

APPROVED AND SIGNED BY THE GOVERNOR

Date 3-31-82  
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**WEST VIRGINIA LEGISLATURE**  
**REGULAR SESSION, 1982**



**ENROLLED**  
*Committee Substitute for*  
**SENATE BILL NO. 313**

(By Mr. Boettner & Mr. Palumbo)



PASSED March 13, 1982

In Effect ninety day from Passage



**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**Senate Bill No. 313**  
(BY MR. BOETTNER AND MR. PALUMBO)

[Passed March 13, 1982; in effect ninety days from passage.]

AN ACT to amend and reenact sections two, three, four, five, eight, nine, twelve, thirteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-four, twenty-six, twenty-seven, twenty-eight and thirty-three, article four-a, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to electronic voting systems generally; providing certain definitions; providing procedure for adopting electronic voting systems; providing procedure for terminating use of electronic voting systems; establishing duty of county commission to acquire vote recording devices, automatic tabulating equipment and to provide a central counting center; providing for approval of electronic voting system by state election commission; authorizing compensation for qualified experts; establishing minimum requirements of electronic voting systems; providing for ballot label arrangement in vote recording devices; when uniform numbering required; drawing by lot to determine position of candidates on ballots or ballot labels; providing for inspection of vote recording devices; prescribing manner of delivery of vote recording devices; requiring examination of vote recording devices before use; providing for use of reserve vote recording devices in place of vote recording device in disrepair; establishing procedures at polling places; providing for control of and accounting for ballots and other duties of

election officers and penalties for violations; establishing procedures for independent voting in primary elections; establishing procedures for absent voter ballots; establishing procedures for challenged ballots; requiring testing of automatic tabulating equipment; providing procedure for central counting center; providing for post-election custody and inspection of vote recording devices, ballot labels, ballot cards and materials; establishing canvass and recount procedures; and defining criminal offenses for tampering with vote recording devices; ballot labels, ballot cards, program decks, standard validation test decks, or other automatic tabulating equipment, and setting forth penalties therefor.

*Be it enacted by the Legislature of West Virginia:*

That sections two, three, four, five, eight, nine, twelve, thirteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-four, twenty-six, twenty-seven, twenty-eight and thirty-three, article four-a, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.**

**§3-4A-2. Definitions.**

- 1 As used in this article, unless otherwise specified:
- 2 (a) "Automatic tabulating equipment" means all
- 3 apparatus necessary to electronically count votes recorded on
- 4 ballot cards and tabulate the results;
- 5 (b) "Ballot card" means a tabulating card or paper on
- 6 which votes may be recorded by means of perforating or
- 7 marking in electronic sensitized ink or pencil;
- 8 (c) "Ballot labels" means the cards, papers, booklet, pages
- 9 or other material showing the names of offices and candidates
- 10 and the statements of measures to be voted on, which are
- 11 placed on the vote recording device;
- 12 (d) "Central counting center" means a facility equipped
- 13 with suitable and necessary automatic tabulating equipment,
- 14 selected by the county commission, for the electronic
- 15 counting of votes recorded on ballot cards;
- 16 (e) "Electronic voting system" is a means of conducting an
- 17 election whereby votes are recorded on ballot cards by means
- 18 of marketing with electronic sensitized ink or perforating,
- 19 and such votes are subsequently counted by automatic
- 20 tabulating equipment at the central counting center;

21 (f) "Program deck" means the actual punch card deck or  
22 decks containing the program for counting and tabulating the  
23 votes, including the "application program deck";

24 (g) "Application program deck" means the punch card  
25 deck containing specific option cards, used and necessary to  
26 modify the program of general application, to conduct and  
27 tabulate a specific election according to applicable law;

28 (h) "Standard validation test deck" means a deck of ballot  
29 cards wherein all voting possibilities which can occur in an  
30 election are represented; and

31 (i) "Vote recording device" means equipment in which  
32 ballot labels and ballot cards are placed to allow a voter to  
33 record his vote.

**§3-4A-3. Procedure for adopting electronic voting systems.**

1 An electronic voting system that has been approved in  
2 accordance with section eight of this article may be adopted  
3 for use in general, primary and special elections in any county  
4 by either of the following procedures, and not otherwise:

5 (1) By a majority of the members of the county  
6 commission voting to adopt the same at a special public  
7 meeting called for the purpose of said adoption, with due  
8 notice thereof published as a Class II-0 legal advertisement in  
9 compliance with the provisions of article three, chapter  
10 fifty-nine of this code and the publication area for such  
11 publication shall be the county involved: *Provided*, That such  
12 meeting shall be held not less than six months prior to a  
13 general election or six months prior to a primary election. If at  
14 such meeting, such county commission shall enter an order of  
15 its intention to adopt the use of an electronic voting system, it  
16 shall thereafter forthwith cause to be published a certified  
17 copy of such order as a Class II-0 legal advertisement in  
18 compliance with the provisions of article three, chapter  
19 fifty-nine of this code, and the publication area for such  
20 publication shall be the county involved. The first publication  
21 of such order shall not be less than twenty days after the entry  
22 of such order. Such county commission shall not adopt the  
23 use of an electronic voting system until six months after the  
24 entry of such order of its intention to adopt the same.  
25 Promptly after the expiration of six months after the entry of  
26 such order of intention to adopt the use of an electronic  
27 voting system, if no petition has theretofore been filed with  
28 such county commission requesting a referendum on the

29 question of adoption of an electronic voting system as  
30 hereinafter provided, such county commission shall enter a  
31 final order adopting the electronic voting system, and the  
32 electronic voting system shall thereby be adopted.

33 If five percent or more of the registered voters of such  
34 county shall sign a petition requesting that an electronic  
35 voting system be not adopted for use in such county and such  
36 petition be filed with the county commission of such county  
37 within six months after the entry of such order of intention to  
38 adopt the use of an electronic voting system, such county  
39 commission shall submit to the voters of such county at the  
40 next general or primary election, whichever shall first occur,  
41 the question: "Shall an electronic voting system be adopted  
42 in .....County?" If this question be answered in the  
43 affirmative by a majority of the voters in such election upon  
44 the question, an electronic voting system shall thereby be  
45 adopted. If such question shall not be answered in the  
46 affirmative by such majority, the use of an electronic voting  
47 system shall not be adopted.

