

SENATE BILL No. 413

By Committee on Ethics, Elections and Local Government

2-8

1 AN ACT concerning elections; relating to voting systems and procedures;
2 ballot counts by voters; amending K.S.A. 25-1122a, 25-1138, 25-
3 26a02, 25-2808, 25-3004 and 25-3006 and K.S.A. 2017 Supp. 25-2701,
4 25-2810, 25-4401, 25-4403, 25-4404, 25-4406, 25-4412, 25-4603, 25-
5 4611 and 25-4613 and repealing the existing sections.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section. 1. (a) (1) All voting systems used for elections in this
9 state shall require the use of an individual, durable, voter-verified, paper
10 ballot of the voter's vote that:

11 (A) Shall be marked by the voter, or by a person assisting the voter as
12 otherwise permitted by law, either by hand or by use of a voting machine
13 that is a non-tabulating paper ballot marking or printing device or system
14 that may be electromechanical or electronic;

15 (B) shall be made available to the voter for inspection and
16 verification by the voter after the voter has marked the ballot and before
17 the voter's vote is cast and counted, that may be spoiled by the voter if it
18 fails to reflect the voter's choices and that permits the voter to cast a new
19 paper ballot; and

20 (C) shall be canvassed by hand or read and tabulated by vote-
21 tabulating equipment consisting of optical scanning equipment or other
22 counting equipment that counts and tabulates paper ballots.

23 If the paper ballots are read and tabulated by vote-tabulating equipment
24 consisting of optical scanning equipment or other counting equipment that
25 counts and tabulates paper ballots, a sample hand-counted audit of the
26 paper ballots cast shall be conducted by each precinct as provided in
27 subsection (d).

28 (2) The voting system shall provide the voter with an opportunity to
29 correct any error on the paper ballot before the paper ballot is secured and
30 preserved.

31 (3) The voting system shall not preserve the paper ballots in any
32 manner that makes it possible, at any time after the ballot has been cast, to
33 associate a voter with the record of the voter's vote without the voter's
34 consent.

35 (4) The paper ballot shall constitute the official ballot and shall be
36 preserved and used as the official ballot suitable for purposes of any audit

1 or recount conducted with respect to any election in which the voting
2 system is used. Each paper ballot shall be counted by hand in any recount
3 conducted with respect to any election, unless the requestor of a recount
4 pursuant to K.S.A. 25-3107, and amendments thereto, elects not to have
5 the ballots counted by hand.

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

10 (b) Paper ballots cast at a precinct voting location shall be made
11 available for inspection and counting at the voting location after the time
12 of the closing of the polls by any voter registered as a resident in that
13 precinct or by the voter's representative designated by the voter in writing.
14 The inspection shall be conducted in a manner that permits an independent
15 canvass of the ballots by the voter or voter's representative while
16 preserving the security and integrity of the paper ballots and voter
17 confidentiality. The inspection shall be permitted to be made concurrently
18 with an official canvass occurring after the closing of the polls if it will not
19 unduly interfere with the official canvass. The inspection shall be
20 supervised by an election board member or election judge, and all paper
21 ballots shall be handled only by an election board member or election
22 judge and shall remain in the custody of the election board at all times. If
23 more than one voter or voter's representative wishes to conduct an
24 inspection, only one inspection shall be conducted in a manner that
25 permits all voters or voter's representatives to participate. Before any
26 inspection of the paper ballots, the voter or voter's representative desiring
27 to make the inspection shall provide to the supervising judge identification
28 in the form of a driver's license or other reliable identification and shall
29 sign a log book or application form stating the person's name and address
30 and showing the date and time of the inspection. The supervising judge
31 shall have the authority to deny or to terminate an inspection if, in the
32 supervising judge's discretion, the inspection poses a risk to the integrity of
33 the canvass, the security of the paper ballots or voter confidentiality.

