is further amended by striking subsection (a) of Code Section 21-2-405, relating to meeting of poll officers at place of primary or election, an inserting in lieu thereof a new subsection (a) and adding a new subsection (e) to read as follows:

"(a) The chief manager and two assistant managers shall meet in the respective places appointed for holding the primary or election in each precinct at least one hour before the hour for opening the polls on the day of each primary or election. The other required poll officers shall meet in the respective places appointed for holding the primary or election in each precinct at least 30 minutes before the hour for opening the polls on the day of each primary or election. Before entering upon their duties at any primary or election, all poll officers shall take and subscribe in duplicate to the oaths required by this chapter."

"(e) Nothing in this Code section shall prohibit a county or municipality from offering poll officers, other than the chief manager and assistant managers, the option of working part of an election day, rather than the entire day from the opening of the polls to the closing of the polls and completion of the required duties following the closing of the polls. In such cases, any poll officer who begins a shift of work after the opening of the polls shall take and subscribe the same oath as required of poll officers in subsection (a) of this Code section and shall handle such duties as assigned by the chief manager."

SECTION 44.

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

"(c) In counties or municipalities using ~~vote recorders~~ direct recording electronic (DRE) voting systems or optical scanning voting systems, each political party may appoint two poll watchers in each primary or election, each political body may appoint two poll

watchers in each election, each nonpartisan candidate may appoint one poll watcher in each nonpartisan election, and each independent candidate may appoint one poll watcher in each election to serve in the locations designated by the superintendent within the tabulating center. Such designated locations shall include the check-in area, the computer room, the duplication area, and such other areas as the superintendent may deem necessary to the assurance of fair and honest procedures in the tabulating center. The poll watchers provided for in this subsection shall be appointed and serve in the same manner as other poll watchers."

SECTION 45.

Said chapter is further amended by striking subsection (a) and paragraph (2) of subsection (b) of Code Section 21-2-409, relating to assisting electors who cannot read English or have physical disabilities, and inserting in lieu thereof a new subsection (a) and paragraph (2) of subsection (b) 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~~ equipment or to enter the voting compartment or booth without assistance ~~and the poll officers are satisfied that he or she suffers from the disability~~. The elector shall take an oath that shall be administered to him or her and placed in writing by a manager, giving the reason why the elector requires assistance. The printed name and the signature of such person assisting the elector shall be provided on the oath. Except that an ~~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 printed name and the signature of ~~each~~ such person assisting a blind elector shall be ~~shown~~ provided on the declaration."

"(2) In all other elections, any elector who is entitled to receive assistance in voting under this Code section shall be permitted by the managers to select (1) any elector, except a poll officer or poll watcher, who is a resident of the precinct in which the elector requiring assistance is attempting to vote; or (2) the mother, father, sister, brother, spouse, or child of the elector entitled to receive assistance, to enter the voting compartment or booth with him or her to assist in voting, such assistance to be rendered inside the voting compartment or booth. No person shall assist more than ten such electors in any primary,

election, or runoff covered by this paragraph. No person whose name appears on the ballot as a candidate at a particular election nor the mother, father, grandparent, aunt, uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of that candidate may offer assistance during that particular election under the provisions of this Code section to any voter who is not related to such candidate. For the purposes of this paragraph, 'related to such candidate' shall mean the candidate´s mother, father, grandparent, aunt, uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law.″

SECTION 46.

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

″(f) All persons except poll officers, poll watchers, persons in the course of voting and such persons´ children under 18 years of age or any child who is 12 years of age or younger 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 18 years of age or any child who is 12 years of age or younger unless the poll manager or an assistant manager determines in his or her sole discretion that such child or children are causing a disturbance or are interfering with the conduct of voting. Children accompanying an elector in the enclosed space pursuant to this subsection shall not in any manner handle any ballot nor operate any function ~~of a~~ of the voting ~~machine or vote recorder~~ equipment under any circumstances.″

SECTION 47.

Said chapter is further amended by striking subsections (f) and (g) of Code Section 21-2-414, relating to restrictions on campaign activities and public opinion polling within the vicinity of a polling place, and inserting in lieu thereof new subsections (f), (g), and (h) to read as follows:

″(f) No person whose name appears as a candidate on the ballot being voted upon at a primary, election, special primary, or special election, except a judge of the probate court

serving as the election superintendent, shall physically enter any polling place other than the polling place at which that person is authorized to cast his or her ballot for that primary, election, special primary, or special election and, after casting his or her ballot, the candidate shall not return to such polling place until after the poll has closed and voting has ceased. Judges of the probate court serving as election superintendents shall enter polling places only as necessary to fulfill their duties as election superintendents and shall not engage in any practice prohibited by this Code section.

(g) This Code section shall not be construed to prohibit a poll officer from distributing materials, as required by law, which are necessary for the purpose of instructing electors or from distributing materials prepared by the Secretary of State which are designed solely for the purpose of encouraging voter participation in the election being conducted.

