

HOUSE Substitute for SENATE BILL No. 100

By Committee on Elections and Governmental Organization

3-16

9 AN ACT concerning elections; amending K.S.A. 25-1307, 25-1308, 25-
10 1309, 25-1310, 25-1311, 25-1312, 25-1313, 25-1314, 25-1315, 25-1317,
11 25-1318, 25-1319, 25-1320, 25-1321, 25-1322, 25-1324, 25-1325, 25-
12 1326, 25-1327, 25-1328, 25-1329, 25-1330, 25-1331, 25-1332, 25-1333,
13 25-1334, 25-1335, 25-1336, 25-1337, 25-1338, 25-1339, 25-1341, 25-
14 1343, 25-4142, 25-4148, 25-4151, 25-4157a, 25-4401, 25-4403, 25-
15 4404, 25-4405, 25-4406, 25-4407, 25-4409, 25-4410, 25-4411, 25-4412,
16 25-4413, 25-4414, 25-4601, 25-4602, 25-4603, 25-4604, 25-4605, 25-
17 4607, 25-4609, 25-4610, 25-4611, 25-4612 and 25-4613 and K.S.A.
18 2006 Supp. 25-4143 and repealing the existing sections.

19

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

21 New Section 1. The governmental ethics commission shall prescribe
22 and provide forms for each report required to be made under the cam-
23 paign finance act. After January 10, 2008, any information required to be
24 filed pursuant to this section may be filed electronically with the secretary
25 of state in a method authorized by the secretary of state. The provisions
26 of this section shall be part of and supplemental to the Kansas campaign
27 finance act.

28 Sec. 2. K.S.A. 25-4148 is hereby amended to read as follows: 25-
29 4148. (a) Every treasurer shall file a report prescribed by this section.
30 Reports filed by treasurers for candidates for state office, other than of-
31 ficers elected on a state-wide basis, shall be filed in both the office of the
32 secretary of state and in the office of the county election officer of the
33 county in which the candidate is a resident. Reports filed by treasurers
34 for candidates for state-wide office shall be filed only with the secretary
35 of state. Reports filed by treasurers for candidates for local office shall be
36 filed in the office of the county election officer of the county in which
37 the name of the candidate is on the ballot. Except as otherwise provided
38 by subsection (h), all such reports shall be filed in time to be received in
39 the offices required on or before each of the following days:

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

- 1 (2) the eighth day preceding a general election, which report shall be
- 2 for the period beginning 11 days before the primary election and ending
- 3 12 days before the general election, inclusive;
- 4 (3) January 10 of the year after an election year, which report shall
- 5 be for the period beginning 11 days before the general election and end-
- 6 ing on December 31, inclusive;
- 7 (4) for any calendar year when no election is held, a report shall be
- 8 filed on the next January 10 for the preceding calendar year;
- 9 (5) a treasurer shall file only the annual report required by subsection
- 10 (4) for those years when the candidate is not participating in a primary
- 11 or general election.
- 12 (b) Each report required by this section shall state:
- 13 (1) Cash on hand on the first day of the reporting period;
- 14 (2) the name and address of each person who has made one or more
- 15 contributions in an aggregate amount or value in excess of \$50 during the
- 16 election period together with the amount and date of such contributions,
- 17 including the name and address of every lender, guarantor and endorser
- 18 when a contribution is in the form of an advance or loan;
- 19 (3) the aggregate amount of all proceeds from bona fide sales of po-
- 20 litical materials such as, but not limited to, political campaign pins, but-
- 21 tons, badges, flags, emblems, hats, banners and literature;
- 22 (4) the aggregate amount of contributions for which the name and
- 23 address of the contributor is not known;
- 24 (5) each contribution, rebate, refund or other receipt not otherwise
- 25 listed;
- 26 (6) the total of all receipts;
- 27 (7) the name and address of each person to whom expenditures have
- 28 been made in an aggregate amount or value in excess of \$50, with the
- 29 amount, date, and purpose of each; the names and addresses of all persons
- 30 to whom any loan or advance has been made; when an expenditure is
- 31 made by payment to an advertising agency, public relations firm or po-
- 32 litical consultants for disbursement to vendors, the report of such ex-
- 33 penditure shall show in detail the name of each such vendor and the
- 34 amount, date and purpose of the payments to each;
- 35 (8) the name and address of each person from whom an in-kind con-
- 36 tribution was received or who has paid for personal services provided
- 37 without charge to or for any candidate, candidate committee, party com-
- 38 mittee or political committee, if the contribution is in excess of ~~\$50~~ \$100
- 39 and is not otherwise reported under subsection (b)(7), and the amount,
- 40 date and purpose of the contribution;
- 41 (9) the aggregate of all expenditures not otherwise reported under
- 42 this section; and
- 43 (10) the total of expenditures.