34 (c) Advance voting ballots shall be made available for inspection
35 after the closing of the polls at the place the advance voting ballots are
36 canvassed by the special election board as provided by K.S.A. 25-1135,
37 and amendments thereto, by any voter registered in that county where the
38 advance voting ballot has been received or by that voter's representative
39 designated by the voter in writing. The inspection shall be conducted in a
40 manner that permits an independent canvass of the advance voting ballots
41 by the voter or voter's representative while preserving the security and
42 integrity of the advance voting ballots and voter confidentiality. The
43 inspection shall be supervised by a member or members of the special

1 election board. The inspection shall be permitted to be made concurrently
2 with an official canvass occurring after the closing of the polls, if it will
3 not unduly interfere with the official canvass. All advance voting ballots
4 shall be handled only by a special election board member or election judge
5 and shall remain in the custody of the election board at all times. Advance
6 voting ballots and other voting records shall be handled and preserved in a
7 manner that preserves the security of the advance voting ballots and other
8 voting records and that preserves voter confidentiality. Before any
9 inspection of the advance voting ballots, the voter or voter's representative
10 desiring to make the inspection shall provide to the special election board
11 identification in the form of a driver's license or other reliable
12 identification and shall sign a log book or application form stating the
13 person's name and address and showing the date and time of the
14 inspection. The special election board shall have the authority to deny or to
15 terminate an inspection if, in the special election board's discretion, the
16 inspection poses a risk to the integrity of the canvass, the security of the
17 advance voting ballots or voter confidentiality.

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

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

31 (f) The secretary of state shall adopt rules and regulations as
32 necessary or convenient to implement the provisions of this section.

33 Sec. 2. K.S.A. 25-1122a is hereby amended to read as follows: 25-
34 1122a. The county election officer of any county in which voting machines
35 are used may authorize persons filing applications for advance voting
36 ballots as provided by K.S.A. 25-1122, and amendments thereto, to cast
37 their votes upon voting machines. If the county election officer authorizes
38 the use of voting machines by advance voting voters ~~such~~ the officer shall
39 equip the office of the county election officer with enough voting
40 machines to enable all advance voting voters to cast their votes upon ~~such~~
41 *the* machines.

42 Such machines shall be of a make certified by the secretary of state and
43 shall be sealed in a manner to allow tabulation of the total vote only at the

1 time of the closing of the polls on the day of the election for which such
2 machines are used. *Voting machines shall be used in conformance with the*
3 *provisions of section 1, and amendments thereto.*

4 Sec. 3. K.S.A. 25-1138 is hereby amended to read as follows: 25-
5 1138. In counties where voting machines are used, the special election
6 board shall proceed by using voting machines *as permitted by section 1,*
7 *and amendments thereto,* to originally canvass, count and tally the advance
8 voting ballots in accordance with K.S.A. 25-1135-~~to~~ *through 25-1137,* and
9 amendments thereto, *and section 1, and amendments thereto.*

10 Sec. 4. K.S.A. 25-26a02 is hereby amended to read as follows: 25-
11 26a02. Election precincts in all counties of the state shall be established or
12 changed by county election officers in such a manner that:

13 (a) Except as otherwise provided in this section, each election
14 precinct shall be composed of contiguous and compact areas having
15 clearly observable boundaries using visible ground features which meet
16 the requirements of the federal bureau of the census and which coincide
17 with census block boundaries as established by the federal bureau of the
18 census and shall be wholly contained within any larger district from which
19 any municipal, township or county officers are elected;

20 (b) election precincts for election purposes shall be designated
21 consecutively in the county by number or name, or a combination of name
22 and number;

23 (c) any municipal exclave or township enclave shall be a separate
24 precinct and designated by a separate number or name, or combination of
25 name and number, and shall not be identified with or as a part of any other
26 municipal or township precinct;

27 (d) from and after the time that the legislature has been redistricted in
28 1992, precincts shall be arranged so that no precinct lies in more than one
29 legislative district;

