January 19, 2016

VIA MESSENGER

Office of the Attorney General
Attention: Ashley Johansson, Initiative Coordinator
1300 "I" Street
Sacramento, CA 95814

RE: Submission of Amendment to Statewide Initiative Measure - the Election Data Security & Military Ballot Access Act – Version II, No. 15-0118

Dear Ms. Johansson:

As you know, I am the proponent of the proposed statewide initiative, the "Election Data Security & Military Ballot Access Act." I am enclosing the following documents:

- The amended text of the "Election Data Security & Military Ballot Access Act – Version II."
- A red-line version showing the changes made in the amended text.
- Signed authorization from myself as the proponent for submission of the amended text together with a request that the Attorney General's Office prepare a circulating title and summary using the amended text.

Please continue to direct all inquiries or correspondence relative to this proposed initiative to me at the address listed below:

Lance H. Olson
Olson, Hagel & Fishburn LLP
555 Capitol Mall, Suite 1425
Sacramento, CA 95814

Very truly yours,

OLSON HAGEL & FISHBURN LLP

LANCE H. OLSON

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SECTION 1. TITLE.

This act shall be known and may be cited as the "Election Data Security & Military Ballot Access Act – Version II"

SECTION 2. FINDINGS AND DECLARATIONS.

The people of the State of California hereby make the following findings and declare their purpose in enacting this act as follows:

(1) The current vote by mail system can be improved. It is subject to potential fraud and abuse, and it often prevents some voters from exercising their fundamental right to vote, particularly our military serving overseas. Without sufficient time to return their ballots by mail, thousands of military ballots are not returned and many of those that are returned are not counted. Further, military voters are often asked to waive their constitutional right to a secret ballot in order to vote in a timely fashion via fax. In addition, the current signature verification process for vote by mail ballots results in many potentially valid ballots not getting counted because the voter's signature changes over time, with many Californians never knowing that their vote did not count.

(2) Voter turnout is dropping and fewer voters are making it to the polls on Election Day. Vote by mail has helped but does not rely on current security methods and encryption technology, and for California to reverse the trends of the last century we must be allowed to explore the use of today's technology to increase turnout.

(3) In today's modern world, we should never need to compromise our military men and women's right to cast a secret ballot to have that vote count. Once certified to be as secure as, or more secure than, existing voting systems, new ways of allowing voters to cast a ballot more conveniently will improve voter turnout.

(4) To ensure fair elections where every valid vote counts, we need to study existing voting systems and evaluate modern methods for improving and enhancing security to those systems. Empowering the state and local governments to utilize tools that are at least as secure as existing voting systems, we can provide a more secure and accurate method of counting votes.

(5) This measure establishes a nonpartisan commission of our foremost experts in cyber security and encryption technology to work with elections administration officials to certify a voting system with at least as much security as current vote by mail system. The commission will not require permanent funding, but will be subsumed by the Secretary of State's office upon completion of its duties. This serves the public interest for a more secure and accessible elections system without creating additional bureaucracy in the long run.

(6) That voting system will allow California's military serving overseas to vote instantaneously and securely without sacrificing their right to a secret ballot, and eventually will extend to all California voters. Millions of Californians have the opportunity to vote electronically: 44 of the state's 58 counties use electronic voting at polling locations and transmit the results of those elections electronically.

(7) That voting system will establish built-in accountability to verify a voter's identity and ensure that the correct person is casting their vote, and maintain a paper trail for audit as needed and required by Federal law. It will establish more oversight than any voting system California has ever put in place. Improved voter verification will allow more valid votes to be counted.

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(8) That voting system will further remove existing hurdles to voting and will particularly enfranchise parents and workers without flexible schedules on Election Day, ensuring everyone has an equal chance to participate in our elections.

(9) This measure will ultimately save taxpayers money by reducing the costs of administering and conducting elections.

SECTION 3. PURPOSE AND INTENT.

The people of the State of California declare that this act is intended to do the following:

(a) To strengthen the election security of California's elections and ensure that every method utilized by Californians to vote is as secure as it can be.

(b) To ensure that all eligible Californians have an equal ability to cast their vote without delay and without sacrificing their right to a private ballot, including overseas voters, military serving overseas, disabled voters and emergency workers whose responsibilities may take them away from their homes.

(c) To focus on the future of voting in California and ensure that any systems employed are current, secure and transparent.

(d) To ensure that our foremost experts in elections administration and scientific expertise in cryptography and cyber security are working together to guarantee the security of our elections.

(e) To guarantee that all votes are recorded and counted correctly and are verifiable.

SECTION 4. DEFINITIONS

Section 300 of the Elections Code is hereby amended to read as follows:

§ 300. "Vote by mail voter" and "Military or overseas voter" definitions.

(a) "Vote by mail voter" means any voter casting a ballot in any way other than at the polling place.

(b) "Military ~~or overseas~~ voter" means an elector absent from the county in which he or she is otherwise eligible to vote who is any of the following:

(1) A member of the active or reserve components of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; a Merchant Marine; a member of the United States Public Health Service Commissioned Corps; a member of the National Oceanic and Atmospheric Administration Commissioned Corps of the United States; or a member on activated status of the National Guard or state militia.

~~(2) A citizen of the United States living outside of the territorial limits of the United States or the District of Columbia.~~

(3*2*) A spouse or dependent of a person described in paragraph (1).

(c) "Overseas voter" means an elector absent from the county in which he or she is otherwise eligible to vote who is a citizen of the United States living outside of the territorial limits of the United States or the District of Columbia.

(d) "Military or overseas voter" means either a military voter as described in subdivision (b) or an overseas voter as described in subdivision (c).

Section 301 of the Elections Code is hereby amended to read as follows:

§ 301. "Ballot" definition.

A "ballot" means any of the following:
(a) A single card with prescored, number positions that is marked by the voter with a punching device and the accompanying reference page or pages containing the names of candidates and the ballot titles of measures to be voted on with numbered positions corresponding to the numbers on the card.
(b) One or more cards upon which are printed the names of the candidates and the ballot titles of measures to be voted on by punching or marking in the designated area.
(c) One or more sheets of paper upon which are printed the names of candidates and the ballot titles of measures to be voted on by marking the designated area and that are tabulated manually or by optical scanning equipment.
(d) A large sheet of paper upon which is printed the names of candidates and ballot titles of measures to be voted on by pressing the designated area on a direct-recording electronic device.
(e) An electronic touchscreen upon which appears the names of candidates and ballot titles of measures to be voted on by touching the designated area on the screen of a direct-recording electronic device.
(f) A vote by mail ballot returned using software and procedures for secure electronic submission of vote by mail ballots certified by the Election Data Security Commission for use statewide pursuant to subdivision (c) of Section 2603..

Section 321 of the Elections Code is hereby amended to read as follows:

§ 321. "Elector" definition.

(a) "Elector" means any person who is a United States citizen 18 years of age or older and, except as specified in subdivision (b), is a resident of an election precinct at least 15 days prior to an election.
(b) "Elector" also means any person described ~~in paragraph (2) of~~ subdivision (~~b~~c) of Section 300, who, except for the residence requirement specified in subdivision (a), is eligible to vote in this state and meets any of the following conditions:
(1) He or she was a resident of this state when he or she was last living within the territorial limits of the United States or the District of Columbia.
(2) He or she was born outside of the United States or the District of Columbia, his or her parent or legal guardian was a resident of this state when the parent or legal guardian was last living within the territorial limits of the United States or the District of Columbia, and he or she has not previously registered to vote in any other state.
(c) Each person qualifying as an elector under subdivision (b) shall be deemed to be a resident of this state for purposes of this code and Section 2 of Article II of the California Constitution.

Section 322.5 is hereby added to the Elections Code to read as follows:

§ 322.5. "Electronic submission" definition.

"Electronic submission" or "electronically submit" means that a voter submits a vote by mail ballot using software and procedures for secure electronic submission of vote by mail ballots certified by the Election Data Security Commission for use statewide pursuant to subdivision (c) of section 2603.

Section 355 of the Elections Code is hereby amended to read as follows:

§ 355. "Software" definition.

"Software" includes all programs, voting devices, cards, ballot cards or papers, operating manuals or instructions, test procedures, printouts, and other nonmechanical or nonelectoral items necessary to the operation of a voting system. *"Software" also includes any program or programs for secure electronic submission of vote by mail ballots certified by the Election Data Security Commission for use statewide pursuant to subdivision (c) of Section 2603.*

Section 358 of the Elections Code is hereby amended to read as follows:

§ 358. "Vote tabulating device" definition.

"Vote tabulating device" means any piece of equipment, other than a voting machine, that compiles a total of votes cast by means of ballot card sorting, ballot card reading, paper ballot scanning, electronic data processing, *software for secure electronic submission of vote by mail ballots certified by the Election Data Security Commission for use statewide pursuant to subdivision (c) of Section 2603,* or a combination of that type of equipment.

Section 360 of the Elections Code is hereby amended to read as follows:

§ 360. "Voting device" definition.

"Voting device" means any device used in conjunction with a ballot ~~card or cards~~ to indicate the choice of the voter by marking, punching, or slotting the ballot ~~card.~~ *or selecting the choice of the voter using software for secure electronic submission of vote by mail ballots certified by the Election Data Security Commission for use statewide pursuant to subdivision (c) of Section 2603.*

Section 361 of the Elections Code is hereby amended to read as follows:

§ 361. "Voting machine" definition.

"Voting machine" means any electronic device, including, but not limited to, a precinct optical scanner, ~~and~~ a direct recording voting system *or software for secure electronic submission of vote by mail ballots certified by the Election Data Security Commission for use statewide*

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pursuant to subdivision (c) of Section 2603, into which a voter may enter his or her votes, and which, by means of electronic tabulation and generation of printouts or other tangible, human-readable records, furnishes a total of the number of votes cast for each candidate and for or against each measure.

Section 362 of the Elections Code is hereby amended to read as follows:

§ 362 "Voting system" definition.

"Voting system" means a mechanical, electromechanical, or electronic system and its software, *including software for secure electronic submission of vote by mail ballots certified by the Election Data Security Commission for use statewide pursuant to subdivision (c) of section 2603,* or any combination of these used for casting a ballot, tabulating votes, or both. "Voting system" does not include a ballot marking system.

SECTION 5. ELECTION DATA SECURITY COMMISSION

Division 3.5 (commencing with Section 2600) is hereby added to the Elections Code to read as follows:

§ 2600. Establishment; Membership; Appointments; Terms of office.

(a) There is hereby established in state government the Election Data Security Commission.
(b) The Commission shall be nonpartisan and comprised of experts in voting systems, voting system security, conduct of elections, computer system security, or encryption technology.
(c) The Commission shall have seven (7) members, including the chair.
(d) The Secretary of State shall serve as the Chair.
(e) The other six (6) members shall be citizens of the United States and shall be appointed by the Governor.
(f) Members of the Commission, other than the chairman, shall serve at the pleasure of the Governor and shall serve without compensation except for reimbursement of reasonable travel expenses related to their duties.
(g) Two years following the certification of the software and procedures for electronic submission of vote by mail ballots pursuant to subdivision (c) of Section 2603, the Commission shall cease to exist. The Secretary of State shall assume the duties and responsibilities of the Commission, including any required updates of the software and procedures for electronic submission of vote by mail ballots and any required updates to regulations governing escrow accounts holding certified source code. Any remaining funds of the Commission shall revert to the general fund of the State of California. Any remaining assets or other tangible inventory of the Commission shall revert to the Secretary of State's office.
(h) Members of the Commission shall be deemed public officials as defined in Government Code Section 82048 and shall be subject to the conflict of interest provisions in Section 87100 and Section 1090 of the Government Code, subject to the following exceptions:

(1) The adoption of standards for secure electronic submission of vote by mail ballots and the certification of software and procedures for statewide use by the Commission shall not be considered governmental decisions subject to Section 87100.

(2) A governmental decision, including approval of a contract, that has an effect on the member's industry, trade, profession or other identifiable interest represented on the Commission shall not be considered a financial interest under Section 87100 or Section 1090 so long as there is no unique effect on the member's interests.

(3) If a member of the Commission is an officer or employee of a company or owns stock in a company, the Commission may enter into a contract with the company so long as the interested member discloses his or her interest to the Commission, has the interest noted in the official records of the Commission and disqualifies himself or herself from participating in the decision or attempting to influence the decision in any way.

(i) The Commission shall adopt a Conflict of Interest Code pursuant to Section 87300 of the Government Code requiring disclosure of income and investments related to voting systems, voting system security, conduct of elections, computer system security, and encryption technology. This code is not subject to review by the Fair Political Practices Commission. Notwithstanding Section 87302.6 of the Government Code, members of the Commission shall, within 30 days of assuming office, file a statement disclosing his or her income and investments related to voting systems, voting system security, conduct of elections, computer system security, and encryption technology received during the 12 months before assuming office. A member of the Commission shall file his or her statements pursuant to Section 87302 of the Government Code once the agency adopts a Conflict of Interest Code.

