

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 09-0924.01 Bob Lackner

HOUSE BILL 09-1335

HOUSE SPONSORSHIP

Todd and Murray,

SENATE SPONSORSHIP

Williams and Carroll M., Cadman

House Committees
State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING REQUIREMENTS FOR VOTING EQUIPMENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Use, modification, or purchase of electronic or electromechanical voting systems or devices and related components

- ! Permits any existing electronic voting device or any related component to the device that was used by a political subdivision in conducting the 2008 general election to continue to be used by the political subdivision on and after the effective date of the act as long as the device or component is used in accordance with either the conditions of use under which the device or component was originally

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
3rd Reading Unamended
April 27, 2009

HOUSE
Amended 2nd Reading
April 24, 2009

certified for the 2008 general election or in accordance with alternate conditions of use established by the secretary of state (secretary).

- ! Prohibits a political subdivision from purchasing a new electronic voting device or system or any related component to such device or system without obtaining the prior approval of the secretary for such purchase. Specifies procedures by which the political subdivision obtains the approval of the secretary. Specifies factors to be considered by the secretary in determining whether or not to approve the purchase.
- ! Requires the secretary to promulgate rules as necessary to administer and enforce any requirement of the act governing the use, modification, or purchase of electronic voting devices or systems and related components prior to the 2014 general election.
- ! Authorizes the secretary, at his or her discretion, to require by rule that voting systems and voting equipment satisfy voting systems standards promulgated after January 1, 2008, by the federal election assistance commission as long as such standards meet or exceed those promulgated in 2002 by the federal election commission.
- ! Upon receipt by the secretary of a written application for approval of the modification of a previously certified electronic or electromechanical voting system by a political subdivision, requires the secretary to undertake a preliminary examination of the proposed modification. Specifies additional requirements governing the secretary's review of the application.
- ! Clarifies that, for relevant statutory provisions, "electromechanical voting system" shall include a paper-based voting system.

Testing and certification of electronic and electromechanical voting systems

- ! In relevant statutory provisions, substitutes the term "federally accredited laboratory" for "independent testing authority".
- ! Requires the secretary to certify electronic and electromechanical voting systems and to approve the purchase, installation, and use of such systems by political subdivisions and to establish standards for certification.
- ! Authorizes the secretary to promulgate conditions of use in connection with the use by political subdivisions of electronic and electromechanical voting systems as may be appropriate to mitigate deficiencies identified in the

certification process.

- ! In undertaking the certification required by law, authorizes the secretary to consider either procedures used or adopted by county clerk and recorders or best practices recommended by equipment vendors. Authorizes the secretary to request a federally accredited laboratory to undertake the testing of an electronic or electromechanical voting system or to use and rely upon the testing of an electronic or electromechanical voting system already performed by another state or a federally accredited laboratory upon the satisfaction of certain conditions specified in the act. Authorizes the secretary to conduct joint testing with an agency of another state or with a federally accredited laboratory.
- ! Expands the period within which the secretary is required to decide whether to certify an electronic or electromechanical voting system after the system is submitted for certification.

Voter-verified paper record

In connection with existing statutory requirements mandating the use of voting systems in each election held on or after January 1, 2010, that have the capability to produce a voter-verifiable paper record of each elector's vote, permits any political subdivision that has not complied with such requirements on or before January 1, 2009, to comply with such requirements by January 1, 2014.

Audit requirements

- ! Modifies the time by which the secretary is to post the reports of a random audit on the secretary's web site.
- ! Eliminates the requirement that the secretary publish, in a newspaper of general circulation throughout the state, a notification to the public that the results of a random audit have been posted on the department of state's web site.
- ! Commencing with the 2014 general election, and following each primary, general, coordinated, or congressional vacancy election held thereafter, requires each county to make use of a risk-limiting audit. Specifies that races to be audited shall be selected in accordance with procedures established by the secretary, and all contested races shall be eligible for such selection.
- ! Upon written application from a county, permits the secretary to waive the risk-limiting audit requirements of the act upon a sufficient showing by the county that the technology in use by the county will not enable the county to satisfy such requirements in preparation for the 2014 general election.