30 (e) a street or other roadway which has been platted but not graded is
31 not a visible or observable feature for the purposes of this section; ~~and~~

32 (f) where a legislative district boundary coincides with a municipal
33 boundary which is changed by reason of annexation, ~~such-the~~ legislative
34 district boundary shall be maintained as a precinct boundary until the next
35 legislative redistricting regardless of whether ~~such-a-the~~ legislative district
36 boundary uses a visible ground feature or coincides with a census block
37 boundary; *and*

38 (g) *the boundaries of each precinct shall be composed so as to*
39 *include the addresses of at least 100 registered voters, but not more than*
40 *5,000 registered voters.*

41 Sec. 5. K.S.A. 2017 Supp. 25-2701 is hereby amended to read as
42 follows: 25-2701. (a) The county election officer shall determine the area
43 to be served by each voting place at every election and shall provide notice

1 of ~~such~~*the* voting places as required by law. Any precinct having less than
2 20-100 registered voters shall be included with an adjacent precinct or
3 precincts in a single area to be served by a common voting place. The
4 location of voting places shall be designated by the county election officer
5 as provided by K.S.A. 25-2703, and amendments thereto.

6 (b) For any election to which this section is applicable, wherever a
7 city is located in two counties, the county election officer of the county in
8 which the greater population of the city is located may designate a voting
9 place located in a portion of the city in the other county to serve an area
10 within that portion of the city within the county in which the greater
11 population of the city is located.

12 (c) At voting places serving two or more precincts, one or more of
13 which have less than 20-100 registered voters, all ballots which are
14 identical shall be deposited in the same ballot box or boxes and ~~such~~*the*
15 votes shall be counted and canvassed in a manner as to minimize the
16 possibility of identifying the ballots cast by any voter.

17 (d) (1) The county election officer may not change a voting place
18 prior to an election without providing mailed notice to the voters affected
19 at least 30 days prior to the election. If an emergency is declared by the
20 county election officer, the mailed notice requirement shall be waived.

21 (2) Failure to receive notice of a change in the voting place shall not
22 give rise to a cause of action challenging the results of the election.

23 Sec. 6. K.S.A. 25-2808 is hereby amended to read as follows: 25-
24 2808. (a) ~~Except as otherwise provided in subsection (b),~~ The county
25 election officer shall determine for each election, for each voting place,
26 whether the election board thereof will have three members or some
27 greater number of members.

28 (b) ~~The county election officer may appoint an election board of two~~
29 ~~members for any precinct having less than 50 registered voters and in~~
30 ~~which the voting place is located more than 10 miles from any other voting~~
31 ~~place. Such members shall not be members of the same political party. In~~
32 ~~the event of an emergency or if one of the members of the election board is~~
33 ~~unable to complete the duties prescribed by law, the county election officer~~
34 ~~shall be informed and the member of the election board shall be replaced~~
35 ~~immediately. If at anytime one of the board members shall leave the room~~
36 ~~where the ballots are kept, a note describing the time, situation and number~~
37 ~~of voted ballots, or if applicable, the vote which has been counted, shall be~~
38 ~~written in the registration book. The time that such second member of the~~
39 ~~election board returns shall be written in the registration book and the note~~
40 ~~signed by both board members. If at any time both members of the~~
41 ~~election board leave the room, a notation to that effect shall be made in the~~
42 ~~registration book and the ballots secured against tampering.~~

43 Sec. 7. K.S.A. 2017 Supp. 25-2810 is hereby amended to read as

1 follows: 25-2810. (a) Each election board shall have control of its voting
2 place and election procedure under the sole supervision of the secretary of
3 state, county election officer, deputy county election officers and the
4 supervising judge. The election board shall open the polls at the time
5 specified by the county election officer. The judges shall have charge of
6 the ballots and the supervising judge shall designate one of their number to
7 furnish them to voters as provided by law.

