

Senate Substitute for HOUSE BILL No. 2138

AN ACT concerning elections; relating to county election officers and employees; requiring the secretary of state to develop an affidavit system for transfers of ballots; exempting county election office employees from certain election crimes; requiring precinct level election results be electronically provided; relating to voting systems and procedures; requiring voter-verified paper ballots with a distinctive watermark; defining and authorizing use of electronic poll books; prohibiting electronic and electromechanical voting systems from being connected to the internet or other communications networks; requiring audits of election procedures and records of certain counties and of close federal, statewide or state legislative races; requiring a county election officer to send a confirmation notice to a voter if the voter has no election-related activity for a four-calendar year period; amending K.S.A. 25-1124, 25-2316c, 25-2430, 25-2437, 25-3009, 25-3206, 25-4401, 25-4402, 25-4403, 25-4404, 25-4405, 25-4406, 25-4407, 25-4408, 25-4409, 25-4411, 25-4414, 25-4415, 25-4610 and 25-4613 and repealing the existing sections.

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

New Section 1. (a) The secretary of state, in consultation with county election officers, shall develop an affidavit system to be utilized for the transfer of ballots. Each person who transfers ballots for a county election office shall be required to sign an affidavit listing, if applicable, the:

- (1) Number of blank ballots;
- (2) number of spoiled ballots;
- (3) number of provisional ballots;
- (4) number of counted ballots;
- (5) number of advanced ballots in envelopes;
- (6) name of the person to whom such ballots were delivered; and
- (7) location of where the ballots were delivered.

(b) The affidavit system developed under this section shall apply to all ballots delivered, collected and transferred by county election offices prior to, on and after the date of an election and shall operate in conjunction with the provisions of K.S.A. 25-2707, 25-2708 and 25-2709, and amendments thereto, regarding transporting, preserving and destroying ballots and election records.

(c) (1) It shall be a violation of this section to alter any information provided in an affidavit or provide false information in an affidavit with the intent to hinder, prevent or defeat a fair election.

(2) A violation of this section is a severity level 9, nonperson felony.

New Sec. 2. (a) In the calendar year following the general election of an even-numbered year, the secretary of state shall conduct in four counties an audit of the procedures used for election administration and election records for the elections held during the previous two calendar years.

(b) The secretary of state shall select the counties to be audited at random, except that:

- (1) One of the counties selected shall have a voting age population of more than 90,000;
- (2) one of the counties selected shall have a voting age population of more than 20,000 but less than 90,000;
- (3) two of the counties selected shall have a voting age population of less than 20,000; and
- (4) voting age population shall be set by the most recent federal decennial census.

(c) The secretary of state shall adopt rules and regulations necessary to implement this section including enumerating the specific records and procedures to be examined.

New Sec. 3. (a) (1) (A) All voting systems used for elections in this state held on or after January 1, 2024, shall require the use of an individual, durable, voter-verified paper ballot with a distinctive watermark established by the secretary of state. The voter's ballot shall be:

- (i) 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) 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) 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.

(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.

(2) 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.

(3) 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.

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

(c) On or before January 1, 2023, the secretary of state shall adopt rules and regulations to implement the provisions of this section.

Sec. 4. K.S.A. 25-1124 is hereby amended to read as follows: 25-1124. (a) Upon receipt of the advance voting ballot, the voter shall cast such voter's vote as follows: The voter shall make a cross or check mark in the square or parentheses opposite the name of each candidate or question for whom the voter desires to vote. The voter shall make no other mark, and shall allow no other person to make any mark, upon such ballot. If the advance voting ballot was transmitted by mail, the voter personally shall place the ballot in the ballot envelope bearing the same number as the ballot and seal the envelope. The voter shall complete the form on the ballot envelope and shall sign the same. Except as provided by K.S.A. 25-2908, and amendments thereto, the ballot envelope shall be mailed or otherwise transmitted to the county election officer. If the advance voting ballot was transmitted to the voter in person in the office of the county election officer or at a satellite advance voting site, the voter may deposit such ballot into a locked ballot box without an envelope.

(b) The county election officer shall attempt to contact each person who submits an advance voting ballot where there is no signature or where the signature does not match with the signature on file and allow such voter the opportunity to correct the deficiency before the commencement of the final county canvass.