1 (c) Treasurers of candidates and of candidate committees shall be
2 required to itemize, as provided in subsection (b)(2), only the purchase
3 of tickets or admissions to testimonial events by a person who purchases
4 such tickets or admissions in an aggregate amount or value in excess of
5 \$50 per event, or who purchases such a ticket or admission at a cost
6 exceeding \$25 per ticket or admission. All other purchases of tickets or
7 admissions to testimonial events shall be reported in an aggregate amount
8 and shall not be subject to the limitations specified in K.S.A. 25-4154,
9 and amendments thereto.

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

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

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

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

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

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

37 Sec. 3. K.S.A. 25-4151 is hereby amended to read as follows: 25-
38 4151. (a) Every report or statement made under the campaign finance
39 act shall be made on forms prescribed by the commission, and contain
40 substantially the following:

41 "I declare that this (report) (statement), including any accompanying
42 schedules and statements, has been examined by me and to the best of
43 my knowledge and belief is true, correct and complete. I understand that

1 the intentional failure to file this document or intentionally filing a false
2 document is a class A misdemeanor.”

3 _____
4 (Date) (Signature)

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

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

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

19 (d) No treasurer shall accept or permit to be accepted any contri-
20 butions or make or permit to be made any expenditures unless all reports
21 or statements required of such treasurer prior to the time of such con-
22 tributions or expenditures have been filed.

23 Sec. 4. K.S.A. 25-4142 is hereby amended to read as follows: 25-
24 4142. K.S.A. 25-4119e, 25-4119f, 25-4119g, 25-4142 through 25-4187 and
25 ~~K.S.A. 25-4153b~~ sections 7 and 8, and amendments thereto, shall be
26 known and may be cited as the campaign finance act.

27 Sec. 5. K.S.A. 2006 Supp. 25-4143 is hereby amended to read as
28 follows: 25-4143. As used in the campaign finance act, unless the context
29 otherwise requires:

30 (a) “Candidate” means an individual who: (1) Appoints a treasurer or
31 a candidate committee;

32 (2) makes a public announcement of intention to seek nomination or
33 election to state or local office;

34 (3) makes any expenditure or accepts any contribution for such per-
35 son’s nomination or election to any state or local office; or

36 (4) files a declaration or petition to become a candidate for state or
37 local office.

38 (b) “Candidate committee” means a committee appointed by a can-
39 didate to receive contributions and make expenditures for the candidate.

40 (c) “Clearly identified candidate” means a candidate who has been
41 identified by the:

42 (1) Use of the name of the candidate;

43 (2) use of a photograph or drawing of the candidate; or

- 1 (3) unambiguous reference to the candidate whether or not the
2 name, photograph or drawing of such candidate is used.
- 3 (d) “Commission” means the governmental ethics commission.
- 4 (e) (1) “Contribution” means:
- 5 (A) Any advance, conveyance, deposit, distribution, gift, loan or pay-
6 ment of money or any other thing of value given to a candidate, candidate
7 committee, party committee or political committee for the express pur-
8 pose of nominating, electing or defeating a clearly identified candidate
9 for a state or local office.
- 10 (B) Any advance, conveyance, deposit, distribution, gift, loan or pay-
11 ment of money or any other thing of value made to expressly advocate
12 the nomination, election or defeat of a clearly identified candidate for a
13 state or local office;
- 14 (C) a transfer of funds between any two or more candidate commit-
15 tees, party committees or political committees;
- 16 (D) the payment, by any person other than a candidate, candidate
17 committee, party committee or political committee, of compensation to
18 an individual for the personal services rendered without charge to or for
19 a candidate’s campaign or to or for any such committee;
- 20 (E) the purchase of tickets or admissions to, or advertisements in
21 journals or programs for, testimonial events;
- 22 (F) a mailing of materials designed to expressly advocate the nomi-
23 nation, election or defeat of a clearly identified candidate, which is made
24 and paid for by a party committee with the consent of such candidate.
- 25 (2) “Contribution” does not include:
- 26 (A) The value of volunteer services provided without compensation;
- 27 (B) costs to a volunteer related to the rendering of volunteer services
28 not exceeding a fair market value of \$50 during an allocable election
29 period as provided in K.S.A. 25-4149, and amendments thereto;
- 30 (C) payment by a candidate or candidate’s spouse for personal meals,
31 lodging and travel by personal automobile of the candidate or candidate’s
32 spouse while campaigning;
- 33 (D) the value of goods donated to events such as testimonial events,
34 bake sales, garage sales and auctions by any person not exceeding a fair
35 market value of \$50 per event; *or*
- 36 (E) *the transfer of campaign funds to a bona fide successor committee*
37 *or candidacy in accordance with K.S.A. 25-4157a, and amendments*
38 *thereto.*
- 39 (f) “Election” means:
- 40 (1) A primary or general election for state or local office; and
- 41 (2) a convention or caucus of a political party held to nominate a
42 candidate for state or local office.
- 43 (g) (1) “Expenditure” means:

- 1 (A) Any purchase, payment, distribution, loan, advance, deposit or
2 gift of money or any other thing of value made by a candidate, candidate
3 committee, party committee or political committee for the express pur-
4 pose of nominating, electing or defeating a clearly identified candidate
5 for a state or local office.
- 6 (B) Any purchase, payment, distribution, loan, advance, deposit or
7 gift of money or any other thing of value made to expressly advocate the
8 nomination, election or defeat of a clearly identified candidate for a state
9 or local office;
- 10 (C) any contract to make an expenditure;
- 11 (D) a transfer of funds between any two or more candidate commit-
12 tees, party committees or political committees; or
- 13 (E) payment of a candidate's filing fees.
- 14 (2) "Expenditure" does not include:
- 15 (A) The value of volunteer services provided without compensation;
- 16 (B) costs to a volunteer incidental to the rendering of volunteer serv-
17 ices not exceeding a fair market value of \$50 during an allocable election
18 period as provided in K.S.A. 25-4149, and amendments thereto;
- 19 (C) payment by a candidate or candidate's spouse for personal meals,
20 lodging and travel by personal automobile of the candidate or candidate's
21 spouse while campaigning or payment of such costs by the treasurer of a
22 candidate or candidate committee;
- 23 (D) the value of goods donated to events such as testimonial events,
24 bake sales, garage sales and auctions by any person not exceeding fair
25 market value of \$50 per event; or
- 26 (E) any communication by an incumbent elected state or local officer
27 with one or more individuals unless the primary purpose thereof is to
28 expressly advocate the nomination, election or defeat of a clearly identi-
29 fied candidate.
- 30 (h) "Expressly advocate the nomination, election or defeat of a clearly
31 identified candidate" means any communication which uses phrases in-
32 cluding, but not limited to:
- 33 (1) "Vote for the secretary of state";
- 34 (2) "re-elect your senator";
- 35 (3) "support the democratic nominee";
- 36 (4) "cast your ballot for the republican challenger for governor";
- 37 (5) "Smith for senate";
- 38 (6) "Bob Jones in '98";
- 39 (7) "vote against Old Hickory";
- 40 (8) "defeat" accompanied by a picture of one or more candidates; or
- 41 (9) "Smith's the one."
- 42 (i) "Party committee" means:
- 43 (1) The state committee of a political party regulated by article 3 of