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

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

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

40 (e) At city and school elections, both primary and general, the
41 counting board, if any, shall take charge of a ballot box containing one
42 kind of ballot. Such board shall then proceed, as in national and state
43 elections, to count and tabulate the ballots cast. When the ballots in such

1 ballot box have been counted, the box shall be exchanged for another
2 ballot box and so continue until all of the ballots of every kind are counted
3 and tabulated.

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

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

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

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

18 (i) *Under the direction of the secretary of state, county election*
19 *officer, deputy county election officers and the supervising judge, election*
20 *boards shall ensure the provisions of section 1, and amendments thereto,*
21 *are followed and administered.*

22 Sec. 8. K.S.A. 25-3004 is hereby amended to read as follows: 25-
23 3004. During the original canvass by election boards, the judge
24 announcing the vote on any ballot shall, upon request of any authorized
25 poll agent, exhibit ~~such~~ the ballot fully opened in a condition that ~~such~~ the
26 agent may fully and carefully read and examine the same. The judge shall
27 not allow any ~~such~~ ballot to be taken from his hands. *Upon the closing of*
28 *the polls, an inspection by one or more voter or voter's representative*
29 *shall be allowed if requested and as permitted by section 1, and*
30 *amendments thereto.*

31 Sec. 9. K.S.A. 25-3006 is hereby amended to read as follows: 25-
32 3006. (a) When the election board completes its canvass, it shall make
33 three abstracts of the vote cast for all candidates whose names are printed
34 on the ballot, all write-in votes cast and all votes cast on questions
35 submitted. Such abstracts shall be made under the direction of the
36 supervising judge upon forms provided by the county election officer.
37 Each of ~~such~~ the three abstracts shall bear a certificate of the validity
38 thereof and each certificate shall be signed by all of the clerks and judges
39 at the voting place.

40 (b) In voting places where voting machines equipped with printed
41 election returns mechanisms are used, the counter compartment shall not
42 be opened and the original and duplicate originals of the printed return
43 sheets of the votes cast on questions submitted and for candidates whose

1 names are printed on the official ballot labels, together with the tabulation
2 and inclusion of any write-in votes appearing on the paper roll shall
3 constitute the official abstract for the votes cast on that machine, when
4 coupled with the other originals and duplicate originals of other machines
5 in the voting place and certified as abstracts of the vote cast at such voting
6 place, upon forms and in the manner prescribed by the county election
7 officer.

8 (c) The secretary of state may adopt rules and regulations prescribing
9 procedures and forms to be used in carrying out the provisions of this
10 section and K.S.A. 25-1338, ~~as amended and amendments thereto.~~

11 (d) *On and after the effective date of this act, the use of voting*
12 *machines shall be permitted only in accordance with the provisions of*
13 *section 1, and amendments thereto.*

14 Sec. 10. K.S.A. 2017 Supp. 25-4401 is hereby amended to read as
15 follows: 25-4401. As used in this act unless the context otherwise requires:

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

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

22 (c) "Electronic or electromechanical voting system" means a system
23 of casting votes and tabulating ballots employing automatic tabulating
24 equipment or data processing equipment ~~including~~ *as permitted by section*
25 *1, and amendments thereto, and does not include* a direct recording
26 electronic system.

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

36 Sec. 11. K.S.A. 2017 Supp. 25-4403 is hereby amended to read as
37 follows: 25-4403. (a) The board of county commissioners and the county
38 election officer of any county may provide an electronic or
39 electromechanical voting system to be used at voting places, or for
40 advance voting in the county at national, state, county, township, city and
41 school primary and general elections and in question submitted elections.

42 (b) The board of county commissioners of any county in which the
43 board of county commissioners and county election officer have

1 determined that an electronic or electromechanical voting system shall be
2 used may issue bonds to finance and pay for purchase, lease or rental of
3 such a system.