(c) Any voter who has an illness or physical disability or who is not proficient in reading the English language and is unable to apply for or mark or transmit an advance voting ballot, or any voter who has a disability preventing the voter from signing an application or the form on the ballot envelope, may request assistance by a person who has signed a statement required by subsection (e) in applying for or marking an advance voting ballot, or in signing an application or the form on the ballot envelope if the voter has a disability preventing the voter from signing.

(d) Any voted ballot may be transmitted to the county election officer by the voter. Subject to the provisions of K.S.A. 25-2437, and amendments thereto, a voted ballot may be transmitted by another person designated in writing by the voter as provided in K.S.A. 25-2437, and amendments thereto, except if the voter has a disability

preventing the voter from writing and signing a statement, the written and signed statement required by subsection (e) shall be sufficient. Any such voted ballot shall be transmitted to the county election officer before the close of the polls on election day.

(e) The county election officer shall allow a person to assist a voter who has an illness or physical disability or who is not proficient in reading the English language in applying for or marking an application or advance voting ballot, or to sign for a voter who has a disability preventing the voter from signing an application or advance voting ballot form, provided a written statement is signed by the person who renders assistance to the voter who has an illness or physical disability or who is not proficient in reading the English language and such statement is submitted to the county election officer with the application or ballot. The statement shall be on a form prescribed by the secretary of state and shall contain a statement from the person providing assistance that the person has not exercised undue influence on the voting decision of the voter who has an illness or physical disability or who is not proficient in reading the English language and that the person providing assistance has completed the application, marked the ballot, or signed the application or ballot form as instructed by the voter.

(f) Any person assisting a voter who has an illness or physical disability or who is not proficient in reading the English language in applying for or marking an advance voting ballot, or in signing an application or advance voting ballot form for a voter who has a disability preventing the voter from signing the application or advance voting ballot form, who knowingly fails to sign and submit the statement required by this section or who exercises undue influence on the voting decision of such voter shall be guilty of a severity level 9, nonperson felony.

(g) (1) No person who is a candidate for office shall assist any voter in marking an advance voting ballot or in signing an advance voting ballot form pursuant to this section.

(2) It shall not be a violation of this subsection for:

(A) The secretary of state, any election official or ~~any~~ county election ~~office officer~~ to assist a voter while engaged in the performance of the duties of such office; or

(B) *any candidate for office employed by a county election office to assist a voter while engaged in the performance of the duties of such employee, unless the employee appears as a candidate for office on the advance voting ballot for which such candidate is providing assistance.*

(3) *For purposes of this subsection, the term "candidate for office" means an individual who has declared such individual's candidacy pursuant to K.S.A. 25-205 et seq., and amendments thereto, or has been nominated for elected office pursuant to K.S.A. 25-301 et seq., and amendments thereto, in the election for which the voter applied for an advance voting ballot.*

(4) A violation of this subsection is a class C misdemeanor.

(h) Subject to the provisions of subsection (b), no county election officer shall accept an advance voting ballot transmitted by mail unless the county election officer verifies that the signature of the person on the advance voting ballot envelope matches the signature on file in the county voter registration records, except that verification of the voter's signature shall not be required if a voter has a disability preventing the voter from signing the ballot or preventing the voter from having a signature consistent with such voter's registration form. Signature verification may occur by electronic device or by human inspection. In the event that the signature of a person on the advance voting ballot envelope does not match the signature on file in the county voter registration records, the ballot shall not be counted.

Sec. 5. K.S.A. 25-2316c is hereby amended to read as follows: 25-2316c. (a) When a registered voter changes name by marriage, divorce or legal proceeding, if ~~such~~ the voter is otherwise qualified to vote at such voting place ~~such~~ the voter shall be allowed to vote a provisional

ballot at any election, or apply for an advance voting ballot, on the condition that ~~such~~ the voter first completes the application for registration prescribed by K.S.A. 25-2309, and amendments thereto. Completion of the application shall authorize the county election officer to update the registration records, if appropriate, for voting in future elections. The county election officer shall send, by nonforwardable mail, a notice of disposition to any voter completing such application.