~~(g)~~ (h) Any person who violates this Code section shall be guilty of a misdemeanor."

SECTION 48.

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

"21-2-417.

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

(1) A valid Georgia driver´s license;

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

(3) A valid United States passport;

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

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

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

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

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

(9) A valid United States military identification card;

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

(11) A valid social security card;

(12) Certified naturalization documentation; ~~or~~

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

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

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

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

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

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

SECTION 49.

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

″(d) Notwithstanding any provision of this chapter to the contrary, in the event that the time for closing the polls at a polling place or places is extended by court order, all electors who vote during such extended time period shall vote by provisional ballot only. Such

ballots shall be separated and held apart from other provisional ballots cast by electors during normal poll hours.

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

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

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

SECTION 50.

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

″(c) Notwithstanding any other provisions of this chapter to the contrary <u>and in accordance with the rules and regulations of the State Election Board promulgated pursuant to paragraph (7) of Code Section 21-2-31</u>, 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.″

SECTION 51.

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

SECTION 52.

Said chapter is further amended by striking subsection (g) of Code Section 21-2-480, relating to form and arrangement of optical scanning voting equipment, and inserting in lieu thereof a new subsection (g) to read as follows:

"(g) When presidential electors are to be elected, the ballot shall not list the individual names of the candidates for presidential electors but shall list the names of each political party and body and the names of the political party or body candidates for the office of President and Vice President. The individual names or the nominees of each political party or body for such offices shall be posted at each polling place with the sample ballots required by subsection (c) of Code Section 21-2-375 arranged alphabetically under the names of the candidates of the party or body for President and Vice President of the United States. A vote for the candidates for President and Vice President of a political party or body shall be deemed to be a vote for each of the candidates for presidential electors of such political party or body."

SECTION 53.

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

"21-2-482.

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

SECTION 54.

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 55.

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,

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.″

″(e) In precincts in which paper ballots ~~or vote recorders~~ have been used, 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.″

SECTION 56.

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

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

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

SECTION 57.

Said chapter is further amended by striking Code Section 21-2-499, relating to duty of Secretary of State as to tabulation, computation, and canvassing of votes for state and federal officers, in its entirety and inserting in lieu thereof a new Code Section 21-2-499 to read as follows:

"21-2-499.

(a) Upon receiving the certified returns of any election from the various superintendents, the Secretary of State shall immediately proceed to tabulate, compute, and canvass the votes cast for all candidates described in subparagraph (A) of paragraph (4) of Code Section 21-2-497 and upon all questions voted for by the electors of more than one county and shall thereupon certify and file in his or her office the tabulation thereof. In the event an error is found in the certified returns presented to the Secretary of State or in the tabulation, computation, or canvassing of votes as described in this Code section, the Secretary of State shall notify the county submitting the incorrect returns and direct the county to correct and recertify such returns. Upon receipt by the Secretary of State of the corrected certified returns of the county, the Secretary of State shall issue a new certification of the results and shall file the same in his or her office.

(b) The Secretary of State shall also, upon receiving the certified returns for presidential electors, proceed to tabulate, compute, and canvass the votes cast for each slate of presidential electors and shall immediately lay them before the Governor. Not later than 5:00 P.M. on the fourteenth day following the date on which such election was conducted, the Secretary of State shall certify the votes cast for all candidates described in subparagraph (A) of paragraph (4) of Code Section 21-2-497 and upon all questions voted for by the electors of more than one county and shall no later than that same time lay the returns for presidential electors before the Governor. The Governor shall enumerate and ascertain the number of votes for each person so voted and shall certify the slates of presidential electors receiving the highest number of votes. The Governor shall certify the slates of presidential electors no later than 5:00 P.M. on the fifteenth day following the date on which such election was conducted. Notwithstanding the deadlines specified in this Code section, such times may be altered for just cause by an order of a judge of superior court of this state.

~~(b)~~(c) The Secretary of State shall not count, tabulate, or publish the names of any write-in candidates for whom the notice of intention of candidacy has not been provided in compliance with Code Section 21-2-133.″

SECTION 58.

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 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 programming of the PROM or other memory storage device. Such ballots and other documents shall be preserved under seal in the office of the city clerk for at least 24 months; and then they may be destroyed unless otherwise provided by order of the mayor and council if a contest has been filed or by court order, provided that the electors list, voter´s certificates, and duplicate oaths of assisted electors shall be immediately returned by the superintendent to the county or municipal registrar as appropriate.″

SECTION 59.

