

CHAPTER 334

ELECTIONS

HOUSE BILL 04-1227

BY REPRESENTATIVE(S) Sinclair, Butcher, and Coleman;
also SENATOR(S) Lamborn.

AN ACT**CONCERNING VOTING SYSTEMS.**

Be it enacted by the General Assembly of the State of Colorado

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

- (a) Self-government by election is the cornerstone of true democracy.
- (b) The security and accuracy of elections ensure the confidence of the citizens of the state in the democratic process and the legitimacy of its results.
- (c) Concerns have been raised in recent months about the security and accuracy of computerized voting systems and technologies, especially direct recording electronic (DRE) voting systems.
- (d) These concerns are not new and were anticipated by the federal "Help America Vote Act of 2002", P.L. No. 107-252, (HAVA), which created a technical guidelines development committee to assist the new election assistance commission in developing guidelines and standards to ensure the reliability and accuracy of computer technologies used in voting systems.
- (e) These guidelines and standards will focus not only on ensuring the security of computer and network hardware and software and data storage, but also on detecting and preventing fraud and protecting the privacy of voters and the accuracy of each ballot cast.
- (f) The purpose of HAVA and the goal of the general assembly is to ensure that

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

every eligible American has an equal opportunity to cast a vote freely and independently and to have that vote counted.

(2) The general assembly further finds and declares that many issues, including the security and accuracy of voting systems, require further examination in order to ensure the reliability of voting technology as well as the confidence of Colorado's voters in the accuracy of the tabulation of their votes.

SECTION 2. 1-1-104 (14) and (27), Colorado Revised Statutes, are amended, and the said 1-1-104 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

1-1-104. Definitions. As used in this code, unless the context otherwise requires:

(2.1) "BALLOT CARD" MEANS THE CARD, TAPE, OR OTHER VEHICLE ON WHICH AN ELECTOR'S VOTES ARE RECORDED IN AN ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM.

(13.5) "ELECTROMECHANICAL VOTING SYSTEM" MEANS A SYSTEM IN WHICH AN ELECTOR VOTES USING A DEVICE FOR MARKING A BALLOT CARD USING INK OR ANOTHER VISIBLE SUBSTANCE AND THE VOTES ARE COUNTED WITH ELECTRONIC VOTE-TABULATING EQUIPMENT. THE TERM INCLUDES A SYSTEM IN WHICH VOTES ARE RECORDED ELECTRONICALLY WITHIN THE EQUIPMENT ON PAPER TAPE AND ARE RECORDED SIMULTANEOUSLY ON AN ELECTRONIC DEVICE THAT PERMITS TABULATION AT A COUNTING CENTER.

(14) "Electronic vote-tabulating equipment" or "electronic vote-counting equipment" ~~includes~~ MEANS any apparatus ~~necessary to examine and count~~ THAT EXAMINES AND RECORDS votes automatically ~~as those votes are designated on ballots or ballot cards and to tabulate~~ TABULATES the result, INCLUDING BUT NOT LIMITED TO OPTICAL SCANNING EQUIPMENT. The term ~~also~~ includes any apparatus ~~which will count the~~ THAT COUNTS votes electronically and ~~tabulate~~ TABULATES the results simultaneously on a paper tape within the apparatus, ~~which~~ THAT uses a "prom" or ~~other~~ AN electronic device to store the tabulation results, and ~~which~~ THAT has the capability to transmit the votes into a central processing unit for purposes of a printout and an ~~election night~~ OFFICIAL count.

(14.5) "ELECTRONIC VOTING DEVICE" MEANS A DEVICE BY WHICH VOTES ARE RECORDED ELECTRONICALLY, INCLUDING A TOUCHSCREEN SYSTEM.

(15.5) "ELECTRONIC VOTING SYSTEM" MEANS A SYSTEM IN WHICH AN ELECTOR VOTES USING AN ELECTRONIC VOTING DEVICE.

(23.4) "OVERVOTE" MEANS THE SELECTION BY AN ELECTOR OF MORE NAMES THAN THERE ARE PERSONS TO BE ELECTED TO AN OFFICE OR THE DESIGNATION OF MORE THAN ONE ANSWER TO A BALLOT QUESTION OR BALLOT ISSUE.

(27) "Pollbook" means the list of eligible electors ~~to whom ballots are delivered or who are permitted to enter a voting machine for the purpose of casting their votes at~~ VOTE AT A POLLING PLACE OR BY MAIL BALLOT IN an election conducted under this code.

(34.2) "PURCHASE" MEANS TO ENTER INTO A CONTRACT FOR THE PURCHASE, LEASE, RENTAL, OR OTHER ACQUISITION OF VOTING EQUIPMENT.

(49.7) "UNDERVOTE" MEANS THE FAILURE OF AN ELECTOR TO VOTE ON A BALLOT QUESTION OR BALLOT ISSUE, THE FAILURE OF AN ELECTOR TO VOTE FOR ANY CANDIDATE FOR AN OFFICE, OR THE DESIGNATION BY AN ELECTOR OF FEWER VOTES THAN THERE ARE OFFICES TO BE FILLED; EXCEPT THAT IT IS NOT AN UNDERVOTE IF THERE ARE FEWER CANDIDATES THAN OFFICES TO BE FILLED AND THE ELECTOR DESIGNATES AS MANY VOTES AS THERE ARE CANDIDATES.

(50.7) "VOTING EQUIPMENT" MEANS ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEMS, ELECTRONIC VOTING DEVICES, AND ELECTRONIC VOTE-TABULATING EQUIPMENT, AS WELL AS MATERIALS, PARTS, OR OTHER EQUIPMENT NECESSARY FOR THE OPERATION AND MAINTENANCE OF SUCH SYSTEMS, DEVICES, AND EQUIPMENT.

(50.8) "VOTING SYSTEM" MEANS A PROCESS OF CASTING, RECORDING, AND TABULATING VOTES USING ELECTROMECHANICAL OR ELECTRONIC DEVICE OR BALLOT CARDS AND INCLUDES, BUT IS NOT LIMITED TO, THE PROCEDURES FOR CASTING AND PROCESSING VOTES AND THE OPERATING MANUALS, HARDWARE, FIRMWARE, PRINTOUTS, AND SOFTWARE NECESSARY TO OPERATE THE VOTING SYSTEM.

(50.9) "VOTING SYSTEM PROVIDER" MEANS AN INDIVIDUAL ENGAGED IN PRIVATE ENTERPRISE OR A BUSINESS ENTITY ENGAGED IN SELLING, LEASING, MARKETING, DESIGNING, BUILDING, OR MODIFYING VOTING SYSTEMS TO THE STATE, A POLITICAL SUBDIVISION OF THE STATE, OR ANOTHER ENTITY AUTHORIZED TO HOLD AN ELECTION UNDER THIS CODE.

SECTION 3. 1-1-104 (50), Colorado Revised Statutes, is amended to read:

1-1-104. Definitions. As used in this code, unless the context otherwise requires:

(50) "Vote recorder" or "voting device" means any apparatus ~~which~~ THAT the elector uses to record votes by marking ~~or punching a hole in a paper ballot or tabulating~~ BALLOT card and ~~which~~ THAT subsequently counts the votes by electronic tabulating equipment or records the votes electronically on a paper tape within the apparatus and simultaneously on a ~~removable "prom" or other~~ AN electronic tabulation device.

SECTION 4. 1-5-101 (3), Colorado Revised Statutes, is amended to read:

1-5-101. Establishing precincts and polling places for partisan elections.

(3) In a county that uses ~~voting machines, or~~ AN electronic OR ELECTROMECHANICAL voting ~~equipment~~ SYSTEM, the county clerk and recorder, subject to approval by the board of county commissioners, shall establish at least one precinct for every one thousand ~~two~~ FIVE hundred active eligible electors. However, the county clerk and recorder, subject to approval by the board, ~~of county commissioners,~~ may establish one precinct for every ~~one~~ TWO thousand ~~five hundred~~ active eligible electors.

SECTION 5. 1-5-401, Colorado Revised Statutes, is amended to read:

1-5-401. Method of voting. The method of voting for all elections may be by

paper ballots ~~by voting machine~~, OR by electronic OR ELECTROMECHANICAL voting machine, ~~or by electronically counted ballot cards~~ SYSTEMS.

