A bill to be entitled
An act relating to voting systems; amending s. 97.021, F.S.; defining the term "automatic tabulating equipment" for purposes of the Florida Election Code; amending s. 101.5614, F.S.; revising procedures governing the canvassing of returns to specify usage of a voting system's automatic tabulating equipment; amending s. 102.141, F.S.; clarifying the circumstances under which ballots must be processed through automatic tabulating equipment in a recount; amending s. 102.166, F.S.; specifying the manner by which a manual recount may be conducted; revising requirements for hardware or software used in a manual recount; authorizing overvotes and undervotes to be identified and sorted physically or digitally in a manual recount; revising minimum requirements for Department of State rules to require procedures regarding the certification and use of automatic tabulating equipment for manual recounts; providing an effective date.

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

Section 1. Present subsections (5) through (45) of section 97.021, Florida Statutes, are renumbered as subsections (6)
through (46), respectively, and a new subsection (5) is added to that section, to read:

97.021 Definitions.—For the purposes of this code, except where the context clearly indicates otherwise, the term:

(5) "Automatic tabulating equipment" means an apparatus that automatically examines, counts, and records votes.

Section 2. Paragraph (a) of subsection (4) and subsections (6) and (7) of section 101.5614, Florida Statutes, are amended to read:

101.5614 Canvass of returns.—

(4)(a) If any vote-by-mail ballot is physically damaged so that it cannot properly be counted by the voting system's automatic tabulating equipment, a true duplicate copy shall be made of the damaged ballot in the presence of witnesses and substituted for the damaged ballot. Likewise, a duplicate ballot shall be made of a vote-by-mail ballot containing an overvoted race or a marked vote-by-mail ballot in which every race is undervoted which shall include all valid votes as determined by the canvassing board based on rules adopted by the division pursuant to s. 102.166(4). All duplicate ballots shall be clearly labeled "duplicate," bear a serial number which shall be recorded on the defective ballot, and be counted in lieu of the defective ballot. After a ballot has been duplicated, the defective ballot shall be placed in an envelope provided for that purpose, and the duplicate ballot shall be tallied with the
other ballots for that precinct.

(6) Vote-by-mail ballots may be counted by the voting system's automatic tabulating equipment if they have been marked in a manner which will enable them to be properly counted by such equipment.

(7) The return printed by the voting system's automatic tabulating equipment, to which has been added the return of write-in, vote-by-mail, and manually counted votes and votes from provisional ballots, shall constitute the official return of the election upon certification by the canvassing board. Upon completion of the count, the returns shall be open to the public. A copy of the returns may be posted at the central counting place or at the office of the supervisor of elections in lieu of the posting of returns at individual precincts.

Section 3. Paragraph (a) of subsection (7) of section 102.141, Florida Statutes, is amended to read:

102.141 County canvassing board; duties.—
(7) If the unofficial returns reflect that a candidate for any office was defeated or eliminated by one-half of a percent or less of the votes cast for such office, that a candidate for retention to a judicial office was retained or not retained by one-half of a percent or less of the votes cast on the question of retention, or that a measure appearing on the ballot was approved or rejected by one-half of a percent or less of the votes cast on such measure, a recount shall be ordered of the
votes cast with respect to such office or measure. The Secretary
of State is responsible for ordering recounts in federal, state,
and multicounty races. The county canvassing board or the local
board responsible for certifying the election is responsible for
ordering recounts in all other races. A recount need not be
ordered with respect to the returns for any office, however, if
the candidate or candidates defeated or eliminated from
contention for such office by one-half of a percent or less of
the votes cast for such office request in writing that a recount
not be made.

(a) Each canvassing board responsible for conducting a
recount shall put each marksense ballot through automatic
tabulating equipment and determine whether the returns correctly
reflect the votes cast. If any marksense ballot is physically
damaged so that it cannot be properly counted by the automatic
tabulating equipment during the recount, a true duplicate shall
be made of the damaged ballot pursuant to the procedures in s.
101.5614(4). Immediately before the start of the recount, a test
of the tabulating equipment shall be conducted as provided in s.
101.5612. If the test indicates no error, the recount tabulation
of the ballots cast shall be presumed correct and such votes
shall be canvassed accordingly. If an error is detected, the
cause therefor shall be ascertained and corrected and the
recount repeated, as necessary. The canvassing board shall
immediately report the error, along with the cause of the error
and the corrective measures being taken, to the Department of
State. No later than 11 days after the election, the canvassing
board shall file a separate incident report with the Department
of State, detailing the resolution of the matter and identifying
any measures that will avoid a future recurrence of the error.

If the automatic tabulating equipment used in a recount is not
part of the voting system and the ballots have already been
processed through such equipment, the canvassing board is not
required to put each ballot through any automatic tabulating
equipment again.

Section 4. Subsections (1), (2), and (5) of section
102.166, Florida Statutes, are amended to read:

102.166 Manual recounts of overvotes and undervotes.—
(1) If the second set of unofficial returns pursuant to s.
102.141 indicates that a candidate for any office was defeated
or eliminated by one-quarter of a percent or less of the votes
cast for such office, that a candidate for retention to a
judicial office was retained or not retained by one-quarter of a
percent or less of the votes cast on the question of retention,
or that a measure appearing on the ballot was approved or
rejected by one-quarter of a percent or less of the votes cast
on such measure, a manual recount of the overvotes and
undervotes cast in the entire geographic jurisdiction of such
office or ballot measure shall be ordered unless:

(a) The candidate or candidates defeated or eliminated

CODING: Words *stricken* are deletions; words *underlined* are additions.
from contention by one-quarter of 1 percent or fewer of the
votes cast for such office request in writing that a recount not
be made; or

(b) The number of overvotes and undervotes is fewer than
the number of votes needed to change the outcome of the
election.

The Secretary of State is responsible for ordering a manual
recount for federal, state, and multicounty races. The county
canvassing board or local board responsible for certifying the
election is responsible for ordering a manual recount for all
other races. A manual recount consists of a recount of marksense
ballots or of digital images of those ballots by a person.

(2)(a) Any hardware or software used to identify and sort
overvotes and undervotes for a given race or ballot measure must
be certified by the Department of State as part of the voting
system pursuant to s. 101.015. Any such hardware or software
must be capable of simultaneously counting votes.

(b) Overvotes and undervotes shall be identified and
sorted while recounting ballots pursuant to s. 102.141, if the
hardware or software for this purpose has been certified or the
department's rules so provide. Overvotes and undervotes may be
identified and sorted physically or digitally.

(5) Procedures for a manual recount are as follows:
(a) The county canvassing board shall appoint as many
counting teams of at least two electors as is necessary to manually recount the ballots. A counting team must have, when possible, members of at least two political parties. A candidate involved in the race shall not be a member of the counting team.

(b) Each duplicate ballot prepared pursuant to s. 101.5614(4) or s. 102.141(7) shall be compared with the original ballot to ensure the correctness of the duplicate.

(c) If a counting team is unable to determine whether the ballot contains a clear indication that the voter has made a definite choice, the ballot shall be presented to the county canvassing board for a determination.

(d) The Department of State shall adopt detailed rules prescribing additional recount procedures for each certified voting system which shall be uniform to the extent practicable. The rules shall address, at a minimum, the following areas:

1. Security of ballots during the recount process;
2. Time and place of recounts;
3. Public observance of recounts;
4. Objections to ballot determinations;
5. Record of recount proceedings; and
6. Procedures relating to candidate and petitioner representatives; and
7. Procedures relating to the certification and the use of automatic tabulating equipment that is not part of a voting system.
Section 5. This act shall take effect July 1, 2019.