48 (2) By the affirmative vote of a majority of the voters of  
49 such county voting upon the question of the adoption of an  
50 electronic voting system in such county. If five percent or  
51 more of the registered voters of such county shall sign a  
52 petition requesting the adoption of an electronic voting  
53 system for use in such county, and such petition be filed with  
54 the county commission of such county, such county  
55 commission shall submit to the voters of such county at the  
56 next general or primary election, following by not less than  
57 six months the date of the filing of such petition, the  
58 question: "Shall an electronic voting system be adopted in  
59 .....County?" If this question be answered in the  
60 affirmative by a majority of the voters of such county voting  
61 upon the question, an electronic voting system shall thereby  
62 be adopted. If such question shall not be answered in the  
63 affirmative by such majority, the use of an electronic voting  
64 system shall not be adopted: *Provided, however,* That nothing  
65 in this section shall be construed to affect or invalidate the  
66 adoption of any electronic voting system by any county in  
67 accordance with applicable law prior to the effective date of  
68 this section.

**§3-4A-4. Procedure for terminating use of electronic voting systems.**

1 The use of an electronic voting system may be terminated:

2 (1) By a majority of the members of the county  
3 commission voting to terminate use of the system at a special  
4 public meeting called for the purpose of said termination,  
5 with due notice thereof published as a Class II-0 legal  
6 advertisement in compliance with the provisions of article  
7 three, chapter fifty-nine of this code, and the publication area  
8 for such publication shall be the county involved: *Provided*,  
9 That such meeting shall be held not less than six months  
10 prior to a general election or six months prior to a primary  
11 election. If at such meeting, such county commission shall  
12 enter an order of its intention to terminate use of an electronic  
13 voting system, it shall thereafter forthwith cause to be  
14 published a certified copy of such order as a Class II-0 legal  
15 advertisement in compliance with the provisions of article  
16 three, chapter fifty-nine of this code, and the publication area  
17 for such publication shall be the county involved. The first  
18 publication of such order shall not be less than twenty days  
19 after the entry of such order. Such county commission shall  
20 not terminate the use of an electronic voting system until  
21 ninety days after the entry of such order of its intention to  
22 terminate the same. Promptly after the expiration of ninety  
23 days after the entry of such order of intention to terminate the  
24 use of an electronic voting system, if no petition has  
25 theretofore been filed with such county commission  
26 requesting a referendum on the question of termination of the  
27 electronic voting system as hereinafter provided, such county  
28 commission shall enter a final order terminating the use of  
29 the electronic voting system, and the use of electronic voting  
30 system shall thereby be terminated. If a petition has been  
31 submitted as provided in this subdivision, the county  
32 commission shall not terminate the use of the system but  
33 shall proceed as provided in this subdivision.

34 If five percent or more of the registered voters of such  
35 county shall sign a petition requesting that the use of an  
36 electronic voting system be terminated in such county and  
37 such petition be filed with the county commission of such  
38 county within ninety days after the entry of such order of  
39 intention to terminate the use of an electronic voting system,  
40 such county commission shall submit to the voters of such  
41 county at the next general or primary election, whichever  
42 shall first occur, the question: "Shall the use of an electronic  
43 voting system be terminated in .....County?" If this  
44 question be answered in the affirmative by a majority of the

45 voters in such election upon the question, the use of an  
46 electronic voting system shall thereby be terminated. If such  
47 question shall not be answered in the affirmative by such  
48 majority, the use of an electronic voting system shall  
49 continue.

50 (2) By the affirmative vote of a majority of the voters of  
51 such county voting upon the question of termination of the  
52 use of an electronic voting system in such county. If five  
53 percent or more of the registered voters of such county shall  
54 sign a petition requesting the termination of the use of an  
55 electronic voting system in such county, and such petition be  
56 filed with the county commission of such county, such  
57 county commission shall submit to the voters of such county  
58 at the next general or primary election, following by not less  
59 than ninety days the date of the filing of such petition, the  
60 question: "Shall the use of an electronic voting system be  
61 terminated in .....County?" If this question be  
62 answered in the affirmative by a majority of the voters of such  
63 county voting upon the question, the use of an electronic  
64 voting system shall thereby be terminated. If such question  
65 shall not be answered in the affirmative by a majority of the  
66 voters of such county voting upon the question, the use of an  
67 electronic voting system shall thereby continue.

**§3-4A-5. Duty of county commission to acquire vote recording  
devices, acquire use of automatic tabulating  
equipment, and provide a central counting center.**

1 If the use of an electronic voting system shall have been  
2 adopted as hereinbefore provided, it shall be the duty of the  
3 county commission of such county to acquire the necessary  
4 number of vote recording devices to supply all or part of the  
5 election precincts within such county as soon as possible, and  
6 to acquire such reserve vote recording device or devices as  
7 will be deemed necessary. All such acquisition of vote  
8 recording devices shall be by sealed competitive bidding.

9 If it shall be impossible for the county commission to  
10 comply with its order or with the decision of the voters in a  
11 referendum at the next primary or general election, it shall in  
12 any event do so at the next following primary or general  
13 election, whichever shall first occur.

14 It shall be the further duty of the county commission of  
15 such county to acquire prior to any election in which such  
16 electronic voting system is to be used, the use of automatic

17 tabulating equipment approved by the state election  
18 commission, for the purpose of counting votes in such  
19 election. In addition, the county commission of such county  
20 shall provide the necessary central counting center for use in  
21 said election. Such central counting center shall be located at  
22 the county seat of the county involved.

**§3-4A-8. Approval of electronic voting system by state election  
commission; expenses; compensation of persons  
examining system.**

1 Any person or corporation owning or being interested in  
2 any electronic voting system may apply to the state election  
3 commission to the end that such system may be examined  
4 and a report be made on its accuracy, efficiency, capacity, and  
5 safety. Upon the written application of any vendor tendered  
6 to the secretary of state or to any clerks in his office in charge  
7 of receiving filings for any purpose, it shall be the  
8 nondelegable, nondiscretionary duty of the secretary of state  
9 to fix a date, time and place, not more than thirty days after  
10 the receipt of such application, for a meeting of the state  
11 election commission for mutual consideration of such  
12 application, and to mail notice thereof by certified mail to  
13 each member of the commission.

14 The state election commission shall appoint two qualified  
15 computer experts who are not members of the same political  
16 party to examine the system and make full reports thereon to  
17 the commission within thirty days from the date of the  
18 application. They shall state in the report whether or not the  
19 system so examined complies with the requirements of this  
20 article and can be safely used by voters at elections under the  
21 conditions prescribed in this article. If the report be in the  
22 affirmative on said question, the system may be approved by  
23 the commission and, if approved by the commission, a  
24 system of its make and design may be adopted for use at  
25 elections as herein provided: *Provided*, That under no  
26 circumstances shall a system be approved that is not capable  
27 of accurately tabulating returns based upon all possible  
28 combinations of voting patterns including, but not limited to,  
29 crossover voting and in accordance with section five, article  
30 six of this chapter.

