

HOUSE BILL No. 2081

AN ACT concerning elections; pertaining to certain contributions; pertaining to certain political telephone calls; pertaining to petitions; pertaining to electronic filing of campaign finance reports; pertaining to election boards; pertaining to campaign treasurer's reports; pertaining to the optical scan voting systems to count votes; pertaining to electronic and electromechanical voting systems; amending K.S.A. 25-2810, 25-4148, 25-4151, 25-4153a, 25-4156, 25-4401, 25-4403, 25-4404, 25-4405, 25-4406, 25-4407, 25-4409, 25-4410, 25-4411, 25-4412, 25-4413, 25-4414, 25-4601, 25-4602, 25-4603, 25-4604, 25-4607, 25-4609, 25-4610, 25-4611, 25-4612 and 25-4613 and K.S.A. 2006 Supp. 25-3601, 25-4308 and 25-4322 and repealing the existing sections; also repealing K.S.A. 25-1307, 25-1308, 25-1309, 25-1310, 25-1311, 25-1312, 25-1313, 25-1314, 25-1315, 25-1317, 25-1318, 25-1319, 25-1320, 25-1321, 25-1322, 25-1324, 25-1325, 25-1326, 25-1327, 25-1328, 25-1329, 25-1330, 25-1331, 25-1332, 25-1333, 25-1334, 25-1335, 25-1336, 25-1337, 25-1338, 25-1339, 25-1341, 25-1343 and 25-4605.

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

Section 1. K.S.A. 25-4153a is hereby amended to read as follows: 25-4153a. (a) No registered lobbyist, political committee or person, other than an individual, shall make a contribution after January 1 of each year and prior to adjournment sine die of the regular session of the legislature or at any other time in which the legislature is in session to a:

- (1) Legislator;
- (2) candidate for membership in the legislature;
- (3) state officer elected on a statewide basis;
- (4) candidate for state officer elected on a statewide basis;
- (5) candidate committee of persons described in paragraphs (1) through (4); or

(6) political committee established by a state committee of any political party and designated as a recognized political committee for the senate or house of representatives.

(b) No legislator, officer, candidate or committee described in paragraphs (1) through (6) of subsection (a) shall accept or *knowingly* solicit any contribution as defined by K.S.A. 25-4143, and amendments thereto, from any registered lobbyist, political committee or person, other than an individual, during such period of time described in subsection (a).

Sec. 2. K.S.A. 25-4156 is hereby amended to read as follows: 25-4156. (a) (1) Whenever any person sells space in any newspaper, magazine or other periodical to a candidate or to a candidate committee, party committee or political committee, the charge made for the use of such space shall not exceed the charges made for comparable use of such space for other purposes.

(2) Intentionally charging an excessive amount for political advertising is a class A misdemeanor.

(b) (1) Corrupt political advertising of a state or local office is:

(A) Publishing or causing to be published in a newspaper or other periodical any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by the word "advertisement" or the abbreviation "adv." in a separate line together with the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor;

(B) broadcasting or causing to be broadcast by any radio or television station any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by a statement which states: "Paid for" or "Sponsored by" followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor; ~~or~~

(C) *telephoning or causing to be contacted by any telephonic means including, but not limited to, any device using a voice over internet protocol or wireless telephone, any paid matter which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is preceded by a statement which states: "Paid for" or "Sponsored by" followed by the name of the sponsoring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor; or*

(D) publishing or causing to be published any brochure, flier or other political fact sheet which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless

such matter is followed by the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor.

The provisions of this subsection ~~(C)~~ (D) requiring the disclosure of the name of an individual shall not apply to individuals making expenditures in an aggregate amount of less than \$2,500 within a calendar year.

(2) Corrupt political advertising of a state or local office is a class C misdemeanor.

(c) If any provision of this section or application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of this section which can be given effect without the invalid application or provision, and to this end the provisions of this section are declared to be severable.