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

15 (d) *On and after the effective date of this act, no board of county*
16 *commissioners in any county may purchase, lease or rent any direct*
17 *recording electronic system, as defined in K.S.A. 25-4401(d), and*
18 *amendments thereto. On an after the effective date of this act, no board of*
19 *county commissioners in any county may purchase, lease or rent any*
20 *electronic or electromechanical voting system, unless such system marks*
21 *or provides a paper ballot record of each vote cast, produced at the time*
22 *the vote is cast, and otherwise complies with the provisions of section 1,*
23 *and amendments thereto.*

24 Sec. 12. K.S.A. 2017 Supp. 25-4404 is hereby amended to read as
25 follows: 25-4404. The secretary of state shall examine and approve the
26 kinds or makes of electronic or electromechanical voting systems,
27 including operating systems, firmware and software, and no kind or make
28 of such system shall be used at any election unless and until it receives
29 certification by the secretary of state and a statement thereof is filed in the
30 office of the secretary of state. *All electronic or electromechanical voting*
31 *systems shall conform with and be used in accordance with the provisions*
32 *governing voting systems pursuant to section 1, and amendments thereto.*

33 Sec. 13. K.S.A. 2017 Supp. 25-4406 is hereby amended to read as
34 follows: 25-4406. Electronic or electromechanical voting systems
35 approved by the secretary of state:

36 (a) Shall provide for voting for the candidates for nomination or
37 election of all political parties officially recognized pursuant to K.S.A. 25-
38 302a, and amendments thereto;

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

41 (c) shall provide for voting on constitutional amendments or other
42 questions submitted;

43 (d) shall be so constructed that, as to primaries where candidates are

1 nominated by political parties, the voter can vote only for the candidates
2 for whom the voter is qualified to vote according to articles 2 and 33 of
3 chapter 25 of the Kansas Statutes Annotated, and amendments thereto;

4 (e) shall afford the voter an opportunity to vote for any or all
5 candidates for an office for whom the voter is by law entitled to vote and
6 no more, and at the same time shall prevent the voter from voting for the
7 same candidate twice for the same office;

8 (f) shall be so constructed that in presidential elections the
9 presidential electors of any political party may be voted for by one action;

10 (g) shall provide for "write-in" votes;

11 (h) shall provide for voting in absolute secrecy, except as to persons
12 who request assistance due to temporary illness or disability or a lack of
13 proficiency in reading the English language;

14 (i) shall reject all votes for an office or upon a question submitted
15 when the voter has cast more votes for ~~such~~ the office or upon ~~such~~ the
16 question than the voter is entitled to cast;

17 (j) shall provide for instruction of voters on the operation of voting
18 machines, illustrating the manner of voting by the use of ~~such~~ the systems.
19 The instruction may include printed materials or demonstration by election
20 board workers; ~~and~~

21 (k) shall meet the requirements of the help America vote act of 2002
22 and other federal statutes and regulations governing voting equipment;
23 *and*

24 *(l) shall meet the requirements of a voting system as defined in*
25 *section 1, and amendments thereto, and shall be used in accordance with*
26 *the provisions of section 1, and amendments thereto.*

27 Sec. 14. K.S.A. 2017 Supp. 25-4412 is hereby amended to read as
28 follows: 25-4412. (a) In voting areas where electronic or
29 electromechanical voting systems are used, as soon as the polls are closed,
30 the supervising judge shall secure the voting equipment to prevent further
31 voting. The judge shall count the number of ballots or envelopes
32 containing ballots that have been cast to determine that the number of
33 ballots equals the number of voters shown on the poll book. If there is a
34 discrepancy, this fact shall be reported in writing to the county election
35 officer with the reasons therefor if known. The write-in votes shall then be
36 counted by the supervising judge and clerks.

37 (b) The supervising judge shall place ~~any~~ all paper ballots that have
38 been cast in the container provided for the purpose, which shall be sealed
39 and delivered forthwith by two election board members who shall not be
40 of the same political party, to the counting location together with the
41 provisional, unused, void and defective ballots and returns.