- ! By a specified date, requires the secretary to establish a pilot program in selected counties for the purpose of testing the procedures and technical requirements necessary to conduct a risk-limiting audit. Specifies additional requirements concerning the pilot program.
- ! Requires the secretary to promulgate rules as may be necessary to implement and administer the risk-limiting audit requirements of the act. Specifies additional requirements governing the promulgation of the rules.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 1-1-104 (13.5), Colorado Revised Statutes, is
3 amended, and the said 1-1-104 is further amended BY THE ADDITION
4 OF THE FOLLOWING NEW SUBSECTIONS, to read:

5 **1-1-104. Definitions.** As used in this code, unless the context
6 otherwise requires:

7 (13.5) "Electromechanical voting system" means a system in
8 which an elector votes using a device for marking a ballot card using ink
9 or another visible substance and the votes are counted with electronic
10 vote-tabulating equipment. The term includes a system in which votes are
11 recorded electronically within the equipment on paper tape and are
12 recorded simultaneously on an electronic device that permits tabulation
13 at a counting center. AS USED IN PART 6 OF ARTICLE 5 OF THIS TITLE,
14 "ELECTROMECHANICAL VOTING SYSTEM" SHALL INCLUDE A PAPER-BASED
15 VOTING SYSTEM.

16 (16.5) "FEDERALLY ACCREDITED LABORATORY" MEANS A
17 LABORATORY CERTIFIED UNDER SEC. 231 OF THE FEDERAL "HELP
18 AMERICA VOTE ACT OF 2002", PUB.L. 107-252, CODIFIED AT 42 U.S.C.
19 SEC. 15301 ET SEQ., OR ANY SUCCESSOR SECTION.

20 (23.5) "PAPER-BASED VOTING SYSTEM" MEANS AN

1 ELECTROMECHANICAL VOTING SYSTEM IN WHICH THE ELECTOR'S VOTE IS
2 RECORDED SOLELY ON A PAPER BALLOT.

3 **SECTION 2.** 1-5-601, Colorado Revised Statutes, is amended to
4 read:

5 **1-5-601. Use of voting systems.** (1) In all elections held in this
6 state, the votes may be cast, registered, recorded, and counted by means
7 of an electronic or electromechanical voting system as provided in this
8 part 6.

9 (2) AS USED IN THIS PART 6, "ELECTROMECHANICAL VOTING
10 SYSTEM" SHALL INCLUDE A PAPER-BASED VOTING SYSTEM AS DEFINED IN
11 SECTION 1-1-104 (23.5).

12 **SECTION 3.** 1-5-601.5, Colorado Revised Statutes, is amended
13 to read:

14 **1-5-601.5. Compliance with federal requirements.** All voting
15 systems and voting equipment offered for sale on or after May 28, 2004,
16 shall meet the voting systems standards that were promulgated in 2002 by
17 the federal election commission. ~~and that may thereafter be promulgated~~
18 ~~by the federal election assistance commission.~~ AT HIS OR HER
19 DISCRETION, THE SECRETARY OF STATE MAY REQUIRE BY RULE THAT
20 VOTING SYSTEMS AND VOTING EQUIPMENT SATISFY VOTING SYSTEMS
21 STANDARDS PROMULGATED AFTER JANUARY 1, 2008, BY THE FEDERAL
22 ELECTION ASSISTANCE COMMISSION AS LONG AS SUCH STANDARDS MEET
23 OR EXCEED THOSE PROMULGATED IN 2002 BY THE FEDERAL ELECTION
24 COMMISSION. Subject to section 1-5-608.2, nothing in this section shall
25 be construed to require any political subdivision to replace a voting
26 system that is in use prior to May 28, 2004.