31 No electronic voting system shall be used at any election  
32 unless it has heretofore or hereafter been approved under this  
33 section or its former provisions. Each of the two qualified

34 computer experts appointed by the commission shall be  
35 entitled to reasonable compensation and expenses in making  
36 such examination and report, and such compensation shall  
37 be paid by the person or corporation applying for such  
38 examination, which sum shall be paid in advance of making  
39 the examination and which sum shall be the sole  
40 compensation to be received by any such expert for his work  
41 hereunder.

**§3-4A-9. Minimum requirements of electronic voting systems.**

1 An electronic voting system of particular make and design  
2 shall not be approved by the state election commission or be  
3 purchased, leased, or used, by any county commission unless  
4 it shall fulfill the following requirements:

5 (1) It shall secure or insure the voter absolute secrecy in  
6 the act of voting, or, at the voter's election, shall provide for  
7 open voting;

8 (2) It shall be so constructed that no person except in  
9 instances of open voting, as herein provided for, can see or  
10 know for whom any voter has voted or is voting;

11 (3) It shall permit each voter to vote at any election for all  
12 persons and offices for whom and which he is lawfully  
13 entitled to vote, whether or not the name of any such person  
14 appears on a ballot label as a candidate; and it shall permit  
15 each voter to vote for as many persons for an office as he is  
16 lawfully entitled to vote for; and to vote for or against any  
17 question upon which he is lawfully entitled to vote and the  
18 automatic tabulating equipment used in such electronic  
19 voting systems shall reject choices recorded on any ballot  
20 card or paper ballot if the number of such choices exceeds the  
21 number to which a voter is entitled;

22 (4) It shall permit each voter to deposit, write in, or affix  
23 upon devices to be provided for that purpose, ballots  
24 containing the names of persons for whom he desires to vote  
25 whose names do not appear upon the ballot labels;

26 (5) It shall permit each voter to change his vote for any  
27 candidate and upon any question appearing upon the ballot  
28 labels up to the time when his ballot or ballot card is  
29 deposited in the ballot box;

30 (6) It shall contain a program deck consisting of cards that  
31 are sequentially numbered and capable of tabulating all votes  
32 cast in each election;

33 (7) It shall contain two standard validation test decks

34 approved as to form and testing capabilities by the state  
35 election commission;

36 (8) It shall correctly record and count accurately all votes  
37 cast for each candidate and for and against each question  
38 appearing upon the ballots or ballot labels;

39 (9) It shall permit each voter at any election other than  
40 primary elections, by one mark or punch to vote a straight  
41 party ticket, and by one mark or punch to vote for all  
42 candidates of one party for presidential electors; and to vote a  
43 mixed ticket selected from the candidates of any and all  
44 parties and from independent candidates; and it shall permit  
45 the proper counting, to the fullest extent possible, of all votes  
46 cast for all candidates: *Provided*, That, in the event of  
47 cross-over voting from a straight party ticket, the system shall  
48 not discard any vote on the straight ticket, unless (i) a  
49 candidate opposite the discarded vote on the straight ticket  
50 has been clearly chosen by the voter, or (ii) the voter, by mark  
51 or punch has clearly indicated which choices on each ticket,  
52 not in excess of the total number permitted, the voter has  
53 made, or (iii) the choices made by the voter are so  
54 contradictory that the voter's choice is indiscernable, in  
55 which event, all votes for the candidates for such office shall  
56 be discarded;

57 (10) It shall permit each voter in primary elections to vote  
58 only for the candidates of the party with which he has  
59 declared his affiliation, and preclude him from voting for any  
60 candidate seeking nomination by any other political party,  
61 permit him to vote for the candidates, if any, for nonpartisan  
62 nomination or election, and permit him to vote on public  
63 questions;

64 (11) It shall be provided with means for sealing the vote  
65 recording device to prevent its use and to prevent tampering  
66 with ballot labels, both before the polls are open or before the  
67 operation of the vote recording device for an election is begun  
68 and immediately after the polls are closed or after the  
69 operation of the vote recording device for an election is  
70 completed;

71 (12) It shall have the capacity to contain the names of  
72 candidates constituting the tickets of at least nine political  
73 parties, and to accommodate the wording of at least fifteen  
74 questions;

75 (13) It shall be durably constructed of material of good  
76 quality and in a workmanlike manner and in a form which  
77 shall make it safely transportable;

78 (14) It shall be so constructed with frames for the placing  
79 of ballot labels and with suitable means for the protection of  
80 such labels, that the labels on which are printed the names of  
81 candidates and their respective parties, titles of offices, and  
82 wording of questions shall be so reasonably protected from  
83 mutilation, disfigurement or disarrangement;

84 (15) It shall bear a number that will identify it or  
85 distinguish it from any other machine;

86 (16) It shall be so constructed that a voter may easily learn  
87 the method of operating it and may expeditiously cast his  
88 vote for all candidates of his choice, and upon any public  
89 question; and

90 (17) It shall be accompanied by a mechanically operated  
91 instruction model which shall show the arrangement of ballot  
92 labels, party columns or rows, and questions.

**§3-4A-12. Ballot label arrangement in vote recording devices;  
when uniform numbering required; drawing by lot  
to determine position of candidates on ballots or  
ballot labels; sealing of devices; record of  
identifying numbers.**

1 When the ballot labels are printed and delivered to the clerk  
2 of the county commission, he shall place them in the vote  
3 recording devices in such manner as will most nearly  
4 conform to the arrangement prescribed for paper ballots, and  
5 as will clearly indicate the party designation or emblem of  
6 each candidate. Each column, row or page containing the  
7 names of the office and candidates for such office shall be so  
8 arranged as to clearly indicate the office for which the  
9 candidate is running. The names of the candidates for each  
10 office indicated shall be placed on the ballot label and the  
11 arrangement of the ballot label shall conform as nearly as  
12 practicable to the plan herein given:

Democratic Ticket		Republican Ticket	
For House of Delegates		For House of Delegates	
Name		Name	
Democratic:	79 ▶	◀80	Republican
Democratic:	81 ▶	◀82	Republican
Democratic:	83 ▶	◀84	Republican
Democratic:	85 ▶	◀86	Republican

13 or:

Democratic Ticket		Republican Ticket	
For House of Delegates		For House of Delegates	
Name		Name	
		◀69	
		70 ▶	
		◀71	
		72 ▶	
		◀73	
		74 ▶	
		◀75	
		76 ▶	

13 The secretary of state shall assign a uniform number  
 14 applicable to all counties using electronic voting for all  
 15 straight party tickets and for all candidates running for

16 offices to be voted upon by all of the voters of the state. The  
17 numbers so designated by the secretary of state shall be used  
18 by all counties using electronic voting systems irrespective of  
19 the fact that in one or more such counties the number or  
20 numbers so designated may result in other than strict  
21 sequential ballot arrangement.