SECTION 6. 1-5-408 (1), (3), and (4), Colorado Revised Statutes, are amended to read:

1-5-408. Form of ballots - electronic voting. (1) Ballot ~~pages or ballot cards~~ placed upon voting ~~devices~~ EQUIPMENT shall, so far as practicable, be arranged as provided by sections 1-5-402, 1-5-403, AND 1-5-404; ~~and 1-5-405~~; except that they shall be of the size and design required by the ~~vote recorder or device~~ VOTING EQUIPMENT and may be printed on a number of separate ~~pages~~ BALLOT CARDS ~~which~~ THAT are placed on the voting ~~device or on one or more ballot~~ EQUIPMENT. ~~cards~~.

(3) ~~Precincts which~~ POLLING PLACES THAT use ~~electronic~~ ELECTROMECHANICAL voting systems may use ballot cards of different colors to ~~insure~~ ENSURE that electors receive a full ballot. Such ~~precincts~~ POLLING PLACES may also use ~~different-colored~~ ballot cards OF DIFFERENT COLORS for each party at primary elections.

(4) In ~~precincts~~ POLLING PLACES using ~~electronic~~ ELECTROMECHANICAL voting systems, each ballot card may have two stubs attached. ~~The stubs~~ STUBS shall be separated from the ballot card and from each other by perforated lines OR OTHER MEANS OF REMOVAL APPROVED BY THE DESIGNATED ELECTION OFFICIAL so that they may be readily detached. ~~Both stubs~~ STUBS shall have the serial ballot number printed on them. The size of the ballot stubs and the spacing of the printed material may be varied to suit the conditions imposed by the use of the ballot cards. The ballot stub may also include color marking or wording to indicate that the stub must show when the ballot is voted and placed in the privacy envelope for deposit in the ballot box. The face of the ballot card shall include the endorsement "Official ballot for", and after the word "for" shall follow the designation of the precinct, if appropriate, and the political subdivision for which the ballot is prepared, the date of the election, and a facsimile of the signature of the designated election official.

SECTION 7. 1-5-501 (2), Colorado Revised Statutes, is amended to read:

1-5-501. Sufficient voting booths, voting machines, or electronic voting equipment. (2) (a) At all elections in political subdivisions ~~which~~ THAT use ~~voting machines or~~ electronic OR ELECTROMECHANICAL voting systems, the designated election official shall supply each precinct with ~~a sufficient number of voting machines or~~ sufficient ~~electronic~~ voting equipment.

(b) At general elections in counties ~~which~~ THAT use ~~voting machines or~~ electronic OR ELECTROMECHANICAL voting systems, the county clerk and recorder shall supply each precinct with one voting ~~machine or with comparable electronic voting equipment~~ BOOTH for each ~~two hundred fifty~~ FOUR HUNDRED active registered electors or fraction thereof.

SECTION 8. 1-5-503, Colorado Revised Statutes, is amended to read:

1-5-503. Arrangement of voting equipment or voting booths and ballot boxes. The ~~voting machines~~, voting equipment or voting booths and the ballot box shall be situated in the polling place so as to be in plain view of the election officials and

watchers. No person other than the election officials and those admitted for the purpose of voting shall be permitted within the immediate voting area, which shall be considered as within six feet of the ~~voting machines~~, voting equipment or voting booths and the ballot box, except by authority of the election judges OR THE DESIGNATED ELECTION OFFICIAL, and then only when necessary to keep order and enforce the law.

SECTION 9. 1-5-601, Colorado Revised Statutes, is amended to read:

1-5-601. Use of voting systems. In all elections held in this state, the votes may be cast, registered, recorded, and counted by means of ~~a voting machine or by means of an electronic OR ELECTROMECHANICAL voting system consisting of a ballot which is marked by the elector and counted by electronic vote-counting equipment or counted by electronic voting equipment on which votes are recorded simultaneously on a paper tape and a removable "prom" or other electronic tabulating device or a vote recorder which the elector uses to record each vote on a ballot card and the electronic vote-counting equipment~~; as provided in this part 6.

SECTION 10. 1-5-606, Colorado Revised Statutes, is amended to read:

1-5-606. Election officials and employees not to have interest in voting equipment or devices. No election official OR EMPLOYEE OF AN ELECTION OFFICIAL having DUTIES OR responsibilities in connection with the conduct of any election shall have any financial or proprietary interest, either directly or indirectly, in the manufacture, sale, maintenance, servicing, repair, or transportation of ~~either voting machines or electronic voting equipment. or devices~~. This section shall not apply to any designated election official OR EMPLOYEE OF A DESIGNATED ELECTION OFFICIAL participating in a coordinated election who has no independent decision-making responsibility concerning the selection of ~~voting machines or electronic voting devices~~ EQUIPMENT by the county clerk and recorder OR WHOSE INTEREST DERIVES SOLELY FROM OWNERSHIP OF SHARES IN A MUTUAL OR PENSION FUND.

SECTION 11. 1-5-607 (1), Colorado Revised Statutes, is amended to read:

1-5-607. Elected officials not to handle voting equipment or devices. (1) In any political subdivision having a population of one hundred thousand or more, it is unlawful for any elected official or candidate for elective office to prepare, maintain, or repair any ~~voting machine or electronic~~ voting equipment or device ~~which~~ THAT is to be used or is used in any election. The provisions of this section shall be limited to actual physical contact with any ~~voting machine or electronic~~ voting equipment or device or any of its parts and shall not be construed as prohibiting an elected official from directing employees or other persons who are not elected officials to prepare, maintain, repair, or otherwise handle any ~~voting machines or electronic~~ voting equipment or devices.

SECTION 12. Part 6 of article 5 of title 1, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

1-5-605.7. Mechanical lever voting machines - prohibited. (1) NO VOTING SYSTEM USING MECHANICAL LEVER VOTING MACHINES MAY BE USED IN ANY ELECTION IN THIS STATE.

(2) THIS SECTION SHALL APPLY TO ELECTIONS HELD ON AND AFTER JANUARY 1, 2006.

1-5-608.2. Punch card voting systems - prohibited. (1) NO PUNCH CARD ELECTRONIC VOTING SYSTEM OR OTHER VOTING SYSTEM IN WHICH THE ELECTOR USES A DEVICE TO PIERCE THE BALLOT MAY BE USED IN ANY ELECTION IN THIS STATE.

(2) THIS SECTION SHALL APPLY TO ELECTIONS HELD ON AND AFTER JANUARY 1, 2006.

SECTION 13. 1-5-608.5, Colorado Revised Statutes, is amended to read:

1-5-608.5. Electronic and electromechanical voting systems - independent testing. (1) A recognized independent testing ~~authorities have the authority to~~ AUTHORITY MAY test, approve, and qualify electronic AND ELECTROMECHANICAL voting systems for sale and use in the state of Colorado, if:

(a) ~~NO~~ THE independent testing authority ~~will be recognized and granted the authority to qualify electronic voting systems for use in this state unless it~~ has met all of the obligations and ongoing requirements necessary to gain certification as an independent testing authority from the ~~national association of state election directors or other national authority recognized by the~~ federal election ASSISTANCE commission. ~~for the purpose of certifying independent testing authorities.~~

(b) The independent testing authority conducts any and all tests required by the ~~national association of state election directors or other national authority recognized by the~~ federal election ASSISTANCE commission for granting certification to independent testing authorities to verify the integrity of the electronic AND ELECTROMECHANICAL voting systems to be used in Colorado.

~~(c)~~ (2) No ~~electronic voting device or~~ electronic OR ELECTROMECHANICAL voting system shall be used in any public election in this state unless it has been certified by the secretary of state following successful qualification testing conducted by a recognized independent testing authority PURSUANT TO THIS SECTION.

SECTION 14. Part 6 of article 5 of title 1, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

1-5-601.5. Compliance with federal requirements. ALL VOTING SYSTEMS AND VOTING EQUIPMENT OFFERED FOR SALE ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION SHALL MEET THE VOTING SYSTEMS STANDARDS THAT WERE PROMULGATED IN 2002 BY THE FEDERAL ELECTION COMMISSION AND THAT MAY THEREAFTER BE PROMULGATED BY THE FEDERAL ELECTION ASSISTANCE COMMISSION. SUBJECT TO SECTION 1-5-608.2, NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE ANY POLITICAL SUBDIVISION TO REPLACE A VOTING SYSTEM THAT IS IN USE PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

1-5-605.5. Custody of voting system. THE COUNTY CLERK AND RECORDER OR DESIGNATED ELECTION OFFICIAL SHALL BE THE CUSTODIAN OF THE VOTING SYSTEM IN A POLITICAL SUBDIVISION AND MAY APPOINT DEPUTIES NECESSARY TO PREPARE AND SUPERVISE THE VOTING SYSTEM PRIOR TO AND DURING ELECTIONS.