27 **SECTION 4.** 1-5-608.5, Colorado Revised Statutes, is amended

1 to read:

2 **1-5-608.5. Electronic and electromechanical voting systems -**
3 **testing by federally accredited labs - certification and approval of**
4 **purchasing of electronic and electromechanical voting systems by**
5 **secretary of state - conditions of use by secretary of state - testing.**

6 (1) A ~~recognized independent testing authority~~ FEDERALLY ACCREDITED
7 LABORATORY may test, approve, and qualify electronic and
8 electromechanical voting systems for sale and use in the state of
9 Colorado. ~~if:~~

10 (a) ~~The independent testing authority has met all of the obligations~~
11 ~~and ongoing requirements necessary to gain certification as an~~
12 ~~independent testing authority from the federal election assistance~~
13 ~~commission;~~

14 (b) ~~The independent testing authority conducts any and all tests~~
15 ~~required by the federal election assistance commission for granting~~
16 ~~certification to independent testing authorities to verify the integrity of the~~
17 ~~electronic and electromechanical voting systems to be used in Colorado.~~

18 (2) ~~No electronic or electromechanical voting system shall be used~~
19 ~~in any public election in this state unless it has been certified by the~~
20 ~~secretary of state following successful qualification testing conducted by~~
21 ~~a recognized independent testing authority pursuant to this section.~~

22 (3) (a) IF THE ELECTRONIC AND ELECTROMAGNETIC VOTING
23 SYSTEMS TESTED PURSUANT TO THIS SECTION SATISFY THE REQUIREMENTS
24 OF THIS PART 6, THE SECRETARY OF STATE SHALL CERTIFY SUCH SYSTEMS
25 AND APPROVE THE PURCHASE, INSTALLATION, AND USE OF SUCH SYSTEMS
26 BY POLITICAL SUBDIVISIONS AND ESTABLISH STANDARDS FOR
27 CERTIFICATION.

1 (b) THE SECRETARY OF STATE MAY PROMULGATE CONDITIONS OF
2 USE IN CONNECTION WITH THE USE BY POLITICAL SUBDIVISIONS OF
3 ELECTRONIC AND ELECTROMECHANICAL VOTING SYSTEMS AS MAY BE
4 APPROPRIATE TO MITIGATE DEFICIENCIES IDENTIFIED IN THE
5 CERTIFICATION PROCESS.

6 (c) IN UNDERTAKING THE CERTIFICATION REQUIRED BY THIS
7 SECTION, THE SECRETARY OF STATE MAY CONSIDER EITHER PROCEDURES
8 USED OR ADOPTED BY COUNTY CLERK AND RECORDERS OR BEST PRACTICES
9 RECOMMENDED BY EQUIPMENT VENDORS.

10 (4) IN UNDERTAKING THE CERTIFICATION REQUIRED BY THIS
11 SECTION, THE SECRETARY OF STATE MAY REQUEST A FEDERALLY
12 ACCREDITED LABORATORY TO UNDERTAKE THE TESTING OF AN
13 ELECTRONIC OR ELECTROMECHANICAL VOTING SYSTEM OR MAY USE AND
14 RELY UPON THE TESTING OF AN ELECTRONIC OR ELECTROMECHANICAL
15 VOTING SYSTEM ALREADY PERFORMED BY ANOTHER STATE OR A
16 FEDERALLY ACCREDITED LABORATORY UPON SATISFACTION OF THE
17 FOLLOWING CONDITIONS:

18 (a) THE SECRETARY OF STATE HAS COMPLETE ACCESS TO ANY
19 DOCUMENTATION, DATA, REPORTS, OR SIMILAR INFORMATION ON WHICH
20 THE OTHER STATE OR LABORATORY RELIED IN PERFORMING ITS TESTING
21 AND WILL MAKE SUCH INFORMATION AVAILABLE TO THE PUBLIC SUBJECT
22 TO ANY REDACTION REQUIRED BY LAW; AND

23 (b) THE SECRETARY OF STATE MAKES WRITTEN FINDINGS AND
24 CERTIFIES THAT HE OR SHE REVIEWED THE INFORMATION SPECIFIED IN
25 PARAGRAPH (a) OF THIS SUBSECTION (4) AND DETERMINES THAT THE
26 TESTING:

27 (I) WAS CONDUCTED IN ACCORDANCE WITH APPROPRIATE

1 ENGINEERING STANDARDS IN USE AS OF THE TIME THE TESTING IS
2 UNDERTAKEN; AND

3 (II) SATISFIES THE REQUIREMENTS OF SECTIONS 1-5-615 AND
4 1-5-616 AND ALL RULES PROMULGATED THEREUNDER.

