1   A bill to be entitled

2   An act relating to electronic voting systems;

3   amending s. 101.5603, F.S.; providing

4   definitions relating to electronic voting

5   systems; amending s. 101.5606, F.S.; providing

6   additional capabilities that an electronic

7   voting system must possess before being

8   approved for use; amending s. 101.56062, F.S.;

9   revising standards for accessible voting

10   systems; creating s. 101.56075, F.S.; providing

11   requirements for voting methods at polling

12   places; amending s. 101.591, F.S.; revising

13   procedures for audits of voting machines;

14   amending s. 102.166, F.S.; revising methods for

15   manual recounts of ballots; amending s. 97.021,

16   F.S.; revising cross-references; providing an

17   appropriation; providing effective dates.

18

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

20

21   Section 1. Section 101.5603, Florida Statutes, is

22   amended to read:

23   101.5603 Definitions relating to Electronic Voting

24   Systems Act.--As used in this act, the term:

25   (1) "Audit data" for a touchscreen voting device

26   consists of time-stamped recorded information that documents

27   the activities that occurred on the voting device in order to

28   verify or reconstruct the events without compromising the

29   ballot or voter secrecy. The audit data also includes the

30   electronic record of the random sequence of ballots cast by

31   voters who used that voting device.

 1   (2)(1) "Automatic tabulating equipment" includes
 2 apparatus necessary to automatically examine, count, and
 3 record votes.
 4   (3)(2) "Ballot" means the card, tape, or other media
 5 vehicle upon which the elector's choices are recorded.
 6   (4)(3) "Ballot information" means the material
 7 containing the names of offices and candidates and the
 8 questions to be voted on.
 9   (5) "Direct recording electronic voting method" means
10 an electronic voting method that uses electronic components
11 for the functions of ballot presentation, vote selection, vote
12 capture, vote recording, and tabulation which are logically
13 and physically integrated into a single unit. The unit may
14 include peripheral equipment such as a printer for zero and
15 results tapes and headphones. A direct recording electronic
16 voting method produces a tabulation of the voting data stored
17 in a removable memory component and in printed hard copy.
18   (6)(4) "Electronic or electromechanical voting system"
19 means a system of casting votes by use of voting devices or
20 marking devices and counting ballots by employing automatic
21 tabulating equipment or data processing equipment, and the
22 term includes touchscreen systems.
23   (7)(5) "Marking device" means any approved device for
24 marking a ballot with ink or other substance, including, but
25 not limited to, a pen, pencil, marker, or other device, which
26 will enable the ballot to be tabulated by means of automatic
27 tabulating equipment.
28   (8)(6) "Secrecy envelope" means an opaque device, used
29 for enclosing a marked ballot, which conceals the voter's
30 choices.
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 1   (9)(7) "Software" means the programs and routines used
 2   to employ and control the capabilities of data processing
 3   hardware, including, without limitation, operating systems,
 4   compilers, assemblers, utilities, library routines,
 5   maintenance routines, applications, and computer networking
 6   programs.
 7   (10) "Voter-verifiable paper audit record" means the
 8   individual permanent paper record produced by a direct
 9   recording electronic voting method which records each
10   selection on the ballot and allows the voter to confirm his or
11   her selections before the ballot is cast.
12   (11)(8) "Voting device" means an apparatus by which
13   votes are registered electronically.
14   Section 2. Section 101.5606, Florida Statutes, is
15   amended to read:
16   101.5606 Requirements for approval of systems.--An No
17   electronic or electromechanical voting system shall not be
18   approved by the Department of State unless it is so
19   constructed that:
20   (1) It permits and requires voting in secrecy.
21   (2) It permits each elector to vote at any election
22   for all persons and offices for whom and for which the elector
23   is lawfully entitled to vote, and no others; to vote for as
24   many persons for an office as the elector is entitled to vote
25   for; and to vote for or against any question upon which the
26   elector is entitled to vote.
27   (3) It immediately rejects a ballot when where the
28   number of votes for an office or measure exceeds the number
29   which the voter is entitled to cast or where the tabulating
30   equipment reads the ballot as a ballot with no votes cast.
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1   (4) For systems using marksense ballots, it accepts a
2 rejected ballot pursuant to subsection (3) if a voter chooses
3 to cast the ballot, but records no vote for any office that
4 has been overvoted or undervoted.
5   (5) It is capable of correctly counting votes.
6   (6) It permits each voter at a primary election to
7 vote only for the candidates seeking nomination by the
8 political party in which the ~~such~~ voter is registered, for any
9 candidate for nonpartisan office, and for any question upon
10 which the voter is entitled to vote.
11   (7) At presidential elections it permits each elector,
12 by one operation, to vote for all presidential electors of a
13 party or for all presidential electors of candidates for
14 President and Vice President with no party affiliation.
15   (8) It provides a method for write-in voting.
16   (9) It is capable of accumulating a count of the
17 specific number of ballots tallied for a precinct,
18 accumulating total votes by candidate for each office, and
19 accumulating total votes for and against each question and
20 issue of the ballots tallied for a precinct.
21   (10) It is capable of tallying votes from ballots of
22 different political parties from the same precinct, in the
23 case of a primary election.
24   (11) It is capable of automatically producing precinct
25 totals in printed or~~,~~ marked~~, or punched~~ form~~,~~ or a
26 combination thereof.
27   (12) If it is of a type that presents a ballot and
28 records votes electronically, makes a paper record for each
29 vote cast available. The voter verifiable paper audit record
30 must be linked to individual ballot images that have a unique
31 ascending or descending identifier.