22 After taking into account the numbers so assigned by the  
23 secretary of state to straight party tickets and all candidates  
24 for offices to be voted upon by all the voters of the state, the  
25 clerk of the circuit court shall appoint a time at which all  
26 candidates for the House of Delegates, magistrate and the  
27 office of delegate to a political party national convention are  
28 to appear in his office for the purpose of drawing by lot to  
29 determine where their names will appear on the ballots or  
30 ballot labels. The clerk shall give due notice of such time to  
31 each such candidate by registered or certified mail, return  
32 receipt requested. At the time appointed, all such candidates  
33 for the House of Delegates, magistrate and the office of  
34 delegate to a political party national convention shall  
35 assemble in the office of such clerk and such candidates shall  
36 then proceed to draw by lot to determine where their names  
37 shall appear on the ballots or ballot labels. The number so  
38 drawn by each such candidate shall determine where his or  
39 her name shall appear on the ballots or ballot labels. In the  
40 event any candidate or candidates fail to appear at the time  
41 appointed, the clerk shall draw for such absent candidate or  
42 candidates in the presence of those candidates assembled, if  
43 any, and the number so drawn by the clerk shall determine  
44 where the name of any absent candidate or candidates shall  
45 appear on the ballots or ballot labels. The circuit clerk shall  
46 record the number drawn by each candidate and his name in  
47 an appropriate book. The ballot commissioners shall proceed  
48 to have the ballot labels printed according to the provisions of  
49 this article. After receiving the printed ballot labels, the clerk  
50 of the county commission shall ascertain their accuracy and  
51 proceed to have the ballot labels placed in the vote recording  
52 devices. The clerk of the county commission shall then seal  
53 the vote recording devices so as to prevent tampering with  
54 ballot labels. The clerk of the county commission shall then  
55 enter in an appropriate book, opposite the number of each  
56 precinct, the identifying or distinguishing number of the  
57 specific vote recording device or devices to be used in that  
58 precinct.

**§3-4A-13. Inspection of vote recording devices; duties of county commission, ballot commissioners and election commissioners; records relating to vote recording devices.**

1 When the clerk of the county commission has completed  
2 the preparation of the vote recording devices, as provided in  
3 the next preceding section, and not later than seven days  
4 before the date of the election, he shall notify the members of  
5 the county commission and the ballot commissioners that the  
6 devices are ready for use. Thereupon the members of the  
7 county commission and the ballot commissioners shall  
8 convene at the office of the clerk or at such other place  
9 wherein the vote recording devices are stored, not later than  
10 five days before the day of the election, and shall inspect the  
11 devices to determine whether the requirements of this article  
12 have been met. Notice of the place and time of such  
13 inspection shall be published, no less than three days prior  
14 thereto, as a Class I-0 legal advertisement in compliance with  
15 the provisions of article three, chapter fifty-nine of this code  
16 and the publication area for such publication shall be the  
17 county involved. Any candidate, and one representative of  
18 each political party on the ballot may be present during such  
19 examination. If the devices are found to be in proper order,  
20 the members of the county commission and the ballot  
21 commissioners shall endorse their approval in the book in  
22 which the clerk entered the numbers of the devices opposite  
23 the numbers of the precincts. The devices shall then be  
24 secured in double lock rooms. The county clerk and the  
25 president or president pro tempore of the county commission  
26 shall each have a key. The rooms shall be unlocked only in  
27 their presence and only for the removal of the devices for  
28 transportation to the polls. Upon such removal of the devices,  
29 the county clerk and president or president pro tempore of  
30 the county commission shall certify in writing signed by  
31 them that the same were found to be sealed when removed  
32 for transportation to the polls.

33 Not later than three days before the election the election  
34 commissioner of each precinct who shall have been  
35 previously designated by the ballot commissioners, shall  
36 attend at the office of the clerks of the circuit and county  
37 courts of such county to receive the necessary election  
38 records, books and supplies required by law. Such election  
39 commissioners shall receive the per diem mileage rate

40 prescribed by law for this service. Such election  
41 commissioners shall give the ballot commissioners a  
42 sequentially numbered written receipt, on a printed form,  
43 provided by the clerk of the county commission, for such  
44 records, books and supplies. Such receipt shall be prepared  
45 in duplicate. One copy of the receipt shall remain with the  
46 clerk of the county commission and one copy shall be  
47 delivered to the president or president pro tempore of the  
48 county commission.

**§3-4A-16. Delivery of vote recording devices; time; arrangement  
for voting.**

1 The clerk of the county commission shall deliver or cause to  
2 be delivered each vote recording device to the polling place  
3 where it is to be employed. Such delivery shall be made not  
4 less than one hour prior to the opening of the polls and shall  
5 be made in the presence of the precinct election  
6 commissioners. At the time of the delivery of the vote  
7 recording device, it shall be sealed in such a way to prevent its  
8 use prior to the opening of the polls and to prevent any  
9 tampering with the ballot labels. Immediately prior to the  
10 opening of the polls on election day, the seal shall be broken  
11 and the vote recording device shall be opened in the presence  
12 of the precinct election commissioners, who shall certify in  
13 writing signed by them to the clerk of the county  
14 commission, that the devices have been delivered in their  
15 presence, that the devices were found to be sealed upon such  
16 delivery, and that the seals have been broken and the devices  
17 opened in their presence. The election commissioners shall  
18 then cause the vote recording device to be arranged in the  
19 voting booth in such manner that the front of the vote  
20 recording device, on which the ballot labels appear, will not  
21 be visible, when the vote recording device is being operated,  
22 to any person other than the voter if the voter shall elect to  
23 close the curtain, screen or hood to the voting booth.

**§3-4A-17. Check of vote recording devices before use;  
corrections; reserve vote recording devices.**

1 Before permitting the first voter to vote, the election  
2 commissioners shall examine the vote recording devices to  
3 ascertain whether the ballots or ballot labels are arranged as  
4 specified on the facsimile diagram furnished to the precinct.  
5 If the ballots or ballot labels are arranged incorrectly, the  
6 commissioners shall immediately notify the clerk of the

7 county commission of the foregoing facts in writing,  
 8 indicating the number of the device, and obtain from such  
 9 clerk a reserve vote recording device, and thereafter proceed  
 10 to conduct the election. Any reserve vote recording device so  
 11 used shall be prepared for use by the clerk or his duly  
 12 appointed deputy and said reserve vote recording device  
 13 shall be prepared, inspected and sealed, and delivered to the  
 14 polling place wherein the seal shall be broken and such  
 15 device opened in the presence of the precinct election  
 16 commissioners who shall certify in writing signed by them to  
 17 the clerk of the county commission, that the reserve vote  
 18 recording device was found to be sealed upon delivery to the  
 19 polling place, that the seal was broken and the device opened  
 20 in their presence at the polling place. The vote recording  
 21 device found to have been with incorrect ballot labels shall be  
 22 returned immediately to the custody of the clerk who shall  
 23 then promptly cause such vote recording device to be  
 24 repaired, prepared and resealed in order that it may be used  
 25 as a reserve vote recording device if needed.