Sec. 3. K.S.A. 2006 Supp. 25-3601 is hereby amended to read as follows: 25-3601. (a) Subject to the provisions of subsection (d), if a petition is required or authorized as a part of the procedure applicable to the state as a whole or any legislative election district or to any county, city, school district or other municipality, or part thereof, the provisions of K.S.A. 25-3601 et seq., and amendments thereto, shall apply. The sufficiency of each signature and the number thereof on any such petition shall be determined in accordance with the provisions of K.S.A. 25-3601 to 25-3607, inclusive, and amendments thereto by the county election officer or such other official as designated in the applicable statute. Except as provided herein, a copy of any petition requesting an election in any political or taxing subdivision of the state shall be submitted to the office of the county attorney of the county or district attorney of the district in which all or the greater portion of the political or taxing subdivision is located. If a county counselor has been appointed in the county or district, the petition shall be submitted to the county counselor. The petition shall be submitted either by hand-delivery or by certified mail, return receipt requested. Such petition shall contain the question to be submitted at the election. Within five ~~calendar~~ *business* days following submission of the petition, the county counselor, county attorney or district attorney shall furnish a written advisory opinion as to the legality of the form of the question contained on the petition. There shall be a rebuttable presumption that the form of any question approved by the county counselor, county attorney or district attorney complies with the requirements of this act. If such opinion is not furnished within five days of submission of the question, the form of the question shall be deemed in compliance with the requirements of this act.

If the advisory opinion states that the form of the question contained in the petition does not comply with the requirements of this act, such advisory opinion shall also state specific grounds to support such determination.

Nothing in this subsection shall be construed as prohibiting the circulation of a petition for signatures or the filing of such petition with the county election officer prior to obtaining the advisory opinion required by this subsection.

(b) Any person challenging the validity of the form of a question shall have the burden of proving in the district court that the form of the question is invalid.

(c) The form of any question in a petition requesting an election on or protesting an ordinance, or resolution, adopted by the governing body of any county, city, school district or other municipality shall be presumed to be valid and in compliance with the requirements of K.S.A. 25-3601, et seq., and amendments thereto, if such petition states the title, number and exact language of the ordinance, or resolution, and the title of such petition states:

“Shall the following ordinance, or resolution, become effective?”

(d) When any other statute imposes specific requirements which are different from the requirements imposed by K.S.A. 25-3601 et seq. and amendments thereto, the provisions of the specific statute shall control. The county election officer or other official with whom the petition is required to be filed in accordance with the applicable statute shall give to persons requesting information regarding the filing of petitions a copy of K.S.A. 25-620 and article 36 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto.

(e) Any action challenging the validity of the form of a question in a petition shall be filed in the district court within 20 days after such petition has been filed with the county election officer.

The court shall render an opinion in any action filed to challenge the validity of the form of a question in a petition within 20 days after the date such action is filed with the court.

(f) The provisions of K.S.A. 25-3601 et seq., and amendments thereto, shall not apply to recall petitions as described in K.S.A. 25-4301 et seq., and amendments thereto.

Sec. 4. K.S.A. 2006 Supp. 25-4308 is hereby amended to read as follows: 25-4308. (a) The secretary of state shall review the application and shall either certify such application or notify the recall committee of the grounds of refusal. The secretary of state shall deny certification if the secretary of state determines that:

- (1) The facts do not support the grounds for recall as stated in the application;
- (2) the application is not substantially in the required form;
- (3) the application was filed during the first 120 days of the term of office of the official sought to be recalled or within less than 200 days of the termination of the term of office of the state officer sought to be recalled;
- (4) the person named in the application is not a state officer;
- (5) there is an insufficient number of required signatures of any kind;
- (6) the state officer sought to be recalled has been or is being subjected to another recall election during such officer's current term of office; or
- (7) the application does not conform to any other requirement of this act.

(b) All mandamus proceedings to compel a recall election and all injunction proceedings to restrain a recall election shall be commenced ~~not less than~~ *within* 30 days after the secretary of state's decision.

Sec. 5. K.S.A. 2006 Supp. 25-4322 is hereby amended to read as follows: 25-4322. (a) Before any petition for recall of a local officer is circulated, a copy thereof accompanied by names and addresses of the recall committee and sponsors shall be filed in the office of the county election officer with whom the petitions are required to be filed. The copy of the petition so filed shall be subscribed by the members of the recall committee in the presence of such county election officer. The recall committee shall represent all sponsors and subscribers in matters relating to the recall. Notice on all matters pertaining to the recall may be served on any member of the recall committee in person or by mail addressed to a committee member as indicated on the petition so filed. The county election officer, upon request, shall notify the recall committee of the official number of votes cast for all candidates for the office of the local officer sought to be recalled, such percentage to be based upon the last general election for the current term of office of the officer sought to be recalled.