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 1   (13)(12) If it is of a type that records which
 2 registers votes electronically, it will permit each voter to
 3 change his or her vote for any candidate or upon any question
 4 appearing on the official ballot up to the time that the voter
 5 takes the final step to record register his or her vote and to
 6 have the vote counted computed.
 7   (14)(13) It is capable of providing records from which
 8 the operation of the voting system may be audited.
 9   (15)(14) It uses a precinct-count tabulation system.
10   (16)(15) It does not use an apparatus or device for
11 the piercing of ballots by the voter.
12   (17) It provides standardized reporting of election
13 results as determined by the Department of State. The
14 Department of State shall adopt rules providing for reporting
15 election results.
16   Section 3. Section 101.56062, Florida Statutes, is
17 amended to read:
18   101.56062 Standards for accessible voting systems.--
19   (1) Notwithstanding anything in this chapter to the
20 contrary, each voting system certified by the Department of
21 State for use in local, state, and federal elections must
22 include the capability to install accessible voter interface
23 devices in the system configuration which will allow the
24 system to meet the following minimum standards:
25   (a) The voting system must provide a tactile input or
26 audio input device, or both.
27   (b) The voting system must provide a method by which
28 voters can confirm any tactile or audio input by having the
29 capability of audio output using synthetic or recorded human
30 speech that is reasonably phonetically accurate.
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1   (c) Any operable controls on the input device which
2   are needed for voters who are visually impaired must be
3   discernible tactilely without actuating the keys.
4   (d) Audio and visual access approaches must be able to
5   work both separately and simultaneously.
6   (d)(e) If a nonaudio access approach is provided, the
7   system may not require color perception. The system must use
8   black text or graphics, or both, on white background or white
9   text or graphics, or both, on black background, unless the
10   office of the Secretary of State approves other high-contrast
11   color combinations that do not require color perception.
12   (e)(f) Any voting system that requires any visual
13   perception must offer the election official who programs the
14   system, prior to its being sent to the polling place, the
15   capability to set the font size, as it appears to the voter,
16   from a minimum of 14 points to a maximum of 24 points.
17   (g) The voting system must provide audio information,
18   including any audio output using synthetic or recorded human
19   speech or any auditory feedback tones that are important for
20   the use of the audio approach, through at least one mode, by
21   handset or headset, in enhanced auditory fashion (increased
22   amplification), and must provide incremental volume control
23   with output amplification up to a level of at least 97 dB SPL.
24   (h) For transmitted voice signals to the voter, the
25   voting system must provide a gain adjustable up to a minimum
26   of 20 dB with at least one intermediate step of 12 dB of gain.
27   (i) For the safety of others, if the voting system has
28   the possibility of exceeding 120 dB SPL, then a mechanism must
29   be included to reset the volume automatically to the voting
30   system's default volume level after every use, for example
31   when the handset is replaced, but not before. Also, universal

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 1 | ~~precautions in the use and sharing of headsets should be~~
 2 | ~~followed.~~
 3 | (f)~~(j)~~ If sound cues and audible information such as
 4 | "beeps" are used, there must be ~~simultaneous~~ corresponding
 5 | visual cues and information.
 6 | (g)~~(k)~~ Controls and operable mechanisms must be
 7 | operable with one hand, including operability with a closed
 8 | fist, and operable without tight grasping, pinching, or
 9 | twisting of the wrist.
10 | (h)~~(l)~~ The force required to operate or activate the
11 | controls must be no greater than 5 pounds of force.
12 | (i)~~(m)~~ Voting booths must have voting controls at a
13 | minimum height of 36 inches above the finished floor with a
14 | minimum knee clearance of 27 inches high, 30 inches wide, and
15 | 19 inches deep, or the accessible voter interface devices must
16 | be designed so as to allow their use on top of a table to meet
17 | these requirements. Tabletop installations must include
18 | adequate privacy.
19 | (j)~~(n)~~ Any audio ballot must provide the voter with
20 | the following functionalities:
21 | 1. After the initial instructions that the system
22 | requires election officials to provide to each voter, the
23 | voter should be able to independently operate the voter
24 | interface through the final step of casting a ballot without
25 | assistance.
26 | 2. The voter must be able to determine the races that
27 | he or she is allowed to vote in and to determine which
28 | candidates are available in each race.
29 | 3. The voter must be able to determine how many
30 | candidates may be selected in each race.
31 |