5 (5) IN UNDERTAKING THE CERTIFICATION REQUIRED BY THIS
6 SECTION, THE SECRETARY OF STATE MAY CONDUCT JOINT TESTING WITH
7 AN AGENCY OF ANOTHER STATE OR WITH A FEDERALLY ACCREDITED
8 LABORATORY.

9 **SECTION 5. Repeal.** 1-5-614, Colorado Revised Statutes, is
10 repealed as follows:

11 **1-5-614. Certification of electronic and electromechanical**
12 **voting systems - standards.** ~~The secretary of state shall certify~~
13 ~~electronic and electromechanical voting systems and approve the~~
14 ~~purchase, installation, and use of such systems by political subdivisions~~
15 ~~and establish standards for certification.~~

16 **SECTION 6.** 1-5-617 (1) (c), Colorado Revised Statutes, is
17 amended to read:

18 **1-5-617. Examination - testing - certification.** (1) (c) The
19 secretary of state shall decide whether to certify an electronic or
20 electromechanical voting system within ~~ninety~~ ONE HUNDRED TWENTY
21 days after the system is submitted for certification.

22 **SECTION 7.** 1-5-618 (1), Colorado Revised Statutes, is
23 amended, and the said 1-5-618 is further amended BY THE ADDITION
24 OF A NEW SUBSECTION, to read:

25 **1-5-618. Modification of electronic and electromechanical**
26 **voting systems - definitions.** (1) After an electronic or
27 electromechanical voting system has been certified by the secretary of

1 state, a political subdivision may not adopt any modification of the system
2 until the modification is certified OR APPROVED IN ACCORDANCE WITH THE
3 PROVISIONS OF SUBSECTION (1.5) OF THIS SECTION by the secretary of
4 state. A person desiring approval of a modification shall submit a written
5 application for approval to the secretary of state.

6 (1.5) UPON RECEIPT OF THE WRITTEN APPLICATION FOR APPROVAL
7 IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION, THE SECRETARY
8 OF STATE SHALL UNDERTAKE A PRELIMINARY EXAMINATION OF THE
9 PROPOSED MODIFICATION. IN CONNECTION WITH SUCH PRELIMINARY
10 REVIEW, THE SECRETARY SHALL DETERMINE IF THE PROPOSED
11 MODIFICATION MAY CAUSE [REDACTED] ADVERSE EFFECTS ON THE SECURITY OR
12 ACCURACY OF ELECTIONS. THE SECRETARY SHALL MAKE THE
13 DETERMINATION WITHIN FORTY-FIVE DAYS AFTER RECEIVING THE
14 REQUEST. IF THE SECRETARY, UPON COMPLETION OF HIS OR HER
15 PRELIMINARY REVIEW OF THE REQUEST, DETERMINES THAT THE PROPOSED
16 MODIFICATION WILL CAUSE SIGNIFICANT ADVERSE EFFECTS, THE
17 MODIFICATION SHALL BE SUBJECT TO FURTHER REVIEW UNDER THE
18 PROVISIONS OF SUBSECTION (2) OF THIS SECTION. IF THE SECRETARY
19 DETERMINES, UPON COMPLETION OF HIS OR HER PRELIMINARY REVIEW,
20 THAT THE PROPOSED MODIFICATION CAUSES NO ADVERSE EFFECTS, THE
21 SECRETARY SHALL APPROVE THE MODIFICATION. IF THE SECRETARY
22 DETERMINES, UPON COMPLETION OF HIS OR HER PRELIMINARY REVIEW,
23 THAT THE PROPOSED MODIFICATION CAUSES POSSIBLE ADVERSE EFFECTS,
24 THE MODIFICATION SHALL BE SUBJECT TO FURTHER REVIEW UNDER THE
25 PROVISIONS OF SUBSECTION (4) OF THIS SECTION. FOLLOWING SUCH
26 ADDITIONAL REVIEW, IF THE SECRETARY DETERMINES THAT ANY ADVERSE
27 EFFECTS OF THE PROPOSED MODIFICATION ARE INSIGNIFICANT, THE