(b) Before any petition for recall of a local officer is circulated, the county election officer shall transmit a copy of such petition to the county or district attorney or to the attorney designated pursuant to subsection (c) for determination of the sufficiency of the grounds stated in the petition for recall. Within five days of receipt of the copy of the petition from the county election officer, the county or district attorney or the attorney designated pursuant to subsection (c) shall make such determination and notify the county election officer, *the officer sought to be recalled* and the recall committee of such determination. Such determination shall include whether:

- (1) The facts do not support the grounds for recall as stated in the petition for recall;
- (2) the petition is not substantially in the required form;
- (3) the petition was filed during the first 120 days of the term of office of the official sought to be recalled or within less than 180 days of the termination of the term of office of the officer sought to be recalled;
- (4) the person named in the petition is not a local officer;
- (5) there is an insufficient number of required signatures of any kind;
- (6) the local officer sought to be recalled has been or is being sub-

jected to another recall election during such officer's current term of office; or

(7) the application does not conform to any other requirement of this act.

(c) In the case of a recall of the county or district attorney, a judge of the district court of such county shall designate an attorney to determine the sufficiency of the grounds stated in the petition for recall. Such attorney shall perform the duties imposed on the county or district attorney in the recall of other local officers.

(d) All mandamus proceedings to compel a recall election and all injunction proceedings to restrain a recall election shall be commenced ~~not less than~~ *within* 30 days after the county or district attorney's decision.

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

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

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

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

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

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

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

(h) (1) *In accordance with rules and regulations adopted by the secretary of state, the county election officer may allocate staffing resources*

as needed at the voting place except that two members of the election board, one of which is the supervising judge, shall be on duty for the entire time the polls are open.

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

New Sec. 7. The governmental ethics commission shall prescribe and provide forms for each report required to be made under the campaign finance act. After January 10, 2008, any information required to be filed pursuant to this section may be filed electronically with the secretary of state in a method authorized by the secretary of state. The provisions of this section shall be part of and supplemental to the Kansas campaign finance act.

Sec. 8. K.S.A. 25-4148 is hereby amended to read as follows: 25-4148. (a) Every treasurer shall file a report prescribed by this section. Reports filed by treasurers for candidates for state office, other than officers elected on a state-wide basis, shall be filed in both the office of the secretary of state and in the office of the county election officer of the county in which the candidate is a resident. Reports filed by treasurers for candidates for state-wide office shall be filed only with the secretary of state. Reports filed by treasurers for candidates for local office shall be filed in the office of the county election officer of the county in which the name of the candidate is on the ballot. Except as otherwise provided by subsection (h), all such reports shall be filed in time to be received in the offices required on or before each of the following days:

(1) The eighth day preceding the primary election, which report shall be for the period beginning on January 1 of the election year for the office the candidate is seeking and ending 12 days before the primary election, inclusive;

(2) the eighth day preceding a general election, which report shall be for the period beginning 11 days before the primary election and ending 12 days before the general election, inclusive;

(3) January 10 of the year after an election year, which report shall be for the period beginning 11 days before the general election and ending on December 31, inclusive;

(4) for any calendar year when no election is held, a report shall be filed on the next January 10 for the preceding calendar year;

(5) a treasurer shall file only the annual report required by subsection (4) for those years when the candidate is not participating in a primary or general election.

(b) Each report required by this section shall state:

(1) Cash on hand on the first day of the reporting period;

(2) the name and address of each person who has made one or more contributions in an aggregate amount or value in excess of \$50 during the election period together with the amount and date of such contributions, including the name and address of every lender, guarantor and endorser when a contribution is in the form of an advance or loan;

(3) the aggregate amount of all proceeds from bona fide sales of political materials such as, but not limited to, political campaign pins, buttons, badges, flags, emblems, hats, banners and literature;

(4) the aggregate amount of contributions for which the name and address of the contributor is not known;

(5) each contribution, rebate, refund or other receipt not otherwise listed;

(6) the total of all receipts;

(7) the name and address of each person to whom expenditures have been made in an aggregate amount or value in excess of \$50, with the amount, date, and purpose of each; the names and addresses of all persons to whom any loan or advance has been made; when an expenditure is made by payment to an advertising agency, public relations firm or political consultants for disbursement to vendors, the report of such expenditure shall show in detail the name of each such vendor and the amount, date and purpose of the payments to each;

(8) the name and address of each person from whom an in-kind contribution was received or who has paid for personal services provided without charge to or for any candidate, candidate committee, party committee or political committee, if the contribution is in excess of ~~\$50~~ \$100

and is not otherwise reported under subsection (b)(7), and the amount, date and purpose of the contribution;

(9) the aggregate of all expenditures not otherwise reported under this section; and

(10) the total of expenditures.

(c) Treasurers of candidates and of candidate committees shall be required to itemize, as provided in subsection (b)(2), only the purchase of tickets or admissions to testimonial events by a person who purchases such tickets or admissions in an aggregate amount or value in excess of \$50 per event, or who purchases such a ticket or admission at a cost exceeding \$25 per ticket or admission. All other purchases of tickets or admissions to testimonial events shall be reported in an aggregate amount and shall not be subject to the limitations specified in K.S.A. 25-4154, and amendments thereto.