Said chapter is further amended by striking subsections (a) and (g) of Code Section 21-2-501, relating to number of votes required for election, and inserting in lieu thereof new subsections (a) and (g) to read as follows:

″(a) Except as otherwise provided in this Code section, no candidate shall be nominated for public office in any primary or special primary or elected to public office in any special

election unless such candidate shall have received a majority of the votes cast to fill such nomination or public office. In instances where no candidate receives a majority of the votes cast, a run-off primary, special primary runoff, or special election runoff between the candidates receiving the two highest numbers of votes shall be held. Unless such date is postponed by a court order, such run-off primary, special primary runoff, or special election runoff shall be held on the twenty-first day after the day of holding the preceding primary or special election, provided that, unless postponed by court order, a runoff in the case of a special primary or special election shall be held no sooner than the fourteenth day and no later than the twenty-first day after the day of holding the preceding special primary or special election, which run-off day shall be determined by the Secretary of State in a runoff to fill a federal or state office or by the superintendent in a runoff to fill a county or militia district office. If any candidate eligible to be in a runoff withdraws, dies, or is found to be ineligible, the remaining candidates receiving the two highest numbers of votes shall be the candidates in the runoff. The candidate receiving the highest number of the votes cast in such run-off primary, special primary runoff, or special election runoff to fill the nomination or public office sought shall be declared the winner. The name of a write-in candidate eligible for election in a runoff shall be printed on the special election run-off ballot in the independent column. The run-off primary, special primary runoff, or special election runoff shall be a continuation of the primary, special primary, or special election for the particular office concerned. Only the electors who were ~~entitled~~ duly registered to vote and not subsequently deemed disqualified to vote in the primary, special primary, or special election for candidates for that particular office shall be entitled to vote therein, and only those votes cast for the persons designated as candidates in such run-off primary, special primary runoff, or special election runoff shall be counted in the tabulation and canvass of the votes cast. No elector shall vote in a run-off primary or special primary runoff in violation of Code Section 21-2-224."

"(g) In the event that no candidate receives a plurality of the votes cast in a general election ~~or more than one candidate in a general election, special election runoff, or run-off primary receives the highest number of votes cast~~, a runoff of the general election~~, special election runoff, or run-off primary~~ between the candidates receiving the two highest numbers of votes shall be held. If more than one candidate in a general election receives a plurality of the votes cast, the candidate receiving the highest number of votes cast shall be declared the winner. Unless such date is postponed by a court order, such runoff shall be held on the twenty-first day after the day of holding the preceding general election~~, special election runoff, or run-off primary~~. If any candidate eligible to be in such runoff withdraws, dies, or is found to be ineligible, the remaining candidates receiving the two highest numbers of votes shall be the candidates in the runoff. The candidate receiving the highest number of

the votes cast in such runoff to fill the ~~nomination or~~ public office such candidate seeks shall be declared the winner. The name of a write-in candidate eligible for election in a runoff shall be printed on the run-off election ballot in the independent column. The ~~runoff of a run-off primary or special election runoff shall be a continuation of the primary or special election for the particular office concerned, and the~~ run-off election of a general election shall be a continuation of the general election for the particular office concerned. Only the electors who were ~~entitled~~ duly registered to vote and not subsequently deemed disqualified to vote for that particular office in such ~~primary or special election or~~ general election~~, respectively,~~ shall be entitled to vote therein, and only those votes cast for the persons designated as candidates in such runoff shall be counted in the tabulation and canvass of the votes cast. ~~No elector shall vote in a run-off primary in violation of Code Section 21-2-224.~~″

SECTION 60.

Said chapter is further amended by striking Code Section 21-2-528, relating to appeals from court´s determination on contest petition, in its entirety and inserting in lieu thereof a new Code Section 21-2-528 to read as follows:

″21-2-528.

An appeal from the final determination of the court may be taken within ten days from the rendition thereof to the Supreme Court ~~or the Court of Appeals~~ as in other civil cases. The filing of a notice of appeal shall not act as a stay or supersedeas. The appellant may apply to the Supreme Court ~~or the Court of Appeals, as appropriate,~~ for a stay or supersedeas, and such ~~courts~~ court shall consider applications for stays or supersedeas in such cases without regard to whether any notice of appeal has been filed or the record docketed in such cases.″

SECTION 61.

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

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

SECTION 62.

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

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

SECTION 63.

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

"21-2-582.

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

SECTION 64.

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

"21-2-582.1.

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

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

SECTION 65.

Said chapter is further amended by striking paragraphs (6) and (8) of Code Section 21-2-587, relating to frauds by poll officers, and inserting in lieu thereof new paragraphs (6) and (8) to read as follows:

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

″(8) Fails to return to the officials prescribed by this chapter, following any primary or election, any keys of a voting machine, ballot box, general or duplicate return sheet, tally paper, oaths of poll officers, affidavits of electors and others, record of assisted voters, numbered list of voters, electors list, voter´s certificate, spoiled~~,~~ and canceled ballots or ballot cards, ballots or ballot cards deposited, written, or affixed in or upon a voting machine, DRE memory cards, or any certificate~~,~~ or any other paper or record required to be returned under this chapter″.

SECTION 66.

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