

As Amended by House Committee

Session of 2005

Substitute for SENATE BILL No. 143

By Committee on Elections and Local Government

2-22

10 AN ACT concerning elections; relating to electronic and electromechanical
11 voting systems; amending K.S.A. **25-1308, 25-1310**, 25-4401, 25-
12 4403, 25-4404, 25-4405, 25-4406, 25-4407, 25-4409, 25-4410, 25-4411,
13 25-4412, 25-4413 and 25-4414 and repealing the existing sections; also
14 repealing K.S.A. 25-1307, ~~25-1308~~, 25-1309, ~~25-1310~~, 25-1311, 25-
15 1312, 25-1313, 25-1314, 25-1315, 25-1317, 25-1318, 25-1319, 25-1320,
16 25-1321, 25-1322, 25-1324, 25-1325, 25-1326, 25-1327, 25-1328, 25-
17 1329, 25-1330, 25-1331, 25-1332, 25-1333, 25-1334, 25-1335, 25-1336,
18 25-1337, 25-1338, 25-1339, 25-1341 and 25-1343.

19

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

21 Section 1. K.S.A. 25-4401 is hereby amended to read as follows: 25-
22 4401. As used in this act unless the context otherwise requires:

23 (a) ~~“Automatic tabulating equipment” includes apparatus necessary~~
24 ~~to examine automatically and count votes as designated on ballots and~~
25 ~~data processing machines which can be used for counting ballots and~~
26 ~~tabulating results.~~

27 ~~(b) “Ballot card” means a ballot which is voted by the process of~~
28 ~~punching.~~

29 ~~(c) “Ballot labels” means the cards, papers, booklet, pages or other~~
30 ~~material containing the names of offices and candidates and statements~~
31 ~~of measures to be voted on.~~

32 ~~(d) “Ballot” may include ballot cards, ballot labels and paper ballots~~
33 ~~an electronic display or printed document containing the offices and ques-~~
34 ~~tions on which voters in a specified voting area are eligible to vote.~~

35 ~~(e) (b) “Counting location” means the location in the county selected~~
36 ~~by the county election officer for the automatic processing or counting,~~
37 ~~or both, of ballots.~~

38 ~~(f) (c) “Electronic or electromechanical voting system” means a sys-~~
39 ~~tem of casting votes by use of marking devices and tabulating ballots~~
40 ~~employing automatic tabulating equipment or data processing equipment~~
41 ~~including a direct recording electronic system.~~

42 (d) *“Direct recording electronic system” means a system that records*
43 *votes by means of a ballot display provided with mechanical or electro-*

1 *optical components that can be activated by the voter, that processes data*
2 *by means of a computer program, that records voting data and ballot*
3 *images in memory components, that produces a tabulation of the voting*
4 *data stored in a removable memory component and as printed copy, and*
5 *that may also provide a means for transmitting individual ballots or vote*
6 *totals to a central location for consolidating and reporting results from*
7 *precincts at the central location.*

8 ~~(g) “Marking device” means an apparatus in which ballots or ballot~~
9 ~~cards are inserted and used in connection with a punch apparatus for the~~
10 ~~piercing of ballots by the voter which will enable the ballot to be tabulated~~
11 ~~by means of automatic tabulating equipment. The hole made by such~~
12 ~~marking device may be in the form of a round dot, a rectangle, a square~~
13 ~~or any other shape that will clearly indicate the intent of the voter.~~

14 Sec. 2. K.S.A. 25-4403 is hereby amended to read as follows: 25-
15 4403. (a) The board of county commissioners and the county election
16 officer of any county may provide an electronic or electromechanical vot-
17 ing system to be used at voting places in the county at national, state,
18 county, township, city and school primary and general elections and in
19 question submitted elections.