(b) When a registered voter changes residence, ~~such~~ the voter shall reregister in order to be eligible to vote, except that when a registrant has moved from an address on the registration book to another address within the county and has not reregistered, ~~such~~ the registrant shall be allowed to vote a provisional ballot at any election, or to apply for an advance voting ballot, on the condition that ~~such~~ the registrant first completes the application for registration prescribed by K.S.A. 25-2309, and amendments thereto. Completion of the application shall authorize the county election officer to update the registration record, if appropriate, for voting in future elections. The county election officer shall send, by nonforwardable mail, a notice of disposition to any such voter. Whenever the county election officer receives from any other election officer a notice of registration of a voter in a different place than that shown in the records of the county election officer, ~~such~~ the officer shall remove the name of ~~such~~ the voter from the registration book and party affiliation list.

(c) Every application for registration completed under this section shall be returned to the county election officer with the registration books.

(d) A registrant shall not be removed from the registration list on the ground that the registrant has changed residence unless the registrant:

(1) Confirms in writing that the registrant has moved outside the county in which the registrant is registered, or registers to vote in any other jurisdiction; or

(2) (A) (i) has failed to respond to the notice described in subsection (e)(4) (1) through (e)(4); or (ii) the notice described in subsection (e)(5) is returned as undeliverable; and (B) has not appeared to vote in an election during the period beginning on the date of the notice and ending on the day after the date of the second federal general election that occurs after the date of the notice.

(e) A county election officer shall send a confirmation notice upon which a registrant may state such registrant's current address, within 45 days of the following events:

(1) A notice of disposition of an application for voter registration is returned as undeliverable;

(2) change of address information supplied by the national change of address program identifies a registrant whose address may have changed;

(3) if it appears from information provided by the postal service that a registrant has moved to a different residence address in the county in which the registrant is currently registered; ~~or~~

(4) if it appears from information provided by the postal service that a registrant has moved to a different residence address outside the county in which the registrant is currently registered; or

(5) *if the registrant has no election-related activity for any four-calendar year period. No election-related activity means that the elector has not voted, attempted to vote, requested or submitted an advance ballot application, filed an updated voter registration card, signed a petition, which is required by law to be verified by the county election officer or the secretary of state, or responded to any official election mailing transmitted by the county election office.*

The confirmation notice shall be sent by forwardable mail and shall include a postage prepaid and preaddressed return card in a form prescribed by the chief state election official.

(f) Except as otherwise provided by law, when a voter dies or is

disqualified for voting, the registration of the voter shall be void, and the county election officer shall remove such voter's name from the registration books and the party affiliation lists. Whenever (1) an obituary notice appears in a newspaper having general circulation in the county reports the death of a registered voter, or (2) a registered voter requests in writing that such voter's name be removed from registration, or (3) a court of competent jurisdiction orders removal of the name of a registered voter from registration lists, or (4) the name of a registered voter appears on a list of deceased residents compiled by the secretary of health and environment as provided in K.S.A. 65-2422, and amendments thereto, or appears on a copy of a death certificate provided by the secretary of health and environment, or appears in information provided by the social security administration, the county election officer shall remove from the registration books and the party affiliation lists in such officer's office the name of any person shown by such list or death certificate to be deceased. The county election officer shall not use or permit the use of such lists of deceased residents or copies for any other purpose than provided in this section.

(g) When the chief state election official receives written notice of a felony conviction in a United States district court, such official shall notify within five days the county election officer of the jurisdiction in which the offender resides. Upon notification of a felony conviction from the chief state election official, or from a county or district attorney or a Kansas district court, the county election officer shall remove the name of the offender from the registration records.

(h) Except as otherwise provided in this section, no person whose name has been removed from the registration books shall be entitled to vote until such person has registered again.

Sec. 6. K.S.A. 25-2437 is hereby amended to read as follows: 25-2437. (a) No person shall knowingly transmit or deliver an advance voting ballot to the county election officer or polling place on behalf of a voter who is not such person, unless the person submits a written statement accompanying the ballot at the time of ballot delivery to the county election officer or polling place as provided in this section. Any written statement shall be transmitted or signed by both the voter and the person transmitting or delivering such ballot and shall be delivered only by such person. The statement shall be on a form prescribed by the secretary of state and shall contain:

(1) A sworn statement from the person transmitting or delivering such ballot affirming that such person has not:

(A) Exercised undue influence on the voting decision of the voter;

or

(B) transmitted or delivered more than 10 advance voting ballots on behalf of other persons during the election in which the ballot is being cast; and

(2) a sworn statement by the voter affirming that:

(A) The voter has authorized such person to transmit or deliver the voter's ballot to a county election officer or polling place; and

(B) such person has not exercised undue influence on the voting decision of the voter.