1-5-612. Use of electronic and electromechanical voting systems. (1) THE GOVERNING BODY OF ANY POLITICAL SUBDIVISION MAY, UPON CONSULTATION WITH THE DESIGNATED ELECTION OFFICIAL, ADOPT AN ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM, INCLUDING ANY UPGRADE IN HARDWARE, FIRMWARE, OR SOFTWARE, FOR USE AT THE POLLING PLACES IN THE POLITICAL SUBDIVISION. THE SYSTEM MAY BE USED FOR RECORDING, COUNTING, AND TABULATING OF VOTES AT ALL ELECTIONS HELD BY THE POLITICAL SUBDIVISION.

(2) AN ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM MAY BE USED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION ONLY IF THE SYSTEM HAS BEEN CERTIFIED BY THE SECRETARY OF STATE IN ACCORDANCE WITH THIS PART 6.

1-5-613. Purchase and sale of voting equipment. (1) THE SECRETARY OF STATE SHALL ADOPT UNIFORM RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., FOR THE PURCHASE AND SALE OF VOTING EQUIPMENT IN THE STATE.

(2) ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, THE GOVERNING BODY OR DESIGNATED ELECTION OFFICIAL OF A POLITICAL SUBDIVISION MAY PURCHASE A VOTING SYSTEM ONLY IF THE VOTING SYSTEM HAS BEEN CERTIFIED FOR USE IN THIS STATE BY THE SECRETARY OF STATE IN ACCORDANCE WITH THIS PART 6.

(3) THE GOVERNING BODY OR DESIGNATED ELECTION OFFICIAL OF A POLITICAL SUBDIVISION SHALL NOTIFY THE SECRETARY OF STATE BEFORE PURCHASING OR SELLING VOTING EQUIPMENT. THE SECRETARY OF STATE SHALL ATTEMPT TO COORDINATE THE SALE OF EXCESS OR OUTMODED EQUIPMENT BY ONE POLITICAL SUBDIVISION WITH PURCHASES OF NECESSARY EQUIPMENT BY OTHER POLITICAL SUBDIVISIONS.

(4) THE SECRETARY OF STATE SHALL PROVIDE INFORMATION AT THE REQUEST OF THE GOVERNING BODIES OF THE VARIOUS POLITICAL SUBDIVISIONS OF THE STATE ON THE AVAILABILITY AND SOURCES OF NEW AND USED VOTING EQUIPMENT.

1-5-614. Certification of electronic and electromechanical voting systems - standards. THE SECRETARY OF STATE SHALL CERTIFY ELECTRONIC AND ELECTROMECHANICAL VOTING SYSTEMS AND APPROVE THE PURCHASE, INSTALLATION, AND USE OF SUCH SYSTEMS BY POLITICAL SUBDIVISIONS AND ESTABLISH STANDARDS FOR CERTIFICATION.

1-5-615. Electronic and electromechanical voting systems - requirements. (1) NO ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM SHALL BE CERTIFIED BY THE SECRETARY OF STATE UNLESS SUCH SYSTEM:

(a) PROVIDES FOR VOTING IN SECRECY;

(b) PERMITS EACH ELECTOR TO VOTE FOR ALL OFFICES FOR WHICH THE ELECTOR IS LAWFULLY ENTITLED TO VOTE AND NO OTHERS, TO VOTE FOR AS MANY CANDIDATES FOR AN OFFICE AS THE ELECTOR IS ENTITLED TO VOTE FOR, AND TO VOTE FOR OR AGAINST ANY BALLOT QUESTION OR BALLOT ISSUE ON WHICH THE ELECTOR IS ENTITLED TO VOTE;

(c) PERMITS EACH ELECTOR TO VERIFY HIS OR HER VOTES PRIVATELY AND

INDEPENDENTLY BEFORE THE BALLOT IS CAST;

(d) PERMITS EACH ELECTOR PRIVATELY AND INDEPENDENTLY TO CHANGE THE BALLOT OR CORRECT ANY ERROR BEFORE THE BALLOT IS CAST, INCLUDING BY VOTING A REPLACEMENT BALLOT IF THE ELECTOR IS OTHERWISE UNABLE TO CHANGE THE BALLOT OR CORRECT AN ERROR;

(e) IF THE ELECTOR OVERVOTES:

(I) NOTIFIES THE ELECTOR BEFORE THE BALLOT IS CAST THAT THE ELECTOR HAS OVERVOTED;

(II) NOTIFIES THE ELECTOR BEFORE THE VOTE IS CAST THAT AN OVERVOTE FOR ANY OFFICE, BALLOT QUESTION, OR BALLOT ISSUE WILL NOT BE COUNTED; AND

(III) GIVES THE ELECTOR THE OPPORTUNITY TO CORRECT THE BALLOT BEFORE THE BALLOT IS CAST;

(f) DOES NOT RECORD A VOTE FOR ANY OFFICE, BALLOT QUESTION, OR BALLOT ISSUE THAT IS OVERVOTED ON A BALLOT CAST BY AN ELECTOR;

(g) FOR ELECTRONIC AND ELECTROMECHANICAL VOTING SYSTEMS USING BALLOT CARDS, ACCEPTS AN OVERVOTED OR UNDERVOTED BALLOT IF THE ELECTOR CHOOSES TO CAST THE BALLOT, BUT IT DOES NOT RECORD A VOTE FOR ANY OFFICE, BALLOT QUESTION, OR BALLOT ISSUE THAT HAS BEEN OVERVOTED;

(h) IN A PRIMARY ELECTION, PERMITS EACH ELECTOR TO VOTE ONLY FOR A CANDIDATE SEEKING NOMINATION BY THE POLITICAL PARTY WITH WHICH THE ELECTOR IS AFFILIATED;

(i) IN A PRESIDENTIAL ELECTION, PERMITS EACH ELECTOR TO VOTE BY A SINGLE OPERATION FOR ALL PRESIDENTIAL ELECTORS OF A PAIR OF CANDIDATES FOR PRESIDENT AND VICE PRESIDENT;

(j) DOES NOT USE A DEVICE FOR THE PIERCING OF BALLOTS BY THE ELECTOR;

(k) PROVIDES A METHOD FOR WRITE-IN VOTING;

(l) COUNTS VOTES CORRECTLY;

(m) CAN TABULATE THE TOTAL NUMBER OF VOTES FOR EACH CANDIDATE FOR EACH OFFICE AND THE TOTAL NUMBER OF VOTES FOR AND AGAINST EACH BALLOT QUESTION AND BALLOT ISSUE FOR THE POLLING PLACE;

(n) CAN TABULATE VOTES FROM BALLOTS OF DIFFERENT POLITICAL PARTIES AT THE SAME POLLING PLACE IN A PRIMARY ELECTION;

(o) CAN AUTOMATICALLY PRODUCE VOTE TOTALS FOR THE POLLING PLACE IN PRINTED FORM; AND

(p) SAVES AND PRODUCES THE RECORDS NECESSARY TO AUDIT THE OPERATION OF

THE ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM, INCLUDING A PERMANENT PAPER RECORD WITH A MANUAL AUDIT CAPACITY.

(2) THE PERMANENT PAPER RECORD PRODUCED BY THE ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM SHALL BE AVAILABLE AS AN OFFICIAL RECORD FOR ANY RECOUNT CONDUCTED FOR ANY ELECTION IN WHICH THE SYSTEM WAS USED.

1-5-616. Electronic and electromechanical voting systems - standards - procedures. (1) THE SECRETARY OF STATE SHALL ADOPT RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., THAT ESTABLISH MINIMUM STANDARDS FOR ELECTRONIC AND ELECTROMECHANICAL VOTING SYSTEMS REGARDING:

- (a) FUNCTIONAL REQUIREMENTS;
- (b) PERFORMANCE LEVELS;
- (c) PHYSICAL AND DESIGN CHARACTERISTICS;
- (d) DOCUMENTATION REQUIREMENTS;
- (e) EVALUATION CRITERIA;
- (f) AUDIT CAPACITY;
- (g) SECURITY REQUIREMENTS;
- (h) TELECOMMUNICATIONS REQUIREMENTS; AND
- (i) ACCESSIBILITY.