1 SECRETARY SHALL APPROVE THE MODIFICATION. IF, HOWEVER,
2 FOLLOWING SUCH ADDITIONAL REVIEW, THE SECRETARY DETERMINES
3 THAT THE ADVERSE EFFECTS OF THE MODIFICATION ARE SIGNIFICANT, THE
4 MODIFICATION SHALL BE SUBJECT TO FURTHER REVIEW UNDER THE
5 PROVISIONS OF SUBSECTION (2) OF THIS SECTION.

6 SECTION 8. Part 6 of article 5 of title 1, Colorado Revised
7 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
8 read:

9 1-5-623. Special rules applicable to use, modification, or
10 purchase of electronic voting devices or systems and related
11 components prior to 2014 - legislative declaration - rules. (1) (a) THE
12 GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT, OVER THE PAST
13 DECADE, VOTING TECHNOLOGY USED IN THE STATE HAS UNDERGONE
14 DRAMATIC CHANGES, CREATING CONFUSION AND DIFFICULTIES FOR
15 ELECTION ADMINISTRATORS, STATE GOVERNMENT, AND THE VOTING
16 PUBLIC. EFFORTS TO ADDRESS THIS CONFUSION HAVE BEEN COMPLICATED
17 BY THE TIMING OF PERIODIC SUBSTANTIAL INVESTMENTS IN VOTING
18 TECHNOLOGY BY COUNTY GOVERNMENTS NECESSITATED BY CHANGES IN
19 FEDERAL AND STATE LAW.

20 (b) NOW, THEREFORE, BY ENACTING THIS SECTION, THE GENERAL
21 ASSEMBLY INTENDS THAT:

22 (I) BETWEEN THE EFFECTIVE DATE OF THIS SECTION AND THE 2014
23 GENERAL ELECTION, ANY VOTING SYSTEM PURCHASED BY A POLITICAL
24 SUBDIVISION SHALL BE A PAPER-BASED VOTING SYSTEM AS DEFINED IN
25 SECTION 1-1-104 (23.5);

26 (II) THE ACQUISITION OF ELECTRONIC VOTING SYSTEMS BE
27 SUSPENDED IN ORDER TO ASSESS EXISTING AND EMERGING VOTING

1 TECHNOLOGIES; AND

2 (III) SUBSTANTIAL INVESTMENT BY POLITICAL SUBDIVISIONS
3 BEFORE THE 2014 GENERAL ELECTION IN ALTERNATE TECHNOLOGIES THAT
4 WILL FRUSTRATE THE INTENT OF THE GENERAL ASSEMBLY AS SPECIFIED IN
5 PARAGRAPH (a) OF THIS SUBSECTION (1) IS DISCOURAGED AND
6 DISFAVORED.

7 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 6,
8 ANY EXISTING ELECTRONIC VOTING DEVICE OR ANY RELATED COMPONENT
9 TO THE DEVICE THAT WAS USED BY A POLITICAL SUBDIVISION IN
10 CONDUCTING THE 2008 GENERAL ELECTION MAY CONTINUE TO BE USED BY
11 THE POLITICAL SUBDIVISION ON AND AFTER THE EFFECTIVE DATE OF THIS
12 SECTION AS LONG AS THE DEVICE OR COMPONENT IS USED IN ACCORDANCE
13 WITH EITHER THE CONDITIONS OF USE UNDER WHICH THE DEVICE OR
14 COMPONENT WAS ORIGINALLY CERTIFIED FOR THE 2008 GENERAL
15 ELECTION OR IN ACCORDANCE WITH ALTERNATE CONDITIONS OF USE
16 ESTABLISHED BY THE SECRETARY OF STATE.