(b) (1) No candidate for office shall knowingly transmit or deliver an advance voting ballot to the county election officer or polling place on behalf of a voter who is not such person, except on behalf of an immediate family member of such candidate.

(2) *For purposes of this subsection, the term "candidate for office" means an individual who has declared such individual's candidacy pursuant to K.S.A. 25-205 et seq., and amendments thereto, or has been nominated for elected office pursuant to K.S.A. 25-301 et seq., and amendments thereto, in the election for which the voter applied for an advance voting ballot.*

(c) No person shall transmit or deliver more than 10 advance voting ballots on behalf of other voters during an election.

(d) (1) A violation of subsection (a) or (b) is a severity level 9, nonperson felony.

(2) A violation of subsection (c) is a class B misdemeanor.

Sec. 7. K.S.A. 25-2430 is hereby amended to read as follows: 25-2430. (a) (1) Electioneering is:

(A) Knowingly attempting to persuade or influence eligible voters to vote for or against a particular candidate, party or question submitted, including wearing, exhibiting or distributing labels, signs, posters, stickers or other materials that clearly identify a candidate in the election or clearly indicate support or opposition to a question submitted election within any polling place on election day or advance voting site during the time period allowed by law for casting a ballot by advance voting or within a radius of 250 feet from the entrance thereof; or

(B) if committed by a candidate:

(i) Touching or handling any voter's ballot during the voting process;

(ii) distributing ballots or counting ballots;

(iii) hindering or obstructing any voter from voting or from entering and leaving the polling place; or

(iv) hindering or obstructing any election board worker from performing election duties.

(2) Electioneering shall not include bumper stickers affixed to a motor vehicle that is used to transport voters to a polling place or to an advance voting site for the purpose of voting.

(b) The provisions of subsection (a)(1)(B) shall not apply to:

(1) The secretary of state~~or~~, any election official or *any* county election~~office officer~~;~~or~~

(2) *a candidate for precinct committeeman or committeewoman who is employed by a county election office and is engaged in the performance of such employee's duties;*

(3) *a candidate for any office not specified in paragraphs (1) or (2) who is employed by a county election office and is engaged in the performance of such employee's duties, if such employee does not appear as a candidate for office on any ballot such employee touches, handles, distributes or counts; or*

(4) a candidate transmitting or delivering an advance voting ballot in accordance with K.S.A. 25-2437(b), and amendments thereto.

(c) As used in this section:

(1) "Advance voting site" means the central county election office or satellite advance voting sites designated as such pursuant to K.S.A. 25-1122(c), and amendments thereto, and adult care homes and hospital based care units at the time of an election participating in the voting procedures prescribed in K.S.A. 25-2812, and amendments thereto; *and*

(2) *"candidate" means an individual who has declared such individual's candidacy pursuant to K.S.A. 25-205 et seq., and amendments thereto, or has been nominated for elected office pursuant to K.S.A. 25-301 et seq., and amendments thereto, in the election for which the individual is charged with having violated the provisions of this section.*

(d) Electioneering is a class C misdemeanor.

Sec. 8. K.S.A. 25-3009 is hereby amended to read as follows: 25-3009. (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 or tally of each vote cast, regardless of the method of voting, in 1% of all precincts, with a minimum of one precinct located within the county. The precinct or precincts shall be randomly selected and the selection shall take place after the election.

(b) (1) The audit shall be performed manually and shall review all paper ballots selected pursuant to subsection (a). The audit shall be performed by a sworn election board consisting of bipartisan trained board members. The county election officer~~will~~ *shall* determine the members of the sworn election board who will conduct the audit.