20 ~~(b) When the board of county commissioners of any county is pre-~~
21 ~~sented with a petition requesting a vote on the proposition of using elec-~~
22 ~~tronic or electromechanical voting systems in such county, signed by elec-~~
23 ~~tors equal in number to not less than ten percent of the votes cast for~~
24 ~~secretary of state in the county at the last preceding general election at~~
25 ~~which the secretary of state was elected, such board of county commis-~~
26 ~~sioners shall submit the proposition to the voters of such county at the~~
27 ~~next succeeding state primary or general election. If a majority of the~~
28 ~~votes cast on the proposition shall be in favor thereof the board of county~~
29 ~~commissioners and the county election officer shall provide such a system~~
30 ~~to be used at voting places at national, state, county, township, city and~~
31 ~~school primary and general elections and in question submitted elections.~~

32 ~~—(e) The board of county commissioners of any county in which the~~
33 ~~board of county commissioners and county election officer have deter-~~
34 ~~mined that an electronic or electromechanical voting system shall be used~~
35 ~~or in which a proposition to use electronic or electromechanical systems~~
36 ~~has been adopted may issue bonds, without an election, to finance and~~
37 ~~pay for purchase, lease or rental of such a system.~~

38 ~~(c)~~ (c) The board of county commissioners and the county election
39 officer of any county may adopt, experiment with or abandon any elec-
40 tronic or electromechanical system herein authorized and approved for
41 use in the state and may use such a system in all or any part of the voting
42 areas within the county or in combination with *an optical scanning voting*
43 *system or with* regular paper ballots. Whenever the secretary of state

1 rescinds approval of any voting system, the board of county commission-
2 ers and the county election officer shall abandon such system until
3 changes therein required by the secretary of state have been made, or if
4 the secretary of state advises that acceptable changes cannot be made
5 therein, such abandonment shall be permanent.

6 Sec. 3. K.S.A. 25-4404 is hereby amended to read as follows: 25-
7 4404. The secretary of state shall examine and approve the kinds or makes
8 of electronic or electromechanical voting systems, *including operating*
9 *systems, firmware and software*, and no kind or make of such system shall
10 be used at any election unless and until it ~~received approval~~ *receives*
11 *certification* by the secretary of state and a statement thereof is filed in
12 the office of the secretary of state.

13 Sec. 4. K.S.A. 25-4405 is hereby amended to read as follows: 25-
14 4405. (a) Any person, firm or corporation desiring to sell any kind or make
15 of electronic or electromechanical voting system to political subdivisions
16 in Kansas may in writing request the secretary of state to examine the
17 kind or make of the system which it desires to sell and shall accompany
18 the request with a certified check in the sum of \$250 payable to the
19 secretary of state to be used to defray a portion of the costs of such
20 examination, and shall furnish at its own expense such system to the sec-
21 retary of state ~~at the capitol in the city of Topeka, Kansas, for use by the~~
22 ~~secretary~~ in examining such ~~machine~~ *system*. The secretary of state may
23 require such person, firm or corporation to furnish a competent person
24 to explain the system and demonstrate by the operation of such system
25 that it ~~will do all the things required by article 44 of chapter 25 of Kansas~~
26 ~~Statutes Annotated and amendments thereto and can be safely used~~ *com-*
27 *plies with state and federal laws*. The secretary of state may employ a
28 competent person or persons to assist in the examination and to advise
29 the secretary as to the sufficiency of such machine and to pay such persons
30 reasonable compensation therefor. The costs of employment and any
31 other costs associated with the approval of such system shall be paid in
32 advance by the applicant.

33 (b) The secretary of state may require a review of any theretofore
34 approved electronic or electromechanical voting system and the equip-
35 ment and operation thereof. Such review shall be commenced by the
36 secretary of state giving written notice thereof to the person, firm or
37 corporation which sought approval of the system and to each county elec-
38 tion officer and county commissioner of counties known to have pur-
39 chased, leased or rented any such system or equipment thereof. Such
40 notice shall fix a time and place of hearing at which those persons wishing
41 to be heard may appear and give oral or written testimony and explanation
42 of the system, its equipment and operation and experience had therewith.
43 After such hearing date and after such review as the secretary of state

1 deems appropriate, the secretary of state may renew approval of the sys-
2 tem, require changes therein for continued approval thereof or rescind
3 approval previously given on either a conditioned or permanent basis.