(2) THE SECRETARY OF STATE MAY REVIEW THE RULES ADOPTED PURSUANT TO SUBSECTION (1) OF THIS SECTION GOVERNING STANDARDS FOR CERTIFICATION OF ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEMS TO DETERMINE THE ADEQUACY AND EFFECTIVENESS OF THE RULES IN ASSURING THAT ELECTIONS ACHIEVE THE STANDARDS ESTABLISHED BY SECTION 1-1-103.

(3) THE SECRETARY OF STATE SHALL ADOPT RULES IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., TO ACHIEVE THE STANDARDS ESTABLISHED BY SECTION 1-1-103 FOR THE PROCEDURES OF VOTING, INCLUDING WRITE-IN VOTING, AND OF COUNTING, TABULATING, AND RECORDING VOTES BY ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEMS USED IN THIS STATE.

(4) THE SECRETARY OF STATE SHALL ADAPT THE STANDARDS FOR CERTIFICATION OF ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEMS ESTABLISHED BY RULE PURSUANT TO SUBSECTION (1) OF THIS SECTION TO ENSURE THAT NEW TECHNOLOGIES THAT MEET THE REQUIREMENTS FOR SUCH SYSTEMS ARE CERTIFIED IN A TIMELY MANNER AND AVAILABLE FOR SELECTION BY POLITICAL SUBDIVISIONS AND MEET USER STANDARDS.

(5) (a) EACH DESIGNATED ELECTION OFFICIAL SHALL ESTABLISH WRITTEN PROCEDURES TO ENSURE THE ACCURACY AND SECURITY OF VOTING IN THE POLITICAL

SUBDIVISION. THE SECRETARY OF STATE SHALL REVIEW ALL SUCH PROCEDURES.

(b) EACH DESIGNATED ELECTION OFFICIAL SHALL SUBMIT ANY REVISIONS TO THE ACCURACY AND SECURITY PROCEDURES TO THE SECRETARY OF STATE NO LESS THAN SIXTY DAYS BEFORE THE FIRST ELECTION IN WHICH THE PROCEDURES WILL BE USED. THE SECRETARY OF STATE SHALL NOTIFY THE DESIGNATED ELECTION OFFICIAL OF THE APPROVAL OR DISAPPROVAL OF SAID REVISIONS NO LATER THAN FIFTEEN DAYS AFTER THE SECRETARY OF STATE RECEIVES THE SUBMISSION.

1-5-617. Examination - testing - certification. (1) (a) AFTER AN ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM IS TESTED IN ACCORDANCE WITH SECTION 1-5-608.5, THE VOTING SYSTEM PROVIDER MAY SUBMIT THE SYSTEM TO THE SECRETARY OF STATE FOR CERTIFICATION.

(b) THE SECRETARY OF STATE SHALL EXAMINE EACH ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM SUBMITTED FOR CERTIFICATION AND DETERMINE WHETHER THE SYSTEM COMPLIES WITH THE REQUIREMENTS OF SECTION 1-5-615 AND THE STANDARDS ESTABLISHED UNDER SECTION 1-5-616.

(c) THE SECRETARY OF STATE SHALL DECIDE WHETHER TO CERTIFY AN ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM WITHIN NINETY DAYS AFTER THE SYSTEM IS SUBMITTED FOR CERTIFICATION.

(2) THE SECRETARY OF STATE SHALL APPOINT ONE OR MORE EXPERTS IN THE FIELDS OF DATA PROCESSING, MECHANICAL ENGINEERING, OR PUBLIC ADMINISTRATION TO ASSIST IN THE EXAMINATION AND TESTING OF ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEMS SUBMITTED FOR CERTIFICATION AND TO PRODUCE A WRITTEN REPORT ON EACH SYSTEM.

(3) NEITHER THE SECRETARY OF STATE NOR ANY EXAMINER SHALL HAVE ANY PECUNIARY INTEREST IN ANY VOTING EQUIPMENT.

(4) WITHIN THIRTY DAYS AFTER DECIDING TO CERTIFY AN ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM, THE SECRETARY OF STATE SHALL MAKE A REPORT ON THE SYSTEM CONTAINING A DESCRIPTION OF THE SYSTEM AND ITS OPERATION, WITH DRAWINGS OR PHOTOGRAPHS SHOWING THE SYSTEM. THE SECRETARY OF STATE SHALL SEND A NOTICE OF CERTIFICATION AND A COPY OF THE REPORT TO THE VOTING SYSTEM PROVIDER THAT SUBMITTED THE SYSTEM FOR CERTIFICATION. THE SECRETARY OF STATE SHALL NOTIFY THE GOVERNING BODIES OF THE POLITICAL SUBDIVISIONS OF THE STATE OF THE CERTIFICATION AND MAKE THE NOTICE OF CERTIFICATION AND REPORT AVAILABLE TO THEM UPON REQUEST.

(5) THE DESIGNATED ELECTION OFFICIAL OF A POLITICAL SUBDIVISION THAT PLANS TO USE AN ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM THAT HAS BEEN CERTIFIED IN ACCORDANCE WITH THIS SECTION SHALL APPLY TO THE SECRETARY OF STATE FOR APPROVAL OF THE PURCHASE, INSTALLATION, AND USE OF THE SYSTEM. THE SECRETARY OF STATE SHALL PRESCRIBE THE FORM AND PROCEDURE OF THE APPLICATION BY RULE IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S.

(6) THE SECRETARY OF STATE MAY PROVIDE TECHNICAL ASSISTANCE TO DESIGNATED ELECTION OFFICIALS ON ISSUES RELATED TO THE CERTIFICATION OF THE

PURCHASE, INSTALLATION, AND USE OF ELECTRONIC AND ELECTROMECHANICAL VOTING SYSTEMS BY A POLITICAL SUBDIVISION.

1-5-618. Modification of electronic and electromechanical voting systems - definitions. (1) AFTER AN ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM HAS BEEN CERTIFIED BY THE SECRETARY OF STATE, A POLITICAL SUBDIVISION MAY NOT ADOPT ANY MODIFICATION OF THE SYSTEM UNTIL THE MODIFICATION IS CERTIFIED BY THE SECRETARY OF STATE. A PERSON DESIRING APPROVAL OF A MODIFICATION SHALL SUBMIT A WRITTEN APPLICATION FOR APPROVAL TO THE SECRETARY OF STATE.

(2) THE REQUIREMENTS FOR APPROVAL OF A MODIFIED ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM ARE THE SAME AS THOSE PRESCRIBED BY THIS PART 6 FOR THE INITIAL CERTIFICATION OF THE SYSTEM.

(3) THE SECRETARY OF STATE SHALL APPROVE THE MODIFIED ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM BY WRITTEN ORDER IF THE MODIFIED SYSTEM SATISFIES THE APPLICABLE REQUIREMENTS FOR CERTIFICATION.

(4) IF THE SECRETARY OF STATE DOES NOT APPROVE THE MODIFIED DESIGN, THE SECRETARY OF STATE SHALL BY WRITTEN ORDER:

(a) INVITE THE APPLICANT TO SUBMIT ADDITIONAL INFORMATION IN SUPPORT OF THE APPLICATION, SUBMIT THE MODIFIED ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM ITSELF, OR BOTH; OR

(b) REQUIRE AN EXAMINATION OF THE MODIFIED ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM BY INDEPENDENT EXAMINERS.

(5) AFTER EXAMINING THE ADDITIONAL INFORMATION, THE MODIFIED ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM, OR THE REPORT OF AN INDEPENDENT EXAMINER SUBMITTED PURSUANT TO SUBSECTION (4) OF THIS SECTION, THE SECRETARY OF STATE SHALL APPROVE THE MODIFIED SYSTEM BY WRITTEN ORDER IF THE SYSTEM SATISFIES THE APPLICABLE REQUIREMENTS FOR CERTIFICATION.

(6) IF A MODIFICATION TO A CERTIFIED ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM DOES NOT SATISFY THE APPLICABLE REQUIREMENTS FOR CERTIFICATION, THE SECRETARY OF STATE SHALL SUSPEND THE SALE OF THE SYSTEM IN THIS STATE UNTIL THE SYSTEM SATISFIES THE REQUIREMENTS FOR CERTIFICATION.