(j) The California Public Records Act, Article 1 (commencing with Section 6250) of Chapter 3.5 of Division 7 of Title 1 of the Government Code shall apply to all records of the Commission except any records related to source code for electronic submission of vote by mail ballots. No later than 10 business days after the Commission certifies software and procedures for secure electronic submission of vote by mail ballots pursuant to subdivision (c) of Section 2603, the Commission shall cause an exact copy of the approved source code for each component of the electronic submission system to be transferred directly from the Commission and deposited into an approved escrow facility. The materials deposited in escrow shall include build and configuration instructions and documents so that a neutral third party may create, from the source code in escrow, executable object codes identical to the code used for the electronic submission system.

(1) The Election Data Security Commission shall adopt regulations relating to all of the following:

(A) The definition of source code components for the electronic submission system, including source code for all firmware and software. Firmware and software shall include commercial off-the-shelf or other third-party firmware and software that is used by the electronic submission system.

(B) Specifications for the escrow facility, including security and environmental specifications necessary for the preservation of the source code.

(C) Procedures for submitting the source code.

(D) Criteria for access to the source code.

(2) The Election Data Security Commission or the Secretary of State shall have reasonable access to the materials placed in escrow, under any of the following circumstances:

(A) In the course of an investigation or prosecution regarding vote counting or ballot marking equipment or procedures.

(B) Upon a finding by the Secretary of State that an escrow facility or escrow company is unable or unwilling to maintain materials in escrow in compliance with this section or regulations adopted by the Election Data Security Commission.

(C) In order to fulfill the provisions of this chapter related to updating the electronic submission system.

(D) In order to verify that the software used by a county is identical to the certified version.

(E) For any other purpose deemed necessary to fulfill the provisions of this code or Section 12172.5 of the Government Code.

(3) The Secretary of State may seek injunctive relief requiring the elections officials, approved escrow facility, or any vendor or manufacturer of a voting system or part of a voting system to comply with this section and related regulations. Venue for a proceeding under this section shall be exclusively in Sacramento County.

(k) The Bagley-Keene Open Meeting Act, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, shall apply to all meetings of the Commission.

(l) The Administrative Procedures Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to any rulemaking by the Commission.

Section 2601.1 is hereby added to the Elections Code to read as follows:

§ 2600.1 Funding

(a) The Legislature shall appropriate funds from the General Fund of the State of California up to $1,000,000 per calendar year for establishment and ongoing operations of the Election Data Security Commission. (b) The Legislature shall appropriate funds from the General Fund of the State of California to the Secretary of State for use by the Election Data Security Commission in the amount of twenty million dollars ($20,000,000) by July 1, 2017 or upon adoption of the 2017-2018 state budget, whichever occurs later, to cover the costs of the Election Data Security Commission in carrying out its duties under Sections 2601, 2602 and 2603 of the Elections Code. Provided, however, no more than five percent (5%) of the funds appropriated by the Legislature pursuant this subdivision shall be used to pay administrative costs. For purposes of this section, the State Controller shall define administrative costs. The Controller shall allocate from the twenty million dollars ($20,000,000) appropriated to the Secretary of State to reimburse the Department of General Services for services provided pursuant to section 2601 and to reimburse the Controller for services provided pursuant to this subdivision. (c) The Legislature shall appropriate funds from the General Fund of the State of California to reimburse counties for the costs of implementing secure electronic submission of vote by mail ballots pursuant to Section 2604.

(d) The Legislature shall appropriate funds from the General Fund of the State of California to the Secretary of State for use by the Commission, and for use by the Secretary of State once the commission ceases to exist pursuant to subdivision (g) of section 2600, to pay ongoing costs associated with maintenance of the system developed and certified for secure electronic submission of vote by mail ballots.

Section 2601 is hereby added to the Elections Code to read as follows:

§ 2601. Staffing and Procurement Authority

(a) The Commission is authorized to hire an Executive Director exempt from the civil service under Article VII, sec. 4 (e) of the California Constitution who shall serve at the pleasure of the Commission. The Commission shall set the salary for the Executive Director, which shall not exceed the salary of the Director of the Department of Technology as published by the Department of Human Resources in the Exempt Pay Scale. The Commission is authorized to hire such staff as it deems necessary to carry out the Commission's duties.

(b) The Commission is authorized, in its independent discretion, to contract with such consultants and vendors as it deems necessary to carry out the Commission's duties as described in Sections 2602 and 2603. Any contract entered into pursuant to this section shall be exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code; Part 1, Chapter 5.6 (commencing with Section 11545) of Title 2, Division 3 of the Government Code; and any implementing regulations, including, without limitation, those stated in the State Contracting Manual and the State Administrative Manual. The Secretary of State is authorized to assume any such contractual obligations or benefits continuing after the time the Commission ceases to exist.

(c) When contracting for services other than the development of a system for secure electronic submission of vote by mail ballots, the Commission shall use a competitive process to enable the timely acquisition of services to meet the Commission's needs in the most value-effective manner, which process shall include the following:

(1) The Commission shall prepare a solicitation document which shall include a clear, precise description of the work to be performed or services to be provided; a description of the format that bids or proposals shall follow and the elements they shall contain; the standards the Commission will use in evaluating and scoring bids or proposals; the date on which bids or proposals are due; and the timetable the Commission will follow in reviewing and evaluating them. If the Commission will score factors other than price, then the solicitation document shall require bidders to submit proposals with the bid price and all cost information in a separate, sealed envelope, and the results of the evaluation of non-cost factors shall be published immediately before the opening of cost proposals.

(2) The solicitation document shall not be drafted in a manner that limits the bidding directly or indirectly to any one bidder.

(3) At least ten (10) working days prior to the deadline to submit bids or proposals, the Commission shall advertise the contract in the California State Contracts Register and solicit all potential contractors known to the Commission. The Commission shall not release its solicitation document prior to publication of notice in the California State Contracts Register.

(4) The Commission shall issue a notice of intent to award to all bidders or proposers at least five (5) working days prior to awarding the contract. At that time, all bids or proposals shall be available for public inspection.

(5) If, prior to contract award, any bidder files a protest with the Commission against the awarding of the contract on the ground that its bid or proposal should have been selected in accordance with the selection criteria in the solicitation document, then the following procedure, at a minimum, shall apply:

(A) The contract shall not be awarded until either the protest has been withdrawn or the Commission has made a final decision on the protest.

(B) Within five (5) calendar days after filing a protest, the protesting bidder shall file with the Commission a full and complete written statement specifying in detail the grounds of the protest and the facts in support thereof.

(C) The proposal evaluation team shall respond in writing to the written statement detailing the grounds of protest.

(D) The Commission shall issue a written decision on the protest. No Commission member that participated in the evaluation or scoring of bids or proposals or selection of the intended awardee shall participate in deciding the protest.

(6)The Department of General Services, Office of Legal Services, shall be available to advise the Commission.

(d) In procuring software development services for secure electronic submission of vote by mail ballots, an expedited negotiation process is necessary to identify different types of solutions to fulfill the business need or purpose and to ensure that the State is receiving the best value. The Commission shall use a competitive process to select its software development contractor. The Department of General Services shall be available to advise the Commission and participate in negotiations, if and to the extent requested. The Commission's competitive process shall comply with the following:

(1) The Commission shall use a negotiated procurement process substantially similar to that provided for in State Contracting Manual, Volume 3, Chapter 2, Topic 5, Section 2.C5.5.

(2)Prior to crafting its solicitation document, the Commission shall solicit and consider input from interested individuals and groups with respect to best practices for developing similar software systems, maintaining cyber security, and other appropriate topics. Such input may be solicited concurrent with, or as part of, the evaluation of existing systems under subdivision (a) of Section 2602.

(A) Any input received by the Commission shall be a public record subject to disclosure under the California Public Records Act.

(B) Providing input shall not constitute a conflict of interest or otherwise disqualify any potential bidder, unless the bidder provides input under a contract with the Commission for such input.

(3) Based on a request for qualifications noticed in the California State Contracts Register, the Commission shall prequalify bidders to submit proposals based on objective criteria assessing experience on similar projects; financial capabilities; and past performance problems or terminations, including suspension or debarment. The Commission shall not disqualify any bidder solely on the ground that the bidder has not previously developed a system for secure electronic submission of vote by mail ballots.

(4) The Commission shall provide for a process by which potential bidders may protest the request for qualifications or the solicitation document prior to submittal deadlines on the ground that the request or solicitation is unfairly restrictive, ambiguous, or contains conflicting provisions or mistakes. Failure to protest any such concern will waive the potential bidder's right to raise such grounds in a protest of a contract award.

(5) The 5 percent small business preference provided for in Chapter 6.5 (commencing with Section 14835) of Part 5.5 of Division 3 of Title 2 of the Government Code and the regulations implementing that chapter shall apply.

(6) A disabled veteran business enterprise preference of not less than 3 percent, as provided for in Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and

Veterans Code and the regulations implementing that article, shall apply.
(7) If bidders are permitted to submit a Best and Final Offer (BAFO) to the Commission, they shall be permitted to base the BAFO on contract language negotiated with any bidder.
(8) After completing negotiations, the Commission shall issue a notice of intent to award to all bidders identifying the successful proposer.
(9) The Commission shall not adopt an administrative process for protests of the results of the negotiations. An unsuccessful bidder may file a petition for a writ of mandate in accordance with Section 1085 of the Code of Civil Procedure to challenge any contract award. The venue shall be Sacramento, California. Any writ of mandate challenging an award shall be filed within ten (10) days of the notice of intent to award. Failure of a bidder to file a writ of mandate within the specified time shall waive any right to challenge the award. The hearing on any writ of mandate challenging the award shall occur no later than ninety (90) days after the writ petition is filed.
(e) In exercising its contracting authority and without compliance with the above contracting procedures, the Commission may use contracting vehicles established under Public Contract Code sections 10290.1 and/or 12101.5, such as master agreements or multiple award schedule contracts, including California Multiple Award Schedule contracts or federal General Service Administration Multiple Awards Schedules.

Section 2602 is hereby added to the Elections Code to read as follows:

§ 2602. Evaluation of existing systems; Development of standards.

(a) The Commission shall evaluate the integrity and security of all existing voting systems and the integrity and security of all data collected and transmitted by all existing voting systems, provided, however, the Commission shall not undertake a full certification or recertification of any voting systems as provided for in Division 19. The Commission shall specifically evaluate the integrity and security of current vote by mail and electronic voting systems and shall report on the security and secrecy of votes submitted by military voters. The Commission shall issue a report no later than December 31, 2018 summarizing the results of this evaluation and identifying any voting systems or statutes that should be amended to safeguard the results of elections and guarantee that voters choices are kept secure and private, particularly the votes of military voters. This report shall be submitted to the Secretary of State and the Legislature and shall also be made available to the public on the Internet website maintained by the Secretary of State or the Commission or both no later than December 31, 2018.
(b) The Commission shall develop and approve rigorous standards for secure electronic submission of vote by mail ballots, including standards for electronic verification of voter identity, voter verification of ballot choices and canvassing of ballots that are electronically submitted, that are as secure as or more secure than the standards applicable to the return of unencrypted vote by mail ballots no later than December 31, 2019. The standards developed and approved by the Commission shall provide for secure and secret voting by military voters. The purpose of these standards is to ensure the fullest possible integrity and security of votes returned by electronic submission.
(c) The standards developed by the Commission pursuant to subdivision (b) may be updated from time to time as the Commission deems necessary to ensure the security of electronic submission

of vote by mail ballots. After the Commission ceases to exist, the Secretary of State shall assume responsibility for updating these standards.

Section 2603 is hereby added to the Elections Code to read as follows:

§ 2603. Pilot programs; Certification

(a) The Commission shall develop software and procedures for voters to electronically submit vote by mail ballots and for elections officials to canvass vote by mail ballots that are electronically submitted that comply with the standards adopted pursuant to subdivision (b) of Section 2602. The software and procedures developed under this subdivision shall comply with Section 21081 of Title 52 of the United States Code.

(b) The Commission shall conduct pilot programs for military voters as defined subdivision (b) of Section 300 to test the software and procedures developed pursuant to subdivision (a). Pilot programs may commence once the Commission approves standards for secure electronic submission of vote by mail ballots pursuant to subdivision (b) of Section 2602, including but not limited to any special election held after that date, and shall commence no later than the statewide general election to be held in November of 2022. The Commission shall select counties to participate in pilot programs for military voters conducted pursuant to this subdivision giving preference to counties that volunteer to participate in pilot programs. The pilot program shall be consistent with existing Federal law applicable to military voters, including but not limited to, Chapter 203 of Title 52 of the United States Code. The pilot programs conducted pursuant to this subdivision shall safeguard the results of elections and guarantee that vote returned by military voters by secure electronic submission are secure and secret.

(c) Upon completion of pilot programs provided for in subdivision (b), the Commission shall evaluate the software and procedures used to conduct the pilot programs against the standards developed pursuant to subdivision (b) of Section 2602. If these standards are satisfied, the Commission shall certify the software and procedures for secure electronic submission of vote by mail ballots and canvassing ballots electronically submitted for use statewide. If these standards are not satisfied, the Commission shall update the software and procedures for additional pilot programs pursuant to subdivision (b). The Commission shall continue this process until pilot programs satisfy the standards developed pursuant to subdivision (b) of Section 2602.

Section 2604 is hereby added to the Elections Code to read as follows:

§ 2604. Electronic submission of vote by mail ballots.

