1              A bill to be entitled

2          An act relating to voting systems; amending s. 20.10,

3          F.S., relating to the organizational structure of the

4          Department of State; specifying that the Bureau of Voting

5          Systems Certification and the Bureau of Voting Systems

6          Security are located within the Division of Elections;

7          creating s. 101.018, F.S.; creating the Bureau of Voting

8          Systems Security for the purpose of ensuring the security

9          of voting systems used in the state; specifying the duties

10         of the bureau; requiring that the bureau provide a monthly

11         report to the director of the Division of Elections and

12         the Secretary of State; requiring that any identified

13         security problem be remedied within a specified period;

14         providing that a manufacturer that fails to remedy a

15         security problem is subject to a fine for each day of such

16         failure; authorizing the division to adopt emergency rules

17         following the failure of a manufacturer to remedy a

18         medium-level or high-level security problem which occurs

19         proximate to a primary or general election; amending s.

20         101.5606, F.S.; requiring that voting systems approved by

21         the Department of State allow the voter to correct an

22         error in voting; requiring that such systems produce a

23         paper record, be furnished with illumination, be equipped

24         with an audio-stimulus voting feature, and include a sip-

25         and-puff switch attachment; amending s. 101.5612, F.S.;

26         revising the testing requirements for electronic or

27         electromechanical voting systems that are configured to

28         include electronic or electromechanical tabulation

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29        devices; requiring that each device be tested; providing

30        effective dates.

31

32   Be It Enacted by the Legislature of the State of Florida:

33

34        Section 1.  Subsection (2) of section 20.10, Florida

35   Statutes, is amended to read:

36        20.10  Department of State.--There is created a Department

37   of State.

38        (2)  The following divisions of the Department of State are

39   established:

40        (a)  Division of Elections.

41        1.  Bureau of Voting Systems Certification.

42        2.  Bureau of Voting Systems Security.

43        (b)  Division of Historical Resources.

44        (c)  Division of Corporations.

45        (d)  Division of Library and Information Services.

46        (e)  Division of Cultural Affairs.

47        (f)  Division of Administration.

48        Section 2.  Section 101.018, Florida Statutes, is created

49   to read:

50        101.018  Bureau of Voting Systems Security.--

51        (1)  There is created a Bureau of Voting Systems Security

52   within the Division of Elections of the Department of State

53   which shall be responsible for ensuring the security of the

54   voting systems that are certified for use in this state.

55        (2)  The bureau shall:

56        (a)  Continuously test the hardware and software of the

57  voting systems for the purpose of identifying security problems.

58      (b)   Test any voting system in response to a credible

59  published report of security problems.

60      (c)   Notify the manufacturer of the voting system if a

61  security problem is identified.

62      (d)   Work with the manufacturer of the voting system to

63  develop a remedy for the identified security problem.

64      (3)   The bureau shall provide a monthly written report to

65  the director of the Division of Elections and the Secretary of

66  State for each certified voting system which must, at a minimum:

67      (a)   Identify each security problem;

68      (b)   Identify the source of any potential security breach

69  resulting from the problem as "external," such as a security

70  breach involving voters, or "internal," such as a security

71  breach involving employees of the supervisor of elections, poll

72  workers, or manufacturer's field representatives;

73      (c)   Detail the scenarios in which the potential threat

74  could be realized;

75      (d)   Discuss the likelihood of success for each of the

76  scenarios;

77      (e)   Identify the scope of the potential threat, detailing

78  factors such as the number of machines that might be impacted,

79  the number of votes that could be affected in a statewide

80  election, and the number of counties that could be affected; and

81      (f)   Based on paragraphs (a)-(e) and any other relevant

82  factors, classify the security threat posed by the problem as

83  "high," "medium," or "low."

84      (4)(a)   A security problem that is identified in the

85 bureau's report must be remedied within 60 days after the

86 manufacturer receives notice of the problem or 14 days before

87 the next regularly scheduled primary or general election,

88 whichever occurs first. A problem shall be considered remedied

89 when the bureau so certifies in writing to the division director

90 and, in the case of a high threat, to the Secretary of State.

91      (b)  Any manufacturer who fails to remedy a security

92 problem shall be fined $25,000 per day for each day following

93 the period specified in paragraph (a). In addition, if the

94 failure to remedy a medium-level or high-level security problem

95 is proximate to a scheduled primary or general election, the

96 division shall adopt emergency rules to protect the integrity of

97 the voting process.

98      Section 3.  Effective January 1, 2008, section 101.5606,

99 Florida Statutes, is amended to read:

100      101.5606  Requirements for approval of systems.--No

101 electronic or electromechanical voting system shall be approved

102 by the Department of State unless it is so constructed that:

103      (1)  It permits and requires voting in secrecy.