4 (c) The secretary of state may appoint persons to assist county elec-
5 tion officers or county commissioners in the testing of any electronic or
6 electromechanical voting system and its equipment or the programs of
7 such system.

8 Sec. 5. K.S.A. 25-4406 is hereby amended to read as follows: 25-
9 4406. Electronic or electromechanical voting systems approved by the
10 secretary of state:

11 (a) Shall provide facilities for voting for the candidates for nomination
12 or election of ~~at least seven different~~ *all* political parties *officially recog-*
13 *nized pursuant to K.S.A. 25-302a, and amendments thereto;*

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

16 (c) shall provide for voting on constitutional amendments or other
17 questions submitted;

18 (d) shall be so constructed that, as to primaries where candidates are
19 nominated by political parties, the voter can vote only for the candidates
20 of the political party with which the voter is affiliated or, if not affiliated,
21 according to the voter's declaration when applying to vote;

22 (e) shall afford the voter an opportunity to vote for any or all candi-
23 dates for an office for whom the voter is by law entitled to vote and no
24 more, and at the same time shall prevent the voter from voting for the
25 same candidate twice for the same office;

26 (f) shall be so constructed that in presidential elections the presiden-
27 tial electors of any political party may be voted for by one ~~mark or punch~~
28 *action;*

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

30 (h) shall provide for voting in absolute secrecy, except as to persons
31 ~~entitled to assistance~~ *who request assistance due to temporary illness or*
32 *disability or a lack of proficiency in reading the English language;*

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

36 (j) shall provide for instruction of voters on the operation of voting
37 machines, illustrating the manner of voting by the use of such systems.
38 The instruction may include printed materials or demonstration by elec-
39 tion board workers; *and*

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

42 Sec. 6. K.S.A. 25-4407 is hereby amended to read as follows: 25-
43 4407. (a) When a county has voted to use electronic or electromechanical

1 ~~voting systems or when~~ a board of commissioners and county election
2 officer have determined that such a voting system shall be used in a
3 county, the board of county commissioners and the county election officer
4 shall provide such number of units as shall be necessary to equip voting
5 places for the use of voters. The board of county commissioners and the
6 county election officer may purchase systems with payment by install-
7 ments, may rent or lease systems or may lease machines with option to
8 purchase with lease payments to be applied on the purchase price. Con-
9 tracts for payment by installments, leases, rental agreements and leases
10 with option to purchase may be for terms not exceeding ~~ten~~ 10 years, and
11 the provisions of article 11 of chapter 10 of the Kansas Statutes Annotated
12 and K.S.A. 79-2925 to 79-2940, inclusive, and amendments thereto, shall
13 have no application to such contracts of purchase and lease or rental
14 agreements, except that where payment is to be made from the general
15 fund the budget shall provide for the raising of the necessary yearly
16 amount to make installment or rental payments. Where the authorized
17 maximum levy for the general fund is insufficient for all other yearly
18 expenses chargeable against such fund and to pay installments or rentals
19 on the voting systems, or where the aggregate limit for taxes is such that
20 a sufficient tax for the general fund cannot be levied to pay all other yearly
21 expenses chargeable against such fund and to pay installments or rentals
22 on the systems, the board of county commissioners may levy a tax of
23 sufficient millage to provide revenue to pay such installments or rentals
24 and to pay a portion of the principal and interest on bonds issued under
25 the authority of K.S.A. 12-1774, and amendments thereto, by cities lo-
26 cated in the county and such levy shall not be within or limited by any
27 aggregate limit of tax for such county.