Each elections official in the State of California is required to provide for secure electronic submission of vote by mail ballots using the software and procedures developed by the Commission pursuant to subdivision (b) of Section 2603 no later than the next election held in that jurisdiction not less than 120 days after the Commission certifies software and procedures for use statewide pursuant to subdivision (c) of Section 2603.

SECTION 6. ELECTRONIC SUBMISSION OF VOTE BY MAIL BALLOTS

Section 3005 of the Elections Code is hereby amended to read as follows:

§ 3005. Mailed ballot precinct.

(a) Whenever, on the 88th day before the election, there are 250 or less persons registered to vote in any precinct, the elections official may furnish each voter with a vote by mail ballot along with a statement that there will be no polling place for the election. The elections official shall also notify each voter of the location of the two nearest polling places in the event the voter chooses to return the ballot on election day. The voter shall not be required to file an application for the vote by mail ballot and the ballot shall be sent as soon as the ballots are available.
(b)The statement provided to each voter pursuant to subdivision (a) shall include a notice that the voter is eligible to return his or her vote by mail ballot by secure electronic submission. This notice is only required once the Election Data Security Commission certifies software and procedures for secure electronic submission of vote by mail ballots for use statewide pursuant to subdivision (c) of Section 2603.
(c) No precinct shall be divided in order to conform to this section.

Section 3006 of the Elections Code is hereby amended to read as follows:

§ 3006. Form of printed application for vote by mail ballot.

(a) A printed application that is to be distributed to a voter for requesting a vote by mail voter's ballot shall inform the voter that the application for the vote by mail voter's ballot must be received by the elections official not later than seven days prior to the date of the election and shall contain spaces for the following:
(1) The printed name and residence address of the voter as it appears on the affidavit of registration.
(2) The address to which the ballot is to be mailed.
(3) The voter's signature.
(4) The name and date of the election for which the request is to be made.
(b) (1) The information required by paragraphs (1) and (4) of subdivision (a) may be preprinted on the application. The information required by paragraphs (2) and (3) of subdivision (a) shall be personally affixed by the voter.
(2) An address, as required by paragraph (2) of subdivision (a), may not be the address of a political party, a political campaign headquarters, or a candidate's residence. However, a candidate, his or her spouse, immediate family members, and any other voter who shares the same residence address as the candidate may request that a vote by mail ballot be mailed to the candidate's residence address.
(3) An application that contains preprinted information shall contain a conspicuously printed statement substantially similar to the following: "You have the legal right to mail or deliver this application directly to the local elections official of the county where you reside."
(4) A printed vote by mail application that allows a voter to submit the application by mail shall inform the voter of the address for the elections official and specify that address as the only appropriate destination address for mailing the application. Nothing in this subdivision shall be construed to prohibit an individual, organization, or group that distributes applications for vote

by mail voter ballots from collecting or receiving applications from voters, as described in Section 3008, by means other than having the applications mailed directly to the address of the distributing individual, organization, or group.

(c) The application shall inform the voter that if he or she has declined to disclose a preference for a political party, the voter may request a vote by mail ballot for a particular political party for the partisan primary election, if that political party has adopted a party rule, duly noticed to the Secretary of State, authorizing that vote. The application shall contain a toll-free telephone number, established by the Secretary of State, that the voter may call to access information regarding which political parties have adopted such a rule. The application shall contain a checkoff box with a conspicuously printed statement that reads substantially similar to the following: "I have declined to disclose a preference for a qualified political party. However, for this primary election only, I request a vote by mail ballot for the _____ Party." The name of the political party shall be personally affixed by the voter.

(d) The application shall provide the voter with information concerning the procedure for establishing permanent vote by mail voter status, and the basis upon which permanent vote by mail voter status is claimed.

(e) The application shall provide the voter with a notice that upon approval of the application the voter is eligible to return his or her vote by mail ballot by secure electronic submission. This notice is only required once the Election Data Security Commission certifies software and procedures for secure electronic submission of vote by mail ballots for use statewide pursuant to subdivision (c) of Section 2603.

~~(e)~~ *(f)* The application shall be attested to by the voter as to the truth and correctness of its content, and shall be signed under penalty of perjury.

Section 3007.5 of the Elections Code is hereby amended to read as follows:

§ 3007.5. Secretary of State to prepare uniform electronic application for a vote by mail ballot.

(a) The Secretary of State shall prepare and distribute to appropriate elections officials a uniform electronic application format for a vote by mail voter's ballot that conforms to this section.

(b) The uniform electronic application shall inform the voter that the application for the vote by mail voter's ballot must be received by the elections official not later than seven days prior to the date of the election and shall contain spaces for at least the following information:

(1) The name and residence address of the registered voter as it appears on the affidavit of registration.

(2) The address to which the ballot is to be mailed.

(3) The name and date of the election for which the request is made.

(4) The date of birth of the registered voter.

(c) The uniform electronic application shall inform the voter that if he or she has declined to disclose a preference for a political party, the voter may request a vote by mail ballot for a particular political party for the partisan primary election, if that political party has adopted a party rule, duly noticed to the Secretary of State, authorizing that vote. The application shall contain a toll-free telephone number, established by the Secretary of State, that the voter may call to access information regarding which political parties have adopted such a rule. The application shall list the parties that have notified the Secretary of State of the adoption of such a

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rule. The application shall contain a checkoff box with a conspicuously printed statement that reads substantially similar to the following: "I have declined to disclose a preference for a qualified political party. However, for this primary election only, I request a vote by mail ballot for the ____ Party." The name of the political party shall be personally affixed by the voter.

(d) The uniform electronic application shall contain a conspicuously printed statement substantially similar to the following: "Only the registered voter himself or herself may apply for a vote by mail ballot. An application for a vote by mail ballot made by a person other than the registered voter is a criminal offense."

(e) The uniform electronic application shall include a statement substantially similar to the following: "A ballot will not be sent to you if this application is incomplete or inaccurate."

(f) The uniform electronic application shall provide the voter with a notice that upon approval of the application the voter is eligible to return his or her vote by mail ballot by secure electronic submission. This notice is only required once the Election Data Security Commission certifies software and procedures for secure electronic submission of vote by mail ballots for use statewide pursuant to subdivision (c) of Section 2603.

(f) (g) The uniform electronic application format shall not permit the form to be electronically submitted unless all of the information required to complete the application is contained in the appropriate fields.

Section 3007.8 of the Elections Code is hereby amended to read as follows:

§ 3007.8 Apply for a vote by mail voter's ballot by phone.

(a) A local elections official may offer a voter the ability to apply for a vote by mail voter's ballot by telephone.

(b) To apply by telephone, the applicant shall provide to the elections official personal identifying information that matches the information contained on the applicant's affidavit of registration, including first and last name, home address, and date of birth. The applicant's signature shall not be required.

(c) A person shall not apply for a vote by mail voter's ballot pursuant to this section using the name of, or on behalf of, another person.

(d) Prior to being asked for personal identifying information, an applicant applying for a vote by mail voter's ballot pursuant to this section shall be advised as follows:
"Only the registered voter himself or herself may apply for a vote by mail ballot. An application for a vote by mail ballot that is made by any person other than the registered voter is a criminal offense."

(e) Except as otherwise provided in this section, all provisions of this code governing written applications for vote by mail voters' ballots shall apply to applications made by telephone.

(f) Upon completion of the application by telephone, the voter shall be advised as follows: "If your vote by mail application is approved, you are eligible to return your vote by mail ballot by secure electronic submission." This notice is only required once the Election Data Security Commission certifies software and procedures for secure electronic submission of vote by mail ballots for use statewide pursuant to subdivision (c) of Section 2603.

Section 3009.5 is hereby added to the Elections Code to read as follows:

§ 3009.5. *Automatic eligibility to electronically submit vote by mail ballot.*

Any voter who submits an application to vote by mail that is approved by an elections official is automatically eligible to return that vote by mail ballot by secure electronic submission. This Section goes into effect 120 days after the date that the Commission certifies the software and procedures for secure electronic submission of vote by mail ballots for use statewide pursuant to subdivision (c) of Section 2603.

Section 3010 of the Elections Code is hereby amended to read as follows:

§ 3010. Supplies delivered to applicant.

The elections official shall deliver to each qualified applicant:
(a) The ballot for the precinct in which he or she resides. In primary elections this shall also be accompanied by the ballot for the central committee of the party for which the voter has disclosed a preference, if any.
(b) All supplies necessary for the use and return of the ballot *and any identification information necessary for the voter to access the secure electronic submission software once the Election Data Security Commission certifies software and procedures for use statewide pursuant to subdivision (c) of Section 2603.*
No officer of this state may make any charge for services rendered to any voter under this chapter.

Section 3017 of the Elections Code is hereby amended to read as follows:

§ 3017. Return of voted ballot.

(a) All vote by mail ballots cast under this division shall be voted on or before the day of the election. ~~After marking the ballot, t~~The vote by mail voter shall do any of the following: (1) return the ballot by mail or in person to the elections official from whom it came, (2) return the ballot in person to a member of a precinct board at a polling place within the jurisdiction, ~~or~~ (3) return the ballot to the elections official from whom it came at a vote by mail ballot drop-off location, if provided pursuant to Section 3025 *or (4) return the completed ballot by secure electronic submission using software and procedures certified by the Election Data Security Commission for use statewide pursuant to subdivision (c) of Section 2603 once that certification occurs and is adopted in the voter's county.* However, a vote by mail voter who is unable to return the ballot may designate his or her spouse, child, parent, grandparent, grandchild, brother, sister, or a person residing in the same household as the vote by mail voter to return the ballot to the elections official from whom it came or to the precinct board at a polling place within the jurisdiction. The ballot must, however, be received by either the elections official from whom it came or the precinct board before the close of the polls on election day.
(b) The elections official shall establish procedures to ensure the secrecy of a ballot returned to a precinct polling place and the security, confidentiality, and integrity of any personal information collected, stored, or otherwise used pursuant to this section.

(c) On or before March 1, 2008, the elections official shall establish procedures to track and confirm the receipt of voted vote by mail ballots and to make this information available by means of online access using the county's elections division Internet Web site. If the county does not have an elections division Internet Web site, the elections official shall establish a toll-free telephone number that may be used to confirm the date a voted vote by mail ballot was received.

(d) The provisions of this section are mandatory, not directory, and a ballot shall not be counted if it is not delivered in compliance with this section.

(e) Notwithstanding subdivision (a), a vote by mail voter's ballot shall not be returned by a paid or volunteer worker of a general purpose committee, controlled committee, independent expenditure committee, political party, candidate's campaign committee, or any other group or organization at whose behest the individual designated to return the ballot is performing a service. However, this subdivision does not apply to a candidate or a candidate's spouse.

Section 3019 of the Elections Code is hereby amended to read as follows:

§ 3019. Comparing Signatures.

(a) Upon receipt of a vote by mail ballot, *returned by mail or in person,* the elections official shall compare the signature on the identification envelope with either of the following to determine if the signatures compare:

(1) The signature appearing on the voter's affidavit of registration or a previous affidavit of registration of the voter.

(2) The signature appearing on a form issued by an elections official that contains the voter's signature and that is part of the voter's registration record.

(b) In comparing signatures pursuant to subdivision (a), the elections official may use the duplicate file of affidavits of registered voters or facsimiles of voters' signatures if the method of preparing and displaying the facsimiles complies with the law.

(c) (1) If upon conducting the comparison of signatures pursuant to subdivision (a) the elections official determines that the signatures compare, he or she shall deposit the ballot, still in the identification envelope, in a ballot container in his or her office.

(2) If upon conducting the comparison of signatures pursuant to subdivision (a) the elections official determines that the signatures do not compare, the identification envelope shall not be opened and the ballot shall not be counted. The cause of the rejection shall be written on the face of the identification envelope.

(d) The variation of a signature caused by the substitution of initials for the first or middle name, or both, shall not be grounds for the elections official to determine that the signatures do not compare.

(e) In comparing signatures pursuant to this section, an elections official may use signature verification technology. If signature verification technology determines the signatures do not compare, the elections official shall not reject the ballot unless he or she visually examines the signatures and verifies that the signatures do not compare.

(f) (1) (A) Notwithstanding any other law, if an elections official determines that a voter has failed to sign the identification envelope, the elections official shall not reject the vote by mail ballot if the voter does any of the following:

(i) Signs the identification envelope at the office of the elections official during regular business

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hours before 5 p.m. on the eighth day after the election.

(ii) Before 5 p.m. on the eighth day after the election, completes and submits an unsigned ballot statement in substantially the following form:

<div align="center">"UNSIGNED BALLOT STATEMENT</div>

I, _____, am a registered voter of _____ County,
State of California. I do solemnly swear (or affirm) that I requested and returned a vote by mail ballot and that I have not and will not vote more than one ballot in this election. I understand that if I commit or attempt any fraud in connection with voting, or if I aid or abet fraud or attempt to aid or abet fraud in connection with voting, I may be convicted of a felony punishable by imprisonment for 16 months or two or three years. I understand that my failure to sign this statement means that my vote by mail ballot will be invalidated.

☐ Voter's Signature
☐ Address"

(iii) Before the close of the polls on election day, completes and submits an unsigned ballot statement, in the form described in clause (ii), to a polling place within the county or a ballot dropoff box.

(B) If timely submitted, the elections official shall accept any completed unsigned ballot statement. Upon receipt of the unsigned ballot statement, the elections official shall compare the voter's signature on the statement in the manner provided by this section.

