AN ACT concerning elections; relating to voting systems and procedures;
4611 and 25-4613 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) (1) (A) All voting systems used for elections in
this state shall require the use of an individual, durable, voter-verified,
paper ballot of the voter's vote that:
(ii) shall be marked by the voter, or by a person assisting the voter as
otherwise permitted by law, either by hand or by use of a voting machine
that is a non-tabulating paper ballot marking or printing device or system
that may be electromechanical or electronic;
(ii) shall be made available to the voter for inspection and verification
by the voter after the voter has marked the ballot but before the voter's
vote is cast and counted, that may be spoiled by the voter if it fails to
reflect the voter's choices and that permits the voter to cast a new paper
ballot; and
(iii) shall be canvassed by hand or read and tabulated by vote-
tabulating equipment consisting of optical scanning equipment or other
counting equipment that counts and tabulates paper ballots.
If the paper ballots are read and tabulated by vote-tabulating equipment
consisting of optical scanning equipment or other counting equipment that
counts and tabulates paper ballots, a sample hand-counted audit of the
paper ballots cast shall be conducted by each precinct as provided in
subsection (b).
(B) The voting system shall provide the voter with an opportunity to
correct any error on the paper ballot before the paper ballot is secured and
preserved.
(3) The voting system shall not preserve the paper ballots in any
manner that makes it possible, at any time after the ballot has been cast, to
associate a voter with the record of the voter's vote without the voter's
consent.
(4) The paper ballot shall constitute the official ballot and shall be
preserved and used as the official ballot suitable for purposes of any audit
or recount conducted with respect to any election in which the voting
system is used. Each paper ballot shall be counted by hand in any recount conducted with respect to any election, unless the requestor of a recount pursuant to K.S.A. 25-3107, and amendments thereto, elects not to have the ballots counted by hand.

(5) In the event of any inconsistencies or irregularities between any electronic vote tallies and the vote tallies determined by counting by hand the paper ballots cast, the paper ballots as counted by hand shall be the true and correct record of the votes cast.

(b) If paper ballots are read and tabulated by vote-tabulating equipment consisting of optical scanning equipment or other counting equipment that counts and tabulates paper ballots, a sample hand-counted audit of the paper ballots cast shall be conducted at the voting place or counting place by the election board. The audit shall consist of examination of voter markings on randomly selected paper ballots and comparison of the results to the voting system's tabulation as reflected in the corresponding cast vote records, in accordance with rules and regulations and audit specifications and parameters to be adopted by the secretary of state. The results shall be reported to the county election officer, the canvassing board and the secretary of state.

(c) The use of poll books not requiring a hand-written signature shall be prohibited.

(d) The secretary of state shall adopt rules and regulations to implement the provisions of this section.

Sec. 2. K.S.A. 25-1122a is hereby amended to read as follows: 25-1122a. The county election officer of any county in which voting machines are used may authorize persons filing applications for advance voting ballots as provided by K.S.A. 25-1122, and amendments thereto, to cast their votes upon voting machines. If the county election officer authorizes the use of voting machines by advance voting voters, the officer shall equip the office of the county election officer with enough voting machines to enable all advance voting voters to cast their votes upon such the machines.

Such The voting machines shall be of a make certified by the secretary of state and shall be sealed in a manner to allow tabulation of the total vote only at the time of the closing of the polls on the day of the election for which such the machines are used and shall be used in conformity with section 1, and amendments thereto.

Sec. 3. K.S.A. 25-1138 is hereby amended to read as follows: 25-1138. In counties where voting machines are used, the special election board shall proceed by using voting machines as permitted by section 1, and amendments thereto, to originally canvass, count and tally the advance voting ballots in accordance with K.S.A. 25-1135 through 25-1137, and amendments thereto, and section 1, and amendments thereto.
Sec. 4. K.S.A. 2019 Supp. 25-2810 is hereby amended to read as follows: 25-2810. (a) Each election board shall have control of its voting place and election procedure under the sole supervision of the secretary of state, county election officer, deputy county election officers and the supervising judge. The election board shall open the polls at the time specified by the county election officer. The judges shall have charge of the ballots and the supervising judge shall designate one of their number to furnish them to voters as provided by law.