42 (c) All proceedings at the counting location shall be under the
43 direction of the county election officer and under the observation of two

1 election board members who shall not be of the same political party and
2 shall be open to the public, but no persons except those employed and
3 authorized for the purpose shall touch any ballot, ballot container or return.
4 If any paper ballot is damaged or defective so that it cannot properly be
5 counted by the automatic tabulating equipment, such ballot shall be
6 manually counted. The totals for all such ballots manually counted shall be
7 added to the totals for the respective precincts or election districts.

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

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

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

21 Sec. 15. K.S.A. 2017 Supp. 25-4603 is hereby amended to read as
22 follows: 25-4603. The secretary of state shall examine and approve the
23 kinds or makes of systems using optical scanning equipment, including
24 operating systems, firmware and software, and no kind or make of ~~such~~
25 *the* system shall be used at any election unless and until it receives
26 certification by the secretary of state and a statement thereof is filed in the
27 office of the secretary of state. *Optical scanning equipment shall be used*
28 *in accordance with the provisions of section 1, and amendments thereto.*

29 Sec. 16. K.S.A. 2017 Supp. 25-4611 is hereby amended to read as
30 follows: 25-4611. (a) As soon as the polls are closed, the supervising judge
31 shall count the number of ballots or envelopes containing ballots that have
32 been cast to determine that the number of ballots equals the number of
33 voters shown on the poll book. If there is a discrepancy, this fact shall be
34 reported in writing to the county election officer with the reasons therefor
35 if known.

36 (b) The election judge shall place all ballots that have been cast in the
37 container provided for the purpose, which shall be sealed and delivered by
38 two election board members who shall not be of the same political party, to
39 the counting location together with the provisional, unused, void and
40 defective ballots and returns.

41 (c) All proceedings at the counting location shall be under the
42 direction of the county election officer and under the observation of two
43 election board members who shall not be of the same political party and

1 shall be open to the public, but no persons except those employed and
2 authorized for the purpose shall touch any ballot, ballot container or return.
3 If any ballot is damaged or defective so that it cannot properly be counted
4 by the optical scanning equipment, it shall be counted manually.

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

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

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

20 (g) *Procedures shall conform with the provisions of section 1, and*
21 *amendments thereto, including the performance of an audit, as provided*
22 *by section 1, and amendments thereto.*

23 Sec. 17. K.S.A. 2017 Supp. 25-4613 is hereby amended to read as
24 follows: 25-4613. Optical scanning equipment and systems using optical
25 scanning equipment approved by the secretary of state:

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

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

32 (c) shall be capable of tabulating votes for candidates for nomination
33 or election of all political parties officially recognized pursuant to K.S.A.
34 25-302a, and amendments thereto; ~~and~~

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

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

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

41 (g) shall not count any votes for an office or upon a question
42 submitted when the voter has cast more votes for ~~such~~ *the* office or upon
43 ~~such~~ *the* question than the voter is entitled to cast;

1 (h) shall provide notification when the voter has cast more votes for
2 ~~such~~*the* office or upon ~~such~~*the* question than the voter is entitled to cast;
3 ~~and~~

4 (i) shall meet the requirements of the help America vote act of 2002
5 and other federal statutes and regulations governing voting equipment;
6 *and*

7 (j) *shall be used in accordance with the provisions of section 1, and*
8 *amendments thereto.*

9 Sec. 18. K.S.A. 25-1122a, 25-1138, 25-26a02, 25-2808, 25-3004 and
10 25-3006 and K.S.A. 2017 Supp. 25-2701, 25-2810, 25-4401, 25-4403, 25-
11 4404, 25-4406, 25-4412, 25-4603, 25-4611 and 25-4613 are hereby
12 repealed.

13 Sec. 19. This act shall take effect and be in force from and after
14 January 1, 2019, and its publication in the statute book.