(d) If a contribution or other receipt from a political committee is required to be reported under subsection (b), the report shall include the full name of the organization with which the political committee is connected or affiliated or, name or description sufficiently describing the affiliation or, if the committee is not connected or affiliated with any one organization, the trade, profession or primary interest of the political committee as reflected by the statement of purpose of such organization.

(e) The commission may require any treasurer to file an amended report for any period for which the original report filed by such treasurer contains material errors or omissions, and notice of the errors or omissions shall be part of the public record. The amended report shall be filed within 30 days after notice by the commission.

(f) The commission may require any treasurer to file a report for any period for which the required report is not on file, and notice of the failure to file shall be part of the public record. Such report shall be filed within five days after notice by the commission.

(g) For the purpose of any report required to be filed pursuant to subsection (a) by the treasurer of any candidate seeking nomination by convention or caucus or by the treasurer of the candidate's committee or by the treasurer of any party committee or political committee, the date of the convention or caucus shall be considered the date of the primary election.

(h) If a report is sent by certified or registered mail on or before the day it is due, the mailing shall constitute receipt by that office.

(i) *Any report required by this section may be signed by the candidate in lieu of the candidate's treasurer or the treasurer of the candidate's committee.*

Sec. 9. K.S.A. 25-4151 is hereby amended to read as follows: 25-4151. (a) Every report or statement made under the campaign finance act shall be made on forms prescribed by the commission, and contain substantially the following:

“I declare that this (report) (statement), including any accompanying schedules and statements, has been examined by me and to the best of my knowledge and belief is true, correct and complete. I understand that the intentional failure to file this document or intentionally filing a false document is a class A misdemeanor.”

(Date)

(Signature)

Every report or statement shall be dated and signed by: (1) The treasurer or candidate for any report required by K.S.A. 25-4148; (2) the candidate, for any report required by K.S.A. 25-4144; or (3) the chairperson of the committee, for any statement required by K.S.A. 25-4145. If the form is not available, the report or statement to which it relates shall be made as required, but in such form as the person signing such report or statement chooses, and the commission may require any such report or statement to be replaced after filing by a report or statement on the forms provided by the commission.

(b) Records in support of every report or statement filed under the campaign finance act shall be maintained and preserved by the person who files it for a period of time to be designated by the commission.

(c) Delay in filing a report or statement beyond the time required by law shall not prevent the acceptance of the report or statement.

(d) No treasurer shall accept or permit to be accepted any contri-

butions or make or permit to be made any expenditures unless all reports or statements required of such treasurer prior to the time of such contributions or expenditures have been filed.

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

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

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

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

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

(f) (c) ~~“Electronic or electromechanical voting system” means a system of casting votes by use of marking devices 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.*

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

Sec. 11. 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 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) ~~When the board of county commissioners of any county is presented with a petition requesting a vote on the proposition of using electronic or electromechanical voting systems in such county, signed by electors equal in number to not less than ten percent of the votes cast for secretary of state in the county at the last preceding general election at which the secretary of state was elected, such board of county commissioners shall submit the proposition to the voters of such county at the next succeeding state primary or general election. If a majority of the votes cast on the proposition shall be in favor thereof the board of county commissioners and the county election officer shall provide such a system to be used at voting places at national, state, county, township, city and school primary and general elections and in question submitted elections.~~

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

(d) (c) The board of county commissioners and the county election officer of any county may adopt, experiment with or abandon any electronic or electromechanical system herein authorized and approved for use in the state and may use such a system in all or any part of the voting

areas within the county or in combination with *an optical scanning voting system or with* regular paper ballots. Whenever the secretary of state rescinds approval of any voting system, the board of county commissioners and the county election officer shall abandon such system until changes therein required by the secretary of state have been made, or if the secretary of state advises that acceptable changes cannot be made therein, such abandonment shall be permanent.

Sec. 12. 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 no kind or make of such system shall be used at any election unless and until it ~~received approval~~ *receives certification* by the secretary of state and a statement thereof is filed in the office of the secretary of state.

Sec. 13. 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 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 ~~at the capitol in the city of Topeka, Kansas,~~ for use ~~by the secretary~~ in examining such ~~machine~~ *system*. The secretary of state may require such person, firm or corporation to furnish a competent person to explain the system and demonstrate by the operation of such system that it ~~will do all the things required by article 44 of chapter 25 of Kansas Statutes Annotated and amendments thereto and can be safely used~~ *complies with state and federal laws*. 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 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 ~~in advance~~ by the applicant.