(b) Any election board of five or more members may be divided by the county election officer into a receiving board and a counting board, and the receiving board shall furnish and receive ballots and record the names of voters. The receiving board shall have control of the voting place and election procedure under the sole supervision and direction of the secretary of state, county election officer, deputy county election officers, and the supervising judge. The receiving board shall open and close the polls at the time specified by the county election officer.

(c) The counting board or boards, if any, shall proceed to their voting place after the opening of the polls at the hour specified by the county election officer.

(d) At national and state elections, both primary and general, the counting board, if any, shall take charge of one of the ballot boxes containing the national and state ballots already cast in that precinct. It shall retire to a partitioned room or space in the voting place provided for that purpose and there proceed to count and tabulate the ballots cast as it shall find them deposited in the national and state ballot box. The receiving board shall continue to receive the votes of electors in another national and state ballot box, and in a county and township ballot box until such time as the counting board shall have finished counting and tabulating the ballots cast in the first national and state ballot box. They shall then exchange the first box for the second national and state box, and so continue until they have counted and tabulated all the votes cast on that election day in the national and state ballot boxes. Counting boards may, in like manner, count the ballots in other ballot boxes when only an unsubstantial number of national and state ballots have been cast and are uncounted, and likewise at elections where there are no national and state ballots. Prior to the closing of the polls, no ballots shall be counted from any ballot box containing less than 50 ballots. No result of the count shall be made known to any person not on the election board, except the county election officer or such officer's deputies, until after the time to close the polls.

(e) At city and school elections, both primary and general, the counting board, if any, shall take charge of a ballot box containing one kind of ballot. Such board shall then proceed, as in national and state
elections, to count and tabulate the ballots cast. When the ballots in such
ballot box have been counted, the box shall be exchanged for another
ballot box and so continue until all of the ballots of every kind are counted
and tabulated.

(f) When the hour arrives for closing the polls, the election board,
including both the receiving and counting boards if any, shall continue in
the work of counting, tabulating and summarizing the votes, and making
their certificates as to the result of the election.

(g) All of the judges and clerks at the same voting place on duty
when the polls close shall unite in certifying the election results as
provided in K.S.A. 25-3006, and amendments thereto.

(h) (1) In accordance with rules and regulations adopted by the
secretary of state, the county election officer may allocate staffing
resources as needed at the voting place except that two members of the
election board, one of which is the supervising judge, shall be on duty for
the entire time the polls are open.

(2) The secretary of state may adopt rules and regulations to
implement the provisions of this section.

(i) The secretary of state and county election officers shall ensure
that the provisions of section 1, and amendments thereto, are enforced.

Sec. 5. K.S.A. 25-3006 is hereby amended to read as follows: 25-
3006. (a) When the election board completes its canvass, it shall make
three abstracts of the vote cast for all candidates whose names are printed
on the ballot, all write-in votes cast and all votes cast on questions
submitted. Such abstracts shall be made under the direction of the
supervising judge upon forms provided by the county election officer.
Each of such three abstracts shall bear a certificate of the validity thereof
and each certificate shall be signed by all of the clerks and judges at the
voting place.

(b) In voting places where voting machines equipped with printed
election returns mechanisms are used, the counter compartment shall not
be opened and the original and duplicate originals of the printed return
sheets of the votes cast on questions submitted and for candidates whose
names are printed on the official ballot labels, together with the tabulation
and inclusion of any write-in votes appearing on the paper roll shall
constitute the official abstract for the votes cast on that machine, when
coupled with the other originals and duplicate originals of other machines
in the voting place and certified as abstracts of the vote cast at such voting
place, upon forms and in the manner prescribed by the county election
officer.

(c) The secretary of state may adopt rules and regulations prescribing
procedures and forms to be used in carrying out the provisions of this
section and K.S.A. 25-1338, as amended and amendments thereto.
(d) On and after the effective date of this act, the use of voting machines shall be permitted only in accordance with the provisions of section 1, and amendments thereto.

Sec. 6. K.S.A. 2019 Supp. 25-4401 is hereby amended to read as follows: 25-4401. As used in this act unless the context otherwise requires:

(a) "Ballot" may include an electronic display or printed document means a paper ballot as defined in K.S.A. 25-4601, and amendments thereto, and section 1, and amendments thereto, containing the offices and questions on which voters in a specified voting area are eligible to vote.