28 (b) For the use of voting systems the board of county commissioners
29 may pay the same out of the general fund of such county, or issue time
30 warrants bearing not to exceed five percent interest and payable by not
31 more than three annual tax levies of not to exceed two mills which shall
32 not be within or limited by any aggregate tax levy applying to such county
33 or issue general obligation bonds of such county, such bonds not to be
34 limited by any bonded debt limit and such bonds shall not be considered
35 in determining the bonded debt of the county for the purpose of issuing
36 bonds for other purposes.

37 (c) No tax shall be levied under this section, nor shall any moneys be
38 paid from any fund under authority of this section for any contract to
39 purchase, lease or rent any electronic or electromechanical voting system
40 or equipment thereof, if approval of such system or equipment has been
41 rescinded by the secretary of state.

42 (d) *The secretary of state may purchase, rent or lease voting equip-*
43 *ment only for the purpose of providing such equipment to counties pur-*

1 *suant to the provisions of the help America vote act of 2002, which re-*
2 *quires each polling place to be equipped with at least one voting device*
3 *which is accessible for individuals with disabilities, including nonvisual*
4 *accessibility for the blind and visually impaired, in a manner that provides*
5 *the same opportunity for access and participation (including privacy and*
6 *independence) as for other voters.*

7 Sec. 7. K.S.A. 25-4409 is hereby amended to read as follows: 25-
8 4409. (a) In any voting area where electronic or electromechanical voting
9 systems are used, the county election officer shall provide an adequate
10 number of units of the systems to allow all voters expected by the county
11 election officer to vote at such voting place.

12 (b) ~~The ballot information, whether placed on the ballot or on the~~
13 ~~marking device, shall, as far as practicable, be in the order of arrangement~~
14 ~~provided for paper ballots except that such information may be in vertical~~
15 ~~or horizontal rows, or in a number of separate pages. Ballots for all ques-~~
16 ~~tions must be provided in the same manner and where ballots are placed~~
17 ~~in a marking device, they must be arranged on or in the marking device~~
18 ~~in the places provided for such purpose. Voting squares or ovals may be~~
19 ~~before or after the names of candidates and statements of questions, and~~
20 ~~shall be of such size as is compatible with the type of system used. Ballots~~
21 ~~and ballot labels shall be printed. Ballot information shall be displayed in~~
22 ~~as plain clear type and size as the ballot spaces will reasonably permit.~~
23 ~~Tear-off stubs shall be of a size suitable for the ballots or ballot cards~~
24 ~~used and for the requirements of the marking device. Where candidate~~
25 ~~rotation is used, each type of ballot within a voting area shall be of the~~
26 ~~same rotation series. The ballots or ballot cards may contain special~~
27 ~~printed marks and holes as required for proper positioning and reading~~
28 ~~of the ballots by the automatic tabulating equipment. Where candidate~~
29 ~~rotation is used, the voting equipment shall be capable of meeting the~~
30 ~~requirements otherwise provided in law.~~

31 (c) A separate write-in ballot, which may be in the form of a paper
32 ballot, card or envelope in which the elector places his or her ballot card
33 after voting, shall be provided where necessary to permit electors to write
34 in the names of persons whose names are not on the ballot.

35 (d) ~~The county election officer shall cause the marking devices to be~~
36 ~~put in order, set, adjusted and made ready for voting when delivered to~~
37 ~~the election precincts. Before the opening of the polls the election judges~~
38 ~~shall compare the ballots or ballot labels with the sample ballots fur-~~
39 ~~nished, and see that the names, numbers and letters ballot information~~
40 ~~thereon agree agrees and shall certify thereto on forms provided for this~~
41 ~~purpose. The certification shall be filed with the election returns.~~

42 Sec. 8. K.S.A. 25-4410 is hereby amended to read as follows: 25-
43 4410. (a) Insofar as applicable, the procedures provided for voting on

1 paper ballots shall apply to electronic and electromechanical voting
2 systems.