(b) The secretary of state may require a review of any theretofore approved electronic or electromechanical voting system 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 system and to each county election officer and county commissioner of counties known to have purchased, leased or rented any such system 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 system, 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 system, 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 and its equipment or the programs of such system.

Sec. 14. 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 ~~facilities~~ *facilities* for voting for the candidates for nomination or election of ~~at least seven different~~ *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 ~~of the political party with which the voter is affiliated or, if not affiliated, according to the voter's declaration when applying to vote 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 ~~mark or punch~~ *action*;

(g) shall provide ~~facilities~~ *facilities* for “write-in” votes;

(h) shall provide for voting in absolute secrecy, except as to persons ~~entitled to assistance~~ *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; ~~and~~

(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; *and*

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

Sec. 15. K.S.A. 25-4407 is hereby amended to read as follows: 25-4407. (a) ~~When a county has voted to use electronic or electromechanical voting systems or when a board of commissioners and county election officer have determined that such a voting system 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. The board of county commissioners and the county election officer may purchase systems with payment by installments, may rent or lease systems or may lease machines with option to purchase with lease payments to be applied on the purchase price. Contracts for payment by installments, leases, rental agreements and leases with option to purchase may be for terms not exceeding ten 10 years, and the provisions of article 11 of chapter 10 of the Kansas Statutes Annotated and K.S.A. 79-2925 to 79-2940, inclusive, and amendments thereto, shall have no application to such contracts of purchase and lease or rental agreements, except that where payment is to be made from the general fund the budget shall provide for the raising of the necessary yearly amount to make installment or rental payments. Where the authorized maximum levy for the general fund is insufficient for all other yearly expenses chargeable against such fund and to pay installments or rentals on the voting systems, or where the aggregate limit for taxes is such that a sufficient tax for the general fund cannot be levied to pay all other yearly expenses chargeable against such fund and to pay installments or rentals on the systems, the board of county commissioners may levy a tax of sufficient millage to provide revenue to pay such installments or rentals and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county and such levy shall not be within or limited by any aggregate limit of tax for such county.~~

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

~~(c) (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, if approval of such system or equipment has been rescinded by the secretary of state.

(c) *The secretary of state may purchase, rent or lease voting equip-*

ment only for the purpose of providing such equipment to counties pursuant to the provisions of the help America vote act of 2002.

Sec. 16. K.S.A. 25-4409 is hereby amended to read as follows: 25-4409. (a) ~~In any voting area where electronic or electromechanical voting systems are used, the county election officer shall provide an adequate number of units of the systems to allow all voters expected by the county election officer to vote at such voting place.~~

~~(b) The ballot information, whether placed on the ballot or on the marking device, 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. Ballots for all questions must be provided in the same manner and where ballots are placed in a marking device, they must be arranged on or in the marking device in the places provided for such purpose. 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. Ballots and ballot labels shall be printed. Ballot information shall be displayed in as plain clear type and size as the ballot spaces will reasonably permit. Tear-off stubs shall be of a size suitable for the ballots or ballot cards used and for the requirements of the marking device. Where candidate rotation is used, each type of ballot within a voting area shall be of the same rotation series. The ballots or ballot cards may contain special printed marks and holes as required for proper positioning and reading of the ballots by the automatic tabulating equipment. Where candidate rotation is used, the voting equipment shall be capable of meeting the requirements otherwise provided in law.~~

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

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

Sec. 17. K.S.A. 25-4410 is hereby amended to read as follows: 25-4410. (a) Insofar as applicable, the procedures provided for voting on paper ballots shall apply to electronic and electromechanical voting systems.

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

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

~~(d) For the instruction of voters on election day, there shall be provided for each voting place a mechanical model of the voting device. Such model shall be located in some place accessible to the voters. Each voter so desiring, before entering the voting booth, shall be instructed regarding the use of such model and shall be given an opportunity to use the model. The voter's attention may also be called to the ballot labels so that the~~

voter may become familiar with the location of the questions submitted and the names of the offices and candidates.