(7) FOR PURPOSES OF THIS SECTION, "MODIFICATION" MEANS A REVISION OR A NEW RELEASE OF AN ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM.

1-5-619. Temporary use of electronic and electromechanical voting systems.

(1) AFTER AN ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM HAS BEEN TESTED IN ACCORDANCE WITH SECTION 1-5-608.5 BUT HAS NOT YET BEEN CERTIFIED BY THE SECRETARY OF STATE, A VOTING SYSTEM PROVIDER OR DESIGNATED ELECTION OFFICIAL MAY APPLY TO THE SECRETARY OF STATE FOR TEMPORARY APPROVAL OF THE SYSTEM.

(2) THE SECRETARY OF STATE SHALL, BY RULE ADOPTED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., ESTABLISH STANDARDS AND PROCEDURES FOR

TEMPORARY APPROVAL OF ELECTRONIC AND ELECTROMECHANICAL VOTING SYSTEMS.

(3) AN ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM MAY BE TEMPORARILY APPROVED FOR A TOTAL OF NO MORE THAN ONE YEAR, AND THE SECRETARY OF STATE MAY REVOKE SUCH APPROVAL AT ANY TIME. TEMPORARY APPROVAL OF A SYSTEM SHALL NOT SUPERSEDE THE CERTIFICATION REQUIREMENTS OF THIS PART 6.

(4) A TEMPORARILY APPROVED ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM MAY NOT BE USED IN ANY ELECTION WITHOUT THE WRITTEN AUTHORIZATION OF THE SECRETARY OF STATE.

(5) A DESIGNATED ELECTION OFFICIAL MAY ENTER INTO A CONTRACT TO RENT OR LEASE A TEMPORARILY APPROVED ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM FOR A SPECIFIC ELECTION WITH THE APPROVAL OF THE SECRETARY OF STATE. A POLITICAL SUBDIVISION SHALL NOT ACQUIRE TITLE TO A TEMPORARILY APPROVED SYSTEM.

(6) THE USE OF A TEMPORARILY APPROVED ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM SHALL BE VALID FOR ALL PURPOSES.

1-5-620. Electronic or electromechanical voting system information - software. WHEN A POLITICAL SUBDIVISION PURCHASES OR ADOPTS AN ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM, THE VENDOR OF THE SYSTEM SHALL SEND TO THE SECRETARY OF STATE COPIES OF THE SOFTWARE USER AND OPERATOR MANUALS, AND ANY OTHER INFORMATION, SPECIFICATIONS, OR DOCUMENTATION REQUIRED BY THE SECRETARY OF STATE RELATING TO A CERTIFIED SYSTEM AND ITS EQUIPMENT. ANY SUCH INFORMATION OR MATERIALS THAT ARE NOT ON FILE WITH AND APPROVED BY THE SECRETARY OF STATE, INCLUDING ANY UPDATED OR MODIFIED MATERIALS, SHALL NOT BE USED IN AN ELECTION.

1-5-621. Compliance - definitions. (1) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, UPON FILING OF A COMPLAINT, THE SECRETARY OF STATE SHALL INVESTIGATE THE COMPLAINT AND MAY REVIEW OR INSPECT THE ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM OF A POLITICAL SUBDIVISION AT ANY TIME, INCLUDING ELECTION DAY, TO DETERMINE WHETHER THE SYSTEM COMPLIES WITH THE APPLICABLE REQUIREMENTS OF THIS PART 6 OR DEVIATES FROM A CERTIFIED SYSTEM.

(2) A VOTING SYSTEM PROVIDER OR A DESIGNATED ELECTION OFFICIAL USING AN ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM SHALL GIVE NOTICE TO THE SECRETARY OF STATE WITHIN TWENTY-FOUR HOURS OF A MALFUNCTION OF ITS SYSTEM IN PREPARATION FOR OR DURING AN ELECTION. THE NOTICE MAY BE VERBAL OR IN WRITING. FOR PURPOSES OF THIS SECTION, "MALFUNCTION" MEANS A DEVIATION FROM A CORRECT VALUE IN A VOTING SYSTEM.

(3) UPON RECEIPT OF THE NOTICE SENT PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE SECRETARY OF STATE SHALL DETERMINE WHETHER FURTHER INFORMATION ON THE MALFUNCTION IS REQUIRED. AT THE WRITTEN OR VERBAL REQUEST OF THE SECRETARY OF STATE, THE VOTING SYSTEM PROVIDER OR DESIGNATED ELECTION OFFICIAL SHALL SUBMIT A REPORT TO THE SECRETARY OF STATE'S OFFICE DESCRIBING THE REPROGRAMMING OR OTHER ACTIONS NECESSARY TO

CORRECT THE MALFUNCTION OF THE ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM. THE REPORT SHALL INDICATE WHETHER PERMANENT CHANGES ARE NECESSARY TO PREVENT SIMILAR MALFUNCTIONS IN THE FUTURE. THE REPORT SHALL BE SUBMITTED WITHIN THIRTY DAYS AFTER THE DATE OF THE REQUEST BY THE SECRETARY OF STATE. FAILURE TO SUBMIT THE REPORT WITHIN THE REQUIRED PERIOD SHALL BE GROUNDS TO DECERTIFY THE SYSTEM. A COPY OF THE REPORT SHALL BE ATTACHED TO THE MOST RECENT CERTIFICATION OF THE SYSTEM ON FILE IN THE SECRETARY OF STATE'S OFFICE. THE SECRETARY OF STATE SHALL DISTRIBUTE A COPY OF THE REPORT TO ALL POLITICAL SUBDIVISIONS THAT USE THE SYSTEM.

(4) IF THE SECRETARY OF STATE DETERMINES AFTER INSPECTING AN ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM OR REVIEWING THE REPORTS SUBMITTED PURSUANT TO SUBSECTION (3) OF THIS SECTION THAT THE SYSTEM DOES NOT COMPLY WITH APPLICABLE STANDARDS OR DEVIATES FROM A CERTIFIED SYSTEM, THE SECRETARY SHALL BY WRITTEN ORDER:

(a) SPECIFY ACTIONS TO REMEDY THE DEFECT IN THE ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM AND DIRECT THE DESIGNATED ELECTION OFFICIAL OR VOTING SYSTEM PROVIDER, AS APPROPRIATE, TO PERFORM SUCH ACTIONS;

(b) PROHIBIT THE USE OF THE ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM OR ANY PART OF THE SYSTEM BY A POLITICAL SUBDIVISION THAT ADOPTED THE SYSTEM FOR USE IN AN ELECTION UNTIL THE ACTIONS TO REMEDY THE DEFECT ARE PERFORMED AND APPROVED BY THE SECRETARY OF STATE;

(c) LIMIT THE USE OF THE ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM OR ANY PART OF THE SYSTEM TO CIRCUMSTANCES OR CONDITIONS STATED IN THE ORDER; OR

(d) DECERTIFY THE ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM.

(5) UPON DECERTIFICATION OF AN ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM, THE SECRETARY OF STATE SHALL NOTIFY ALL POLITICAL SUBDIVISIONS THAT USE THE SYSTEM AND THE PROVIDERS OF THE SYSTEM THAT THE CERTIFICATION OF THE SYSTEM FOR USE AND SALE IN THIS STATE IS WITHDRAWN. THE NOTICE SHALL BE IN WRITING AND SHALL INDICATE THE REASONS FOR THE DECERTIFICATION OF THE SYSTEM AND THE EFFECTIVE DATE OF THE DECERTIFICATION.

(6) WITHIN THIRTY DAYS AFTER RECEIVING NOTICE FROM THE SECRETARY OF STATE OF THE DECERTIFICATION OF AN ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM, A POLITICAL SUBDIVISION OR PROVIDER OF A VOTING SYSTEM THAT IS DECERTIFIED MAY REQUEST IN WRITING THAT THE SECRETARY OF STATE RECONSIDER ITS DECISION TO DECERTIFY THE ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM. UPON RECEIPT OF THE REQUEST, THE SECRETARY OF STATE SHALL HOLD A PUBLIC HEARING TO RECONSIDER THE DECISION TO DECERTIFY THE SYSTEM. ANY INTERESTED PARTY MAY SUBMIT TESTIMONY OR DOCUMENTATION IN SUPPORT OF OR IN OPPOSITION TO THE DECISION TO DECERTIFY THE SYSTEM. FOLLOWING THE HEARING, THE SECRETARY OF STATE MAY AFFIRM OR REVERSE THE DECISION.

