AN ACT concerning elections; relating to audits; concerning requirements for certain voting machines; amending K.S.A. 2015 Supp. 25-4403 and 25-4406 and repealing the existing sections.

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

New Section 1. (a) After an election and prior to the meeting of the county board of canvassers to certify the official election results for any election in which the canvassers certify the results, the county election officer shall conduct a manual audit of each vote cast, regardless of the method of voting, in a 1% random sample of all precincts located within the county or in a district or race. The precincts contained in the random sample shall only be determined after the election.

(b) The audit shall be performed manually and shall review all paper ballots in the sample, or all paper proof of ballots in the sample. The audit shall be performed by a sworn election board consisting of bi-partisan trained board members. The county election officer will determine the members of the sworn election board who will conduct the audit.

(c) At least five days prior to the audit, notice of the time and location of the audit shall be provided to the public on the official county website. The audit shall be conducted in a public setting. Any candidate or entity who is authorized to appoint a poll agent may appoint a poll agent for the audit.

(d) The results of the audit shall be compared to the unofficial election night returns and a report shall be submitted to the county election office and to the secretary of state's office prior to the meeting of the county board of canvassers. If a discrepancy is reported between the audit and the unofficial returns and cannot be resolved, the county election officer or the secretary of state may require audits of additional precincts. Once the audit has been completed, the results of the audit shall be used by the county board of canvassers when certifying the official election results.

(e) The secretary of state shall adopt rules and regulations governing the conduct and procedure of the audit, including the random selection of the precinct districts.

New Sec. 2. Within five days prior to the date of an election, the county election officer shall have any electronic or electromechanical voting systems used in the county tested to ascertain that the system will
correctly record and count the votes cast for all offices and on all questions submitted. Public notice of the time and place of the test shall be given at least 48 hours prior thereto by publication once in a newspaper of general circulation in the county where such equipment is to be used. The test shall be open to representatives of the political parties, candidates, the press and the public. The test shall be conducted by taking a random selection of the electronic or electromechanical voting systems, casting test votes on the machines and matching the paper records of such machines to the vote totals contained in the machines. If any error is detected, the cause of the error shall be determined and corrected and an errorless count shall be made before the electronic or electromechanical voting system is approved. The test shall be repeated after the completion of the canvass. The programs and ballots shall be sealed, retained and disposed of in the same manner as paper ballots.

Sec. 3. K.S.A. 2015 Supp. 25-4403 is hereby amended to read as follows: 25-4403. (a) The board of county commissioners and the county election officer of any county may provide an electronic or electromechanical voting system to be used at voting places, or for advance voting in the county at national, state, county, township, city and school primary and general elections and in question submitted elections.

(b) The board of county commissioners of any county in which the board of county commissioners and county election officer have determined that an electronic or electromechanical voting system shall be used may issue bonds to finance and pay for purchase, lease or rental of such a system.

(c) The board of county commissioners and the county election officer of any county may adopt, experiment with or abandon any electronic or electromechanical system herein authorized and approved for use in the state and may use such a system in all or any part of the voting areas within the county or in combination with an optical scanning voting system or with regular paper ballots. Whenever the secretary of state rescinds approval of any voting system, the board of county commissioners and the county election officer shall abandon such system until changes therein required by the secretary of state have been made, or if the secretary of state advises that acceptable changes cannot be made therein, such abandonment shall be permanent.

(d) On and after the effective date of this act, no board of county commissioners in any county may purchase, lease or rent any direct recording electronic system, as defined in K.S.A. 25-4401(d), and amendments thereto. On and after the effective date of this act, no board of county commissioners in any county may purchase, lease or rent any electronic or electromechanical voting system unless such system:

(1) Provides a paper record of each vote cast, produced at the time
the vote is cast;

(2) uses open source software with the source code available to election officials to inspect before such voting system is used and after any election for the purposes of auditing the results of any election;

(3) provides a paper record of any poll book used at any polling place; and

(4) has the ability to be tested both before an election and prior to the date of canvass. Such test shall include the ability to match the paper record of such machine to the vote total contained in the machine.

Sec. 4. K.S.A. 2015 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 use open source software with the source code available to
election officials to inspect before such voting systems are used and after any election for the purposes of auditing the results of any election;

(m) shall provide a paper record of poll books used at polling places;

(n) shall have the ability to be tested both before an election and prior to the date of canvass. Such test shall include the ability to match the paper records of such machines to the vote totals contained in the machines; and

(o) shall meet the requirements of the help America vote act of 2002 and other federal statutes and regulations governing voting equipment.

Sec. 5. K.S.A. 2015 Supp. 25-4403 and 25-4406 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.