**§3-4A-18. Disrepair of vote recording devices in use; reserve  
 vote recording devices.**

1 If, during the conduct of an election, a vote recording  
 2 device becomes in a state of disrepair so that it cannot be  
 3 operated in a manner that will comply with the provisions of  
 4 this article, the election commissioners shall seal the device  
 5 in such manner as to prevent further voting thereon. Then the  
 6 election commissioners shall secure from the county clerk a  
 7 reserve vote recording device, which shall be prepared,  
 8 inspected and delivered to the polling place wherein the seal  
 9 shall be broken and such device opened in the presence of the  
 10 precinct election commissioners who shall certify in writing  
 11 signed by them to the clerk of the county commission, that  
 12 the reserve vote recording device was found to be sealed  
 13 upon delivery to the polling place, that the seal was broken  
 14 and the device opened in their presence at the polling place.  
 15 The commissioners shall proceed to conduct the election.

**§3-4A-19. Conducting electronic voting system elections  
 generally; duties of election officers.**

1 (1) The election officers shall constantly and diligently  
 2 maintain a watch in order to see that no person votes more  
 3 than once and to prevent any voter from occupying the voting  
 4 booth for more than five minutes.

5 (2) In primary elections, before a voter is permitted to  
6 occupy the voting booth, the election commissioner  
7 representing the party to which the voter belongs shall direct  
8 the voter to the vote recording device which will allow the  
9 voter to vote only for the candidates who are seeking  
10 nomination on the ticket of the party with which the voter is  
11 affiliated.

12 (3) The poll clerk shall issue to each voter when he signs  
13 the pollbook a card or ticket numbered to correspond to the  
14 number on the pollbook of such voter, and in the case of a  
15 primary election, indicating the party affiliation of such voter,  
16 which numbered card or ticket shall be presented to the  
17 election commissioner in charge of the vote recording device.

18 (4) One hour before the opening of the polls the precinct  
19 election commissioners shall arrive at the polling place and  
20 set up the voting booths so that they will be in clear view of  
21 the election commissioners, open the vote recording devices,  
22 place them in the voting booths, and examine them to see that  
23 they have the correct ballots or ballot labels by comparing  
24 them with the sample ballots, and are in proper working  
25 order. They shall open and check the ballots, ballot cards,  
26 supplies, records and forms, and post the sample ballots or  
27 ballot labels and instructions to voters. Upon ascertaining  
28 that all ballots, ballot cards, supplies, records and forms  
29 arrived intact, the election commissioners shall so certify in  
30 writing their findings upon forms provided and collected by  
31 the clerk of the county commission over their signatures to  
32 the clerk of the county commission. Any discrepancies shall  
33 be so noted and reported immediately to the clerk of the  
34 county commission. The election commissioners shall then  
35 number in sequential order the ballot card stub of each ballot  
36 card in their possession and report in writing to the clerk of  
37 the county commission the number of ballot cards received.  
38 They shall issue such ballot cards in sequential order to each  
39 voter.

40 (5) Each voter shall be instructed how to operate the vote  
41 recording device before he enters the voting booth.

42 (6) Any voter who shall spoil, deface or mutilate the ballot  
43 or ballot card delivered to him, on returning the same to the  
44 poll clerks, shall receive another in place thereof. Every  
45 person who does not vote any ballot or ballot card delivered  
46 to him shall, before leaving the election room, return such  
47 ballot or ballot card to the poll clerks. When a spoiled or

48 defaced ballot or ballot card is returned, the poll clerks shall  
49 make a minute of the fact on the pollbooks, at the time, and  
50 the word "spoiled" shall be written across the face of the  
51 ballot or ballot card and it shall be placed in an envelope for  
52 spoiled ballots or ballot cards.

53 Immediately on closing the polls, the election  
54 commissioners shall ascertain the number of spoiled ballots  
55 or ballot cards during the election and the number of ballots  
56 or ballot cards remaining not voted. The election  
57 commissioners shall also ascertain from the pollbooks the  
58 number of persons who voted and shall report, in writing  
59 signed by them to the clerk of the county commission, any  
60 irregularities in the ballot boxes, the number of ballots or  
61 ballot cards cast, the number of ballots or ballot cards spoiled  
62 during the election and the number of ballots or ballot cards  
63 unused. All unused ballots or ballot cards shall at the same  
64 time be returned to the clerk of the county commission who  
65 shall count them and record the number. If there is no  
66 discrepancy, the unused ballots or ballot cards shall be  
67 destroyed forthwith, before a representative of each party on  
68 the ballot, by fire or otherwise, by the clerk of the county  
69 commission or a duly designated deputy clerk. If there is a  
70 discrepancy, the unused ballots or ballot cards shall be  
71 impounded and secured under double locks until the  
72 discrepancy is resolved. The county clerk and the president  
73 or president pro tempore of the county commission shall each  
74 have a key. Upon resolution of the discrepancy, the unused  
75 ballots or ballot cards shall forthwith, before a  
76 representative of each party on the ballot, be destroyed by  
77 fire or otherwise, by the clerk of the county commission or a  
78 duly designated deputy clerk.

79 Each commissioner who is a member of an election board  
80 which fails to account for every ballot or ballot card delivered  
81 to it shall be guilty of a misdemeanor, and, upon conviction  
82 thereof, shall be fined not more than one thousand dollars or  
83 confined in the county jail for not more than one year, or both.

84 The board of ballot commissioners of each county, or the  
85 chairman thereof, shall preserve the ballots or ballot cards  
86 that are left over in their hands, after supplying the precincts  
87 as provided, until the close of the polls on the day of election,  
88 and such ballots or ballot cards, shall then be destroyed by  
89 such board, or the chairman thereof, by fire or otherwise.

90 (7) Where ballot cards are used, the voter, after he has  
91 marked his ballot card, shall, before leaving the voting booth,  
92 place the ballot card inside the envelope provided for this  
93 purpose, with the stub extending outside said envelope, and  
94 return it to an election commissioner who shall remove the  
95 stub and deposit the envelope with the ballot card inside in  
96 the ballot box. No ballot card from which the stub has been  
97 detached shall be accepted by the officer in charge of the  
98 ballot box, but such ballot card shall be marked "spoiled" and  
99 placed with the spoiled ballots or ballot cards.