(b) "Counting location" means the location in the county selected by the county election officer for the counting of ballots.

(c) "Electronic or electromechanical voting system" means a system of casting votes and tabulating ballots employing automatic tabulating equipment or data processing equipment including as permitted by section 1, and amendments thereto, and does not include a direct recording electronic system.

(d) "Direct recording electronic system" means a system that records votes by means of a ballot display provided with mechanical or electro-optical components that can be activated by the voter, that processes data by means of a computer program, that records voting data and ballot images in memory components, that produces a tabulation of the voting data stored in a removable memory component and as printed copy, and that may also provide a means for transmitting individual ballots or vote totals to a central location for consolidating and reporting results from precincts at the central location.

Sec. 7. K.S.A. 2019 Supp. 25-4404 is hereby amended to read as follows: 25-4404. The secretary of state shall examine and approve the kinds or makes of electronic or electromechanical voting systems, including operating systems, firmware and software, and no kind or make of such system shall be used at any election unless and until it receives certification by the secretary of state and a statement thereof is filed in the office of the secretary of state. All such voting systems shall conform to the provisions of section 1, and amendments thereto.

Sec. 8. K.S.A. 2019 Supp. 25-4406 is hereby amended to read as follows: 25-4406. Electronic or electromechanical voting systems approved by the secretary of state:

(a) Shall provide for voting for the candidates for nomination or election of all political parties officially recognized pursuant to K.S.A. 25-302a, and amendments thereto;

(b) shall permit a voter to vote for any independent candidate for any office;

(c) shall provide for voting on constitutional amendments or other questions submitted;
(d) shall be so constructed that, as to primaries where candidates are
nominated by political parties, the voter can vote only for the candidates
for whom the voter is qualified to vote according to articles 2 and 33 of
chapter 25 of the Kansas Statutes Annotated, and amendments thereto;
(e) shall afford the voter an opportunity to vote for any or all
candidates for an office for whom the voter is by law entitled to vote and
no more, and at the same time shall prevent the voter from voting for the
same candidate twice for the same office;
(f) shall be so constructed that in presidential elections the
presidential electors of any political party may be voted for by one action;
(g) shall provide for "write-in" votes;
(h) shall provide for voting in absolute secrecy, except as to persons
who request assistance due to temporary illness or disability or a lack of
proficiency in reading the English language;
(i) shall reject all votes for an office or upon a question submitted
when the voter has cast more votes for such office or upon such question
than the voter is entitled to cast;
(j) shall provide for instruction of voters on the operation of voting
machines, illustrating the manner of voting by the use of such systems.
The instruction may include printed materials or demonstration by election
board workers;
(k) shall provide a paper record of each vote cast, produced at the
time the vote is cast;
(l) shall have the ability to be tested both before an election and prior
to the date of canvass. The test shall include the ability to match the paper
records of such machines to the vote totals contained in the machines and
otherwise meet the requirements of section 1, and amendments thereto; and
(m) shall meet the requirements of the help America vote act of 2002
and other federal statutes and regulations governing voting equipment.
Sec. 9. K.S.A. 2019 Supp. 25-4412 is hereby amended to read as
follows: 25-4412. (a) In voting areas where electronic or
electromechanical voting systems are used, as soon as the polls are closed,
the supervising judge shall secure the voting equipment to prevent further
voting. The judge shall count the number of ballots or envelopes
containing ballots that have been cast to determine that the number of
ballots equals the number of voters shown on the poll book. If there is a
discrepancy, this fact shall be reported in writing to the county election
officer with the reasons therefor if known. The write-in votes shall then be
counted by the supervising judge and clerks.
(b) The supervising judge shall place—any all paper ballots that have
been cast in the container provided for the purpose, which shall be sealed
and delivered forthwith by two election board members who shall not be
of the same political party, to the counting location together with the
provisional, unused, void and defective ballots and returns.

(c) All proceedings at the counting location shall be under the direction of the county election officer and under the observation of two election board members who shall not be of the same political party and shall be open to the public, but no persons except those employed and authorized for the purpose shall touch any ballot, ballot container or return. If any paper ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, such ballot shall be manually counted. The totals for all such ballots manually counted shall be added to the totals for the respective precincts or election districts.