(i) If the elections official determines that the signatures compare, he or she shall attach the unsigned ballot statement to the identification envelope and deposit the ballot, still in the identification envelope, in a ballot container in his or her office.

(ii) If the elections official determines that the signatures do not compare, the identification envelope shall not be opened and the ballot shall not be counted.

(C) An elections official may use methods other than those described in subparagraph (A) to obtain a voter's signature on an unsigned identification envelope.

(2) Instructions shall accompany the unsigned ballot statement in substantially the following form:

<div align="center">"READ THESE INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE STATEMENT. FAILURE TO FOLLOW THESE INSTRUCTIONS MAY CAUSE YOUR BALLOT NOT TO COUNT.</div>

1. In order to ensure that your vote by mail ballot will be counted, your statement should be completed and returned as soon as possible so that it can reach the elections official of the county in which your precinct is located no later than 5 p.m. on the eighth day after the election.

2. You must sign your name on the line above (Voter's Signature).

3. Place the statement into a mailing envelope addressed to your local elections official. Mail, deliver, or have delivered the completed statement to the elections official. Be sure there is sufficient postage if mailed and that the address of the elections official is correct.

4. Alternatively, you may submit your completed statement by facsimile transmission to your local elections official, or submit your completed statement to a polling place

within the county or a ballot dropoff box before the close of the polls on election day.

(3) An elections official shall include the unsigned ballot statement and instructions described in this subdivision on his or her Internet Web site, and shall provide the elections official's mailing address and facsimile transmission number on the Internet Web page containing the statement and instructions.

(g) A ballot shall not be removed from its identification envelope until the time for processing ballots. A ballot shall not be rejected for cause after the identification envelope has been opened.

(h) This section shall take effect immediately and be superseded on the date the Secretary of State certifies that the state has a statewide voter registration database that complies with the requirements of the federal Help America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.)

Section 3019 of the Elections Code is hereby amended to read as follows:

§ 3019. Comparing Signatures.

(a) Upon receipt of a vote by mail ballot, *returned by mail or in person,* the elections official shall compare the signature on the identification envelope with either of the following to determine if the signatures compare:

(1) The signature appearing on the voter's affidavit of registration or any previous affidavit of registration of the voter.

(2) The signature appearing on a form issued by an elections official that contains the voter's signature and that is part of the voter's registration record.

(b) In comparing signatures pursuant to subdivision (a), the elections official may use facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with the law.

(c) (1) If upon conducting the comparison of signatures pursuant to subdivision (a) the elections official determines that the signatures compare, he or she shall deposit the ballot, still in the identification envelope, in a ballot container in his or her office.

(2) If upon conducting the comparison of signatures pursuant to subdivision (a) the elections official determines that the signatures do not compare, the identification envelope shall not be opened and the ballot shall not be counted. The cause of the rejection shall be written on the face of the identification envelope.

(d) The variation of a signature caused by the substitution of initials for the first or middle name, or both, shall not be grounds for the elections official to determine that the signatures do not compare.

(e) In comparing signatures pursuant to this section, an elections official may use signature verification technology. If signature verification technology determines the signatures do not compare, the elections official shall not reject the ballot unless he or she visually examines the signatures and verifies that the signatures do not compare.

(f) (1) (A) Notwithstanding any other law, if an elections official determines that a voter has failed to sign the identification envelope, the elections official shall not reject the vote by mail ballot if the voter does any of the following:

(i) Signs the identification envelope at the office of the elections official during regular business hours before 5 p.m. on the eighth day after the election.

(ii) Before 5 p.m. on the eighth day after the election, completes and submits an unsigned ballot statement in substantially the following form:

"UNSIGNED BALLOT STATEMENT

I, _____, am a registered voter of _____ County,
State of California. I do solemnly swear (or affirm) that I requested and returned a vote by mail ballot and that I have not and will not vote more than one ballot in this election. I understand that if I commit or attempt any fraud in connection with voting, or if I aid or abet fraud or attempt to aid or abet fraud in connection with voting, I may be convicted of a felony punishable by imprisonment for 16 months or two or three years. I understand that my failure to sign this statement means that my vote by mail ballot will be invalidated.
☐   Voter's Signature
☐   Address"

(iii) Before the close of the polls on election day, completes and submits an unsigned ballot statement, in the form described in clause (ii), to a polling place within the county or a ballot dropoff box.
(B) If timely submitted, the elections official shall accept any completed unsigned ballot statement. Upon receipt of the unsigned ballot statement, the elections official shall compare the voter's signature on the statement in the manner provided by this section.
(i) If the elections official determines that the signatures compare, he or she shall attach the unsigned ballot statement to the identification envelope and deposit the ballot, still in the identification envelope, in a ballot container in his or her office.
(ii) If the elections official determines that the signatures do not compare, the identification envelope shall not be opened and the ballot shall not be counted.
(C) An elections official may use methods other than those described in subparagraph (A) to obtain a voter's signature on an unsigned identification envelope.
(2) Instructions shall accompany the unsigned ballot statement in substantially the following form:

"READ THESE INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE STATEMENT. FAILURE TO FOLLOW THESE INSTRUCTIONS MAY CAUSE YOUR BALLOT NOT TO COUNT.

1. In order to ensure that your vote by mail ballot will be counted, your statement should be completed and returned as soon as possible so that it can reach the elections official of the county in which your precinct is located no later than 5 p.m. on the eighth day after the election.
2. You must sign your name on the line above (Voter's Signature).
3. Place the statement into a mailing envelope addressed to your local elections official. Mail, deliver, or have delivered the completed statement to the elections official. Be sure there is sufficient postage if mailed and that the address of the elections official is correct.
4. Alternatively, you may submit your completed statement by facsimile transmission to your local elections official, or submit your completed statement to a polling place within the county or a ballot dropoff box before the close of the polls on election day.
(3) An elections official shall include the unsigned ballot statement and instructions described in

this subdivision on his or her Internet Web site, and shall provide the elections official's mailing address and facsimile transmission number on the Internet Web page containing the statement and instructions.

(g) A ballot shall not be removed from its identification envelope until the time for processing ballots. A ballot shall not be rejected for cause after the identification envelope has been opened.

(i) This section shall take effect on the date the Secretary of State certifies that the state has a statewide voter registration database that complies with the requirements of the federal Help America Vote Act of 2002 (52 U.S.C. Sec. 20901 et seq.).

Section 3019.1 is hereby added to the Elections Code to read as follows:

§ 3019.1. Verifying ballots electronically submitted.

The elections official shall verify voters who electronically submit their vote by mail ballots using electronic verification of voter identity certified for use statewide by the Election Data Security Commission pursuant to subdivision (c) of Section 2603.

Section 3021 of the Elections Code is hereby amended to read as follows:

§ 3021. Request for vote by mail ballot after period for requesting

(a) After the close of the period for requesting vote by mail voter ballots by mail any voter unable to go to the polls because of illness or disability resulting in his or her confinement in a hospital, sanatorium, nursing home, or place of residence, or any voter unable because of a physical handicap to go to his or her polling place or because of that handicap is unable to vote at his or her polling place due to existing architectural barriers at his or her polling place denying him or her physical access to the polling place, voting booth, or voting apparatus or machinery, or any voter unable to go to his or her polling place because of conditions resulting in his or her absence from the precinct on election day may request in a written statement, signed under penalty of perjury that a ballot be delivered to him or her. This written statement shall not be required if the vote by mail ballot is voted in the office of the elections official as defined by subdivision (b) of Section 3018, at the time of the request. This ballot shall be delivered by the elections official to any authorized representative of the voter who presents this written statement to the elections official.

(b) Before delivering the ballot the elections official may compare the signature on the request with the signature on the voter's affidavit of registration, but in any event, the signature shall be compared before the vote by mail ballot is canvassed.

*(c)*The voter shall *do either of the following:*

(1) mark the ballot, place it in the identification envelope, fill out and sign the envelope and return the ballot, personally or through the authorized representative, to either the elections official or any polling place within the jurisdiction.

(2) complete and return the ballot by secure electronic submission using software and procedures certified by the Election Data Security Commission for use statewide pursuant to subdivision (c) of Section 2603 once that certification occurs and is adopted in the voter's county.

(d) These ballots shall be processed and counted in the same manner as other vote by mail ballots.

Section 3021.5 of the Elections Code is hereby amended to read as follows:

§ 3021.5 Out-of-state emergency workers.

(a) Upon the declaration of an out-of-state emergency by the Governor and the issuance of an executive order authorizing an out-of-state emergency worker to cast a ballot outside of his or her home precinct, a county elections official shall, upon request of an out-of-state emergency worker pursuant to this chapter, issue a vote by mail ballot to the out-of-state emergency worker using a process to be determined by that elections official. The process shall include all of the following:

(1) Authorization for an out-of-state emergency worker to request a vote by mail ballot after the close of the vote by mail ballot application period specified in Section 3001.

(2) Authorization for a vote by mail ballot and accompanying voting materials to be sent to an out-of-state emergency worker by mail, facsimile transmission, or electronic transmission, as requested by the out-of-state emergency worker. An elections official may use reasonable facsimiles of the sample ballots sent to voters as vote by mail ballots.

(3) A requirement that an out-of-state emergency worker *do either of the following:*

(A) mark the vote by mail ballot provided to him or her, place it in the vote by mail ballot identification envelope, and return the vote by mail ballot to the elections official from whom it was obtained. If no identification envelope is provided, the envelope used to return the vote by mail ballot to the elections official shall include the information required by subdivision (a) of Section 3011 and a statement signed under penalty of perjury that the voter is an out-of-state emergency worker.

(B) complete and return the ballot by secure electronic submission using software and procedures certified by the Election Data Security Commission for use statewide pursuant to subdivision (c) of Section 2603 once that certification occurs and is adopted in the voter's county.

(b) In order to be counted, a vote by mail ballot cast pursuant to this section shall be received in compliance with Section 3020.

(c) An elections official shall receive and canvass vote by mail ballots cast pursuant to this section by the same procedure as for all other vote by mail ballots cast pursuant to this chapter.

Section 3404 of the Elections Code is hereby amended to read as follows:

§ 3404. Procedure for voting.

The new resident shall *do either of the following:*

(a) mark the ballot, place it in the identification envelope, and fill out and sign the declaration printed on the identification envelope.

(b) complete and return the ballot by secure electronic submission using the software and procedures certified by the Election Data Security Commission for use statewide pursuant to

subdivision (c) of Section 2603 once that certification occurs and is adopted in the voter's county.

Section 4102 of the Elections Code is hereby amended to read as follows:

§ 4102. Notice regarding return of voted ballot.

(a) The elections official may include in the mailings set forth in Section 4101 a printed notice to the voters informing the voters that they may return the voted ballot by certified or registered mail. *This subdivision shall remain in effect until the Election Data Security Commission certifies software and procedures for secure electronic submission of vote by mail ballots for statewide use pursuant to subdivision (c) of Section 2603.*
(b) The elections official shall include in the mailings set forth in Section 4101 a printed notice to voters informing the voters that they may return the voted ballot by certified or registered mail or by secure electronic submission and shall include instructions on secure electronic submission of the vote by mail ballot. This subdivision shall become effective once the Election Data Security Commission certifies software and procedures for secure electronic submission of vote by mail ballots for use statewide pursuant to subdivision (c) of Section 2603.

Section 10735 of the Elections Code is hereby amended to read as follows:

§ 17035. Special election due to a catastrophe.

(a) (1) In the case of a special election due to a catastrophe that causes a vacancy in at least 101 offices of the United States House of Representatives, the county elections official shall, to the greatest extent practicable, deliver vote by mail ballots requested pursuant to Chapter 2 (commencing with Section 3101) of Division 3 not later than 15 days after the date on which the Speaker of the United States House of Representatives announces the vacancy.
(2) In the case of a special election due to a catastrophe that causes a vacancy in at least one-fourth of the total offices of the United States House of Representatives representing California but not a vacancy in at least 101 of the offices of the United States House of Representatives, the county elections official shall, to the greatest extent practicable, deliver vote by mail ballots requested pursuant to Chapter 2 (commencing with Section 3101) of Division 3 not later than 15 days after the date on which the Governor issues the proclamation calling the election to fill the vacancy.
(b) A vote by mail ballot cast pursuant to Chapter 2 (commencing with Section 3101) of Division 3 in a special general election conducted pursuant to this chapter shall be postmarked not later than the date of the election, shall be received by the county elections official not later than 45 days after the date on which the elections official transmitted the ballot to the voter, and shall comply with all other relevant requirements of this code. *A vote by mail ballot returned by secure electronic submission, once the Election Data Security Commission certifies software and procedures for use statewide pursuant to subdivision (c) of Section 2603, shall be returned no later than 8:00 pm on the date of the election.*
(c) Notwithstanding any other provision of law, any deadlines relating to canvassing, announcement of election results, or certification of election results may be extended for a

reasonable period of time to facilitate the tabulating and processing of ballots cast pursuant to Chapter 2 (commencing with Section 3101) of Division 3. An extension of a deadline pursuant to this section must be authorized by the Secretary of State.

SECTION 7. ELECTRONIC SUBMISSION OF VOTE BY MAIL BALLOTS FOR MILITARY VOTERS

Section 3101 of the Elections Code is hereby amended to read as follows:

§ 3101. Military and Overseas Voters.

