

First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

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.

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) THE SECRETARY OF STATE SHALL CERTIFY ELECTRONIC AND
23 ELECTROMECHANICAL VOTING SYSTEMS AND APPROVE THE PURCHASE,
24 INSTALLATION, AND USE OF SUCH SYSTEMS BY POLITICAL SUBDIVISIONS
25 AND ESTABLISH STANDARDS FOR CERTIFICATION.

26 (b) THE SECRETARY OF STATE MAY PROMULGATE CONDITIONS OF
27 USE IN CONNECTION WITH THE USE BY POLITICAL SUBDIVISIONS OF

1 ELECTRONIC AND ELECTROMECHANICAL VOTING SYSTEMS AS MAY BE
2 APPROPRIATE TO MITIGATE DEFICIENCIES IDENTIFIED IN THE
3 CERTIFICATION PROCESS.

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

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

16 (a) THE SECRETARY OF STATE HAS COMPLETE ACCESS TO ANY
17 DOCUMENTATION, DATA, REPORTS, OR SIMILAR INFORMATION ON WHICH
18 THE OTHER STATE OR LABORATORY RELIED IN PERFORMING ITS TESTING;
19 AND

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

24 (I) WAS CONDUCTED IN ACCORDANCE WITH APPROPRIATE
25 ENGINEERING STANDARDS IN USE AS OF THE TIME THE TESTING IS
26 UNDERTAKEN; AND

27 (II) SATISFIES THE REQUIREMENTS OF SECTIONS 1-5-615 AND

1 1-5-616 AND ALL RULES PROMULGATED THEREUNDER.

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

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7 repealed as follows:

8 **1-5-614. Certification of electronic and electromechanical**
9 **voting systems - standards.** ~~The secretary of state shall certify~~
10 ~~electronic and electromechanical voting systems and approve the~~
11 ~~purchase, installation, and use of such systems by political subdivisions~~
12 ~~and establish standards for certification.~~

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

15 **1-5-617. Examination - testing - certification.** (1) (c) The
16 secretary of state shall decide whether to certify an electronic or
17 electromechanical voting system within ~~ninety~~ ONE HUNDRED TWENTY
18 days after the system is submitted for certification.

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

22 **1-5-618. Modification of electronic and electromechanical**
23 **voting systems - definitions.** (1) After an electronic or
24 electromechanical voting system has been certified by the secretary of
25 state, a political subdivision may not adopt any modification of the system
26 until the modification is certified OR APPROVED IN ACCORDANCE WITH THE
27 PROVISIONS OF SUBSECTION (1.5) OF THIS SECTION by the secretary of

1 state. A person desiring approval of a modification shall submit a written
2 application for approval to the secretary of state.

3 (1.5) UPON RECEIPT OF THE WRITTEN APPLICATION FOR APPROVAL
4 IN ACCORDANCE WITH SUBSECTION (1) OF THIS SECTION, THE SECRETARY
5 OF STATE SHALL UNDERTAKE A PRELIMINARY EXAMINATION OF THE
6 PROPOSED MODIFICATION. IN CONNECTION WITH SUCH PRELIMINARY
7 REVIEW, THE SECRETARY SHALL DETERMINE IF THE PROPOSED
8 MODIFICATION MAY CAUSE SIGNIFICANT ADVERSE EFFECTS ON THE
9 SECURITY OR ACCURACY OF ELECTIONS. THE SECRETARY SHALL MAKE
10 THE DETERMINATION WITHIN FORTY-FIVE DAYS AFTER RECEIVING THE
11 REQUEST. IF THE SECRETARY DETERMINES THAT THE PROPOSED
12 MODIFICATION MAY CAUSE SUCH EFFECTS, THE MODIFICATION SHALL BE
13 SUBJECT TO THE PROVISIONS OF SECTION 1-5-618 (2). IN THE ABSENCE OF
14 SIGNIFICANT ADVERSE EFFECTS ON THE SECURITY OR ACCURACY OF
15 ELECTIONS, THE SECRETARY SHALL APPROVE THE MODIFICATION WITHOUT
16 FURTHER REVIEW.

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

20 **1-5-623. Special rules applicable to use, modification, or**
21 **purchase of electronic voting devices or systems and related**
22 **components prior to 2014 - legislative declaration - rules.** (1) (a) THE
23 GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT, OVER THE PAST
24 DECADE, VOTING TECHNOLOGY USED IN THE STATE HAS UNDERGONE
25 DRAMATIC CHANGES, CREATING CONFUSION AND DIFFICULTIES FOR
26 ELECTION ADMINISTRATORS, STATE GOVERNMENT, AND THE VOTING
27 PUBLIC. EFFORTS TO ADDRESS THIS CONFUSION HAVE BEEN COMPLICATED

1 BY THE TIMING OF PERIODIC SUBSTANTIAL INVESTMENTS IN VOTING
2 TECHNOLOGY BY COUNTY GOVERNMENTS NECESSITATED BY CHANGES IN
3 FEDERAL AND STATE LAW.