(2) The audit~~will~~ *shall* review contested races as follows:

- (A) In presidential election years:
 - (i) One federal race;
 - (ii) one state legislative race; and
 - (iii) one county race.
- (B) ~~In even-numbered~~ *even-numbered*, non-presidential election years:
 - (i) One federal race;
 - (ii) one statewide race;
 - (iii) one state legislative race; and
 - (iv) one county race.
- (C) *In even-numbered election years, any federal, statewide or state legislative race that is within 1% of the total number of votes cast tallied on election night, as determined by the secretary of state, shall be audited. The county election officer shall conduct the audit in the manner set forth in subsection (a) in 10% of all county precincts in the specified race, with a minimum of one precinct in the county. The precincts audited pursuant to this subsection shall be in addition to the precincts audited under subsections (2)(A) and (B).*
- (D) In odd-numbered election years, two local races will be randomly selected, and the selection shall take place after the election.
- (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) *Upon publication of the notice of the audit pursuant to subsection (c), the signed and certified official abstracts required by K.S.A. 25-3006, and amendments thereto, shall be made available by the county election office for review by any authorized poll agent. Such abstracts shall be from all precincts and shall not be limited to those precincts that are subject to the audit. The abstracts shall be available for review until commencement of the original canvass.*
- (f) The secretary of state shall adopt rules and regulations governing the conduct and procedure of the audit, including the random selection of the precincts and offices involved in the audit.
- ~~(f) The provisions of this section shall apply to all counties for elections that take place after January 1, 2019.~~

Sec. 9. K.S.A. 25-3206 is hereby amended to read as follows: 25-3206. (a) The state board of canvassers shall make the final canvass of national and state primary and general elections. The board shall also make the final canvass of elections upon constitutional amendments and all questions submitted to election on a statewide basis, including questions on retention in office of justices of the supreme court, judges of the court of appeals and judges of the district court.

(b) For the purpose of canvassing elections specified in subsection (a), the state board of canvassers shall meet on the call of the secretary of state, in the secretary's office, as soon as convenient after the tabulation of the returns is made. In the case of general elections, the meeting shall be called not later than December 1 next following the election, except when the date falls on Sunday, then not later than the following day, and may recess from time to time until the canvass is completed.

(c) The state board of canvassers shall, upon the abstracts on file in the office of secretary of state, proceed to make final canvass of any election for officers specified in subsection (a). The state board of

canvassers shall certify a statement which shall show the names of the persons receiving votes for any of the offices, and the whole number received by each, distinguishing the districts and counties in which they were voted.

(d) The state board of canvassers shall, upon the abstracts on file in the office of the secretary of state, proceed to make final canvass and determination of the result of statewide question submitted elections. The state board of canvassers shall certify a statement of the number of votes on each question and the result thereof.

(e) The state board of canvassers shall certify such statements to be correct, and the members shall subscribe their names thereto, and the board shall determine what persons have been elected to such offices and the members shall endorse and subscribe on the statement a certificate of the determination and deliver them to the secretary of state.

(f) The secretary of state shall publish on the official secretary of state website election results by precinct for all federal offices, statewide offices and for legislative offices not later than 30 days after the final canvass of the general election results.

(g) Each county election officer shall provide precinct level election results electronically in machine-readable format for all federal offices, statewide offices, legislative offices and local offices not later than 30 days after the final canvass of the general election results.

Sec. 10. K.S.A. 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 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 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.

(e) "Electronic poll book" means an electronic list of registered voters for a particular precinct or polling location that may be transported to a polling location and on which each voter may sign the voter's signature. "Electronic poll book" includes both the hardware and software necessary for operation. An "electronic poll book" is a type of "poll book" as provided in K.S.A. 25-2507, and amendments thereto. "Electronic poll book" does not include automatic tabulating equipment or data processing equipment, including a direct recording electronic system, that are components of an electronic or electromechanical voting system.

Sec. 11. K.S.A. 25-4402 is hereby amended to read as follows: 25-4402. Subject to the limitations of article 44 of chapter 25 of Kansas Statutes Annotated, and amendments thereto, the board of county commissioners and the county election officer of any county are authorized to purchase, lease or rent and use electronic or electromechanical voting systems or *electronic poll books* as provided by K.S.A. 25-4403, and amendments thereto.

Sec. 12. K.S.A. 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 *or electronic poll books* 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 *or electronic poll books* 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 *or electronic poll books* 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 *or electronic poll books*, the board of county commissioners and the county election officer shall abandon the system *or electronic poll books* 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, the 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; and

(2) 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 the machine to the vote total contained in the machine.