3 (b) The county election officer shall provide for each voting place
4 sample ~~ballot cards and ballot labels~~ *ballots* which shall be exact copies
5 of the official ballots for the particular election. Such sample ballot cards
6 and labels shall be arranged in the form of a diagram showing the front
7 of the marking device as it will appear after the ballots are arranged
8 therein for voting on election day. Such sample ballot cards and labels
9 shall be posted near the entrance of voting booths and shall be there open
10 to for public inspection during the hours that the polls are open on elec-
11 tion day.

12 (c) ~~In addition to the instructions printed on the ballot or ballot labels,~~
13 ~~instructions to voters shall be posted in each voting booth or placed on~~
14 ~~the marking device. Each voter shall be instructed how to operate the~~
15 ~~voting device before such voter enters the voting booth. When a voter is~~
16 ~~handed a ballot or ballot card, such voter shall be instructed to use only~~
17 ~~the marking device provided for punching or slotting the cards and to not~~
18 ~~mark the ballot or ballot card in any other way except for write-ins. The~~
19 ~~voter shall also be instructed to place his or her ballots in an envelope or~~
20 ~~other container after voting, in order that no card upon which a choice~~
21 ~~is indicated is exposed.~~

22 ~~—(d) For the instruction of voters on election day, there shall be pro-~~
23 ~~vided for each voting place a mechanical model of the voting device. Such~~
24 ~~model shall be located in some place accessible to the voters. Each voter~~
25 ~~so desiring, before entering the voting booth, shall be instructed regarding~~
26 ~~the use of such model and shall be given an opportunity to use the model.~~
27 ~~The voter's attention may also be called to the ballot labels so that the~~
28 ~~voter may become familiar with the location of the questions submitted~~
29 ~~and the names of the offices and candidates.~~

30 ~~—(e) Each voter shall be instructed how to operate the voting device~~
31 ~~before such voter enters the voting booth. In case any elector voter after~~
32 ~~entering the voting booth shall ask for further instruction concerning the~~
33 ~~manner of voting, two (2) judges election board members of opposite~~
34 ~~political parties shall give such instructions to such elector, but no judge~~
35 ~~or other election officer or person assisting an elector shall in any manner~~
36 ~~request, suggest, or seek to persuade or induce any such elector to vote~~
37 ~~any particular ticket, or for any particular candidate, or for or against any~~
38 ~~particular amendment, question or proposition. After receiving such in-~~
39 ~~structions, such elector shall vote as in the case of an unassisted voter.~~

40 ~~—(f) If a voter spoils or defaces a ballot card or marks it erroneously,~~
41 ~~such voter shall return the card with stub folded so as not to disclose any~~
42 ~~choices that such voter has made and receive another. The election judge~~
43 ~~shall immediately cancel the defective ballot card by writing on the back~~

1 of the ballot card the word “SPOILED” in ink and without detaching the
2 ballot stub, shall place the ballot in the container for voided ballots in a
3 manner that does not expose the choices of the voter. The voter shall
4 only be allowed to follow this procedure three (3) times at any election.
5 ~~(g) Where ballot cards are used, after the voter has marked his or her~~
6 ~~ballot card, such voter shall place it inside the envelope provided for this~~
7 ~~purpose and return it to the judge. The judge shall remove the ballot stub~~
8 ~~and deposit such stub and the envelope with the ballot card inside in the~~
9 ~~ballot box.~~

10 Sec. 9. K.S.A. 25-4411 is hereby amended to read as follows: 25-
11 4411. (a) The vote tabulation equipment may be located at any place
12 within the county approved by the county election officer.