(d) The return printed by the automatic tabulating equipment, to which has been added the return of write-in and advance voting votes and manually counted votes, shall constitute the official return of each precinct or election district. Upon completion of the count the returns shall be open to the public. A copy of the returns shall be posted at the central counting place or at the office of the election officer in lieu of the posting of returns at the individual precincts.

(e) If for any reason it becomes impracticable to count all or a part of the ballots with tabulation equipment, the county election officer may direct that they be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

(f) An audit shall be conducted as provided by section 1, and amendments thereto.

Sec. 10. K.S.A. 2019 Supp. 25-4603 is hereby amended to read as follows: 25-4603. The secretary of state shall examine and approve the kinds or makes of systems using optical scanning equipment, including operating systems, firmware and software, and no kind or make of such system shall be used at any election unless and until it receives certification by the secretary of state and a statement thereof is filed in the office of the secretary of state. Optical scanning equipment shall be used in accordance with section 1, and amendments thereto.

Sec. 11. K.S.A. 2019 Supp. 25-4611 is hereby amended to read as follows: 25-4611. (a) As soon as the polls are closed, the supervising judge shall count the number of ballots or envelopes containing ballots that have been cast to determine that the number of ballots equals the number of voters shown on the poll book. If there is a discrepancy, this fact shall be reported in writing to the county election officer with the reasons therefor if known.

(b) The election judge shall place all ballots that have been cast in the container provided for the purpose, which shall be sealed and delivered by two election board members who shall not be of the same political party, to the counting location together with the provisional, unused, void and defective ballots and returns.
(c) All proceedings at the counting location shall be under the direction of the county election officer and under the observation of two election board members who shall not be of the same political party and shall be open to the public, but no persons except those employed and authorized for the purpose shall touch any ballot, ballot container or return. If any ballot is damaged or defective so that it cannot properly be counted by the optical scanning equipment, it shall be counted manually.

(d) Advance voting ballots may be counted by the optical scanning equipment if they have been marked in a manner which will enable them to be properly counted by such equipment. If any advance voting ballot is damaged or defective so that it cannot properly be counted by the optical scanning equipment, it shall be counted manually.

(e) The return printed by the optical scanning equipment, to which has been added the return of write-in and advance voting votes and manually counted votes, shall constitute the official return of each precinct or voting area. Upon completion of the count the returns shall be open to the public. A copy of the returns shall be posted at the office of the county election officer.

(f) If for any reason it becomes impracticable to count all or a part of the ballots with optical scanning equipment, the county election officer may direct that they be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

(g) Procedures shall conform with the provisions of section 1, and amendments thereto.

Sec. 12. K.S.A. 2019 Supp. 25-4613 is hereby amended to read as follows: 25-4613. Optical scanning equipment and systems using optical scanning equipment approved by the secretary of state:

(a) Shall be capable of being tested to ascertain that the equipment will correctly count votes cast for all offices and on all questions submitted; and

(b) shall be capable of printing in legible form, reports and summaries of the election results as required by articles 30 and 31 of chapter 25 of Kansas Statutes Annotated, and amendments thereto; and

(c) shall be capable of tabulating votes for candidates for nomination or election of all political parties officially recognized pursuant to K.S.A. 25-302a, and amendments thereto; and

(d) shall be capable of tabulating votes for any independent candidate of any office; and

(e) shall be capable of tabulating votes for constitutional amendments or other questions submitted; and

(f) shall be capable of tabulating the number of "write-in" votes cast for any office;

(g) shall not count any votes for an office or upon a question
submitted when the voter has cast more votes for such office or upon such
question than the voter is entitled to cast;
  (h) shall provide notification when the voter has cast more votes for
such office or upon such question than the voter is entitled to cast; and
  (i) shall meet the requirements of the help America vote act of 2002
and other federal statutes and regulations governing voting equipment;
and
  (j) shall be used in accordance with section 1, and amendments
thereto.
and 25-4613 are hereby repealed.
Sec. 14. This act shall take effect and be in force from and after
January 1, 2021, and its publication in the statute book.