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

~~(f) If a voter spoils or defaces a ballot card or marks it erroneously, such voter shall return the card with stub folded so as not to disclose any choices that such voter has made and receive another. The election judge shall immediately cancel the defective ballot card by writing on the back of the ballot card the word "SPOILED" in ink and without detaching the ballot stub, shall place the ballot in the container for voided ballots in a manner that does not expose the choices of the voter. The voter shall only be allowed to follow this procedure three (3) times at any election.~~

~~(g) Where ballot cards are used, after the voter has marked his or her ballot card, such voter shall place it inside the envelope provided for this purpose and return it to the judge. The judge shall remove the ballot stub and deposit such stub and the envelope with the ballot card inside in the ballot box.~~

Sec. 18. 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 ~~(5)~~ 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 ~~measures questions submitted~~. Public notice of the time and place of the test shall be given at least ~~forty-eight (48)~~ 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. The test shall be observed by at least two ~~(2)~~ election inspectors, who shall not be of the same political party, and 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 and punched or marked as 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 immediately before the start of the official count of the ballots, and at the conclusion of the official count in the same manner as set forth above. After the completion of the count~~ The test shall be repeated after the completion of the canvass. The equipment, programs used and ballots shall be sealed, retained and disposed of in the same manner as paper ballots secured and retained by the county election officer.

Sec. 19. K.S.A. 25-4412 is hereby amended to read as follows: 25-4412. (a) In voting areas where electronic or electromechanical voting systems are used, as soon as the polls are closed, the ~~election supervising judge shall secure the marking devices against voting equipment to prevent further voting. The judge shall thereafter open the ballot box and count the number of ballots or envelopes containing ballots that have been cast to determine that the number of ballots does not exceed equals~~ the number of voters shown on the poll book. If there is ~~an excess a discrepancy~~, this fact shall be reported in writing to the county election officer with the reasons therefor if known. ~~The total number of voters shall be entered on the tally sheets.~~ The write-in votes shall then be counted by the election supervising judge and clerks. ~~If ballot cards are used and separate write-in ballots or envelopes for recording write-in votes are used, all ballots or envelopes on which write-in votes have been recorded shall be serially numbered, starting with the number one, and~~

the same number shall be placed on the ballot card of the voter. The election judge shall compare the write-in votes with the votes cast on the ballot card and if the total number of votes for any office exceeds the number allowed by law, a notation to that effect shall be entered on the back of the ballot card and it shall be returned to the counting location in an envelope marked “defective ballots” and such invalid votes shall not be counted. So far as applicable, provisions relating to defective paper ballots shall apply.

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

(c) All proceedings at the counting location shall be under the direction of the county election officer and under the observation of two election ~~officials~~ *board members* who shall not be of the same political party and shall be open to the public, but no persons except those employed and authorized for the purpose shall touch any ballot, ballot container or return. If any ballot card is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, a true duplicate copy shall be made of the damaged ballot card in the presence of witnesses and substituted for the damaged ballot. Likewise, a duplicate ballot card shall be made of a defective ballot which shall not include the invalid votes. All duplicate ballots or ballot cards shall be clearly labeled “duplicate,” shall bear a serial number which shall be recorded on the damaged or defective ballot or ballot card and shall be counted in lieu of the damaged or defective ballot.

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

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

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

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

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

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

(b) intentionally tampering with, altering, disarranging, defacing, impairing or destroying any electronic or electromechanical system or component part thereof, ~~any ballot, ballot card or ballot label or any ballot~~ used by such systems.

Electronic or electromechanical voting system fraud is a severity level ~~40~~ (9), nonperson felony.

New Sec. 22. 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) necessary for the administration of this act.

New Sec. 23. K.S.A. 25-4401 through 25-4414, inclusive, and amendments thereto, and sections 22 and 23, and amendments thereto, shall be known and may be cited as the electronic and electromechanical voting systems act.

Sec. 24. K.S.A. 25-4601 is hereby amended to read as follows: 25-4601. As used in this act unless the context otherwise requires:

(a) “Ballot” means a paper ballot ~~of at least three inches in width and seven inches in depth~~ on which candidates’ names or questions are printed and ~~are~~ *which is* designed to receive opaque marks which can be detected by optical scanning equipment and which ~~are~~ *is* capable of being counted manually.

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

~~(c)~~ (e) “Optical scanning equipment” means apparatus designed to examine and detect opaque marks on ballots which represent votes and count and tabulate those votes by electronic methods.

~~(d)~~ (c) “System” means an optical scanning system of automatically counting and tabulating ballots with optical scanning equipment.

(d) “Precinct count voting system” means an optical scanning voting system that tabulates ballots at the polling place.

(e) “Central count voting system” means an optical scanning voting system that tabulates ballots from multiple precincts at a central location. Voted ballots are placed into secure storage at the polling place and transported to a central counting location.

Sec. 25. K.S.A. 25-4602 is hereby amended to read as follows: 25-4602. (a) The board of county commissioners and the county election officer of any county may provide for use of a system using optical scanning equipment to be used in the county at national, state, county, township, city and school primary and general elections and in question submitted elections.