- 1 chapter 25 of the Kansas Statutes Annotated, and amendments thereto;
- 2 (2) the county central committee or the state committee of a political
3 party regulated under article 38 of chapter 25 of the Kansas Statutes
4 Annotated, and amendments thereto;
- 5 (3) the bona fide national organization or committee of those political
6 parties regulated by the Kansas Statutes Annotated;
- 7 (4) not more than one political committee established by the state
8 committee of any such political party and designated as a recognized
9 political committee for the senate;
- 10 (5) not more than one political committee established by the state
11 committee of any such political party and designated as a recognized
12 political committee for the house of representatives; or
- 13 (6) not more than one political committee per congressional district
14 established by the state committee of a political party regulated under
15 article 38 of chapter 25 of the Kansas Statutes Annotated, and amend-
16 ments thereto, and designated as a congressional district party committee.
- 17 (j) “Person” means any individual, committee, corporation, partner-
18 ship, trust, organization or association.
- 19 (k) (1) “Political committee” means any combination of two or more
20 individuals or any person other than an individual, a major purpose of
21 which is to expressly advocate the nomination, election or defeat of a
22 clearly identified candidate for state or local office or make contributions
23 to or expenditures for the nomination, election or defeat of a clearly
24 identified candidate for state or local office.
- 25 (2) “Political committee” shall not include a candidate committee or
26 a party committee.
- 27 (l) “Receipt” means a contribution or any other money or thing of
28 value, but not including volunteer services provided without compensa-
29 tion, received by a treasurer in the treasurer’s official capacity.
- 30 (m) *“Public office” means a state or local office.*
- 31 (n) *“Local office” means:*
- 32 (1) *A member of the governing body of a city of the first class;*
33 (2) *an elected office of:*
- 34 (A) *A unified school district having 35,000 or more pupils regularly*
35 *enrolled in the preceding school year;*
- 36 (B) *a county; or*
- 37 (C) *the board of public utilities.*
- 38 ~~(o)~~ (o) “State office” means any state office as defined in K.S.A. 25-
39 2505, and amendments thereto.
- 40 ~~(p)~~ (p) “Testimonial event” means an event held for the benefit of
41 an individual who is a candidate to raise contributions for such candidate’s
42 campaign. Testimonial events include but are not limited to dinners,
43 luncheons, rallies, barbecues and picnics.

1 ~~(q)~~ (q) “Treasurer” means a treasurer of a candidate or of a candidate
2 committee, a party committee or a political committee appointed under
3 the campaign finance act or a treasurer of a combination of individuals
4 or a person other than an individual which is subject to paragraph (2) of
5 subsection (a) of K.S.A. 25-4172, and amendments thereto.

6 ~~(p)~~ “Local office” means a member of the governing body of a city
7 of the first class, any elected office of a unified school district having
8 35,000 or more pupils regularly enrolled in the preceding school year, a
9 county or of the board of public utilities.

10 Sec. 6. K.S.A. 25-4157a is hereby amended to read as follows: 25-
11 4157a. (a) No moneys received by any candidate or candidate commit-
12 tee of any candidate as a contribution under this act shall be used or be
13 made available for the personal use of the candidate and no such moneys
14 shall be used by such candidate or the candidate committee of such can-
15 didate except for:

- 16 (1) Legitimate campaign purposes;
- 17 (2) expenses of holding political office;
- 18 (3) contributions to the party committees of the political party of
19 which such candidate is a member;
- 20 (4) any membership dues or donations paid to a community service,
21 *charitable* or civic organization in the name of the candidate or candidate
22 committee of any candidate;
- 23 (5) expenses incurred in the purchase of tickets to meals and special
24 events sponsored by any organization the major purpose of which is to
25 promote or facilitate the social, business, commercial or economic well
26 being of the local community; or
- 27 (6) expenses incurred in the purchase and mailing of greeting cards
28 to voters and constituents.

29 For the purpose of this subsection, expenditures for “personal use”
30 shall include expenditures to defray normal living expenses for the can-
31 didate or the candidate’s family and expenditures for the personal benefit
32 of the candidate having no direct connection with or effect upon the
33 campaign of the candidate or the holding of public office.

34 (b) No moneys received by any candidate or candidate committee of
35 any candidate as a contribution shall be used to pay interest or any other
36 finance charges upon moneys loaned to the campaign by such candidate
37 or the spouse of such candidate.

38 (c) No candidate or candidate committee shall accept from any other
39 candidate or candidate committee for any candidate for local, state or
40 national office, any moneys received by such candidate or candidate com-
41 mittee as a campaign contribution. The provisions of this subsection shall
42 not be construed to prohibit:

- 43 (1) A candidate or candidate committee from accepting moneys from

1 another candidate or candidate committee if such moneys constitute a
2 reimbursement for one candidate's proportional share of the cost of any
3 campaign activity participated in by both candidates involved. Such re-
4 imbursement shall not exceed an amount equal to the proportional share
5 of the cost directly benefiting and attributable to the personal campaign
6 of the candidate making such reimbursement; *or*

7 (2) *A candidate or candidate committee from transferring campaign*
8 *funds to a bona fide successor committee or candidacy established by the*
9 *candidate.*