17 (3) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ON AND
18 AFTER THE EFFECTIVE DATE OF THIS SECTION, NO POLITICAL SUBDIVISION
19 MAY PURCHASE A NEW ELECTRONIC VOTING DEVICE OR SYSTEM OR ANY
20 RELATED COMPONENT TO SUCH DEVICE OR SYSTEM WITHOUT OBTAINING
21 THE PRIOR APPROVAL OF THE SECRETARY OF STATE FOR SUCH PURCHASE
22 IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBSECTION (3).

23 (b) SUBJECT TO THE REQUIREMENTS OF PARAGRAPH (a) OF THIS
24 SUBSECTION (3), IF A POLITICAL SUBDIVISION DESIRES TO PURCHASE A NEW
25 ELECTRONIC VOTING DEVICE OR SYSTEM OR ANY RELATED COMPONENT TO
26 SUCH DEVICE OR SYSTEM, THE POLITICAL SUBDIVISION SHALL SUBMIT A
27 WRITTEN APPLICATION TO THE SECRETARY OF STATE FOR APPROVAL OF

1 THE PURCHASE. THE APPLICATION SHALL BE MADE BY MEANS OF ANY
2 FORMS OR PROCEDURES ESTABLISHED BY THE SECRETARY. WITHIN THREE
3 BUSINESS DAYS OF RECEIVING THE APPLICATION, THE SECRETARY SHALL
4 GRANT OR DENY THE APPLICATION. IN REVIEWING THE APPLICATION, THE
5 SECRETARY SHALL CONSIDER, AMONG OTHER RELEVANT FACTORS, THE
6 TOTAL EFFECT OF THE PURCHASE AT ISSUE IN LIGHT OF OTHER PURCHASES
7 BY THE POLITICAL SUBDIVISION ON VOTING SYSTEMS OR COMPONENTS OF
8 SUCH SYSTEMS ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION AND
9 THE NEEDS OF THE POLITICAL SUBDIVISION. IN MAKING THE
10 DETERMINATION, THE SECRETARY SHALL PREVENT POLITICAL
11 SUBDIVISIONS FROM MAKING SUBSTANTIAL INVESTMENTS IN ALTERNATE
12 TECHNOLOGIES THAT WILL FRUSTRATE THE INTENT OF THE GENERAL
13 ASSEMBLY AS SPECIFIED IN SUBSECTION (1) OF THIS SECTION AND SHALL
14 CONSIDER, AMONG OTHER RELEVANT FACTORS:

15 (I) WHETHER THE PURCHASE IS INTENDED TO REPLACE DAMAGED
16 OR DEFECTIVE EQUIPMENT OR TO ACCOMMODATE AN INCREASE IN
17 POPULATION IN THE POLITICAL SUBDIVISION;

18 (II) WHETHER THE PURCHASE REQUIRES A NEW CONTRACT OR
19 AGREEMENT THAT WOULD BE ENTERED INTO BY THE POLITICAL
20 SUBDIVISION AND ONE OR MORE VENDORS; AND

21 (III) A COMPARISON OF THE PURCHASE UNDER REVIEW WITH THE
22 AVERAGE CAPITAL EXPENDITURES BY THE POLITICAL SUBDIVISION ON THE
23 ADMINISTRATION OF ELECTIONS ON AN ANNUAL BASIS FOR THE FOUR
24 CONSECUTIVE YEARS PRIOR TO THE YEAR IN WHICH THE APPLICATION IS
25 SUBMITTED IN ORDER TO DISCOURAGE AN INVESTMENT IN TECHNOLOGY
26 WITH A LIMITED USEFUL LIFE IN ACCORDANCE WITH THE INTENT OF THE
27 GENERAL ASSEMBLY AS SPECIFIED IN SUBSECTION (1) OF THIS SECTION.