(7) THE SECRETARY OF STATE SHALL AMEND OR RESCIND AN ORDER ISSUED UNDER

THIS SECTION IF THE SECRETARY OF STATE DETERMINES THAT THE ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM HAS BEEN MODIFIED TO COMPLY WITH APPLICABLE STANDARDS OR NO LONGER DEVIATES FROM THE CERTIFIED SYSTEM.

SECTION 15. Article 5 of title 1, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 7
ACCESSIBILITY FOR ELECTORS WITH DISABILITIES

1-5-701. Legislative declaration - federal funds. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT ALL STATE REQUIREMENTS SHOULD MEET OR EXCEED THE MINIMUM FEDERAL REQUIREMENTS FOR ACCESSIBILITY OF VOTING SYSTEMS AND POLLING PLACES TO PERSONS WITH DISABILITIES.

(b) ALL STATE LAWS, RULES, STANDARDS, AND CODES GOVERNING VOTING SYSTEMS AND POLLING PLACE ACCESSIBILITY SHALL BE MAINTAINED TO ENSURE THAT THE STATE IS ELIGIBLE FOR FEDERAL FUNDS.

1-5-702. Definitions. AS USED IN THIS PART 7, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ACCESSIBLE VOTER INTERFACE DEVICE" MEANS A DEVICE THAT COMMUNICATES VOTING INSTRUCTIONS AND THE INFORMATION ON THE BALLOT TO AN ELECTOR AND ALLOWS THE ELECTOR TO SELECT AND VOTE FOR CANDIDATES, BALLOT QUESTIONS, AND BALLOT ISSUES IN ACCORDANCE WITH THE STANDARDS IN SECTION 1-5-704.

(2) "ALTERNATIVE FORMATS" HAS THE SAME MEANING ASCRIBED IN THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", AS AMENDED, (P.L. NO. 101-336), CODIFIED AT 42 U.S.C. 12101 ET SEQ., INCLUDING SPECIFICALLY THE TECHNICAL ASSISTANCE MANUALS PROMULGATED THEREUNDER.

(3) "TACTILE INPUT DEVICE" MEANS A DEVICE SUCH AS A KEYBOARD WITH WHICH AN ELECTOR PROVIDES INFORMATION TO A VOTING SYSTEM BY TOUCHING THE DEVICE.

1-5-703. Accessibility of polling places to persons with disabilities. (1) EACH POLLING PLACE SHALL BE MADE ACCESSIBLE TO PERSONS WITH DISABILITIES BY COMPLYING WITH THE FOLLOWING STANDARDS OF ACCESSIBILITY:

(a) DOORS, ENTRANCES, AND EXITS USED TO ENTER OR EXIT THE POLLING PLACE SHALL HAVE A MINIMUM WIDTH OF THIRTY-TWO INCHES.

(b) ANY CURB ADJACENT TO THE MAIN ENTRANCE TO A POLLING PLACE SHALL HAVE CURB CUTS OR TEMPORARY RAMPS.

(c) ANY STEPS NECESSARILY USED TO ENTER THE POLLING PLACE SHALL HAVE A TEMPORARY HANDRAIL AND RAMP WITH EDGE PROTECTION.

(d) AT THE POLLING PLACE, NO BARRIER SHALL IMPEDE THE PATH OF ELECTORS WITH DISABILITIES TO THE VOTING BOOTH.

(2) EMERGENCY POLLING PLACES ARE EXEMPT FROM COMPLIANCE WITH THIS SECTION.

(3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2) OF THIS SECTION, A DESIGNATED ELECTION OFFICIAL SHALL ONLY SELECT AS POLLING PLACES SITES THAT MEET THE STANDARDS OF ACCESSIBILITY SET FORTH IN SUBSECTION (1) OF THIS SECTION.

(4) BEFORE SELECTING POLLING PLACES, THE DESIGNATED ELECTION OFFICIAL SHALL SUBMIT TO THE SECRETARY OF STATE AN ACCESSIBILITY SURVEY IN THE FORM PRESCRIBED BY THE SECRETARY OF STATE IDENTIFYING THE CRITERIA FOR SELECTING ACCESSIBLE POLLING PLACES AND APPLYING THE CRITERIA TO PROPOSED POLLING PLACES.

1-5-704. Standards for accessible voting systems. (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, EACH VOTING SYSTEM CERTIFIED BY THE SECRETARY OF STATE FOR USE IN LOCAL, STATE, AND FEDERAL ELECTIONS SHALL HAVE THE CAPABILITY TO ACCEPT ACCESSIBLE VOTER INTERFACE DEVICES IN THE VOTING SYSTEM CONFIGURATION TO ALLOW THE VOTING SYSTEM TO MEET THE FOLLOWING MINIMUM STANDARDS:

(a) THE VOTING SYSTEM SHALL PROVIDE A TACTILE INPUT OR AUDIO INPUT DEVICE, OR BOTH.

(b) THE VOTING SYSTEM SHALL PROVIDE A METHOD BY WHICH ELECTORS CAN CONFIRM ANY TACTILE OR AUDIO INPUT BY AUDIO OUTPUT USING SYNTHETIC OR RECORDED HUMAN SPEECH.

(c) ANY OPERABLE CONTROLS ON THE INPUT DEVICE THAT ARE NEEDED BY ELECTORS WHO ARE VISUALLY IMPAIRED SHALL BE INDICATED IN BRAILLE OR OTHERWISE DISCERNIBLE TACTILELY WITHOUT ACTUATING THE KEYS.

(d) DEVICES PROVIDING AUDIO AND VISUAL ACCESS SHALL BE ABLE TO WORK BOTH SEPARATELY AND SIMULTANEOUSLY.

(e) IF A NONAUDIO ACCESS APPROACH IS PROVIDED, THE VOTING SYSTEM MAY NOT REQUIRE COLOR PERCEPTION. THE VOTING SYSTEM SHALL USE BLACK TEXT OR GRAPHICS, OR BOTH, ON WHITE BACKGROUND OR WHITE TEXT OR GRAPHICS, OR BOTH, ON BLACK BACKGROUND, UNLESS THE SECRETARY OF STATE APPROVES OTHER HIGH-CONTRAST COLOR COMBINATIONS THAT DO NOT REQUIRE COLOR PERCEPTION.

(f) ANY VOTING SYSTEM THAT REQUIRES ANY VISUAL PERCEPTION SHALL ALLOW THE FONT SIZE AS IT APPEARS TO THE VOTER TO BE SET FROM A MINIMUM OF FOURTEEN POINTS TO A MAXIMUM OF TWENTY-FOUR POINTS BEFORE THE VOTING SYSTEM IS DELIVERED TO THE POLLING PLACE.

(g) THE VOTING SYSTEM SHALL PROVIDE AUDIO INFORMATION, INCLUDING ANY AUDIO OUTPUT USING SYNTHETIC OR RECORDED HUMAN SPEECH OR ANY AUDITORY

FEEDBACK TONES THAT ARE IMPORTANT FOR THE USE OF THE AUDIO APPROACH, THROUGH AT LEAST ONE MODE, BY HANDSET OR HEADSET, AT HIGH VOLUME AND SHALL PROVIDE INCREMENTAL VOLUME CONTROL WITH OUTPUT AMPLIFICATION UP TO A LEVEL OF AT LEAST NINETY-SEVEN DECIBEL SOUND PRESSURE LEVEL.

(h) FOR VOICE SIGNALS TRANSMITTED TO THE ELECTOR, THE VOTING SYSTEM SHALL PROVIDE A GAIN ADJUSTABLE UP TO A MINIMUM OF TWENTY DECIBELS WITH AT LEAST ONE INTERMEDIATE STEP OF TWELVE DECIBELS.

(i) IF THE VOTING SYSTEM CAN EXCEED ONE HUNDRED TWENTY DECIBEL SOUND PRESSURE LEVEL, A MECHANISM SHALL BE INCLUDED TO RESET THE VOLUME AUTOMATICALLY TO THE VOTING SYSTEM'S DEFAULT VOLUME LEVEL AFTER EVERY USE, SUCH AS WHEN THE HANDSET IS REPLACED, BUT NOT BEFORE. UNIVERSAL PRECAUTIONS IN THE USE AND SHARING OF HEADSETS SHOULD BE FOLLOWED.