10 (d) ~~At the time of the termination of any campaign and prior to the~~
11 ~~filing of a termination report in accordance with K.S.A. 25-4157, and~~
12 ~~amendments thereto, all residual funds otherwise not obligated for the~~
13 ~~payment of expenses incurred in such campaign or the holding of office~~
14 ~~shall be contributed to a charitable organization, as defined by the laws~~
15 ~~of the state, contributed to a party committee or returned as a refund in~~
16 ~~whole or in part to any contributor or contributors from whom received~~
17 ~~or paid into the general fund of the state. At the time of the termination~~
18 ~~of any campaign and prior to the filing of a termination report in ac-~~
19 ~~cordance with K.S.A. 25-4157, and amendments thereto, all residual funds~~
20 ~~not otherwise obligated for the payment of expenses incurred in such~~
21 ~~campaign or the holding of office, or any portion of such funds, shall be:~~

22 (1) *Contributed to a charitable organization, as defined by the laws*
23 *of the state; or*

24 (2) *contributed to a party committee; or*

25 (3) *returned as a refund in whole or in part to any contributor or*
26 *contributors from whom such funds were received; or*

27 (4) *paid into the general fund of the state; or*

28 (5) *transferred to a bona fide successor committee or candidacy es-*
29 *tablished by the candidate; or*

30 (6) *transferred for the purpose of retiring the remaining debt to the*
31 *original committee or candidacy from which funds were transferred pur-*
32 *suant to paragraph (2) of subsection (e).*

33 *Whenever a transfer to a bona fide successor committee or candidacy*
34 *is made pursuant to paragraph (5), all moneys shall be transferred to the*
35 *bona fide successor committee or candidacy.*

36 (e) *For the purposes of this section, "bona fide successor committee*
37 *or candidacy" means:*

38 (1) *The candidate's campaign committee or candidacy for a public*
39 *office initiated at the termination of the original candidacy; or*

40 (2) *the candidate's campaign committee or candidacy initiated at the*
41 *time of the transfer of all moneys to a new campaign committee or can-*
42 *didacy for public office when there is debt in the original campaign at the*
43 *time of the transfer and the candidate does not terminate the original*

1 *campaign committee or candidacy.*

2 New Sec. 7. (a) Upon transferring money to a bona fide successor
3 committee or candidacy as defined by paragraph (2) of subsection (e) of
4 K.S.A. 25-4157a, and amendments thereto, the candidate may only accept
5 contributions to the original candidacy sufficient to retire the debt. Such
6 contributions shall be subject to the contribution limits for the original
7 office sought as set forth in K.S.A. 25-4153, and amendments thereto.
8 Once the candidate has received sufficient contributions to retire the
9 debt, the candidate must terminate the candidacy pursuant to the pro-
10 visions set forth in subsection (d) of K.S.A. 25-4157a, and amendments
11 thereto.

12 (b) This section shall be part of and supplemental to the campaign
13 finance act.

14 New Sec. 8. (a) For the period commencing on January 1, 1976, and
15 ending on the day preceding the effective date of this act, any candidate
16 who transferred campaign funds to a bona fide successor candidacy, as
17 such term is defined in K.S.A. 25-4157a, and amendments thereto, shall
18 be deemed to have made such transfer in compliance with the provisions
19 of the campaign finance act in existence at the time of such transfer
20 regardless of when the original campaign fund is closed after the date
21 such transfer is made and such transfer is hereby validated.

22 (b) This section shall be part of and supplemental to the campaign
23 finance act.

24 Sec. 9. K.S.A. 25-4401 is hereby amended to read as follows: 25-
25 4401. As used in this act unless the context otherwise requires:

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

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

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

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

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

41 ~~(f) (c) “Electronic or electromechanical voting system” means a sys-~~
42 ~~tem of casting votes by use of marking devices and tabulating ballots~~
43 ~~employing automatic tabulating equipment or data processing equipment~~

1 including a direct recording electronic system.

2 (d) "Direct recording electronic system" means a system that records
3 votes by means of a ballot display provided with mechanical or electro-
4 optical components that can be activated by the voter, that processes data
5 by means of a computer program, that records voting data and ballot
6 images in memory components, that produces a tabulation of the voting
7 data stored in a removable memory component and as printed copy, and
8 that may also provide a means for transmitting individual ballots or vote
9 totals to a central location for consolidating and reporting results from
10 precincts at the central location.