1 (4) THE SECRETARY OF STATE SHALL PROMULGATE RULES IN
2 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AS MAY BE NECESSARY
3 TO ADMINISTER AND ENFORCE ANY REQUIREMENT OF THIS SECTION,
4 INCLUDING ANY RULES NECESSARY TO SPECIFY PERMISSIBLE CONDITIONS
5 OF USE GOVERNING ELECTRONIC VOTING DEVICES OR SYSTEMS OR
6 RELATED COMPONENTS TO SUCH DEVICES OR SYSTEMS IN ACCORDANCE
7 WITH THE REQUIREMENTS OF THIS PART 6.

8 **SECTION 9.** 1-5-801 (2), Colorado Revised Statutes, is amended
9 to read:

10 **1-5-801. Acquisition of voting systems - voter-verified paper**
11 **record.** (2) A political subdivision shall not acquire a voting device that
12 has been retrofitted to comply with this part 8 unless the voting device has
13 been certified by ~~an independent testing authority~~ and the secretary of
14 state.

15 **SECTION 10.** 1-5-802 (1), Colorado Revised Statutes, is
16 amended to read:

17 **1-5-802. Use of voting systems - voter-verified paper record.**
18 (1) In addition to the other requirements of this article, the voting system
19 used in each primary, general, coordinated, or congressional district
20 vacancy election held in the state on and after January 1, 2010, shall have
21 the capability to produce a voter-verifiable paper record of each elector's
22 vote. Before an elector's vote is cast, the elector shall have the
23 opportunity, in private and without assistance, to inspect and verify that
24 the voter-verified paper record correctly reflects the elector's choices.
25 ANY POLITICAL SUBDIVISION THAT HAS NOT COMPLIED WITH THE
26 PROVISIONS OF THIS SECTION ON OR BEFORE JANUARY 1, 2009, SHALL
27 COMPLY WITH SUCH PROVISIONS BY JANUARY 1, 2014.

1 **SECTION 11.** 1-7-514 (3), Colorado Revised Statutes, is
2 amended to read:

3 **1-7-514. Random audit.** (3) The secretary of state shall post the
4 reports of any completed audit or investigation received pursuant to
5 paragraph (c) of subsection (2) of this section on the official web site of
6 the department of state not later than ~~twenty-four hours~~ FIVE BUSINESS
7 DAYS after receiving the results of the completed audit or investigation.
8 The clerk and recorder of the affected county may timely post the results
9 of the completed audit or investigation on the official web site of the
10 county. The secretary shall publish once in a newspaper of general
11 circulation throughout the state notification to the public that the results
12 have been posted on the department's web site.

13 **SECTION 12.** Part 5 of article 7 of title 1, Colorado Revised
14 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
15 read:

16 **1-7-515. Risk-limiting audits - pilot program - rules -**
17 **legislative declaration - definitions.** (1) (a) THE GENERAL ASSEMBLY
18 HEREBY FINDS, DETERMINES, AND DECLARES THAT THE AUDITING OF
19 ELECTION RESULTS IS NECESSARY TO ENSURE EFFECTIVE ELECTION
20 ADMINISTRATION AND PUBLIC CONFIDENCE IN THE ELECTION PROCESS.
21 FURTHER, RISK-LIMITING AUDITS PROVIDE A MORE EFFECTIVE MANNER OF
22 CONDUCTING AUDITS THAN TRADITIONAL AUDIT METHODS IN THAT
23 RISK-LIMITING AUDIT METHODS TYPICALLY REQUIRE ONLY LIMITED
24 RESOURCES FOR ELECTION RACES WITH WIDE MARGINS OF VICTORY WHILE
25 INVESTING GREATER RESOURCES IN CLOSE RACES.