(a) The Secretary of State shall see that this chapter is enforced pursuant to Section 12172.5 of the Government Code.

(b) The Secretary of State shall make available to any person who qualifies as a military or overseas voter information regarding voter registration procedures for military or overseas voters and procedures for casting ballots by military or overseas voters.

(c) The Secretary of State shall make available to any person who qualifies as a military voter as defined in subdivision (b) of Section 300 information regarding the procedures for secure electronic submission of vote by mail ballots as part of any pilot program conducted by the Election Data Security Commission pursuant to subdivision (b) of Section 2603. After the Election Data Security Commission certifies software and procedures for secure electronic submission of vote by mail ballots for use statewide pursuant to subdivision (c) of Section 2603, the Secretary of State shall make available to any person who qualifies as military or overseas voter information regarding the procedures for secure electronic submission of vote by mail ballots.

(e*d*) The elections official for each district shall ensure that his or her jurisdiction has available a system that would allow a military or overseas voter to electronically request and receive a vote by mail application, an unvoted ballot, and other information pursuant to this chapter. *The elections official for each district shall ensure that secure electronic submission of vote by mail ballots is available for all military and overseas voters no later than the next election held in that district not less than 120 days after the Election Data Security Commission certifies software and procedures for secure electronic submission of vote by mail ballots for use statewide pursuant to subdivision (c) of Section 2603.*

(d*e*) The Secretary of State shall develop standardized military or overseas voter voting materials as required by this chapter. *The materials developed pursuant to this subdivision shall contain information about the procedures for secure electronic submission of vote by mail ballots no later than the next regularly scheduled statewide election held not less than 120 days after the Election Data Security Commission certifies the software and procedures for secure electronic submission of vote by mail ballots for statewide use pursuant to subdivision (c) of Section 2603.*

(e) The Secretary of State shall prescribe the form and content of a declaration for use by a military or overseas voter to swear or affirm specific representations pertaining to the voter's identity, eligibility to vote, and status as a military or overseas voter, and shall further prescribe requirements for the timely and proper completion of a military or overseas voter's ballot. The declaration shall be based on the declaration prescribed to accompany a federal write-in absentee ballot, as modified to be consistent with this chapter. The elections official for each jurisdiction

shall ensure that a form for the execution of the declaration, including an indication of the date of execution of the declaration, is a prominent part of all balloting materials for which the declaration is required.

Section 3201 of the Elections Code is hereby amended to read as follows:

§ 3102. Military and overseas voter rights.

(a) Any voter who qualifies as a military or overseas voter pursuant to subdivision (b*d*) of Section 300 shall have the right to register for, and to vote by a vote by mail ballot in, any election within the state, including any general, special, or primary election for any federal or statewide office or state ballot measure that is voted on statewide. Any voter who qualifies as a military or overseas voter pursuant to subdivision (b*d*) of Section 300 shall also have the right to register for, and to vote by a vote by mail ballot in, any other election for any office or ballot measure held in the precinct in which he or she was a resident when he or she was last living within the territorial limits of the United States or the District of Columbia, or, for a military or overseas voter qualified pursuant to paragraph (2) of subdivision (b) of Section 321, in any precinct of the state in which his or her parent or legal guardian resided when the parent or legal guardian last lived within the territorial limits of the United States or the District of Columbia.

(b) *Any voter who qualifies as a military voter as defined in subdivision (b) of Section 300 shall have the right to participate in any pilot program conducted by the Election Data Security Commission pursuant to subdivision (b) of Section 2603 in the county where the military voter is registered to vote.*

(c) *Any voter who qualifies as a military or overseas voter pursuant to subdivision (d) of Section 300 shall have the right to electronically submit a vote by mail ballot no later than the next regularly scheduled statewide election held not less than 120 days after the Election Data Security Commission certifies software and procedures for secure electronic submission of vote by mail ballots for use statewide pursuant to subdivision (c) of Section 2603.*

(d)When a military or overseas voter applies for a vote by mail ballot, the application shall be deemed to be an affidavit of registration and an application for permanent vote by mail status, pursuant to Chapter 3 (commencing with Section 3200). The application shall be completed by the voter and shall contain the voter's name; the voter's date of birth; the address of the voter's residence in the state when the voter was last living within the territorial limits of the United States or the District of Columbia or, if qualified as a military or overseas voter pursuant to paragraph (2) of subdivision (b) of Section 321, the address of the voter's parent or legal guardian when the parent or legal guardian was last living within the territorial limits of the United States or the District of Columbia; the address to which the ballot is to be sent; the voter's political party preference or a statement that the voter declines to disclose a political party preference; and the voter's signature.

(e*e*) If an elections official receives a completed federal postcard application from a person qualified as a military or overseas voter, the application shall be deemed to be an affidavit of registration, an application for a vote by mail ballot, and an application for permanent vote by mail status, pursuant to Chapter 3 (commencing with Section 3200).

(d*f*) If the applicant is not a resident of the county to which he or she has applied, the elections official receiving an application from a military or overseas voter shall forward it immediately to the county in which the applicant resided when he or she was last living within the territorial

limits of the United States or the District of Columbia or, for a military or overseas voter qualified pursuant to paragraph (2) of subdivision (b) of Section 321, to the county in which his or her parent or legal guardian resided when the parent or legal guardian last lived within the territorial limits of the United States or the District of Columbia.

(eg) An application made pursuant to this section shall be received by the elections official having jurisdiction over the election no later than seven days prior to the date of the election if the application is made solely as an application for a vote by mail ballot. An application made pursuant to this section and deemed to be an affidavit of registration shall be effective only if it is postmarked on or before the 15th day prior to the election.

Section 3106 of the Elections Code is hereby amended to read as follows:

§ 3106. Facsimile transmission of ballot.

(a) A military or overseas voter who is living outside of the territorial limits of the United States or the District of Columbia, or is called for military service within the United States on or after the final date to make application for a vote by mail ballot, may return his or her ballot by facsimile transmission. To be counted, the ballot returned by facsimile transmission shall be received by the voter's elections official no later than the closing of the polls on election day and shall be accompanied by an identification envelope containing all of the information required by Section 3011 and an oath of voter declaration in substantially the following form:

"OATH OF VOTER

I,, acknowledge that by returning my voted

ballot by facsimile transmission I have waived my right to have my ballot

kept secret. Nevertheless, I understand that, as with any vote by mail

voter, my signature, whether on this oath of voter form or my identification

envelope, will be permanently separated from my voted ballot to maintain

its secrecy at the outset of the tabulation process and thereafter.

My residence address (last U.S. residence for voter qualification purposes) is(Street Address) _____ _____ (City) _____ _____ (ZIP Code).

My current mailing address is(Street Address) _____ (City) _____ _____ (ZIP Code).

My email address is _____. My facsimile transmission number is _____.

I am a resident of _____ County, State of California, or am qualified as an elector pursuant to paragraph (2) of subdivision (b) of Section 321 of the Elections Code and I have not applied, nor intend to apply, for a vote by mail ballot from any other jurisdiction for the same election.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated this _____ day of _____, 20_____.

(Signature)

 (voter)(power of attorney cannot be accepted)

YOUR BALLOT CANNOT BE COUNTED UNLESS YOU SIGN THE ABOVE OATH AND INCLUDE IT WITH YOUR BALLOT AND IDENTIFICATION ENVELOPE, ALL OF WHICH ARE RETURNED BY FACSIMILE TRANSMISSION."

(b) Notwithstanding the voter's waiver of the right to a secret ballot, each elections official shall adopt appropriate procedures to protect the secrecy of ballots returned by facsimile transmission.

(c) Upon receipt of a ballot returned by facsimile transmission, the elections official shall determine the voter's eligibility to vote by comparing the signature on the return information with the signature on the voter's affidavit of registration or any signature permitted for comparison under Section 3019. The ballot shall be duplicated and all materials preserved according to procedures set forth in this code.

(d) Notwithstanding subdivision (a), a military or overseas voter who is permitted to return his or her ballot by facsimile transmission is, nonetheless, encouraged to return his or her ballot by mail or in person if possible. A military or overseas voter should return a ballot by facsimile transmission only if doing so is necessary for the ballot to be received before the close of polls on election day.

(e) Notwithstanding subdivision (a), a military voter as defined in subdivision (b) of Section 300 is eligible to participate in any pilot program conducted by the Election Data Security Commission pursuant to subdivision (b) of Section 2603 in the county where the military voter is registered to vote and shall not be required to sign any oath waiving his or her right to a secret ballot in order to participate in the pilot program.

(f) This section is repealed as of the date the Election Data Security Commission certifies software and procedures for secure electronic submission of vote by mail ballots for use statewide pursuant to subdivision (c) of Section 2603. At that time, a military or overseas voter shall be permitted to return a vote by mail ballot in person, by mail, or by secure electronic submission.

Section 3111 of the Elections Code is hereby amended to read as follows:

§ 3111. Military or overseas ~~voter~~ voter recalled to service.

(a) If a military or overseas voter is unable to appear at his or her polling place because of being recalled to service after the final day for making application for a vote by mail ballot, but before 5 p.m. on the day before the day of election, he or she may appear before the elections official in the county in which the military or overseas voter is registered or, if within the state, in the county in which he or she is recalled to service and make application for a vote by mail ballot, which may be submitted by facsimile, or by electronic mail or online transmission if the elections official makes the transmission option available. The elections official shall deliver to him or her a vote by mail ballot which may be voted in the elections official's office or voted outside the elections official's office on or before the close of the polls on the day of election and returned as are other vote by mail ballots. To be counted, the ballot shall be returned to the elections official's office in person, by facsimile transmission, or by an authorized person on or before the close of the polls on the day of the election. If the military or overseas voter appears in the county in which he or she is recalled to service, rather than the county to which he or she is registered, the elections official shall coordinate with the elections official in the county in which the military or overseas voter is registered to provide the ballot that contains the appropriate measures and races for the precinct in which the military or overseas voter is registered.

(b) Notwithstanding subdivision (a), a military voter as defined in subdivision (b) of Section 300 is eligible to participate in any pilot program conducted by the Election Data Security Commission pursuant to subdivision (b) of Section 2603 in the county where the military voter is registered to vote. A military voter participating in such a pilot program is permitted to return a vote by mail ballot by secure electronic submission.

(c) If a military voter is already approved to vote by mail, or could reasonably be established as a vote by mail voter, in his or her home county prior to election day, the election official shall, upon demand, issue to the military voter a vote by mail ballot that may be returned by secure electronic submission. Upon request, the elections official shall send the vote by mail ballot to the military voter either by mail, facsimile, or electronic transmission, as requested by the military voter. This subdivision shall take effect not less than 120 days after the date the Election Data Security Commission certifies software and procedures for secure electronic submission of vote by mail ballots for use statewide pursuant to subdivision (c) of Section 2603.

Section 3113 of the Elections Code is hereby amended to read as follows:

§ 3113. Acts of Congress shall control.

If by any act of Congress which is now or may become effective during the effective period of this section, provision is made for voting by military or overseas voters, that act shall control and be superior to any conflicting provisions of this code, and all state, county, municipal, and district officers who are charged with the performance of duties with reference to the election laws of this state shall perform the duties and discharge the obligations placed upon them by that act of Congress. It is the purpose and intent of this section that full effect shall be given to ballots cast by military or overseas voters under federal statutes in order that no person shall be deprived

of his or her vote by virtue of having cast his or her ballot under any federal statute rather than under the laws of this state. *Provided, however, nothing in this section shall be interpreted to prohibit the secure electronic submission of vote by mail ballots by military or overseas voters by virtue of the fact that Congress has not yet authorized electronic submission of ballots.*

SECTION 8. MISCELLANEOUS PROVISIONS

Section 2270 of the Elections Code is hereby amended to read as follows:

§2270

The Secretary of State shall adopt regulations to implement this chapter, including regulations addressing both of the following:
(a) A process for canceling the registration of a person who is ineligible to vote, but became registered under the California New Motor Voter Program in the absence of any violation by that person of Section 18100.
(b) An education and outreach campaign informing voters about the California New Motor Voter Program that the Secretary of State will conduct to implement this chapter. The Secretary may use any public and private funds available for this and shall provide materials created for this outreach and education campaign in languages other than English, as required by the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10503). *This education and outreach campaign shall include information about secure electronic submission of vote by mail ballots once the Electronic Data Security Commission certifies software and procedures for use statewide pursuant to subdivision (c) of section 2603.*

Section 9082.7 of the Elections Code is hereby amended to read as follows:

§9082.7. State ballot pamphlet on internet.

(a) The Secretary of State shall make available the complete state ballot pamphlet over the Internet. The online version of the state ballot pamphlet shall contain all of the following:
(1) For each candidate listed in the pamphlet, a means to access campaign contribution disclosure reports for the candidate that are available online.
(2) For each state ballot measure listed in the pamphlet, a means to access the consolidated information specified in subdivision (b).
(b) The Secretary of State shall create an Internet Web site, or use other available technology, to consolidate information about each state ballot measure in a manner that is easy for voters to access and understand. The information shall include all of the following:
(1) A summary of the ballot measure's content.
(2) The total amount of reported contributions made in support of and opposition to the ballot measure, calculated and updated as follows:
(A) (i) The total amount of contributions in support of the ballot measure shall be calculated by adding together the total amounts of contributions made in support of the ballot measure and reported in semiannual statements required by Section 84200 of the Government Code,

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preelection statements required by Section 84200.5 of the Government Code, campaign statements required by Section 84202.3 of the Government Code, and late contribution reports required by Section 84203 of the Government Code that are reported within 16 days of the election at which the measure will appear on the ballot.