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 1   4.   The voter must be able to have confidence that the
 2 physical or vocal inputs given to the system have selected the
 3 candidates that he or she intended to select.
 4   5.   The voter must be able to review the candidate
 5 selections that he or she has made.
 6   6.   Prior to the act of casting the ballot, the voter
 7 must be able to change any selections previously made and
 8 confirm a new selection.
 9   7.   The system must communicate to the voter the fact
10 that the voter has failed to vote in a race or has failed to
11 vote the number of allowable candidates in any race and
12 require the voter to confirm his or her intent to undervote
13 before casting the ballot.
14   8.   The system must prevent the voter from overvoting
15 any race.
16   9.   The voter must be able to input a candidate's name
17 in each race that allows a write-in candidate.
18   10. The voter must be able to review his or her
19 write-in input to the interface, edit that input, and confirm
20 that the edits meet the voter's intent.
21   11. There must be a clear, identifiable action that
22 the voter takes to "cast" the ballot. The system must make
23 clear to the voter how to take this action so that the voter
24 has minimal risk of taking the action accidentally but, when
25 the voter intends to cast the ballot, the action can be easily
26 performed.
27   12. Once the ballot is cast, the system must confirm
28 to the voter that the action has occurred and that the voter's
29 process of voting is complete.
30
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1   13. Once the ballot is cast, the system must preclude
2   the voter from modifying the ballot cast or voting or casting
3   another ballot.
4
5   The functionalities required in this paragraph for
6   certification may be satisfied by either the voting device or
7   by the entire voting system.
8   (2) Such voting system must include at least one
9   accessible voter interface device installed in each polling
10 place which meets the requirements of this section, except for
11 paragraph (1)(d).
12   (3) The Department of State may adopt rules in
13 accordance with s. 120.54 which are necessary to administer
14 this section.
15   Section 4. Effective July 1, 2008, section 101.56075,
16 Florida Statutes, is created to read:
17   101.56075 Voting methods.--
18   (1) Except as provided in subsection (2), all voting
19 at early voting sites and at polling places on election day
20 shall be by marksense ballot tabulated at the polling
21 location.
22   (2) In each polling place and early voting site, there
23 shall be at least one accessible voter interface device that
24 meets the requirements of s. 101.56062.
25   Section 5. Effective July 1, 2008, section 101.591,
26 Florida Statutes, is amended to read:
27   101.591 Voting system audit.--
28   (1) Immediately following each certification of
29 election, the supervisor of elections shall conduct a manual
30 audit in randomly selected precincts of the voting systems
31 used in the election as follows:

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 1   (a) The audit shall consist of a public manual tally
 2 of the votes cast for the first statewide race or issue on
 3 that ballot. If the election does not contain a statewide race
 4 or issue, the audit shall consist of a public tally of the
 5 first countywide, or in the instance of a municipal election,
 6 the first municipal race or issue on that ballot. The tally
 7 shall include election day, absentee, early voting,
 8 provisional, and overseas ballots in 2 percent of the
 9 precincts chosen at random by the county canvassing board or
10 the local board responsible for certifying the election. If 2
11 percent of the precincts are less than one whole precinct, the
12 audit shall be conducted in one precinct chosen at random by
13 the county canvassing board or the local board responsible for
14 certifying the election. Such precincts shall be selected at a
15 publicly noticed meeting of the county canvassing board or the
16 local board responsible for certifying the election.
17   (b) When selecting precincts, the county canvassing
18 board or the local board responsible for certifying the
19 election shall choose additional precincts to provide
20 alternative precincts if there was a malfunction of a
21 voter-verifiable paper record for a precinct. In the course of
22 the audit, if the precinct being audited shows a malfunction
23 in the voter-verifiable paper audit record, the canvassing
24 board shall audit the next alternative precinct.
25   (c) The audit shall be conducted using the marksense
26 ballots and the voter-verifiable paper audit records of
27 ballots cast by means of direct-recording electronic voting.
28   (d) The supervisor of elections shall provide public
29 notice before the beginning of the audit by posting notice in
30 four conspicuous places in the county.
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 1          (e)  The audit must be completed no later than the end
 2   of the 9th day following certification of the election by the
 3   county canvassing board.
 4          (2)  Within 15 days after completing the audit, the
 5   supervisor of elections shall provide a report to the
 6   department on the results of the audit of a county, state, or
 7   federal election in a standard format as prescribed by the
 8   department. An audit report for all other elections in the
 9   county shall be maintained by the supervisor of elections.
10          (3)  The department shall adopt rules to provide
11   uniform procedures for conducting audits under this section.
12          (1)  The Legislature, upon specific appropriation and
13   directive, may provide for an independent audit of the voting
14   system in any county. Within 30 days after completing the
15   audit, the person conducting the audit shall furnish a copy of
16   the audit to the supervisor of elections and the board of
17   county commissioners.
18          (2)  An audit conducted pursuant to subsection (1)
19   shall consist of a study and evaluation of the voting system
20   used during any primary, general, municipal, or presidential
21   preference primary election to provide reasonable assurance
22   that the system is properly controlled, can accurately count
23   votes, provides adequate safeguards against unauthorized
24   manipulation and fraud, and complies with the requirements of
25   law and rules of the Department of State.
26          Section 6.  Effective July 1, 2008, subsection (1) of
27   section 102.166, Florida Statutes, is amended to read:
28          102.166  Manual recounts.--
29          (1)  If the second set of unofficial returns pursuant
30   to s. 102.141 indicates that a candidate for any office was
31   defeated or eliminated by one-quarter of a percent or less of
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 1 the votes cast for such office, that a candidate for retention

 2 to a judicial office was retained or not retained by

 3 one-quarter of a percent or less of the votes cast on the

 4 question of retention, or that a measure appearing on the

 5 ballot was approved or rejected by one-quarter of a percent or

 6 less of the votes cast on such measure, the board responsible

 7 for certifying the results of the vote on such race or measure

 8 shall order a manual recount of the overvotes and undervotes

 9 cast in the entire geographic jurisdiction of such office or

10 ballot measure. A manual recount may not be ordered, however,

11 if the number of overvotes, undervotes, and provisional

12 ballots is fewer than the number of votes needed to change the

13 outcome of the election. A manual recount of votes recorded on

14 a direct recording electronic voting method shall be conducted

15 using the voter-verifiable paper audit record. For those

16 machines equipped with a voter-verifiable paper audit record

17 for the purposes of s. 101.56075(2), the voter-verifiable

18 paper audit record shall be considered the official ballot for

19 the manual recount. If there is a malfunction involving the

20 voter-verifiable paper audit record, the supervisor of

21 elections shall generate audit data. The supervisor of

22 elections shall compare the audit data and the

23 voter-verifiable paper audit record to determine any

24 discrepancies. If there are discrepancies, the supervisor

25 shall use the audit data as the official record for those

26 discrepancies only.

27   Section 7. Subsection (35) of section 97.021, Florida

28 Statutes, is amended to read:

29   97.021 Definitions.--For the purposes of this code,

30 except where the context clearly indicates otherwise, the

31 term:

1   (35) "Tactile input device" means a device that

2   provides information to a voting system by means of a voter

3   touching the device, such as a keyboard, and that complies

4   with the requirements of <u>s. 101.56062(1)(g) and (h)</u> ~~s.~~

5   ~~101.56062(1)(k) and (l)~~.

6   Section 8. <u>The sum of $35,678,060 is appropriated from</u>

7   <u>the Grants and Donations Trust Fund to the Division of</u>

8   <u>Elections within the Department of State for the purpose of</u>

9   <u>implementing the provisions of this act.</u>

10   Section 9. Except as otherwise expressly provided in

11 this act, this act shall take effect July 1, 2007.

12

13   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
                    COMMITTEE SUBSTITUTE FOR
14   <u>Senate Bill 1174</u>

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16 The committee substitute substantially differs from the
    original bill in that it: requires precinct-based optical
17 scan voting for all voters at early voting, except for
    disabled voters who may continue to vote on touchscreen
18 machines equipped with a voter verifiable paper audit trail
    (VVPAT); provides that if there is a discrepancy between the
19 VVPATs and the electronic audit record on the machine, the
    audit record shall be used for purposes of the manual recount
20 instead of the VVPATs; modifies the post-election, post
    certification audit requirements to require that the top race
21 on the ballot in 2% of the precincts be audited, instead of
    auditing all the races on the ballot in 4%-6% of precincts;
22 eliminates a criminal penalty for removing a VVPAT from the
    polling place; appropriates approximately $35.68 million from
23 the Grants and Donations Trust Fund.

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