26 (b) BY ENACTING THIS SECTION, THE GENERAL ASSEMBLY INTENDS
27 THAT THE STATE MOVE TOWARDS AN AUDIT PROCESS THAT IS DEVELOPED

1 WITH THE ASSISTANCE OF STATISTICAL EXPERTS AND THAT RELIES UPON
2 RISK-LIMITING AUDITS MAKING USE OF BEST PRACTICES FOR CONDUCTING
3 SUCH AUDITS.

4 (2) (a) COMMENCING WITH THE 2014 GENERAL ELECTION AND
5 FOLLOWING EACH PRIMARY, GENERAL, COORDINATED, OR CONGRESSIONAL
6 VACANCY ELECTION HELD THEREAFTER, EACH COUNTY SHALL MAKE USE
7 OF A RISK-LIMITING AUDIT IN ACCORDANCE WITH THE REQUIREMENTS OF
8 THIS SECTION. RACES TO BE AUDITED SHALL BE SELECTED IN
9 ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE SECRETARY OF
10 STATE, AND ALL CONTESTED RACES SHALL BE ELIGIBLE FOR SUCH
11 SELECTION.

12 (b) UPON WRITTEN APPLICATION FROM A COUNTY, THE SECRETARY
13 OF STATE MAY WAIVE THE REQUIREMENTS OF PARAGRAPH (a) OF THIS
14 SUBSECTION (2) UPON A SUFFICIENT SHOWING BY THE COUNTY THAT THE
15 TECHNOLOGY IN USE BY THE COUNTY WILL NOT ENABLE THE COUNTY TO
16 SATISFY SUCH REQUIREMENTS IN PREPARATION FOR THE 2014 GENERAL
17 ELECTION.

18 (3) PRIOR TO THE 2010 PRIMARY ELECTION, THE SECRETARY OF
19 STATE SHALL ESTABLISH A PILOT PROGRAM IN SELECTED COUNTIES FOR
20 THE PURPOSE OF TESTING THE PROCEDURES AND TECHNICAL
21 REQUIREMENTS NECESSARY TO CONDUCT A RISK-LIMITING AUDIT IN
22 ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION. THE
23 SECRETARY SHALL WORK WITH EQUIPMENT VENDORS TO IDENTIFY
24 TECHNICAL MODIFICATIONS TO ELECTION EQUIPMENT THAT MAY BE
25 NECESSARY TO SUPPORT THE USE OF RISK-LIMITING AUDITS IN THE STATE.
26 THE SECRETARY SHALL DRAW UPON THE EXPERIENCES OF THE PILOT
27 PROGRAM IN MAKING FUTURE RECOMMENDATIONS FOR MODIFICATIONS TO

1 THIS CODE.

2 (4) THE SECRETARY OF STATE SHALL PROMULGATE RULES IN
3 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AS MAY BE NECESSARY
4 TO IMPLEMENT AND ADMINISTER THE REQUIREMENTS OF THIS SECTION. IN
5 CONNECTION WITH THE PROMULGATION OF THE RULES, THE SECRETARY
6 SHALL CONSULT RECOGNIZED STATISTICAL EXPERTS, EQUIPMENT
7 VENDORS, AND COUNTY CLERK AND RECORDERS, AND SHALL CONSIDER
8 BEST PRACTICES FOR CONDUCTING RISK-LIMITING AUDITS.

9 (5) AS USED IN THIS SECTION:

10 (a) "INCORRECT OUTCOME" MEANS AN OUTCOME THAT IS
11 INCONSISTENT WITH THE ELECTION OUTCOME THAT WOULD BE OBTAINED
12 BY CONDUCTING A FULL RECOUNT.

13 (b) "RISK-LIMITING AUDIT" MEANS AN AUDIT PROTOCOL THAT
14 MAKES USE OF STATISTICAL METHODS AND IS DESIGNED TO LIMIT TO
15 ACCEPTABLE LEVELS THE RISK OF CERTIFYING A PRELIMINARY ELECTION
16 OUTCOME THAT CONSTITUTES AN INCORRECT OUTCOME.

17 **SECTION 13. Safety clause.** The general assembly hereby finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, and safety.