(ii) The total amount of contributions in opposition to the ballot measure shall be calculated by adding together the total amounts of contributions made in opposition to the ballot measure and reported in semiannual statements required by Section 84200 of the Government Code, preelection statements required by Section 84200.5 of the Government Code, campaign statements required by Section 84202.3 of the Government Code, and late contribution reports required by Section 84203 of the Government Code that are reported within 16 days of the election at which the measure will appear on the ballot.

(iii) For purposes of determining the total amount of reported contributions pursuant to this subparagraph, the Secretary of State shall, to the extent practicable with respect to committees primarily formed to support or oppose a ballot measure, do both of the following:

(I) Ensure that transfers of funds between primarily formed committees are not counted twice.

(II) Treat a contribution made to a primarily formed committee that supports or opposes more than one state ballot measure as if the total amount of that contribution was made for each state ballot measure that the committee supports or opposes.

(B) The total amount of reported contributions calculated under this paragraph for each state ballot measure shall be updated not later than five business days after receipt of a semiannual statement, campaign statement, or preelection statement and not later than two business days after receipt of a late contribution report within 16 days of the election at which the measure will appear on the ballot.

(C) The total amount of reported contributions calculated under this paragraph for each state ballot measure shall be accompanied by an explanation that the contribution totals may be overstated due to the inclusion of contributions made to committees supporting or opposing more than one state ballot measure, as required by subclause (II) of clause (iii) of subparagraph (A).

(3) A current list of the top 10 contributors supporting and opposing the ballot measure, if compiled by the Fair Political Practices Commission pursuant to subdivision (e) of Section 84223 of the Government Code.

(4) (A) A list of each committee primarily formed to support or oppose the ballot measure, as described in Section 82047.5 of the Government Code, and a means to access information about the sources of funding reported for each committee.

(B) Information about the sources of contributions shall be updated as new information becomes available to the public pursuant to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(C) If a committee identified in subparagraph (A) receives one million dollars ($1,000,000) or more in contributions for an election, the Secretary of State shall provide a means to access online information about the committee's top 10 contributors reported to the Fair Political Practices Commission pursuant to subdivision (a) of Section 84223 of the Government Code.

(D) Notwithstanding paragraph (1) of subdivision (c) of Section 84223 of the Government Code, the Fair Political Practices Commission shall automatically provide any list of top 10 contributors created pursuant to Section 84223 of the Government Code, and any subsequent updates to that list, to the Secretary of State for purposes of compliance with this section.

(5) Any other information deemed relevant by the Secretary of State.

(c) The online version of the state ballot pamphlet shall include a notice to voters informing the voters that vote by mail ballots may be returned in person, by certified or registered mail, or by secure electronic submission and shall include instructions on secure electronic submission of the vote by mail ballot. This notice is only required once the Election Data Security Commission certifies software and procedures for secure electronic submission of vote by mail ballots for use statewide pursuant to subdivision (c) of Section 2603.

Section 9084 of the Elections Code is hereby amended to read as follows:

§ 9084. Form of ballot pamphlet.

The ballot pamphlet shall contain all of the following:
(a) A complete copy of each state measure.
(b) A copy of the specific constitutional or statutory provision, if any, that each state measure would repeal or revise.
(c) A copy of the arguments and rebuttals for and against each state measure.
(d) A copy of the analysis of each state measure.
(e) Tables of contents, indexes, art work, graphics, and other materials that the Secretary of State determines will make the ballot pamphlet easier to understand or more useful for the average voter.
(f) A notice, conspicuously printed on the cover of the ballot pamphlet, indicating that additional copies of the ballot pamphlet will be mailed by the county elections official upon request.
(g) A written explanation of the judicial retention procedure as required by Section 9083.
(h) The Voter Bill of Rights pursuant to Section 2300.
(i) If the ballot contains an election for the office of United States Senator, information on candidates for United States Senator. A candidate for United States Senator may purchase the space to place a statement in the state ballot pamphlet that does not exceed 250 words. The statement may not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with timeframes and procedures set forth by the Secretary of State for the preparation of the state ballot pamphlet.
(j) If the ballot contains a question on the confirmation or retention of a justice of the Supreme Court, information on justices of the Supreme Court who are subject to confirmation or retention.
(k) If the ballot contains an election for the offices of President and Vice President of the United States, a notice that refers voters to the Secretary of State's Internet Web site for information about candidates for the offices of President and Vice President of the United States.
(l) A written explanation of the appropriate election procedures for party-nominated, voter-nominated, and nonpartisan offices as required by Section 9083.5.
(m) A written explanation of the top 10 contributor lists required by Section 84223 of the Government Code, including a description of the Internet Web sites where those lists are available to the public.
(n) The state ballot pamphlet shall include a notice to voters informing the voters that vote by mail ballots may be returned in person, by certified or registered mail, or by secure electronic submission and shall include instructions on secure electronic submission of the vote by mail ballot. This notice is only required once the Election Data Security Commission certifies

software and procedures for secure electronic submission of vote by mail ballots for use statewide pursuant to subdivision (c) of Section 2603.

Section 10704 of the Elections Code is hereby amended to read as follows:

§ 10704. Special primary election; time; consolidation; nomination papers; vote by mail ballot

(a) Except as provided in subdivision (b), a special primary election shall be held in the district in which the vacancy occurred on the 9th Tuesday or, if the 9th Tuesday is the day of or the day following a state holiday, the 10th Tuesday preceding the day of the special general election at which the vacancy is to be filled. Candidates at the primary election shall be nominated in the manner set forth in Chapter 1 (commencing with Section 8000) of Part 1 of Division 8, except that nomination papers shall not be circulated more than 73 days before the primary election, shall be left with the county elections official for examination not less than 53 days before the primary election, and shall be filed with the Secretary of State not less than 53 days before the primary election.

(b) A special primary election shall be held in the district in which the vacancy occurred on the 10th Tuesday preceding the day of the special general election at which the vacancy is to be filled if both of the following conditions apply:

(1) The 10th Tuesday preceding the day of the special general election is an established election date pursuant to Section 1000.

(2) A statewide or local election occurring wholly or partially within the same territory in which the vacancy exists is scheduled for the 10th Tuesday preceding the day of the special general election.

(c) An application for a vote by mail ballot for a special election shall be made and processed in the manner required by Section 3001.

(d) The sample ballot for a special election shall contain a written explanation of the election procedure for voter-nominated office as specified in subdivision (b) of Section 9083.5. Immediately after the explanation shall be printed the following: "If one candidate receives more than 50% of the votes cast at the special primary election, he or she will be elected to fill the vacancy and no special general election will be held."

(e) On the ballot for a special election, immediately below the instructions to voters, there shall be a box not less than one-half inch high enclosed by a heavy-ruled line the same as the borderline. This box shall be as long as there are columns for the ballot and shall be set directly above these columns. Within the box shall be printed the words "Voter-Nominated Office." Immediately below that phrase within the same box shall be printed the following:
"All voters, regardless of the party preference they disclosed upon registration, or refusal to disclose a party preference, may vote for any candidate for a voter-nominated office. The party preference, if any, designated by a candidate is selected by the candidate and is shown for the information of the voters only. It does not imply that the candidate is nominated or endorsed by the party or that the party approves of the candidate."

(f)The sample ballot for a special election shall include a notice to voters informing the voters that vote by mail ballots may be returned in person, by certified or registered mail, or by secure electronic submission and shall include instructions on secure electronic submission of the vote by mail ballot. This notice is only required once the Election Data Security Commission certifies

*software and procedures for secure electronic submission of vote by mail ballots for use
statewide pursuant to subdivision (c) of Section 2603.*

Section 11323 of the Elections Code is hereby amended to read as follows:

§ 11323. Voter shall indicate by voting.

A voter shall indicate, by using the stamp or other marking device to place a mark in the voting
space opposite either "Yes" or "No", his vote for or against the recall proposal, respectively. *For
purposes of this Section and the return vote by mail ballots in any recall election, the term
"marking device" shall include software for the secure electronic submission of vote by mail
ballots certified for use statewide by the Election Data Security Commission pursuant to
subdivision (c) of Section 2603 once that certification has occurred.*

Section 11324 of the Elections Code is hereby amended to read as follows:

§ 11324. Recall election sample ballot.

(a) The official responsible for preparing the ballot shall, at least 10 days prior to the recall
election, mail a sample ballot to each registered voter of the electoral jurisdiction of the officer
sought to be recalled.
*(b)The sample ballot for a recall election shall include a notice to voters informing the voters
that vote by mail ballots may be returned in person, by certified or registered mail, or by secure
electronic submission and shall include instructions on secure electronic submission of the vote
by mail ballot. This notice is only required once the Election Data Security Commission certifies
software and procedures for secure electronic submission of vote by mail ballots for use
statewide pursuant to subdivision (c) of Section 2603.*

Section 12223 of the Elections Code is hereby amended to read as follows:

§ 12223. Maximum number of voters in a precinct.

(a) Whenever a jurisdiction is divided into election precincts or whenever the boundary of an
established precinct is changed or a new precinct is created, the precinct boundary shall be fixed
in a manner so that the number of voters in the precinct does not exceed 1,000 on the 88th day
prior to the day of election, unless otherwise provided by law.
(b) An elections official ~~may~~ *shall* subtract the number of permanent vote by mail voters,
pursuant to Chapter 3 (commencing with Section 3200) of Division 3, from the total number of
voters for purposes of complying with subdivision (a) if after subtracting the number of
permanent vote by mail voters, the number of voters in the precinct does not exceed the
percentage of nonpermanent vote by mail voters in the jurisdiction on the 88th day prior to the
election multiplied by 1,000, unless otherwise provided by law

Section 13300 of the Elections Code is hereby amended to read as follows:

§ 13300. Form of sample ballots.

(a) By at least 29 days before the partisan primary, each county elections official shall prepare a separate sample ballot for each political party and a separate sample nonpartisan ballot. The county elections official shall place on each ballot, as applicable, in the order provided in Chapter 2 (commencing with Section 13100), and under the appropriate title of each office, the names of all candidates for whom nomination papers have been duly filed with him or her, or have been certified to him or her by the Secretary of State, to be voted for in his or her county at the partisan primary election.

(b) The sample ballots shall be identical to the official ballots, except as otherwise provided by law. The sample ballots shall be printed on paper of a different texture from the paper to be used for the official ballot.

(c) One sample ballot of the party for which the voter has disclosed a preference, as evidenced by his or her registration, shall be mailed not more than 40 nor fewer than 10 days before the election to each voter entitled to vote at the primary who registered at least 29 days prior to the election. A nonpartisan sample ballot shall be so mailed to each voter who is not registered as preferring any of the parties participating in the primary election, provided that on election day the voter may, upon request, vote the ballot of a political party if authorized by the party's rules, duly noticed to the Secretary of State.

(d) Each sample ballot prepared by a county elections official shall include a notice to voters informing the voters that vote by mail ballots may be returned by certified or registered mail or by secure electronic submission and shall include instructions on secure electronic submission of the vote by mail ballot. This subdivision shall take effect when the Election Data Security Commission certifies software and procedures for secure electronic submission of vote by mail ballots for use statewide pursuant to subdivision (c) of Section 2603,

Section 13122 is hereby added to the Elections Code to read as follows:

§ 13122. Format of electronic submission of vote by mail ballots.

(a) Any vote by mail ballot returned by secure electronic submission shall be in substantially the same format as vote by mail ballots formatted and printed under this Division for the same election.

(b) The Election Data Security Commission shall ensure that the software for secure electronic submission of vote by mail ballots that is certified for statewide use pursuant to subdivision (c) of Section 2603 complies with subdivision (a).

Section 13246 of the Elections Code is hereby amended to read as follows:

§ 13246. Marking device.

The device for marking the ballot may be of any size, shape, or form, and the impression made on the ballot may be in the form of a cross, square, circle, rectangle, or any other design that will clearly indicate the choice of the voter. Any type of ink or other substance that will clearly show the voter's choice may be used in or in conjunction with the marking device. *Marking device may also include software certified for use statewide by the Election Data Security Commission pursuant to subdivision (c) of Section 2603.*

Section 14313 of the Elections Code is hereby amended to read as follows:

§ 14313. State of Emergency.

(a) Upon the declaration of a state of emergency by the Governor and the issuance of an executive order authorizing an emergency worker to cast a ballot outside of his or her home precinct, elections officials in the counties included in the executive order shall, upon demand, issue to an emergency worker a provisional ballot that may be identical to the provisional ballot offered to other voters in the county, using a process to be determined by the elections official. The elections official shall transmit for processing any ballot cast, including any materials necessary to process the ballot, pursuant to this section to the elections official in the county where the voter is registered to vote.

(b) To be counted, a ballot cast pursuant to this section shall satisfy both of the following requirements:

(1) Be cast by the voter no later than the close of the polls on election day.

(2) Be received by the county elections official where the voter is registered on or before the 10th day following the date of the election.