~~(b) When the board of county commissioners of any county is presented with a petition requesting a vote on the proposition of using a system using optical scanning equipment in such county, signed by electors equal in number to not less than 10% of the votes cast for secretary of state in the county at the last preceding general election at which the secretary of state was elected, such board of county commissioners shall submit the proposition to the voters of such county at the next succeeding state primary or general election. If a majority of the votes cast on the proposition are in favor of the proposition, the board of county commissioners and the county election officer shall provide such a system to be used at national, state, county, township, city and school primary and general elections and in question submitted elections.~~

~~(c)~~ (e) The board of county commissioners of any county in which the board and county election officer have determined that a system using optical scanning equipment shall be used ~~or in which a proposition to use a system that uses optical scanning equipment has been adopted~~ may issue bonds, without an election, to finance and pay for purchase, lease or rental of such a system and optical scanning equipment.

~~(d)~~ (c) The board of county commissioners and the county election officer of any county may adopt, experiment with or abandon any system using optical scanning equipment authorized under this act and approved by the secretary of state 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 *electronic or electromechanical voting system or with* regular paper ballots. Whenever the secretary of state rescinds approval of any such system or optical scanning equipment, the board of county commissioners and the county election officer shall abandon such system until changes therein required by the secretary of state have been made, or if the secretary of state advises that acceptable changes cannot be made therein, such abandonment shall be permanent.

Sec. 26. K.S.A. 25-4603 is hereby amended to read as follows: 25-4603. The secretary of state shall examine and approve the kinds or makes of systems using optical scanning equipment, *including operating systems, firmware and software*, and no kind or make of such system shall be used at any election unless and until it receives ~~approval~~ *certification* by the secretary of state and a statement thereof is filed in the office of the secretary of state.

Sec. 27. K.S.A. 25-4604 is hereby amended to read as follows: 25-4604. (a) Any person, firm or corporation desiring to sell any kind or make of system using optical scanning equipment to counties in this state may make a request in writing of the secretary of state to examine the kind or make of the system using optical scanning equipment which it desires to sell and shall accompany the request with a certified check in the amount of \$250 payable to the secretary of state, and shall furnish at its own expense such optical scanning equipment and other items necessary for operation of such system to the secretary of state ~~at the capitol in the city of Topeka, Kansas, for use by the secretary~~ in examining such equipment and system. The secretary of state may require such person, firm or corporation to furnish a competent person to explain the system and demonstrate by the operation of such system that ~~it will do all the things required by this act and applicable Kansas Statutes Annotated, and amendments thereto, and can be safely used~~ *such system complies with state and federal laws*. 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 system and equipment and to pay such persons reasonable compensation therefor. The costs of employment and other costs associated with the approval of such system shall be paid ~~in advance~~ by the applicant.

(b) The secretary of state may require a review of any theretofore approved system using optical scanning equipment and the operation thereof. Such review shall be commenced by the secretary of state giving written notice to the person, firm or corporation which sought approval of the system and to each county election officer and county commissioner of counties known to have purchased, leased or rented any such system or equipment. 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 system, its optical scanning 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 system and such equipment, 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 system using optical scanning equipment and the programs of the system.

Sec. 28. K.S.A. 25-4607 is hereby amended to read as follows: 25-4607. The ballot information shall be in the order of arrangement provided for in article 6, chapter 25 of Kansas Statutes Annotated for official ballots. Such information may be printed on both sides of one ballot or on more than one ballot. Nothing in this act shall be construed as prohibiting the use of multiple ballots when the information for any election exceeds the capacity of a single ballot. Voting squares *or ovals* may be placed before or after the names of candidates and statements of questions or on a separate paper corresponding to the ballot upon which the names of candidates and statements of questions appear. Voting squares *or ovals* shall be of such size as is compatible with the system used. Ballots shall be printed on paper and with ink compatible with the system used and the information printed in as plain clear type and size as the ballot spaces permit. ~~At the bottom of~~ *On* each ballot shall be printed a box, which shall be placed on the ballot in such a manner so as not to interfere with the scanning of the ballot. *Such box shall be provided to allow for the insertion of a unique mark designated by the county election officer to verify the authenticity of the ballot.*

Sec. 29. K.S.A. 25-4609 is hereby amended to read as follows: 25-4609. (a) ~~When a voter is handed a ballot, such~~ *Each* voter shall be instructed *how* to mark the ballot ~~as directed, and to not mark the ballot in any other way before such voter enters the voting booth.~~ The voter shall

also be instructed to place such person's ballot or ballots in a ballot sleeve or other container after voting, in order that no ~~ballot upon which a choice is indicated~~ *votes are* exposed.