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

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

10 (II) THE ACQUISITION OF ELECTRONIC VOTING SYSTEMS BE
11 SUSPENDED IN ORDER TO ASSESS EXISTING AND EMERGING VOTING
12 TECHNOLOGIES; AND

13 (III) SUBSTANTIAL INVESTMENT BY POLITICAL SUBDIVISIONS
14 BEFORE THE 2014 GENERAL ELECTION IN ALTERNATE TECHNOLOGIES THAT
15 WILL FRUSTRATE THE INTENT OF THE GENERAL ASSEMBLY AS SPECIFIED IN
16 PARAGRAPH (a) OF THIS SUBSECTION (1) IS DISCOURAGED AND
17 DISFAVORED.

18 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS PART 6,
19 ANY EXISTING ELECTRONIC VOTING DEVICE OR ANY RELATED COMPONENT
20 TO THE DEVICE THAT WAS USED BY A POLITICAL SUBDIVISION IN
21 CONDUCTING THE 2008 GENERAL ELECTION MAY CONTINUE TO BE USED BY
22 THE POLITICAL SUBDIVISION ON AND AFTER THE EFFECTIVE DATE OF THIS
23 SECTION AS LONG AS THE DEVICE OR COMPONENT IS USED IN ACCORDANCE
24 WITH EITHER THE CONDITIONS OF USE UNDER WHICH THE DEVICE OR
25 COMPONENT WAS ORIGINALLY CERTIFIED FOR THE 2008 GENERAL
26 ELECTION OR IN ACCORDANCE WITH ALTERNATE CONDITIONS OF USE
27 ESTABLISHED BY THE SECRETARY OF STATE.

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

7 (b) SUBJECT TO THE REQUIREMENTS OF PARAGRAPH (a) OF THIS
8 SUBSECTION (3), IF A POLITICAL SUBDIVISION DESIRES TO PURCHASE A NEW
9 ELECTRONIC VOTING DEVICE OR SYSTEM OR ANY RELATED COMPONENT TO
10 SUCH DEVICE OR SYSTEM, THE POLITICAL SUBDIVISION SHALL SUBMIT A
11 WRITTEN APPLICATION TO THE SECRETARY OF STATE FOR APPROVAL OF
12 THE PURCHASE. THE APPLICATION SHALL BE MADE BY MEANS OF ANY
13 FORMS OR PROCEDURES ESTABLISHED BY THE SECRETARY. WITHIN THREE
14 BUSINESS DAYS OF RECEIVING THE APPLICATION, THE SECRETARY SHALL
15 GRANT OR DENY THE APPLICATION. IN REVIEWING THE APPLICATION, THE
16 SECRETARY SHALL CONSIDER, AMONG OTHER RELEVANT FACTORS, THE
17 TOTAL EFFECT OF THE PURCHASE AT ISSUE IN LIGHT OF OTHER PURCHASES
18 BY THE POLITICAL SUBDIVISION ON VOTING SYSTEMS OR COMPONENTS OF
19 SUCH SYSTEMS ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION AND
20 THE NEEDS OF THE POLITICAL SUBDIVISION. IN MAKING THE
21 DETERMINATION, THE SECRETARY SHALL PREVENT POLITICAL
22 SUBDIVISIONS FROM MAKING SUBSTANTIAL INVESTMENTS IN ALTERNATE
23 TECHNOLOGIES THAT WILL FRUSTRATE THE INTENT OF THE GENERAL
24 ASSEMBLY AS SPECIFIED IN SUBSECTION (1) OF THIS SECTION AND SHALL
25 CONSIDER, AMONG OTHER RELEVANT FACTORS:

26 (I) WHETHER THE PURCHASE IS INTENDED TO REPLACE DAMAGED
27 OR DEFECTIVE EQUIPMENT OR TO ACCOMMODATE AN INCREASE IN

1 POPULATION IN THE POLITICAL SUBDIVISION;

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

5 (III) A COMPARISON OF THE PURCHASE UNDER REVIEW WITH THE
6 AVERAGE CAPITAL EXPENDITURES BY THE POLITICAL SUBDIVISION ON THE
7 ADMINISTRATION OF ELECTIONS ON AN ANNUAL BASIS FOR THE FOUR
8 CONSECUTIVE YEARS PRIOR TO THE YEAR IN WHICH THE APPLICATION IS
9 SUBMITTED IN ORDER TO DISCOURAGE AN INVESTMENT IN TECHNOLOGY
10 WITH A LIMITED USEFUL LIFE IN ACCORDANCE WITH THE INTENT OF THE
11 GENERAL ASSEMBLY AS SPECIFIED IN SUBSECTION (1) OF THIS SECTION.

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

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

21 **1-5-801. Acquisition of voting systems - voter-verified paper**
22 **record.** (2) A political subdivision shall not acquire a voting device that
23 has been retrofitted to comply with this part 8 unless the voting device has
24 been certified by ~~an independent testing authority~~ and the secretary of
25 state.