(c) Upon receipt of the returned ballot, the elections official shall process the ballot pursuant to the procedures in subdivision (c) of Section 14310.

(d) If the requirements in subdivisions (b) and (c) are met and the ballot is eligible to be counted, the ballot shall be duplicated and all other materials preserved according to the procedures set forth in this code.

(e) "Emergency worker" for the purposes of this section means a person who is officially engaged in responding to the proclaimed state of emergency and whose vocation has been identified in an executive order relating to the state of emergency.

(f) If an emergency worker is already approved to vote by mail, or could reasonably be established as a vote by mail voter, in his or her home county prior to election day, county elections officials in the counties included in the executive order shall, upon demand, issue to the emergency worker a vote by mail ballot that may be returned by secure electronic submission. Upon request, the elections official shall send the vote by mail ballot to the emergency worker either by mail, facsimile, or electronic transmission as requested by the voter. This subdivision shall take effect when the Election Data Security Commission certifies software and procedures for secure electronic submission of vote by mail ballots for use statewide pursuant to subdivision (c) of Section 2603.

Section 15000 of the Elections Code is hereby amended to read as follows:

§ 15000. Testing ballot tabulating devices.

No later than seven days prior to any election conducted pursuant to this code, the elections official shall conduct a test or series of tests to ensure that every device used to tabulate ballots accurately records each vote. The exact methods employed in this test shall conform to the voting procedures for the specific voting systems, as adopted by the Secretary of State *or shall conform to the standards adopted by the Election Data Security Commission pursuant to subdivision (b) of Section 2602.*

Section 15002 of the Elections Code is hereby amended to read as follows:

§ 15002. Review of administrative procedures for voting systems.

No later than January 1 of each even-numbered year, the Secretary of State shall review, and if necessary amend, administrative procedures for use with each of the voting systems pursuant to Division 19. *The Secretary of State shall not review and amend procedures adopted by the Election Data Security Commission until the Commission ceases to exist pursuant to subdivision (g) of Section 2600.*

Section 15101 of the Elections Code is hereby amended to read as follows:

§ 15101. Processing vote by mail ballots *returned in person or by mail.*

(a) Any jurisdiction in which vote by mail ballots are cast *and returned in person or by mail* may begin to process vote by mail ballot return envelopes beginning 29 days before the election. Processing vote by mail ballot return envelopes may include verifying the voter's signature on the vote by mail ballot return envelope pursuant to Section 3019 and updating voter history records.
(b) Any jurisdiction having the necessary computer capability may start to process vote by mail ballots *returned in person or by mail* on the 10th business day before the election. Processing vote by mail ballots includes opening vote by mail ballot return envelopes, removing ballots, duplicating any damaged ballots, and preparing the ballots to be machine read, or machine reading them, but under no circumstances may a vote count be accessed or released until 8 p.m. on the day of the election. All other jurisdictions shall start to process vote by mail ballots at 5 p.m. on the day before the election.
(c) Results of any vote by mail ballot tabulation or count shall not be released before the close of the polls on the day of the election.

Section 15101.1 of the Elections Code is hereby added to read as follows:

§ 15101.1 Processing vote by mail ballots returned by secure electronic submission.

(a) Any jurisdiction in which vote by mail ballots are cast and returned by secure electronic submission may begin to process these ballots beginning 29 days before the election. Processing vote by mail ballots returned by electronic submission may include verifying the voter pursuant to Section 3019.1 and updating voter history records.

(b) Any jurisdiction may start to count vote by mail ballots returned by electronic submission on the 10th business day before the election using software and procedures certified for use statewide by the Election Data Security Commission, but under no circumstances may a vote count be accessed or released until 8 p.m. on the day of the election.

(c) Results of any vote by mail ballot tabulation or count shall not be released before the close of the polls on the day of the election.

(d) This section shall become effective upon certification of software and procedures for canvassing vote by mail ballots returned by electronic submission certified by the Election Data Security Commission for statewide pursuant to subdivision (c) of Section 2603.

Section 15104 of the Elections Code is hereby amended to read as follows:

§ 15104. Observation of absentee ballot processing and counting.

(a) The processing of vote by mail ballot return envelopes, and the processing and counting of vote by mail ballots, *including processing and counting of vote by mail ballots returned by secure electronic submission using software and procedures certified for use statewide by the Election Data Security Commission pursuant to subdivision (c) of Section 2603,* shall be open to the public, both prior to and after the election.

(b) A member of the county grand jury, and at least one member each of the Republican county central committee, the Democratic county central committee, and of any other party with a candidate on the ballot, and any other interested organization, shall be permitted to observe and challenge the manner in which the vote by mail ballots are handled, from the processing of vote by mail ballot return envelopes through the counting and disposition of the ballots *and including the processing and counting of vote by mail ballots returned by secure electronic submission using software and procedures certified for use statewide by the Election Data Security Commission pursuant to subdivision (c) of Section 2603.*

(c) The elections official shall notify vote by mail voter observers and the public at least 48 hours in advance of the dates, times, and places where vote by mail ballots will be processed and counted.

(d) Notwithstanding paragraph (2) of subdivision (b) of Section 2194, vote by mail voter observers shall be allowed sufficiently close access to enable them to observe the vote by mail ballot return envelopes and the signatures thereon and challenge whether those individuals handling vote by mail ballots are following established procedures, including all of the following:

(1) Verifying signatures and addresses on the vote by mail ballot return envelopes by comparing them to voter registration information.

(2) Duplicating accurately damaged or defective ballots.

(3) Securing vote by mail ballots to prevent tampering with them before they are counted on election day.

(e) *Notwithstanding paragraph (2) of subdivision (b) of Section 2194, vote by mail voter observers shall be allowed sufficiently close access to enable them to observe the processing and counting of vote by mail ballots returned by secure electronic submission and challenge whether those individuals processing and counting the ballots are following the procedures certified for statewide use by the Election Data Security Commission pursuant to subdivision (c) of Section 2603.*

(f) A vote by mail voter observer shall not interfere with the orderly processing of vote by mail ballot return envelopes or the processing and counting of vote by mail ballots, including the touching or handling of the ballots *or otherwise interfering with the software and procedures for canvassing vote by mail ballots returned by electronic submission certified for statewide use by the Election Data Security Commission pursuant to subdivision (c) of Section 2603.*

Section 15105 of the Elections Code is hereby amended to read as follows:

§15105. Challenge of vote by mail voters.

Prior to processing and opening the identification envelopes of vote by mail voters *or processing vote by mail ballots returned by secure electronic submission*, the elections official shall make available a list of vote by mail voters for public inspection, from which challenges may be presented. Challenges may be made for the same reasons as those made against a voter voting at a polling place. In addition, a challenge may be entered on the grounds that the ballot was not received within the time provided by this code or that a person is imprisoned for a conviction of a felony. All challenges shall be made prior to the opening of the identification envelope or *electronically verifying the vote* of the challenged vote by mail voter.

Section 15106 of the Elections Code is hereby amended to read as follows:

§ 15106. Applicable law; burden of proof.

Except as otherwise provided, the processing of vote by mail ballot return envelopes, the processing and counting of vote by mail ballots, *including those returned by secure electronic submission once the Election Data Security Commission certifies software and procedures for use statewide pursuant to subdivision (c) of Section 2603,* and the disposition of challenges of vote by mail ballots, *including those returned by secure electronic submission,* shall be according to the laws now in force pertaining to the election for which they are cast. Because the voter is not present, the challenger shall have the burden of establishing extraordinary proof of the validity of the challenge at the time the challenge is made.

Section 15107 of the Elections Code is hereby amended to read as follows:

§15107. Challenge overruled.

(a) If a challenge *to a vote by mail ballot returned in person or by mail* is overruled, the board shall open the identification envelope without defacing the affidavit printed on it or mutilating

the enclosed ballot and, without viewing the ballot, remove it and destroy the numbered slip, if any remains, and store the ballots in a secure location.

(b) If a challenge to a vote by mail ballot returned by secure electronic submission is overruled, the board shall proceed with processing and counting the ballot using software and procedures certified for use statewide by the Election Data Security Commission. This subdivision shall become effective once the Election Data Security Commission certifies software and procedures for canvassing vote by mail ballots returned by secure electronic submission pursuant to subdivision (c) of Section 2603.

Section 15108 of the Elections Code is hereby amended to read as follows:

§ 15108. Challenge allowed.

(a) If a challenge *to a vote by mail ballot returned in person or by mail* is allowed, the board shall endorse on the face of the identification envelope the cause of the challenge and its action thereon.

(b) If a challenge to a vote by mail ballot returned by secure electronic submission is allowed, the board shall ensure that the ballot is not counted and shall clearly document the reason for the challenge and its action thereon. The Election Data Security Commission may provide for standards for documentation of challenged ballots returned by secure electronic submission.

Section 15150 of the Elections Code is hereby amended to read as follows:

§ 15150. Conduct of the semifinal official canvas.

For every election, the elections official shall conduct a semifinal official canvass by tabulating vote by mail *ballots returned in person or by mail, vote by mail ballots returned by secure electronic submission once the Election Data Security Commission certifies software and procedures for use statewide pursuant to subdivision (c) of Section 2603,* and precinct ballots and compiling the results. The semifinal official canvass shall commence immediately upon the close of the polls and shall continue without adjournment until all precincts are accounted for.

Section 15151 of the Elections Code is hereby amended to read as follows:

§ 15151. Transmission of semifinal official results to Secretary of State.

(a) The elections official shall transmit the semifinal official results to the Secretary of State in the manner and according to the schedule prescribed by the Secretary of State prior to each election, for the following:
(1) All candidates voted for statewide office.
(2) All candidates voted for the following offices:
(A) State Assembly.
(B) State Senate.
(C) Member of the United States House of Representatives.

(D) Member of the State Board of Equalization.

(E) Justice of the Court of Appeals.

(3) All persons voted for at the presidential primary or for electors of President and Vice President of the United States.

(4) Statewide ballot measures.

(b) *The results transmitted pursuant to subdivision (a) shall include separate totals for vote by mail ballots returned in person or by mail, vote by mail ballots returned by secure electronic submission and ballots voted at a precinct. This subdivision shall become effective once the Election Data Security Commission certifies software and procedures for use statewide pursuant to subdivision (c) of Section 2603*

(c)The elections official shall transmit the results to the Secretary of State at intervals no greater than two hours, following commencement of the semifinal official canvass.

Section 15154 of the Elections Code is hereby amended to read as follows:

§ 15154. Rejected ballots.

(a) Any ballot that is not marked as provided by law shall be rejected. The rejected ballots shall be placed in the package marked for voted ballots or in a separate container as directed by the elections official. All rejected ballots shall have written on the ballot the cause for rejection and be signed by a majority of processing board members who are assigned by the elections official to process ballots.

(b) The following ballot conditions shall not render a ballot invalid:

(1) Soiled or defaced.

(2) Two or more impressions of the voting stamp or mark in one voting square.

(3) Contains personal information, as defined in Section 14287.

(c) If a voter indicates, either by a combination of both marking and writing in, a choice of more names than there are candidates to be elected or nominated for any office, or if for any reason the choice of the voter is impossible to determine, the vote for that office shall not be counted, but the remainder of the ballot, if properly marked, shall be counted.

(d) *Any ballot that is returned by secure electronic submission but is rejected because the voter cannot be verified or is ineligible to vote or for some other reason shall be clearly documented in the board records, including the name of the voter and the reason the ballot was rejected. The Election Data Security Commission may provide for standards for documentation of challenged ballots returned by secure electronic submission. This subdivision shall become effective once the Election Data Security Commission certifies software and procedures for canvassing vote by mail ballots returned by secure electronic submission for use statewide pursuant to subdivision (c) of Section 2603.*

(e) *This section applies to all ballots counted pursuant to this chapter and Chapter 4 (commencing with Section 15300).*

Section 15302 of the Elections Code is hereby amended to read as follows:

§ 15302. Tasks of the Official Canvass.

The official canvass shall include, but not be limited to, the following tasks:
(a) An inspection of all materials and supplies returned by poll workers.
(b) A reconciliation of the number of signatures on the roster with the number of ballots recorded on the ballot statement.
(c) In the event of a discrepancy in the reconciliation required by subdivision (b), the number of ballots received from each polling place shall be reconciled with the number of ballots cast, as indicated on the ballot statement.
(d) A reconciliation of the number of ballots counted, spoiled, canceled, or invalidated due to identifying marks, overvotes, or as otherwise provided by statute, with the number of votes recorded, including vote by mail and provisional ballots, by the vote counting system.
(e) Processing and counting any valid vote by mail and provisional ballots not included in the semifinal official canvass. *Once the Election Data Security Commission certifies software and procedures for use statewide pursuant to subdivision (c) of Section 2603, processing and counting any ballots not included in the semifinal official canvass shall include separate totals of votes cast on vote by mail ballots returned by mail or in person, vote by mail ballots returned by secure electronic submission, and ballots voted at precincts.*
(f) Counting any valid write-in votes.
(g) Reproducing any damaged ballots, if necessary.
(h) Reporting final results to the governing board and the Secretary of State, as required. *Once the Election Data Security Commission certifies software and procedures for statewide use pursuant to subdivision (c) of Section 2603, final results shall include separate totals of votes cast on vote by mail ballots returned by mail or in person, vote by mail ballots returned by secure electronic submission, and ballots voted at precincts.*

Section 15320 of the Elections Code is hereby amended to read as follows:

§ 15320. Processing and counting vote by mail ballots.