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

17 Sec. 10. K.S.A. 25-4403 is hereby amended to read as follows: 25-
18 4403. (a) The board of county commissioners and the county election
19 officer of any county may provide an electronic or electromechanical vot-
20 ing system to be used at voting places, *or for advance voting* in the county
21 at national, state, county, township, city and school primary and general
22 elections and in question submitted elections.

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

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

41 ~~(d)~~ (c) The board of county commissioners and the county election
42 officer of any county may adopt, experiment with or abandon any elec-
43 tronic or electromechanical system herein authorized and approved for

1 use in the state and may use such a system in all or any part of the voting
2 areas within the county or in combination with *an optical scanning voting*
3 *system or with* regular paper ballots. Whenever the secretary of state
4 rescinds approval of any voting system, the board of county commission-
5 ers and the county election officer shall abandon such system until
6 changes therein required by the secretary of state have been made, or if
7 the secretary of state advises that acceptable changes cannot be made
8 therein, such abandonment shall be permanent.

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

16 Sec. 12. K.S.A. 25-4405 is hereby amended to read as follows: 25-
17 4405. (a) Any person, firm or corporation desiring to sell any kind or make
18 of electronic or electromechanical voting system to political subdivisions
19 in Kansas may in writing request the secretary of state to examine the
20 kind or make of the system which it desires to sell and shall accompany
21 the request with a certified check in the sum of \$250 payable to the
22 secretary of state to be used to defray a portion of the costs of such
23 examination, and shall furnish at its own expense such system to the sec-
24 retary of state ~~at the capitol in the city of Topeka, Kansas, for use by the~~
25 ~~secretary~~ in examining such ~~machine~~ *system*. The secretary of state may
26 require such person, firm or corporation to furnish a competent person
27 to explain the system and demonstrate by the operation of such system
28 that it ~~will do all the things required by article 44 of chapter 25 of Kansas~~
29 ~~Statutes Annotated and amendments thereto and can be safely used~~ *com-*
30 *plies with state and federal laws*. The secretary of state may employ a
31 competent person or persons to assist in the examination and to advise
32 the secretary as to the sufficiency of such machine and to pay such persons
33 reasonable compensation therefor. The costs of employment and any
34 other costs associated with the approval of such system shall be paid ~~in~~
35 ~~advance~~ by the applicant.

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

1 to be heard may appear and give oral or written testimony and explanation
2 of the system, its equipment and operation and experience had therewith.
3 After such hearing date and after such review as the secretary of state
4 deems appropriate, the secretary of state may renew approval of the sys-
5 tem, require changes therein for continued approval thereof or rescind
6 approval previously given on either a conditioned or permanent basis.

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

11 Sec. 13. K.S.A. 25-4406 is hereby amended to read as follows: 25-
12 4406. Electronic or electromechanical voting systems approved by the
13 secretary of state:

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

17 (b) shall permit a voter to vote for any independent candidate for any
18 office;

19 (c) shall provide for voting on constitutional amendments or other
20 questions submitted;

21 (d) shall be so constructed that, as to primaries where candidates are
22 nominated by political parties, the voter can vote only for the candidates
23 ~~of the political party with which the voter is affiliated or, if not affiliated,~~
24 ~~according to the voter's declaration when applying to vote for whom the~~
25 *voter is qualified to vote according to articles 2 and 33 of chapter 25 of*
26 *the Kansas Statutes Annotated and amendments thereto;*

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

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

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

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

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

41 (j) shall provide for instruction of voters on the operation of voting
42 machines, illustrating the manner of voting by the use of such systems.
43 The instruction may include printed materials or demonstration by elec-