13 (b) Within five ~~(5)~~ days prior to the date of the election, the county
14 election officer shall have the automatic tabulating equipment tested to
15 ascertain that the equipment will correctly count the votes cast for all
16 offices and on all ~~measures~~ *questions submitted*. Public notice of the time
17 and place of the test shall be given at least ~~forty-eight (48)~~ 48 hours prior
18 thereto by publication once in a newspaper of general circulation in the
19 county or city where such equipment is to be used. The test shall be
20 ~~observed by at least two (2) election inspectors, who shall not be of the~~
21 ~~same political party, and shall be open to representatives of the political~~
22 ~~parties, candidates, the press and the public. The test shall be conducted~~
23 ~~by processing a preaudited group of ballots and punched or marked as~~
24 ~~marked to record a predetermined number of valid votes for each can-~~
25 ~~didate and on each measure, and shall include for each office one or more~~
26 ~~ballots which have votes in excess of the number allowed by law in order~~
27 ~~to test the ability of the automatic tabulating equipment to reject such~~
28 ~~votes. If any error is detected, the cause therefor shall be ascertained and~~
29 ~~corrected and an errorless count shall be made before the automatic~~
30 ~~tabulating equipment is approved. The test shall be repeated immediately~~
31 ~~before the start of the official count of the ballots, and at the conclusion~~
32 ~~of the official count in the same manner as set forth above. After the~~
33 ~~completion of the count, the programs used and ballots shall be sealed,~~
34 ~~retained and disposed of in the same manner as paper ballots.~~

35 Sec. 10. K.S.A. 25-4412 is hereby amended to read as follows: 25-
36 4412. (a) In voting areas where electronic or electromechanical voting
37 systems are used, as soon as the polls are closed, the ~~election supervising~~
38 ~~judge shall secure the marking devices against voting equipment to pre-~~
39 ~~vent further voting. The judge shall thereafter open the ballot box and~~
40 ~~count the number of ballots or envelopes containing ballots that have~~
41 ~~been cast to determine that the number of ballots does not exceed equals~~
42 ~~the number of voters shown on the poll book. If there is an excess a~~
43 ~~discrepancy, this fact shall be reported in writing to the county election~~

1 officer with the reasons therefor if known. ~~The total number of voters~~
2 ~~shall be entered on the tally sheets.~~ The write-in votes shall then be
3 counted by the ~~election supervising~~ judge and clerks. ~~If ballot cards are~~
4 ~~used and separate write-in ballots or envelopes for recording write-in~~
5 ~~votes are used, all ballots or envelopes on which write-in votes have been~~
6 ~~recorded shall be serially numbered, starting with the number one, and~~
7 ~~the same number shall be placed on the ballot card of the voter. The~~
8 ~~election judge shall compare the write-in votes with the votes cast on the~~
9 ~~ballot card and if the total number of votes for any office exceeds the~~
10 ~~number allowed by law, a notation to that effect shall be entered on the~~
11 ~~back of the ballot card and it shall be returned to the counting location~~
12 ~~in an envelope marked “defective ballots” and such invalid votes shall not~~
13 ~~be counted. So far as applicable, provisions relating to defective paper~~
14 ~~ballots shall apply.~~

15 (b) The ~~election supervising~~ judge shall place all ballots that have
16 been cast in the container provided for the purpose, which shall be sealed
17 and delivered forthwith by two election judges who shall not be of the
18 same political party, to the counting location together with the *provi-*
19 *sional*, unused, void and defective ballots and returns.

20 (c) All proceedings at the counting location shall be under the direc-
21 tion of the county election officer and under the observation of two elec-
22 tion ~~officials~~ *board workers* who shall not be of the same political party
23 and shall be open to the public, but no persons except those employed
24 and authorized for the purpose shall touch any ballot, ballot container or
25 return. ~~If any ballot card is damaged or defective so that it cannot properly~~
26 ~~be counted by the automatic tabulating equipment, a true duplicate copy~~
27 ~~shall be made of the damaged ballot card in the presence of witnesses~~
28 ~~and substituted for the damaged ballot. Likewise, a duplicate ballot card~~
29 ~~shall be made of a defective ballot which shall not include the invalid~~
30 ~~votes. All duplicate ballots or ballot cards shall be clearly labeled “dupli-~~
31 ~~cate,” shall bear a serial number which shall be recorded on the damaged~~
32 ~~or defective ballot or ballot card and shall be counted in lieu of the dam-~~
33 ~~aged or defective ballot.~~