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

1 **1-5-802. Use of voting systems - voter-verified paper record.**

2 (1) In addition to the other requirements of this article, the voting system
3 used in each primary, general, coordinated, or congressional district
4 vacancy election held in the state on and after January 1, 2010, shall have
5 the capability to produce a voter-verifiable paper record of each elector's
6 vote. Before an elector's vote is cast, the elector shall have the
7 opportunity, in private and without assistance, to inspect and verify that
8 the voter-verified paper record correctly reflects the elector's choices.
9 ANY POLITICAL SUBDIVISION THAT HAS NOT COMPLIED WITH THE
10 PROVISIONS OF THIS SECTION ON OR BEFORE JANUARY 1, 2009, SHALL
11 COMPLY WITH SUCH PROVISIONS BY JANUARY 1, 2014.

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

14 **1-7-514. Random audit.** (3) The secretary of state shall post the
15 reports of any completed audit or investigation received pursuant to
16 paragraph (c) of subsection (2) of this section on the official web site of
17 the department of state not later than ~~twenty-four hours~~ FIVE BUSINESS
18 DAYS after receiving the results of the completed audit or investigation.
19 The clerk and recorder of the affected county may timely post the results
20 of the completed audit or investigation on the official web site of the
21 county. ~~The secretary shall publish once in a newspaper of general~~
22 ~~circulation throughout the state notification to the public that the results~~
23 ~~have been posted on the department's web site.~~

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

27 **1-7-515. Risk-limiting audits - pilot program - rules -**

1 **legislative declaration - definitions.** (1) (a) THE GENERAL ASSEMBLY
2 HEREBY FINDS, DETERMINES, AND DECLARES THAT THE AUDITING OF
3 ELECTION RESULTS IS NECESSARY TO ENSURE EFFECTIVE ELECTION
4 ADMINISTRATION AND PUBLIC CONFIDENCE IN THE ELECTION PROCESS.
5 FURTHER, RISK-LIMITING AUDITS PROVIDE A MORE EFFECTIVE MANNER OF
6 CONDUCTING AUDITS THAN TRADITIONAL AUDIT METHODS IN THAT
7 RISK-LIMITING AUDIT METHODS TYPICALLY REQUIRE ONLY LIMITED
8 RESOURCES FOR ELECTION RACES WITH WIDE MARGINS OF VICTORY WHILE
9 INVESTING GREATER RESOURCES IN CLOSE RACES.

10 (b) BY ENACTING THIS SECTION, THE GENERAL ASSEMBLY INTENDS
11 THAT THE STATE MOVE TOWARDS AN AUDIT PROCESS THAT IS DEVELOPED
12 WITH THE ASSISTANCE OF STATISTICAL EXPERTS AND THAT RELIES UPON
13 RISK-LIMITING AUDITS MAKING USE OF BEST PRACTICES FOR CONDUCTING
14 SUCH AUDITS.

15 (2) (a) COMMENCING WITH THE 2014 GENERAL ELECTION AND
16 FOLLOWING EACH PRIMARY, GENERAL, COORDINATED, OR CONGRESSIONAL
17 VACANCY ELECTION HELD THEREAFTER, EACH COUNTY SHALL MAKE USE
18 OF A RISK-LIMITING AUDIT IN ACCORDANCE WITH THE REQUIREMENTS OF
19 THIS SECTION. RACES TO BE AUDITED SHALL BE SELECTED IN
20 ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE SECRETARY OF
21 STATE, AND ALL CONTESTED RACES SHALL BE ELIGIBLE FOR SUCH
22 SELECTION.

23 (b) UPON WRITTEN APPLICATION FROM A COUNTY, THE SECRETARY
24 OF STATE MAY WAIVE THE REQUIREMENTS OF PARAGRAPH (a) OF THIS
25 SUBSECTION (2) UPON A SUFFICIENT SHOWING BY THE COUNTY THAT THE
26 TECHNOLOGY IN USE BY THE COUNTY WILL NOT ENABLE THE COUNTY TO
27 SATISFY SUCH REQUIREMENTS IN PREPARATION FOR THE 2014 GENERAL

1 ELECTION.

2 (3) PRIOR TO THE 2010 PRIMARY ELECTION, THE SECRETARY OF
3 STATE SHALL ESTABLISH A PILOT PROGRAM IN SELECTED COUNTIES FOR
4 THE PURPOSE OF TESTING THE PROCEDURES AND TECHNICAL
5 REQUIREMENTS NECESSARY TO CONDUCT A RISK-LIMITING AUDIT IN
6 ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION. THE
7 SECRETARY SHALL WORK WITH EQUIPMENT VENDORS TO IDENTIFY
8 TECHNICAL MODIFICATIONS TO ELECTION EQUIPMENT THAT MAY BE
9 NECESSARY TO SUPPORT THE USE OF RISK-LIMITING AUDITS IN THE STATE.
10 THE SECRETARY SHALL DRAW UPON THE EXPERIENCES OF THE PILOT
11 PROGRAM IN MAKING FUTURE RECOMMENDATIONS FOR MODIFICATIONS TO
12 THIS CODE.

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

20 (5) AS USED IN THIS SECTION:

21 (a) "INCORRECT OUTCOME" MEANS AN OUTCOME THAT IS
22 INCONSISTENT WITH THE ELECTION OUTCOME THAT WOULD BE OBTAINED
23 BY CONDUCTING A FULL RECOUNT.

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

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