(e) *No component of an electronic or electromechanical voting system shall have the capability to be connected to the internet or to any other communications or computer network, including, but not limited to, a local area network, wireless network, cellular network or satellite network, or to use bluetooth or any other wireless communications technology.*

(f) *On and after July 1, 2022, no board of county commissioners or the county election officer of any county may purchase, lease or rent any electronic poll books unless the kind or make of such poll books have been certified by the secretary of state. No electronic poll book may be operated unless its network connectivity meets the security standards established by the secretary of state.*

Sec. 13. K.S.A. 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 electronic poll books*, and no kind or make of such system *or electronic poll book* 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.

Sec. 14. K.S.A. 25-4405 is hereby amended to read as follows: 25-4405. (a) Any person, firm or corporation desiring to sell any kind or make of electronic or electromechanical voting system *or electronic poll book* to political subdivisions in Kansas may in writing request the secretary of state to examine the kind or make of the system which it desires to sell and shall accompany the request with a certified check in the sum of \$250 payable to the secretary of state to be used to defray a portion of the costs of such examination, and shall furnish at its own expense such system to the secretary of state for use in examining such system. The secretary of state may require such person, firm or

corporation to furnish a competent person to explain the system *or electronic poll book* and demonstrate by the operation of such system *or electronic poll book* that it complies with *any applicable* state and federal laws *and regulations*. The secretary of state may employ a competent person or persons to assist in the examination and to advise the secretary as to the sufficiency of such ~~machine~~ *voting system or electronic poll book* and to pay such persons reasonable compensation therefor. The costs of employment and any other costs associated with the approval of such system shall be paid by the applicant.

(b) The secretary of state may require a review of any theretofore approved electronic or electromechanical voting system *or electronic poll book* and the equipment and operation thereof. Such review shall be commenced by the secretary of state giving written notice thereof to the person, firm or corporation which sought approval of the *voting system or electronic poll book* and to each county election officer and county commissioner of counties known to have purchased, leased or rented any such *voting system or electronic poll book* or equipment thereof. Such notice shall fix a time and place of hearing at which those persons wishing to be heard may appear and give oral or written testimony and explanation of the *voting system or electronic poll book*, its equipment and operation and experience had therewith. After such hearing date and after such review as the secretary of state deems appropriate, the secretary of state may renew approval of the *voting system or electronic poll book*, require changes therein for continued approval thereof or rescind approval previously given on either a conditioned or permanent basis.

(c) The secretary of state may appoint persons to assist county election officers or county commissioners in the testing of any electronic or electromechanical voting system *or electronic poll book* and its equipment or the programs of such system *or electronic poll book*.

Sec. 15. K.S.A. 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~~

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

(n) *shall not have the capability nor shall any component of an electronic or electromechanical voting system have the capability to be connected to the internet or to any other communications or computer network, including, but not limited to, a local area network, wireless network, cellular network or satellite network, or to use bluetooth or any other wireless communications technology.*

Sec. 16. K.S.A. 25-4407 is hereby amended to read as follows: 25-4407. (a) When a board of commissioners and county election officer have determined that such—*a kind or make of electronic or electromechanical voting system or electronic poll book* shall be used in a county, the board of county commissioners and the county election officer shall provide such number of units as shall be necessary to equip voting places for the use of voters.

(b) No tax shall be levied under this section, nor shall any moneys be paid from any fund under authority of this section for any contract to purchase, lease or rent any electronic or electromechanical voting system or equipment thereof *or electronic poll books*, if approval of such *voting system or equipment or kind or make of electronic poll book* has been rescinded by the secretary of state.

(c) The secretary of state may purchase, rent or lease voting equipment only for the purpose of providing such equipment to counties pursuant to the provisions of the help America vote act of 2002.

Sec. 17. K.S.A. 25-4408 is hereby amended to read as follows: 25-4408. The board of county commissioners shall provide for the storage of electronic or electromechanical voting systems *and electronic poll books*. The county election officer shall be in complete charge of the *voting systems and electronic poll books*, their safekeeping when not in use and keeping them in repair and working order and shall see that they are delivered to the voting places in time for all arrangements to be made and for the *voting systems and electronic poll books* to be ready for use at the hour of opening the polls. After the election the county election officer shall see that the *voting systems and electronic poll books* are returned to the place of storage, or are secured for on-site storage.