34 ~~—If any ballot card, of the type where offices and questions are printed~~
35 ~~directly on the card, is damaged or defective so that it cannot properly~~
36 ~~be counted by the automatic tabulating equipment, a true duplicate copy~~
37 ~~may be made of the damaged ballot card, in the presence of witnesses~~
38 ~~and in the manner set forth above, or the valid votes on such ballot card~~
39 ~~may be manually counted at the counting center by at least two election~~
40 ~~officials in the manner which is best suited to the system used. If any~~
41 ~~paper ballot is damaged or defective so that it cannot properly be counted~~
42 ~~by the automatic tabulating equipment, such ballot shall be manually~~
43 ~~counted at the counting center. The totals for all such ballots or ballot~~

1 ~~cards~~ manually counted shall be added to the totals for the respective
2 precincts or election districts.

3 (d) Advance voting ballots may be counted by the automatic tabulat-
4 ing equipment if they have been ~~punched or~~ marked in a manner which
5 will enable them to be properly counted by such equipment.

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

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

17 Sec. 11. K.S.A. 25-4413 is hereby amended to read as follows: 25-
18 4413. In the case of a recount, the ballots ~~or ballot cards~~ shall be re-
19 counted in the manner provided by K.S.A. 25-4412 *and amendments*
20 *thereto*.

21 Sec. 12. K.S.A. 25-4414 is hereby amended to read as follows: 25-
22 4414. Electronic or electromechanical voting system fraud is: (a) Being
23 in unlawful or unauthorized possession of ~~ballot cards, ballot labels or~~
24 *voting equipment*, computer programs, *operating systems, firmware, soft-*
25 *ware or ballots*; or

26 (b) intentionally tampering with, altering, disarranging, defacing, im-
27 pairing or destroying any electronic or electromechanical system or com-
28 ponent part thereof, ~~any ballot, ballot card or ballot label or any ballot~~
29 used by such systems.

30 Electronic or electromechanical voting system fraud is a severity level
31 10, nonperson felony.

32 New Sec. 13. The secretary of state may adopt rules and regulations:

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

35 (b) necessary for the administration of this act.

36 New Sec. 14. K.S.A. 25-4401 through 25-4414, inclusive, and
37 amendments thereto, and sections 13 and 14, and amendments thereto,
38 shall be known and may be cited as the electronic and electromechanical
39 voting systems act.

40 **Sec. 15. K.S.A. 25-1308 is hereby amended to read as follows:**
41 **25-1308. (a) The secretary of state shall examine and approve the**
42 **kinds or makes of voting machines, and no kind or make of voting**
43 **machine shall be used at any election where voting machines are**

1 **authorized to be used unless and until it shall have been approved**
2 **by the secretary of state and a statement thereof is filed in the**
3 **office of the secretary of state.**

4 (b) (1) *No electronic or computerized voting machine shall be ap-*
5 *proved for use in this state unless such electronic voting machine provides*
6 *for a paper record of each electronically generated ballot that can be*
7 *reviewed and corrected by the voter at the time the vote is cast.*

8 (2) *No direct recording voting system purchased after May 1, 2006,*
9 *may be used in this state unless such voting system has an accessible voter*
10 *verified paper audit trail.*

11 (3) *Nothing in this subsection shall be construed as prohibiting the*
12 *use of a direct recording voting system which does not have an accessible*
13 *voter verified paper audit trail so long as such system was purchased prior*
14 *to May 1, 2006.*

15 (4) *No voter verified paper audit trail required under this subsection*
16 *shall be used for the purposes of determining the outcome of any election*
17 *conducted in the state of Kansas.*

18 (5) *As used in this subsection:*

19 (A) *“Accessible” means that the information provided on the paper*
20 *record from the voter verified paper audit trail mechanism is provided or*
21 *conveyed to voters via both a visual and a nonvisual method, such as*
22 *through an audio component; and*