(j) IF SOUND CUES AND AUDIBLE INFORMATION SUCH AS "BEEPS" ARE USED, SIMULTANEOUS CORRESPONDING VISUAL CUES AND INFORMATION SHALL BE PROVIDED.

(k) CONTROLS AND MECHANISMS SHALL BE OPERABLE WITH ONE HAND, INCLUDING WITH A CLOSED FIST, AND OPERABLE WITHOUT TIGHT GRASPING, PINCHING, OR TWISTING OF THE WRIST.

(l) THE FORCE REQUIRED TO OPERATE OR ACTIVATE THE CONTROLS MAY NOT EXCEED FIVE POUNDS OF FORCE.

(m) VOTING BOOTHS SHALL HAVE VOTING CONTROLS AT A MINIMUM HEIGHT OF THIRTY-SIX INCHES ABOVE THE FINISHED FLOOR WITH A MINIMUM KNEE CLEARANCE OF TWENTY-SEVEN INCHES HIGH, THIRTY INCHES WIDE, AND NINETEEN INCHES DEEP, OR THE ACCESSIBLE VOTER INTERFACE DEVICES SHALL BE DESIGNED SO AS TO ALLOW THEIR USE ON TOP OF A TABLE TO MEET SUCH REQUIREMENTS. TABLETOP INSTALLATIONS SHALL ENSURE ADEQUATE PRIVACY.

(n) AUDIO BALLOTS SHALL MEET THE FOLLOWING STANDARDS:

(I) AFTER THE INITIAL INSTRUCTION FROM AN ELECTION OFFICIAL, THE ELECTOR SHALL BE ABLE TO INDEPENDENTLY OPERATE THE VOTER INTERFACE DEVICE THROUGH THE FINAL STEP OF CASTING A BALLOT WITHOUT ASSISTANCE.

(II) THE ELECTOR SHALL BE ABLE TO DETERMINE THE OFFICES FOR WHICH THE ELECTOR IS ALLOWED TO VOTE AND TO DETERMINE THE CANDIDATES FOR EACH OFFICE.

(III) THE ELECTOR SHALL BE ABLE TO DETERMINE HOW MANY CANDIDATES MAY BE SELECTED FOR EACH OFFICE.

(IV) THE ELECTOR SHALL HAVE THE ABILITY TO VERIFY THAT THE PHYSICAL OR VOCAL INPUTS GIVEN TO THE VOTING SYSTEM HAVE SELECTED THE CANDIDATES THAT THE ELECTOR INTENDED TO SELECT.

(V) THE ELECTOR SHALL BE ABLE TO REVIEW THE CANDIDATE SELECTIONS THAT

THE ELECTOR HAS MADE.

(VI) BEFORE CASTING THE BALLOT, THE ELECTOR SHALL HAVE THE OPPORTUNITY TO CHANGE ANY SELECTIONS PREVIOUSLY MADE AND CONFIRM A NEW SELECTION.

(VII) THE VOTING SYSTEM SHALL COMMUNICATE TO THE ELECTOR THE FACT THAT THE ELECTOR HAS FAILED TO VOTE FOR AN OFFICE OR HAS FAILED TO VOTE THE NUMBER OF ALLOWABLE CANDIDATES FOR AN OFFICE AND REQUIRE THE ELECTOR TO CONFIRM HIS OR HER INTENT TO UNDERVOTE BEFORE CASTING THE BALLOT.

(VIII) THE VOTING SYSTEM SHALL WARN THE ELECTOR OF THE CONSEQUENCES OF OVERVOTING FOR AN OFFICE.

(IX) THE ELECTOR SHALL HAVE THE OPPORTUNITY TO INPUT A CANDIDATE'S NAME FOR EACH OFFICE THAT ALLOWS A WRITE-IN CANDIDATE.

(X) THE ELECTOR SHALL HAVE THE OPPORTUNITY TO REVIEW THE ELECTOR'S WRITE-IN INPUT TO THE VOTER INTERFACE DEVICE, EDIT THAT INPUT, AND CONFIRM THAT THE EDITS MEET THE ELECTOR'S INTENT.

(XI) THE VOTING SYSTEM SHALL REQUIRE A CLEAR, IDENTIFIABLE ACTION FROM THE ELECTOR TO CAST THE BALLOT. THE VOTING SYSTEM SHALL EXPLAIN TO THE ELECTOR HOW TO TAKE THIS ACTION SO THAT THE ELECTOR HAS MINIMAL RISK OF TAKING THE ACTION ACCIDENTALLY, BUT WHEN THE ELECTOR INTENDS TO CAST THE BALLOT, THE ACTION CAN BE EASILY PERFORMED.

(XII) AFTER THE BALLOT IS CAST, THE VOTING SYSTEM SHALL CONFIRM TO THE ELECTOR THAT THE BALLOT HAS BEEN CAST AND THE ELECTOR'S PROCESS OF VOTING IS COMPLETE.

(XIII) AFTER THE BALLOT IS CAST, THE VOTING SYSTEM SHALL PREVENT THE ELECTOR FROM MODIFYING THE BALLOT CAST OR VOTING ANOTHER BALLOT.

1-5-705. Accessible voter interface devices - minimum requirement. (1) A VOTING SYSTEM SHALL INCLUDE AT LEAST ONE DIRECT RECORDING ELECTRONIC VOTING SYSTEM SPECIALLY EQUIPPED FOR INDIVIDUALS WITH DISABILITIES OR OTHER ACCESSIBLE VOTER INTERFACE DEVICE INSTALLED AT EACH POLLING PLACE THAT MEETS THE REQUIREMENTS OF THIS SECTION.

(2) THIS SECTION SHALL APPLY TO ELECTIONS HELD ON AND AFTER JANUARY 1, 2006.

SECTION 16. 1-7-110 (2), Colorado Revised Statutes, is amended to read:

1-7-110. Preparing to vote. (2) If the eligible elector shows identification and the elector's name is found on the registration list or, where applicable, the property owner's list by the election judge in charge, the elector's name shall be repeated. The judge in charge of the pollbook or list shall then enter the eligible elector's name, and the eligible elector shall be allowed to enter the immediate voting area. Besides the election officials, no more than four electors more than the number of voting booths ~~or voting machines~~ shall be allowed within the immediate voting area at one time.

SECTION 17. 1-7-111 (1) (a), Colorado Revised Statutes, is amended to read:

1-7-111. Disabled registered elector - assistance. (1) (a) If at any election, any registered elector declares to the election judges that, by reason of blindness or other physical disability or inability to read or write, he or she is unable to prepare the ballot or operate the voting ~~machine~~ DEVICE OR ELECTRONIC VOTING DEVICE without assistance, the elector shall be entitled, upon making a request, to receive the assistance of any one of the election judges or, at the elector's option, any eligible elector selected by the disabled eligible elector.

SECTION 18. 1-7-112 (1) (a), Colorado Revised Statutes, is amended to read:

1-7-112. Non-English speaking electors - assistance. (1) (a) If at any election, any elector requests assistance in voting, by reason of difficulties with the English language, he or she is unable to prepare the ballot or operate the voting ~~machine~~ DEVICE OR ELECTRONIC VOTING DEVICE without assistance, the elector shall be entitled, upon making a request, to receive the assistance of an election judge, any person selected by the designated election official to provide assistance in that precinct, or any person selected by the eligible elector requesting assistance, provided that the person rendering assistance can provide assistance in both the language in which the elector is fluent and in English. No person, other than an election judge or person selected by the designated election official to provide assistance, shall be permitted to assist more than one elector per election unless the person is the elector's spouse, parent, grandparent, sibling, or child eighteen years or older.

SECTION 19. 1-7-506 (1) (b), Colorado Revised Statutes, is amended to read:

1-7-506. Electronic vote-counting - test. (1) (b) For the purpose of testing an electronic voting device which records votes on a paper tape and simultaneously on a ~~"prom" or other~~ AN electronic tabulating device, the election judges in any precinct using the device shall run a paper tape prior to opening the polls, label it, and return it to the designated election official in the transfer case, together with one copy of the tape of votes cast and the ~~"prom" or other~~ electronic tabulating device.