104      (2)  It permits each elector to vote at any election for

105 all persons and offices for whom and for which the elector is

106 lawfully entitled to vote, and no others; to vote for as many

107 persons for an office as the elector is entitled to vote for;

108 and to vote for or against any question upon which the elector

109 is entitled to vote.

110      (3)  It immediately rejects a ballot where the number of

111 votes for an office or measure exceeds the number which the

112 voter is entitled to cast or where the tabulating equipment

113    reads the ballot as a ballot with no votes cast.

114         (4)   For systems using marksense ballots, it accepts a
115    rejected ballot pursuant to subsection (3) if a voter chooses to
116    cast the ballot, but records no vote for any office that has
117    been overvoted or undervoted.

118         (5)   It is capable of correctly counting votes.

119         (6)   It permits each voter at a primary election to vote
120    only for the candidates seeking nomination by the political
121    party in which such voter is registered, for any candidate for
122    nonpartisan office, and for any question upon which the voter is
123    entitled to vote.

124         (7)   At presidential elections it permits each elector, by
125    one operation, to vote for all presidential electors of a party
126    or for all presidential electors of candidates for President and
127    Vice President with no party affiliation.

128         (8)   It provides a method for write-in voting.

129         (9)   It is capable of accumulating a count of the specific
130    number of ballots tallied for a precinct, accumulating total
131    votes by candidate for each office, and accumulating total votes
132    for and against each question and issue of the ballots tallied
133    for a precinct.

134         (10)   It is capable of tallying votes from ballots of
135    different political parties from the same precinct, in the case
136    of a primary election.

137         (11)   It is capable of automatically producing precinct
138    totals in printed, marked, or punched form, or a combination
139    thereof.

140         (12)   If it is of a type that which registers votes

141 electronically, it will permit each voter to privately and
142 independently change his or her vote for any candidate or upon
143 any question appearing on the official ballot, or correct any
144 error, up to the time that the voter takes the final step to
145 register his or her vote and to have the vote computed.
146     (13)  It is capable of providing records from which the
147 operation of the voting system may be audited.
148     (14)  It uses a precinct-count tabulation system.
149     (15)  It does not use an apparatus or device for the
150 piercing of ballots by the voter.
151     (16)  It produces and retains a voter-verified permanent
152 paper record having a manual audit capacity that records each
153 vote to be cast and that is viewed by the voter from behind a
154 window or other device before the ballot is cast.
155     (17)  It is furnished with illumination sufficient to
156 enable the voter to read the ballot while in the booth.
157     (18)  It is equipped with an audio-stimulus voting feature
158 that communicates the complete content of the ballot in a human
159 voice and permits a voter who is blind or visually impaired to
160 cast a secret ballot using, at the option of the voter, voice-
161 only or tactile-discernible controls.
162     (19)  It includes a sip-and-puff switch voting attachment.
163     Section 4.  Paragraph (a) of subsection (4) of section
164 101.5612, Florida Statutes, is amended to read:
165     101.5612  Testing of tabulating equipment.--
166     (4)(a)1.  For electronic or electromechanical voting
167 systems configured to include electronic or electromechanical
168 tabulation devices that which are distributed to the precincts,

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169 all ~~or a sample~~ of the devices to be used in the election shall

170 be publicly tested. ~~If a sample is to be tested, the sample~~

171 ~~shall consist of a random selection of at least 5 percent of the~~

172 ~~devices for an optical scan system or 2 percent of the devices~~

173 ~~for a touchscreen system or 10 of the devices for either system,~~

174 ~~as applicable, whichever is greater.~~ The test shall be conducted

175 by processing a group of ballots, causing the device to output

176 results for the ballots processed, and comparing the output of

177 results to the results expected for the ballots processed. The

178 group of ballots shall be produced so as to record a

179 predetermined number of valid votes for each candidate and on

180 each measure and to include for each office one or more ballots

181 which have activated voting positions in excess of the number

182 allowed by law in order to test the ability of the tabulating

183 device to reject such votes.

184         2.  If any tested tabulating device is found to have an

185 error in tabulation, it shall be deemed unsatisfactory. ~~For each~~

186 ~~device deemed unsatisfactory, the canvassing board shall take~~

187 ~~steps to determine the cause of the error, shall attempt to~~

188 ~~identify and test other devices that could reasonably be~~

189 ~~expected to have the same error, and shall test a number of~~

190 ~~additional devices sufficient to determine that all devices are~~

191 ~~satisfactory.~~ Upon deeming any device unsatisfactory, the

192 canvassing board may ~~require all devices to be tested or may~~

193 declare that all devices are unsatisfactory.

194         3.  If the operation or output of any tested tabulation

195 device, such as spelling or the order of candidates on a report,

196 is in error, such problem shall be reported to the canvassing

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197 board. The canvassing board shall then determine if the reported

198 problem warrants its deeming the device unsatisfactory.

199        Section 5.   Except as otherwise expressly provided in this

200 act, this act shall take effect July 1, 2006.