Sec. 18. K.S.A. 25-4409 is hereby amended to read as follows: 25-4409. (a) The ballot information, shall, as far as practicable, be in the order of arrangement provided for paper ballots except that such information may be in vertical or horizontal rows, or in a number of separate pages. Voting squares or ovals may be before or after the names of candidates and statements of questions, and shall be of such size as is compatible with the type of system used. Ballot information shall be displayed in as plain clear type and size as the ballot spaces will reasonably permit. Where candidate rotation is used, the voting equipment shall be capable of meeting the requirements otherwise provided in law.

(b) Before the opening of the polls the election judges shall compare the ballots with the sample ballots furnished, and see that the ballot information thereon agrees and shall certify thereto on forms provided for this purpose. The certification shall be filed with the election returns.

(c) *Before, during and after the operation of the polling place, the election judges shall make all electronic or electromechanical voting systems and vote tabulating equipment available to any candidate or any authorized poll agent for review to ensure there is no connectivity*

to the internet or to any other communications or computer network, including, but not limited to, a local area network, wireless network, cellular network or satellite network, or using bluetooth or any other wireless communications technology.

Sec. 19. K.S.A. 25-4411 is hereby amended to read as follows: 25-4411. (a) The vote tabulation equipment may be located at any place within the county approved by the county election officer.

(b) Within five days prior to the date of the election, the county election officer shall have the automatic tabulating equipment tested to ascertain that the equipment will correctly 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 or city where such equipment is to be used *and on the county website, if the county has a website*. The test shall be open to representatives of the political parties, candidates, the press and the public. The test shall be conducted by processing a preaudited group of ballots marked to record a predetermined number of valid votes for each candidate and on each measure, and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made before the automatic tabulating equipment is approved. The test shall be repeated *within five business days* after the completion of the canvass. The equipment, programs and ballots shall be secured and retained by the county election officer.

Sec. 20. K.S.A. 25-4414 is hereby amended to read as follows: 25-4414. Electronic or electromechanical voting system *or electronic poll book* fraud is:

(a) Being in unlawful or unauthorized possession of *electronic or electromechanical voting system* equipment, *electronic poll book equipment*, computer programs, operating systems, firmware, software or ballots; or

(b) intentionally tampering with, altering, disarranging, defacing, impairing or destroying any electronic or electromechanical *voting system, electronic poll book* or component part thereof, or any ballot used by such *electronic or electromechanical voting systems*.

Electronic or electromechanical voting system *or electronic poll book* fraud is a severity level 9, nonperson felony.

Sec. 21. K.S.A. 25-4415 is hereby amended to read as follows: 25-4415. The secretary of state may adopt rules and regulations:

(a) For the use of electronic and electromechanical voting systems to count votes under the election laws of this state; ~~and~~

(b) *for the use of electronic poll books to process voters at polling places; and*

(c) necessary for the administration of this act.

Sec. 22. K.S.A. 25-4610 is hereby amended to read as follows: 25-4610. (a) The optical scanning equipment may be located at any place within the county approved by the county election officer.

(b) Within five days prior to the date of the election, the county election officer shall have the optical scanning equipment tested to ascertain that the equipment will correctly 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 *and on the county website, if the county has a website*. The test shall be open to representatives of the political parties, candidates, the press and the public. The test shall be conducted by processing a preaudited group of ballots marked as to record a predetermined number of valid votes for each candidate and on each question submitted, and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the optical scanning equipment to reject such

votes. If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made before the optical scanning equipment is approved. The test shall be repeated *within five business days* 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. 23. K.S.A. 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 not have the capability nor shall any component of an optical scanning system have the capability to be connected to the internet or to any other communications or computer network, including, but not limited to, a local area network, wireless network, cellular network or satellite network, or to use bluetooth or any other wireless communications technology.*

Sec. 24. K.S.A. 25-1124, 25-2316c, 25-2430, 25-2437, 25-3009, 25-3206, 25-4401, 25-4402, 25-4403, 25-4404, 25-4405, 25-4406, 25-4407, 25-4408, 25-4409, 25-4411, 25-4414, 25-4415, 25-4610 and 25-4613 are hereby repealed.

Sec. 25. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.