SECTION 20. Part 5 of article 7 of title 1 is amended BY THE ADDITION OF A NEW SECTION to read:

1-7-506.5. Testing of voting systems and tabulating equipment. (1) THE DESIGNATED ELECTION OFFICIAL SHALL TEST AN ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM AT THE CONCLUSION OF MAINTENANCE AND PROGRAMMING. THE TESTS SHALL BE SUFFICIENT TO DETERMINE THAT THE SYSTEM IS PROPERLY PROGRAMMED, THE ELECTION IS CORRECTLY DEFINED ON THE SYSTEM, AND ALL OF THE INPUT, OUTPUT, AND COMMUNICATION DEVICES ARE WORKING PROPERLY.

(2) FOR ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEMS CONFIGURED TO INCLUDE ELECTRONIC OR ELECTROMECHANICAL TABULATION DEVICES THAT ARE DISTRIBUTED TO THE POLLING PLACES, ALL DEVICES TO BE USED IN THE ELECTION SHALL BE TESTED.

(3) THE SECRETARY OF STATE SHALL PROMULGATE RULES IN ACCORDANCE WITH

ARTICLE 4 OF TITLE 24, C.R.S., PRESCRIBING THE MANNER OF PERFORMING THE TESTS REQUIRED BY THIS SECTION AND CORRECTING ERRORS REVEALED BY THE TESTS.

SECTION 21. 1-7-507 (7) and (8), Colorado Revised Statutes, are amended to read:

1-7-507. Electronic vote-counting - procedure. (7) The receiving, opening, and preservation of the transfer boxes and their contents shall be the responsibility of the designated election official, who shall provide adequate personnel and facilities to assure accurate and complete election results. Any indication of tampering with the ballots, ballot card, or other fraudulent action shall be immediately reported to the district attorney, who shall immediately investigate the action and report the findings in writing within ten days to the designated election official and shall prosecute to the full extent of the law any person or persons responsible for the fraudulent action. ~~The secretary of state shall issue such directives as may be necessary to implement or clarify the procedures outlined for the conduct of elections when punch card electronic voting systems are used.~~

~~(8) Precincts using punch card electronic voting systems shall not be required to post the abstract of the count of votes at the precinct after the closing of the polls.~~

SECTION 22. 1-7-508 (2), Colorado Revised Statutes, is amended to read:

1-7-508. Determination of improperly marked ballots. (2) Votes cast for an office to be filled or a BALLOT QUESTION OR ballot issue to be decided shall not be counted if a voter marks ~~or punches~~ more names than there are persons to be elected to an office or if for any reason it is impossible to determine the elector's choice of candidate or vote concerning the BALLOT QUESTION OR ballot issue. A defective or an incomplete mark ~~or punch~~ on any ballot in a proper place shall be counted if no other mark ~~or punch~~ is on the ballot indicating an intention to vote for some other candidate or BALLOT QUESTION OR ballot issue.

SECTION 23. 1-7-602, Colorado Revised Statutes, is amended to read:

1-7-602. Judges to post returns. At any election ~~in precincts~~ AT A POLLING PLACE where voting is by paper ballot, voting machine, or electronic OR ELECTROMECHANICAL voting system, ~~which produces a paper tape,~~ the election judges shall make an abstract of the count of votes, which abstract shall contain the names of the offices, names of the candidates, ballot titles, and submission clauses of all initiated, referred, or other ballot issues voted upon and the number of votes counted for or against each candidate or ballot issue. The abstract shall be posted in a conspicuous place ~~which~~ THAT can be seen from the outside of the polling place immediately upon completion of the counting. The abstract may be removed at any time after forty-eight hours following the election. Suitable blanks for the abstract required by this section shall be prepared, printed, and furnished to all election judges at the same time and in the same manner as other election supplies.

SECTION 24. 1-8-204, Colorado Revised Statutes, is amended to read:

1-8-204. Early voters' polling place. Each county clerk and recorder shall provide one or more early voters' polling places, each of which shall be accessible to

persons with disabilities and which shall be provided with on-line computer accessibility to the county clerk and recorder, suitable quarters, ballot boxes or voting machines EQUIPMENT, and other necessary supplies as provided by law in the case of precinct polling places. In the event the county clerk and recorder determines that the number of early voters' polling places is insufficient due to the number of eligible electors who are voting by early ballot, the county clerk and recorder may establish additional early voters' polling places for the convenience of eligible electors wishing to vote at such polling places. The county clerk and recorder shall give adequate notice to eligible electors of such additional early voters' polling places.

SECTION 25. 1-8-301 (2), Colorado Revised Statutes, is amended to read:

1-8-301. Appointment of election judges for counting absentee and early ballots. (2) In all political subdivisions in which ~~voting machines~~ or electronic OR ELECTROMECHANICAL voting machines SYSTEMS are used, the designated election official, for each five hundred absentee ballots mailed or delivered, may appoint, in addition to the receiving judges appointed as provided in section 1-8-205, five counting judges, not more than three of whom shall be from any one political party IN A PARTISAN ELECTION.

SECTION 26. 1-8-305 (2) (b) and (2) (d), Colorado Revised Statutes, are amended to read:

1-8-305. Counting absentee and early voters' ballots - partisan elections. (2) Absentee and early voters' ballots shall be counted in one of the following ways:

(b) ~~In counties that use voting machines, the absentee ballots may be counted in the following manner: One election judge shall call aloud the name of the candidate voted for and a second election judge shall observe that the first judge reads the ballot correctly; two other election judges, one from each major political party, shall attend the voting machine so that one of the election judges may depress the lever for the candidate whose name is being read, and the other election judge shall observe closely that the proper levers are being depressed as the votes are read aloud; the fifth election judge shall prepare the machine to receive each ballot.~~

(d) Early voters' ballots that are cast directly on ~~voting machines or on~~ electronic OR ELECTROMECHANICAL vote-tabulating equipment shall be counted in the same manner as provided for the counting of precinct ballots in part 6 of article 5 and parts 4 and 5 of article 7 of this title.

SECTION 27. 1-10.5-110 (1) (b), (3), and (4), Colorado Revised Statutes, are amended to read:

1-10.5-110. Procedures for recount on direct recording electronic voting equipment. (1) Any recount procedure for votes cast on direct record electronic voting machines adopted by a designated election official shall:

(b) Provide for ~~an electronic~~ A recount of votes cast on such voting machine as prescribed by this section.

(3) ~~All recounts~~ A RECOUNT of votes cast on direct record electronic voting

machines shall be conducted using electronic ballot images OR PERMANENT PAPER RECORDS. THE SECRETARY OF STATE SHALL DECIDE WHICH METHOD OF RECOUNT IS USED IN EACH CASE, BASED ON THE SECRETARY'S DETERMINATION OF WHICH METHOD WILL ENSURE THE MOST ACCURATE COUNT, SUBJECT TO JUDICIAL REVIEW FOR ABUSE OF DISCRETION. As used in this section, "ballot image" means a record of each vote cast by a voter that is stored on a removable memory device contained in such voting machine. All ballot images shall be randomized in such voting machine to assure voter anonymity.

(4) All recounts of votes cast on direct record electronic voting machines shall retabulate vote totals from individual ballot images OR PERMANENT PAPER RECORDS. Tabulating incremented or summary vote totals from individual direct record electronic voting machines shall not constitute a recount for purposes of compliance with this section.

SECTION 28. 1-13-708, Colorado Revised Statutes, is amended to read:

1-13-708. Tampering with voting equipment. Any person who tampers with a ~~voting machine~~ or any electronic OR ELECTROMECHANICAL voting equipment before, during, or after any election provided by law with intent to change the tabulation of votes thereon to reflect other than an accurate accounting is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

SECTION 29. 1-13-711, Colorado Revised Statutes, is amended to read:

1-13-711. Interference with voter while voting. Any person who interferes with any voter who is inside the immediate voting area or is marking a ballot or operating a voting ~~machine~~ DEVICE OR ELECTRONIC VOTING DEVICE at any election provided by law is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-13-111.

SECTION 30. Repeal. 1-1-104 (15), 1-5-107, 1-5-405, 1-5-602, 1-5-604, 1-5-605, 1-5-608, 1-5-609, and 1-7-507 (8), Colorado Revised Statutes, are repealed.

SECTION 31. Effective date. This act shall take effect upon passage, except that sections 3, 20, 21, and 28 of this act shall take effect January 1, 2006.

SECTION 32. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 28, 2004