100 (8) The precinct election commissioners shall prepare a  
101 report in quadruplicate of the number of voters who have  
102 voted, as indicated by the pollbooks, and shall place two  
103 copies of this report in the ballot box, which thereupon shall  
104 be sealed with a paper seal signed by the election  
105 commissioners so that no additional ballots may be deposited  
106 or removed from the ballot box. Two election commissioners  
107 of different political parties shall forthwith deliver the ballot  
108 box to the clerk of the county commission at the central  
109 counting center and receive a signed numbered receipt  
110 therefor, which receipt shall carefully set forth in detail any  
111 and all irregularities pertaining to the ballot boxes and noted  
112 by the precinct election officers.

113 The receipt shall be prepared in duplicate, a copy of which  
114 shall remain with the clerk of the county commission who  
115 shall have any and all irregularities noted. The time of their  
116 departure from the polling place shall be noted on the two  
117 remaining copies of the report, which shall be immediately  
118 mailed to the clerk of the county commission.

119 (9) The pollbooks, register of voters, unused ballots or  
120 ballot cards, spoiled ballots or ballot cards and other records  
121 and supplies shall be delivered to the clerk of the county  
122 commission, all in conformity with the provisions of this  
123 section.

**§3-4A-20. "Independent" voting in primary elections.**

1 If at any primary elections, nonpartisan candidates for  
2 office and public questions are submitted to the voters and on  
3 which candidates and questions persons registered as  
4 "independent" are entitled to vote, as provided in section  
5 eighteen, article two of this chapter, the election officers shall  
6 provide a vote recording device so that such "independent"  
7 voters may vote only those portions of the ballot or ballot card

8 relating to the nonpartisan candidates and the public  
9 questions submitted, or provide a ballot card containing only  
10 provision for voting for those candidates and/or upon those  
11 issues common to the ballots provided to all voters regardless  
12 of political party affiliation.

13 If vote recording devices are not available for the  
14 "independent" voters, provision shall be made for sealing the  
15 partisan section or sections of the ballot or ballot labels on a  
16 vote recording device using temporary seals, thus permitting  
17 the independent voter to vote for the nonpartisan section or  
18 sections of the ballot or ballot labels. After the "independent"  
19 voter has voted, the temporary seals may be removed and the  
20 device may then be used by partisan voters.

**§3-4A-21. Absent voter ballots; issuance, processing and  
tabulation.**

1 Absentee voters shall cast their votes on absent voter ballot  
2 cards. If absentee voters shall be deemed eligible to vote in  
3 person at the office of the clerk of the circuit court, in  
4 accordance with the provisions of article three of this chapter,  
5 the clerk of the circuit court of each county shall provide a  
6 vote recording device for the use of such absentee voters. For  
7 all absentee voters deemed eligible to vote an absent voter's  
8 ballot card by mail, in accordance with the provisions of  
9 article three of this chapter, the clerk of the circuit court of  
10 each county shall prepare and issue an absent voter ballot  
11 packet consisting of the following:

- 12 (a) One official absent voter ballot card;
- 13 (b) One punching tool;
- 14 (c) One disposable styrofoam block to be placed behind  
15 the ballot card for voting purposes and to be discarded after  
16 use by the voter;
- 17 (d) One absent voter instruction ballot;
- 18 (e) One absent voter's ballot envelope No. 1, unsealed,  
19 which shall have no writing thereon and which shall be  
20 identical to the secrecy envelope used for placement of ballot  
21 cards at the polls; and
- 22 (f) One absent voter's ballot envelope No. 2, which  
23 envelope shall be marked with the proper precinct number  
24 and shall provide a place on its seal for the absent voter to  
25 affix his signature. Such envelope shall also otherwise  
26 contain the forms and instructions as provided in section five,  
27 article three of this chapter, relating to the absentee voting of  
28 paper ballots.

29 Upon receipt of an absent voter's ballot card by mail, the  
30 voter shall mark the ballot card with the punch tool and the  
31 voter may receive assistance in voting his absent voter's  
32 ballot card in accordance with the provisions of section six,  
33 article three of this chapter.

34 After the voter has voted his absent voter's ballot card, he  
35 shall (1) enclose the same in absent voter's ballot envelope  
36 No. 1, and seal that envelope, (2) enclose sealed absent voter's  
37 ballot envelope No. 1 in absent voter's ballot envelope No. 2,  
38 (3) complete and sign the forms, if any, on absent voter's  
39 ballot envelope No. 2 according to the instructions thereon,  
40 and (4) mail, postage prepaid, sealed absent voter's ballot  
41 envelope No. 2 to the clerk of the circuit court of the county in  
42 which he is registered to vote, unless the voter has appeared  
43 in person, in which event he shall hand deliver the sealed  
44 absent voter's ballot envelope No. 2 to the clerk.

45 Upon receipt of such sealed envelope, the circuit clerk shall  
46 (1) enter onto the envelope such information as may be  
47 required of him according to the instructions thereon; (2)  
48 enter his challenge, if any, to the absent voter's ballot; (3)  
49 enter the required information into a record of persons  
50 making application for and voting an absent voter's ballot by  
51 personal appearance or by mail (the form of which record and  
52 information to be entered therein shall be prescribed by the  
53 secretary of state); and (4) place such sealed envelope in a  
54 secure location in his office, there to remain until delivered to  
55 the polling place in accordance with the provisions of this  
56 article or, in case of a challenged ballot, to the county  
57 commission sitting as a board of canvassers.

58 When absent voters' ballots have been delivered to the  
59 election board of any precinct, the election commissioners  
60 shall, at the close of the polls, proceed to determine the  
61 legality of such ballots as prescribed in article three of this  
62 chapter. The commissioners shall then open the No. 2  
63 envelope. Without opening the absent voter ballot envelope  
64 No. 1, the commissioners shall shuffle and intermingle them  
65 and deposit same in the ballot box. The commissioner shall  
66 provide an absent voter ballot envelope No. 1 for any voted  
67 ballot card which, when opened, has no such envelope.

**§3-4A-24. Voting by challenged voter.**

1 If the right of any person to vote be challenged in  
2 accordance with provisions of article one of this chapter

3 relating to the challenging of voters, and a vote recording  
4 device is used that tabulates the vote as an individual vote,  
5 such person shall be permitted to cast his vote by use of the  
6 vote recording device. He shall be provided with a challenged  
7 ballot card and ballot envelopes for the insertion of the ballot  
8 card after voting. There shall be an inner envelope marked  
9 with the precinct number for the challenged ballot card.  
10 There shall also be an outer envelope for the inner envelope  
11 and the challenged voter stub, which envelope shall provide a  
12 place for the challenged voter to affix his signature on the seal  
13 of such outer envelope.