Vote by mail ballots and mail ballot precinct ballots returned to the elections office and to the polls on election day that are not included in the semifinal official canvass phase of the election shall be processed and counted during the official canvass in the manner prescribed by Chapter 2 (commencing with Section 15100) and pursuant to the requirements of Section 3019 *and Section 3019.1.*

Section 15360 of the Elections Code is hereby amended to read as follows:

§15360. Manual tally when using a voting system.

(a) During the official canvass of every election in which a voting system is used, the official conducting the election shall conduct a public manual tally of the ballots tabulated by those devices, including vote by mail ballots, using either of the following methods:

(1) (A) A public manual tally of the ballots, including vote by mail ballots, cast in 1 percent of the precincts chosen at random by the elections official. If 1 percent of the precincts is less than one whole precinct, the tally shall be conducted in one precinct chosen at random by the elections official.

(B) (i) In addition to the 1 percent manual tally, the elections official shall, for each race not included in the initial group of precincts, count one additional precinct. The manual tally shall apply only to the race not previously counted.

(ii) Additional precincts for the manual tally may be selected at the discretion of the elections official.

(2) A two-part public manual tally, which includes both of the following:

(A) A public manual tally of the ballots, not including vote by mail ballots, cast in 1 percent of the precincts chosen at random by the elections official and conducted pursuant to paragraph (1).

(B) (i) A public manual tally of not less than 1 percent of the vote by mail ballots cast in the election. Batches of vote by mail ballots shall be chosen at random by the elections official.

(ii) For the purposes of this section, a "batch" means a set of ballots tabulated by the voting system devices, for which the voting system can produce a report of the votes cast.

(iii) (I) In addition to the 1 percent manual tally of the vote by mail ballots, the elections official shall, for each race not included in the initial 1 percent manual tally of vote by mail ballots, count one additional batch of vote by mail ballots. The manual tally shall apply only to the race not previously counted.

(II) Additional batches for the manual tally may be selected at the discretion of the elections official.

(b) If vote by mail ballots are cast on a direct recording electronic voting system at the office of an elections official or at a satellite location of the office of an elections official pursuant to Section 3018, the official conducting the election shall either include those ballots in the manual tally conducted pursuant to paragraph (1) or (2) of subdivision (a) or conduct a public manual tally of those ballots cast on no fewer than 1 percent of all the direct recording electronic voting machines used in that election chosen at random by the elections official.

(c) *If vote by mail ballots are returned by secure electronic submission, the official conducting the election shall include those ballots in the manual tally conducted pursuant to paragraph (1) or paragraph (2) of subdivision (a). This subdivision shall become effective once the Election Data Security Commission certifies software and procedures for returning and canvassing vote by mail ballots by secure electronic submission for use statewide pursuant to subdivision (c) of Section 2603.*

(d) The elections official shall use either a random number generator or other method specified in regulations that shall be adopted by the Secretary of State to randomly choose the initial precincts, batches of vote by mail ballots, or direct recording electronic voting machines subject to the public manual tally.

(de) The manual tally shall be a public process, with the official conducting the election providing at least a five-day public notice of the time and place of the manual tally and of the time and place of the selection of the precincts, batches, or direct recording electronic voting machines subject to the public manual tally prior to conducting the selection and tally.

(ef) The official conducting the election shall include a report on the results of the 1 percent manual tally in the certification of the official canvass of the vote. This report shall identify any discrepancies between the machine count and the manual tally and a description of how each of these discrepancies was resolved. In resolving any discrepancy involving a vote recorded by

means of a punchcard voting system or by electronic or electromechanical vote tabulating devices, *other than any tabulating device used as part of a system for secure electronic submission of vote by mail ballots*, the voter verified paper audit trail shall govern if there is a discrepancy between it and the electronic record. *To resolve any discrepancy involving a vote recorded by means of secure electronic submission of vote by mail ballots, the paper audit trail shall govern if there is a discrepancy between it and the electronic record.*

Section 15551 of the Elections Code is hereby amended to read as follows:

§ 15551. Voted ballots to be retained; contest or prosecution.

If a contest or any such criminal prosecution has been commenced prior to the date fixed for its destruction, the package containing the voted ballots shall be subject to the order of the court in which the contest or criminal prosecution is pending and shall not be destroyed until after final determination of the contest or criminal prosecution.

In the case of a congressional election contest, the elections official shall hold the ballots of that congressional district in custody subject to the inspection of any committee of the House of Representatives having in charge the investigation of the contest, until the final determination of the contest by the House of Representatives.

In the case of a contest in the State Legislature, the elections official shall hold the ballots of the Senate or Assembly district in custody subject to the inspection of any committee of the Senate or Assembly having in charge the investigation of the contest until the final determination of the contest or the final adjournment of the session of the Legislature in which the contest is filed, whichever is the later.

This Section shall also apply to electronic records of ballots returned by secure electronic submission once the Election Data Security Commission certifies software and procedures for secure electronic submission of vote by mail ballots for use statewide pursuant to subdivision (c) of Section 2603.

In no event shall the package or its contents be taken from the custody of the elections official.

Section 15601 of the Elections Code is hereby amended to read as follows:

§ 15601. Conditions for recount.
(a) The Secretary of State, within the Secretary of State's existing budget, shall adopt regulations no later than January 1, 2008, for each voting system approved for use in the state and specify the procedures for recounting ballots, including vote by mail and provisional ballots, using those voting systems.
(b) No later than January 1, 2018, the Secretary of State shall revise and adopt regulations specifying procedures for recounting ballots, including regulations establishing guidelines for charges a county elections official may impose when conducting a manual recount pursuant to this chapter.
(c) The Secretary of State, within the Secretary of State's existing budget, shall update the regulations adopted pursuant to subdivision (a) to specify procedures for recounting vote by mail ballots returned by secure electronic submission no later than 6 months after the Election

Data Security Commission certifies software and procedures for the secure electronic submission of vote by mail ballots for use statewide pursuant to subdivision (c) of Section 2603.

Section 17307 is hereby added to the Elections Code to read as follows:

§ 17307. Preservation of ballots; vote by mail ballots returned by secure electronic submission.

(a) The elections official shall preserve all vote by mail ballots returned by secure electronic submission and all electronic and paper records and other materials associated with the secure electronic submission of vote by mail ballots for the following time periods:
(1) 22 months for any election where candidates for one or more of the following offices are voted upon: President, Vice President, United States Senator, and United States Representative.
(2) six months for any state or local election not provided for in subdivision (a).
(b) The Election Data Security Commission may adopt regulations identifying records related to secure electronic submission of vote by mail ballots that must be retained by elections officials.

Section 18564 of the Elections Code is hereby amended to read as follows:

§ 18564. Tampering with voting devices, secrecy of ballot, software.

Any person is guilty of a felony, punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for two, three, or four years who, before or during an election:
(a) Tampers with, interferes with, or attempts to interfere with, the correct operation of, or willfully damages in order to prevent the use of, any voting machine, voting device, voting system, vote tabulating device, or ballot tally software program source codes.
(b) Tampers with, interferes with, or attempts to interfere with the correct operation of the software and procedures for voters to electronically submit vote by mail ballots and for elections officials to canvass vote by mail ballots that are electronically submitted that are used for pilot programs pursuant to subdivision (b) of Section 2603 or are certified for statewide use by the Election Data Security Commission pursuant to subdivision (c) of Section 2603.
(b̶c) Interferes or attempts to interfere with the secrecy of voting or ballot tally software program source codes.
(e̶d) Knowingly, and without authorization, makes or has in his or her possession a key to a voting machine that has been adopted and will be used in elections in this state.
(d̶e) Willfully substitutes or attempts to substitute forged or counterfeit ballot tally software program source codes.

Section 18564.5 of the Elections Code is hereby amended to read:

§ 18564.5. Civil action for changing voting system hardware or software.

(a) The Secretary of State, Attorney General, and any local elections official in the county in which the act occurs, may bring a civil action against an individual, business, or other legal entity that commits any of the following acts before, during, or after an election:

(1) Tampers, interferes, or attempts to interfere with the correct operation of, or willfully damages in order to prevent the use of, any voting machine, voting device, voting system, vote tabulating device, or ballot tally software.

(2) Tampers with, interferes with, or attempts to interfere with the correct operation of the software and procedures for voters to electronically submit vote by mail ballots and for elections officials to canvass vote by mail ballots that are electronically submitted that are used for pilot programs pursuant to subdivision (b) of Section 2603 or are certified for use statewide by the Election Data Security Commission pursuant to subdivision (c) of Section 2603..

(2*3*) Interferes or attempts to interfere with the secrecy of voting or interferes or attempts to interfere with ballot tally software program source codes.

(3*4*) Knowingly, and without authorization, gains access to or provides another person or persons with access to a voting machine for the purpose of committing one of the acts specified by this section.

(4*5*) Willfully substitutes or attempts to substitute forged, counterfeit, or malicious ballot tally software program source codes.

(5*6*) Knowingly, and without authorization, inserts or causes the insertion of uncertified hardware, software, or firmware, for whatever purpose, into any voting machine, voting device, voting system, vote tabulating device, or ballot tally software.

(6*7*) Fails to notify the Secretary of State prior to any change in hardware, software, or firmware to a voting machine, voting device, voting system, or vote tabulating device, certified or conditionally certified for use in this state.

(b) A civil action may be brought pursuant to this section for a civil penalty not to exceed fifty thousand dollars ($50,000) for each act and for injunctive relief, if appropriate.

Section 19007 of the Elections Code is hereby added to read as follows:

§ 19007. Inapplicable to electronic submission of vote by mail ballots.

Notwithstanding any other provision of law, this division shall not apply to standards for secure electronic submission of vote by mail ballots developed by the Election Data Security Commission pursuant to subdivision (b) of Section 2602, pilot programs conducted by the Election Data Security Commission pursuant to subdivision (b) of Section 2603 or any software or procedures certified by the Election Data Security Commission for secure electronic submission of vote by mail ballots pursuant to subdivision (c) of Section 2603 until the Commission ceases to exist pursuant to subdivision (g) of Section 2600.

Section 19205 of the Elections Code is hereby repealed.

§19205. Voting system communication restrictions.

A voting system shall comply with all of the following:
(a) No part of the voting system shall be connected to the Internet at any time.
(b) No part of the voting system shall electronically receive or transmit election data through an exterior communication network, including the public telephone system, if the communication originates from or terminates at a polling place, satellite location, or counting center.

(c) No part of the voting system shall receive or transmit wireless communications or wireless data transfers.

Section 19271 of the Elections Code is hereby amended to read as follows:

§ 19271. Definitions.

As used in this article:

(a) "Accessible" means that the information provided on the paper record copy from the voter verified paper audit trail mechanism is provided or conveyed to voters via both a visual and a nonvisual method, such as through an audio component.

(b) "Direct recording electronic voting system" means a voting system that records a vote electronically and does not require or permit the voter to record his or her vote directly onto a tangible ballot. *Provided, however, "direct recording electronic voting system" does not include any system developed for secure electronic submission of vote by mail ballots.*

(c) "Voter verified paper audit trail" means a component of a direct recording electronic voting system that prints a contemporaneous paper record copy of each electronic ballot and allows each voter to confirm his or her selections before the voter casts his or her ballot.

(d) "Federal qualification" means the system has been certified, if applicable, by means of qualification testing by a nationally recognized test laboratory and has met or exceeded the minimum requirements set forth in the Performance and Text Standards for Punch Card, Mark Sense, and Direct Recording Electronic Voting Systems, or in any successor voluntary standard document, developed and promulgated by the Federal Election Commission, the Election Assistance Commission, or the National Institute of Standards and Technology.

(e) "Paper record copy" means an auditable document printed by a voter verified paper audit trail component that corresponds to the voter's electronic vote and lists the contests on the ballot and the voter's selections for those contests. A paper record copy is not a ballot.

(f) "Parallel monitoring" means the testing of a randomly selected sampling of voting equipment on election day designed to simulate actual election conditions to confirm that the system is registering votes accurately.

Section 19295 of the Elections Code is hereby repealed.

§19295 Forbidden Capabilities

A ballot marking system or part of a ballot marking system shall not do any of the following:
(a) Have the capability, including an optional capability, to use a remote server to mark a voter's selections transmitted to the server from the voter's computer via the Internet.
(b) Have the capability, including an optional capability, to store any voter identifiable selections on any remote server.
(c) Have the capability, including the optional capability, to tabulate votes.

SECTION 9. AMENDMENT.

The provisions of this Act may be amended to carry out its purpose and intent by a unanimous recommendation from the Election Data Security Commission, or by a recommendation from the Secretary of State once the Commission ceases to exist pursuant to subdivision (g) of Section 2600, and subsequent statutes approved by a two thirds vote of each house of the Legislature and signed by the Governor or by initiative.

SECTION 10. SEVERABILITY.

If any provision in this Act, or part thereof, or the application of any provision or part to any person or circumstance is held for any reason to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

SECTION 11. CONFLICTING MEASURES.

In the event that this measure and another measure or measures impose requirements to evaluate the security of voting systems or provide for electronic submission of ballots, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure shall be null and void.