(b) In case any elector after entering the voting booth asks for further instruction concerning the manner of voting, two ~~judges~~ *election board members* of opposite political parties shall give such instruction to such elector, but no ~~judge~~ *election board member* or other election officer or person assisting an elector shall in any manner request, suggest or seek to persuade or induce any elector to vote for or against any candidate, question or ticket. ~~After receiving such instruction, such elector shall vote as in the case of an unassisted voter.~~

(c) After the voter has marked the ballot or ballots, the voter shall place it or them in the ballot sleeve provided for this purpose and return it to the judge. The judge shall verify the unique mark on the ballot and deposit the ballot in the ballot box.

Sec. 30. 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. The test shall be ~~observed by at least two election inspectors, who shall not be of the same political party, and 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 immediately before the start of the official count of the ballots, and at the conclusion of the official count in the same manner as set forth above. After~~ *The test shall be repeated after* the completion of the ~~count, the canvass. The programs used and ballots and ballot stubs and ballots shall~~ be sealed, retained and disposed of in the same manner as paper ballots.

Sec. 31. K.S.A. 25-4611 is hereby amended to read as follows: 25-4611. (a) As soon as the polls are closed, ~~an election~~ *the supervising* judge shall ~~open the ballot box and~~ count the number of ballots or envelopes containing ballots that have been cast to determine that the number of ballots ~~does not exceed~~ *equals* the number of voters shown on the poll book. If there is ~~an excess~~ *a discrepancy*, this fact shall be reported in writing to the county election officer with the reasons therefor if known. ~~The total number of voters shall be entered on the tally sheets.~~

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

(c) All proceedings at the counting location shall be under the direction of the county election officer and under the observation of two election ~~judges~~ *board members* who shall not be of the same political party and shall be open to the public, but no persons except those employed and authorized for the purpose shall touch any ballot, ballot container or return. If any ballot is damaged or defective so that it cannot properly be counted by the optical scanning equipment, it shall be counted manually.

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

(e) The return printed by the optical scanning equipment, to which has been added the return of write-in and advance voting votes and man-

ually counted votes, shall constitute the official return of each precinct or voting area. Upon completion of the count the returns shall be open to the public. A copy of the returns shall be posted at the office of the county election officer.

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

Sec. 32. K.S.A. 25-4612 is hereby amended to read as follows: 25-4612. Optical scanning equipment fraud is:

(a) Being in unlawful or unauthorized possession of ballots ~~or programs, optical scanning equipment, computer programs, operating systems, firmware or software~~; or

(b) intentionally tampering with, altering, disarranging, defacing, impairing or destroying any optical scanning equipment or component part thereof, or any ballot, *operating system, firmware or software* used by a system.

Optical scanning equipment fraud is a severity level ~~10~~ (9), nonperson felony.

Sec. 33. 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

(c) shall be capable of tabulating votes for candidates for nomination or election of ~~at least seven different~~ *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; ~~and~~

(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.*

New Sec. 34. The secretary of state may adopt rules and regulations:

(a) For the use of optical scanning systems to count votes under the election laws of this state; and

(b) necessary for the administration of this act.

New Sec. 35. K.S.A. 25-4601 through 25-4613, inclusive, and amendments thereto, and sections 34 and 35, and amendments thereto, shall be known and may be cited as the optical scanning voting systems act.

Sec. 36. K.S.A. 25-1307, 25-1308, 25-1309, 25-1310, 25-1311, 25-1312, 25-1313, 25-1314, 25-1315, 25-1317, 25-1318, 25-1319, 25-1320, 25-1321, 25-1322, 25-1324, 25-1325, 25-1326, 25-1327, 25-1328, 25-1329, 25-1330, 25-1331, 25-1332, 25-1333, 25-1334, 25-1335, 25-1336, 25-1337, 25-1338, 25-1339, 25-1341, 25-1343, 25-2810, 25-4148, 25-4151, 25-4153a, 25-4156, 25-4308, 25-4322, 25-4401, 25-4403, 25-4404, 25-4405, 25-4406, 25-4407, 25-4409, 25-4410, 25-4411, 25-4412, 25-4413, 25-4414, 25-4601, 25-4602, 25-4603, 25-4604, 25-4605, 25-4607, 25-4609, 25-4610, 25-4611, 25-4612 and 25-4613 and K.S.A. 2006 Supp. 25-3601, 25-4308 and 25-4322 are hereby repealed.

Sec. 37. 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 passed 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.