14 After the county commission, as prescribed in article one of  
15 this chapter, has determined that the challenges are  
16 unfounded, the commissioners shall remove the outer  
17 envelopes. Without opening the inner envelope, the  
18 commissioners shall shuffle and intermingle such inner  
19 envelopes. The commissioners shall then open the inner  
20 envelopes, remove the ballot cards and add the votes to the  
21 previously counted totals.

**§3-4A-26. Test of automatic tabulating equipment.**

1 One week prior to the start of the count of the votes  
2 recorded on ballots or ballot cards, the clerk of the county  
3 commission shall have the automatic tabulating equipment  
4 tested to ascertain that it will accurately count the votes cast  
5 for all offices and on all measures. Public notice of the time  
6 and place of the test shall be given not less than forty-eight  
7 hours nor more than two weeks prior thereto by publication  
8 of such notice as a Class I-0 legal advertisement, in  
9 compliance with the provisions of article three, chapter  
10 fifty-nine of this code, and the publication area for such  
11 publication shall be the county involved.

12 The test shall be open to representatives of the political  
13 parties, candidates, the press and the public. It shall be  
14 conducted five times by processing two separate sets of a  
15 preaudited group of ballots or ballot cards as appropriate, so  
16 punched or marked as to record a predetermined number of  
17 valid votes for each candidate and on each measure. It shall  
18 include for each multi-candidate office one or more ballot  
19 cards which have cross-over votes in order to test the ability  
20 of the automatic tabulating equipment to record those votes  
21 in accordance with the provisions of this article and  
22 applicable law, and it shall include for each office one or more

23 ballot cards which have votes in excess of the number  
24 allowed by law in order to test the ability of the automatic  
25 tabulating equipment to reject such votes. If, in the process of  
26 any of the test counts, any error is detected, the cause of such  
27 error shall be ascertained and corrective action promptly  
28 taken. After the completion of said corrective action, the test  
29 counts shall continue, including a retesting of those precincts  
30 previously test counted. Prior to the continuation of the  
31 testing, the county commission shall certify in writing, signed  
32 by them, the nature of the error, the cause thereof and the  
33 type of corrective action taken. Such certification shall be  
34 recorded in the office of the clerk of the county commission  
35 in the miscellaneous record book. Immediately after  
36 conclusion of this completed test, a certified duplicate copy  
37 of the program deck shall be sent by certified mail to the  
38 offices of the state election commission, where it shall be  
39 preserved and secured for one year, and made available for  
40 comparison or analysis by order of a circuit court or the  
41 supreme court of appeals.

42 The program deck to be used in the election shall  
43 immediately be certified by the county commission to be free  
44 from error as determined by the test, shall be placed with  
45 such certification in a sealed container and kept under  
46 individual multiple locks with individual keys for each lock.  
47 The number of locks and keys shall be the same as the  
48 number of county commissioners together with the county  
49 clerk, with each commissioner and the county clerk having a  
50 single key in his possession. Such sealed container shall be  
51 opened to conduct the test required to be conducted  
52 immediately before the start of the official count.

53 The test shall be repeated immediately before the start of  
54 the official count. The test shall also be conducted at the  
55 conclusion of the official count before the count is approved  
56 as errorless and before the election returns are approved as  
57 official.

58 All results of all of the tests shall be immediately certified  
59 by the county commission and filed in the office of the clerk  
60 of the county commission and immediately recorded in the  
61 miscellaneous record book. On completion of the count, the  
62 program deck, test materials and ballot cards shall be sealed,  
63 except for purposes of the canvass as provided in section  
64 twenty-eight of this article, and retained and kept under  
65 individual multiple locks with individual keys for each lock.

66 Said numbers of locks and keys shall be the same as the  
67 number of county commissioners together with the county  
68 clerk, with each commissioner and the county clerk having a  
69 single key in his possession.

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

1 (1) All proceedings at the central counting center shall be  
2 under the supervision of the clerk of the county commission,  
3 and shall be conducted under circumstances which allow  
4 observation by all persons entitled to be present. The  
5 proceedings shall take place in a room of sufficient size and  
6 satisfactory arrangement to permit such observation. Those  
7 persons entitled to be present shall include all candidates  
8 whose names appear on the ballots being counted, or if such  
9 candidate be absent, a representative of such candidate, and  
10 two representatives of each political party on such ballot, who  
11 shall be chosen by the local chairman of such political party's  
12 executive committee. A reasonable number of the general  
13 public shall also be freely admitted to the room. In the event  
14 all members of the general public desiring admission to the  
15 room cannot be admitted at one time, the county commission  
16 shall provide for a periodic and convenient rotation of  
17 admission to the room for observation, to the end that each  
18 member of the general public desiring admission shall,  
19 during the proceedings at the central counting center, be  
20 granted such admission for reasonable periods of time for  
21 observation: *Provided*, That no person except those  
22 authorized for the purpose shall touch any ballot or ballot  
23 card or other official records and papers utilized in the  
24 election during such observation. All persons who are  
25 engaged in processing and counting of the ballots shall be  
26 representative of each political party on the ballot, and shall  
27 be deputized in writing and take an oath that they will  
28 faithfully perform their assigned duties. Such deputies shall  
29 be issued an official badge or identification card which shall  
30 be assigned an identity control number, and such deputies  
31 shall prominently wear on his or her outer garments the  
32 issued badge or identification card. Upon completion of the  
33 deputies' duties, the badges or identification cards shall be  
34 returned to the county clerk. If any ballot card is damaged or  
35 defective so that it cannot properly be counted by the  
36 automatic tabulating equipment, a true duplicate copy shall  
37 be made of the damaged ballot card in the presence of  
38 representatives of each political party on the ballot and

39 substituted for the damaged ballot card. All duplicate ballot  
40 cards shall be clearly labeled "duplicate" and shall bear a  
41 serial number which shall be recorded on the damaged or  
42 defective ballot card and on the replacement ballot card.

43 (2) The returns printed by the automatic tabulating  
44 equipment at the central counting center, to which have been  
45 added write-in and other valid votes, shall, when certified by  
46 the board of canvassers, constitute the official return of each  
47 precinct or election district. Further, all such returns shall be  
48 printed on a precinct basis. Upon completion of the count, the  
49 returns shall be open to the public by posting such returns  
50 precinct by precinct at the central counting center. Upon  
51 completion of the canvass, the returns shall be posted in the  
52 same manner.

53 (3) If for any reason it becomes impracticable to count all  
54 or a part of the ballots with tabulating equipment, the board  
55 of canvassers may direct that they be counted manually,  
56 following as far as practicable the provisions governing the  
57 counting of paper ballots.