23 (B) *“voter verified paper audit trail” means a component of a direct*
24 *recording electronic voting system that prints a contemporaneous paper*
25 *record copy of each electronic ballot and allows each voter to confirm*
26 *such voter’s selections before the voter casts such voter’s ballot.*

27 **Sec. 16. K.S.A. 25-1310 is hereby amended to read as follows:**
28 **25-1310. (a) A kind or make of voting machine approved by the**
29 **secretary of state:**

30 (1) **Must be so constructed as to provide facilities for voting for**
31 **the candidates for nomination or election of at least seven different**
32 **political parties or organizations;**

33 (2) **must permit a voter to vote for any person for any office**
34 **although not nominated as a candidate by any political party or**
35 **organization;**

36 (3) **must provide for voting on constitutional amendments,**
37 **propositions or questions;**

38 (4) **must be so constructed that as to primaries where candi-**
39 **dates are nominated by political parties it can be so locked from**
40 **the outside that the voter can vote only for the candidates of the**
41 **political party with which such voter is affiliated or, if not affiliated,**
42 **according to such voter’s declaration when applying to vote;**

43 (5) **must be so constructed as to prevent voting for more than**

1 **one person for the same office except where the voter is lawfully**
2 **entitled to vote for more than one person for that office;**

3 **(6) must afford the voter an opportunity to vote for any or all**
4 **persons for an office as such voter is by law entitled to vote for and**
5 **no more, and at the same time preventing such voter from voting**
6 **for the same person twice for the same office;**

7 **(7) must be so constructed that in presidential elections the**
8 **presidential electors of any political party for presidential and**
9 **vice-presidential candidates may be voted upon at the same time;**

10 **(8) must provide facilities for “write-in” votes;**

11 **(9) must provide for voting in absolute secrecy in voting, except**
12 **as to persons entitled to assistance;**

13 **(10) must be so constructed as to accurately account for every**
14 **vote cast upon it;**

15 **(11) be provided with a “protective counter” or “protective de-**
16 **vice” whereby any operation of the machine before or after the**
17 **election will be detected;**

18 **(12) be provided with a counter which will show at all times**
19 **during the election how many persons have voted; and**

20 **(13) be provided with a mechanical model illustrating the man-**
21 **ner of voting on the machine, suitable for the instruction of voters.**
22 **Voting machines approved by the state executive council shall con-**
23 **tinue on the approved list of voting machines.**

24 *(b) In addition to the requirements of subsection (a), each electronic*
25 *or computerized voting machine approved by the secretary of state shall*
26 *meet the requirements of subsection (b) of K.S.A. 25-1308, and amend-*
27 *ments thereto.*

28 **New Sec. 17. No funds received by the secretary of state from**
29 **any source whatsoever shall be used for the initial purchase, up-**
30 **grade, retrofit or equipping of any direct recording voting system,**
31 **or any equipment related thereto, unless such voting system in-**
32 **cludes or is equipped with an accessible voter verified paper audit**
33 **trail as defined in K.S.A. 25-1308, and amendments thereto.**

34 **Sec. ~~15~~ 18.** K.S.A. 25-1307, 25-1308, 25-1309, 25-1310, 25-1311,
35 25-1312, 25-1313, 25-1314, 25-1315, 25-1317, 25-1318, 25-1319, 25-
36 1320, 25-1321, 25-1322, 25-1324, 25-1325, 25-1326, 25-1327, 25-1328,
37 25-1329, 25-1330, 25-1331, 25-1332, 25-1333, 25-1334, 25-1335, 25-
38 1336, 25-1337, 25-1338, 25-1339, 25-1341, 25-1343, 25-4401, 25-4403,
39 25-4404, 25-4405, 25-4406, 25-4407, 25-4409, 25-4410, 25-4411, 25-
40 4412, 25-4413 and 25-4414 are hereby repealed.

41 **Sec. ~~16~~ 19.** This act shall take effect and be in force from and after
42 its publication in the statute book.