Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

State of Arkansas
85th General Assembly
Regular Session, 2005

By: Representatives Kidd, Sumpter, Berry, Blair, Bolin, Cook, D. Creekmore, Davenport, D. Evans, George, Glidewell, Hardwick, Harrelson, Harris, J. Johnson, M. Martin, Mathis, Medley, Overbey, Petrus, Pickett, Pyle, Reep, L. Smith, Thompson, Thyer, Wills, Wyatt

By: Senators Altes, T. Smith, Steele

For An Act To Be Entitled
AN ACT CONCERNING DIRECT READ ELECTRONIC VOTING MACHINES AND VOTER VERIFIED PAPER TRAILS; AND FOR OTHER PURPOSES.

Subtitle
AN ACT CONCERNING DIRECT READ ELECTRONIC VOTING MACHINES AND VOTER VERIFIED PAPER TRAILS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 7-5-504 is amended to read as follows:

7-5-504. Machine specifications.

No make of voting machines shall be approved for use unless it is so constructed that:

(1) It will ensure secrecy to the voter in the act of voting;
(2) It shall provide facilities for voting for or against as many questions as may be submitted;
(3) It shall permit the voter to vote separately for the candidate of his choice for each office or position to be voted upon and to vote separately on each issue to be decided by election;
(4) It shall permit the voter to vote for as many persons for an office for whom he is lawfully entitled to vote, but no more;
(5) It shall prevent the voter from voting for the same
candidate or question more than once;

(6) It shall permit the voter to vote for or against any question on which he may have the right to vote, but no other;

(7) When used in primary elections, it shall be so equipped that the election officials can lock out all candidate counters except those of the voter’s party by a single adjustment on the outside of the machine;

(8) It shall be so equipped and constructed that at all elections all unused vote indicators or devices may be effectively locked out against use;

(9) It shall correctly register and record and accurately count all votes cast for any and all persons and for or against any and all questions;

(10) It shall be provided with a protective counter or tabulator or protective devices to prevent any unauthorized operation of the machine before or after the election;

(11) It shall be provided with a counter or tabulator which shall show at all times during the election how many persons have voted;

(12) The machine shall be so equipped and constructed with a lock or locks which cannot be made inoperative so that after the polls have opened, if at any time for any reason the results are exposed, further operation of the machine will be automatically prevented;

(13) Each precinct shall be supplied with a mechanical model illustrating the manner of voting on the machine and suitable for the instruction of voters;

(14) It will permit a voter to vote for all the candidates for presidential electors of any party by one (1) operation;

(15) It will permit a voter to vote in any election for any person for whom he wishes to vote when the person’s name does not appear upon the voting machine;

(16) It bears a number that will distinguish it from any other machine;

(17) It shall be provided with a lighting device which shall give sufficient light to enable voters while voting to read the ballots and which shall be suitable for use by the commissioners or committee in examining the counters or tabulators, and it shall be provided with a screen, hood, or curtain which shall be so made and adjusted as to conceal the voter
while voting;

(18) It may be either manually or electrically operated. An electric machine must be capable of being operated either manually or from an alternate power source should the need arise;

(19) The frames in which ballot labels are placed shall be constructed with transparent protective devices in order that the names thereon cannot be mutilated or altered; and

(20) It may be equipped with a device which embosses, prints, or photographs the numbers registered on the counters. The device shall produce a proof sheet prior to the opening of the polls to provide accurate proof of machine setup and a return record in a minimum of three (3) copies which provides totals for each candidate, question, amendment, and public counter, and the serial number of the machine; and

(21) (A) If the machine is a direct read electronic voting machine, it shall include a voter verified paper audit trail as provided under § 7-5-532.

SECTION 2. Arkansas Code Title 7, Chapter 5 is amended to add an additional section to read as follows:

7-5-532. Direct read electronic voting machines.

(a) For purposes of this section:

(1) “Direct electronic voting machine” means a voting machine that:

(A) Records votes by means of a ballot display provided with mechanical or electro-optical components that may be actuated by the voter;

(B) Process the data by means of a computer program;

(C) Records voting data and ballot images in internal or external memory components; and

(D) Produces a tabulation of the voting data stored in a removable memory component and in printed copy; and

(2) “Voter verified paper audit trail” means a contemporaneous paper record of a ballot printed for the voter to confirm his or her votes before the voter casts his or her ballot.

(b) The State Board of Election Commissioners or the county board of election commissioners shall not purchase or procure a direct recording
electronic voting machine that does not include a voter verified paper audit trail.

(c)(1) All direct recording electronic voting machines in use on or after January 1, 2006 shall include a voter verified paper audit trail, except for those direct recording electronic voting machines in use during the 2004 general election.

(2) All direct recording electronic voting machines purchased on or after the effective date of this section shall include a voter verified paper audit trail.

(d) A direct read electronic voting machine with a voter verified paper audit trail shall meet the following conditions:

(1) The voter verified paper audit trail shall be verified by the voter before the casting of the voter’s ballot;

(2) The voter verified paper audit trail shall not be retained by the voter;

(3) The voter verified paper audit trail shall not contain individual voter information;

(4) The paper used in producing the voter verified paper audit trail shall be sturdy, clean, and resistant to degradation; and

(5) The voter verified paper audit trail shall be readable in a manner that makes the voter’s ballot choices obvious to the voter without the use of computer or electronic code.

(e)(1) For any recount of an election in which ballots are cast using a direct recording electronic voting machine with a voter verified paper audit trail, the voter verified paper audit trail shall serve as the official ballot to be recounted.

(2) Voter verified paper audit trails shall be preserved in the same manner and for the same time period as ballots and certificates are preserved under § 7-5-702.

/s/ Kidd