58 (4) As soon as possible after the completion of the count,  
59 the clerk of the county commission shall have the vote  
60 recording devices properly boxed or securely covered and  
61 removed from the polling place to a proper and secure place  
62 of storage.

**§3-4A-28. Post-election custody and inspection of vote recording  
devices; canvass and recounts.**

1 (1) The vote recording devices, the ballot labels, ballot  
2 cards, program decks and standard validation test decks shall  
3 remain sealed during the canvass of the returns of the  
4 election and for a period of seven days thereafter, except that  
5 such equipment may be opened for the canvass and it shall be  
6 resealed immediately thereafter. During such period any  
7 candidate or the local chairman of a political party may be  
8 permitted to examine any of the materials so sealed:  
9 *Provided*, That a notice of the time and place of such  
10 examination shall be posted at the central counting center  
11 before and on the hour of nine o'clock in the morning on the  
12 day of the examination is to occur, and all persons entitled to  
13 be present at the central counting center may, at their option,  
14 be present. Upon completion of the canvass and after a  
15 seven-day period has expired, the vote recording devices, the  
16 ballot labels, ballot cards, program decks and standard  
17 validation test decks shall be sealed for one year: *Provided*,

18 *however*, That the vote recording devices and all tabulating  
 19 equipment may be released for use in any other lawful  
 20 election to be held more than ten days after the canvass is  
 21 completed, and any of the electronic voting equipment herein  
 22 discussed may be released for inspection or review by a  
 23 request of a circuit court or the supreme court of appeals.

24 (2) In canvassing the returns of the election, the board of  
 25 canvassers shall examine all of the vote recording devices, the  
 26 ballot labels, ballot cards and the automatic tabulating  
 27 equipment used in such election and shall determine the  
 28 number of votes cast for each candidate and for and against  
 29 each question and by such examination shall procure the  
 30 correct returns and ascertain the true results of the election.  
 31 Any candidate or his party representative may be present at  
 32 such examination.

33 (3) If any candidate shall demand a recount of the votes  
 34 cast at an election, the ballots and ballot cards shall be  
 35 reexamined during such recount for the purpose of  
 36 reascertaining the total number of votes cast for any  
 37 candidate in the same manner and according to the same  
 38 rules as are utilized in the original vote count pursuant to  
 39 section twenty-seven of this article.

40 (4) During the canvass and any requested recount, at least  
 41 five percent of the precincts shall be chosen at random and  
 42 the ballot cards cast therein counted manually. The same  
 43 random selection shall also be counted by the automatic  
 44 tabulating equipment. If the variance between the random  
 45 manual count and the automatic tabulating equipment count  
 46 of the same random ballots, is equal to or greater than one  
 47 percent, then a manual recount of all ballot cards shall be  
 48 required. In the course of any recount, if a candidate for an  
 49 office shall so demand, or if the board of canvassers shall so  
 50 elect to recount the votes cast for an office, the votes cast for  
 51 that office in any precinct shall be recounted by manual  
 52 count.

**§3-4A-33. Tampering with vote recording devices, ballot labels,  
 ballot or ballot cards, program decks, standard  
 validation test decks, or other automatic  
 tabulating equipment; other dishonest practices;  
 attempts; penalty.**

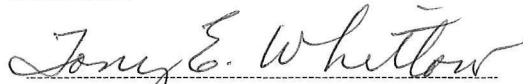
1 Any person not an election officer or other public official  
 2 who shall tamper or attempt to tamper with any vote

3 recording device, ballot label, ballot or ballot card, program  
4 deck, standard validation test deck, or automatic tabulating  
5 equipment, or in any way intentionally impair or attempt to  
6 impair, their use, and any person who shall be guilty of or  
7 shall attempt any dishonest practice upon any such devices  
8 or equipment, or with or by their use, shall be deemed guilty  
9 of a felony, and, upon conviction thereof, shall be confined in  
10 the penitentiary for not less ~~more~~ than one year nor more than  
11 ten years, or fined not less than five thousand dollars, or both.

12 Any clerk of a county commission, county commissioner,  
13 ballot commissioner, election commissioner, or poll clerk, or  
14 any custodian, technician, or other public official authorized  
15 to take part in the holding of an election or in preparing for an  
16 election, who, with intent to cause or permit any vote  
17 recording device, program deck, standard validation test  
18 deck, or other automatic tabulating equipment to fail to  
19 record, test or tabulate correctly all votes cast thereon or  
20 tabulated therewith, tampers with or disarranges such device  
21 in any way, or any part or appliance thereof, or who causes or  
22 consents to the use of such device or equipment for vote  
23 recording, testing or tabulating at any election with  
24 knowledge of the fact that the same is not in order, or not  
25 perfectly set and adjusted so that it will correctly record, test  
26 or tabulate all votes cast, or who, with the purpose of  
27 defrauding or deceiving any voter or of causing it to be  
28 doubtful for what ticket or candidate or candidates or  
29 proposition any vote is cast, or of causing it to appear on said  
30 device or devices that the votes cast for one ticket, candidate  
31 or proposition, were cast for another ticket, candidate or  
32 proposition, removes, changes or mutilates any ballot, ballot  
33 card or ballot label on said device or any part thereof, or does  
34 any other thing intended to interfere with the validity or  
35 accuracy of the election, shall be deemed guilty of a felony,  
36 and, upon conviction thereof, shall be confined in the  
37 penitentiary not less than one year nor more than ten years, or  
38 fined not less than five thousand dollars, or both.

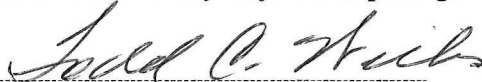
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


  
Chairman Senate Committee

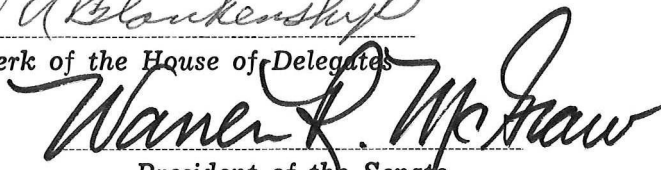
  
Chairman House Committee

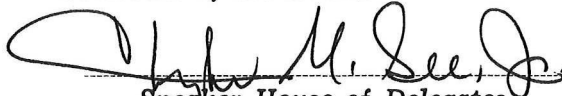
Originated in the Senate.

To take effect ninety days from passage

  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker House of Delegates

The within is approved this the 31 day of March, 1982.

  
Governor

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OFFICE OF THE GOVERNOR

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82 MAR 31 PM: 30

OFFICE  
SECY. OF STATE