1 tion board workers; and

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

4 Sec. 14. K.S.A. 25-4407 is hereby amended to read as follows: 25-
5 4407. (a) ~~When a county has voted to use electronic or electromechanical~~
6 ~~voting systems or when~~ a board of commissioners and county election
7 officer have determined that such a voting system shall be used in a
8 county, the board of county commissioners and the county election officer
9 shall provide such number of units as shall be necessary to equip voting
10 places for the use of voters. ~~The board of county commissioners and the~~
11 ~~county election officer may purchase systems with payment by install-~~
12 ~~ments, may rent or lease systems or may lease machines with option to~~
13 ~~purchase with lease payments to be applied on the purchase price. Con-~~
14 ~~tracts for payment by installments, leases, rental agreements and leases~~
15 ~~with option to purchase may be for terms not exceeding ten 10 years, and~~
16 ~~the provisions of article 11 of chapter 10 of the Kansas Statutes Annotated~~
17 ~~and K.S.A. 79-2025 to 79-2040, inclusive, and amendments thereto, shall~~
18 ~~have no application to such contracts of purchase and lease or rental~~
19 ~~agreements, except that where payment is to be made from the general~~
20 ~~fund the budget shall provide for the raising of the necessary yearly~~
21 ~~amount to make installment or rental payments. Where the authorized~~
22 ~~maximum levy for the general fund is insufficient for all other yearly~~
23 ~~expenses chargeable against such fund and to pay installments or rentals~~
24 ~~on the voting systems, or where the aggregate limit for taxes is such that~~
25 ~~a sufficient tax for the general fund cannot be levied to pay all other yearly~~
26 ~~expenses chargeable against such fund and to pay installments or rentals~~
27 ~~on the systems, the board of county commissioners may levy a tax of~~
28 ~~sufficient millage to provide revenue to pay such installments or rentals~~
29 ~~and to pay a portion of the principal and interest on bonds issued under~~
30 ~~the authority of K.S.A. 12-1774, and amendments thereto, by cities lo-~~
31 ~~cated in the county and such levy shall not be within or limited by any~~
32 ~~aggregate limit of tax for such county.~~

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

42 ~~—(c) (b)~~ No tax shall be levied under this section, nor shall any moneys
43 be paid from any fund under authority of this section for any contract to

1 purchase, lease or rent any electronic or electromechanical voting system
2 or equipment thereof, if approval of such system or equipment has been
3 rescinded by the secretary of state.

4 (c) *The secretary of state may purchase, rent or lease voting equip-*
5 *ment only for the purpose of providing such equipment to counties pur-*
6 *suant to the provisions of the help America vote act of 2002.*

7 Sec. 15. 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) (b) The county election officer shall cause the marking devices to~~
36 ~~be put in order, set, adjusted and made ready for voting when delivered~~
37 ~~to the election precincts. Before the opening of the polls the election~~
38 ~~judges shall compare the ballots or ballot labels with the sample ballots~~
39 ~~furnished, 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. 16. 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 sys-
2 tems.

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. 17. 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 test shall be repeated after the completion*
 34 *of the canvass. The equipment, programs used and ballots shall be sealed,*
 35 *retained and disposed of in the same manner as paper ballots secured*
 36 *and retained by the county election officer.*

37 Sec. 18. K.S.A. 25-4412 is hereby amended to read as follows: 25-
 38 4412. (a) In voting areas where electronic or electromechanical voting
 39 systems are used, as soon as the polls are closed, the ~~election supervising~~
 40 ~~judge shall secure the marking devices against voting equipment to pre-~~
 41 ~~vent further voting. The judge shall thereafter open the ballot box and~~
 42 ~~count the number of ballots or envelopes containing ballots that have~~
 43 ~~been cast to determine that the number of ballots does not exceed equals~~

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

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

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

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

1 paper ballot is damaged or defective so that it cannot properly be counted
2 by the automatic tabulating equipment, such ballot shall be manually
3 counted ~~at the counting center~~. The totals for all such ballots ~~or ballot~~
4 ~~cards~~ manually counted shall be added to the totals for the respective
5 precincts or election districts.

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

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

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

20 Sec. 19. K.S.A. 25-4413 is hereby amended to read as follows: 25-
21 4413. In the case of a recount, the ballots ~~or ballot cards~~ shall be re-
22 counted in the manner provided by K.S.A. 25-4412 *and amendments*
23 *thereto*.

24 Sec. 20. K.S.A. 25-4414 is hereby amended to read as follows: 25-
25 4414. Electronic or electromechanical voting system fraud is: (a) Being
26 in unlawful or unauthorized possession of ~~ballot cards, ballot labels or~~
27 *voting equipment*, computer programs, *operating systems, firmware, soft-*
28 *ware or ballots*; or

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

33 Electronic or electromechanical voting system fraud is a severity level
34 ~~10~~ (9), nonperson felony.

35 New Sec. 21. The secretary of state may adopt rules and regulations:

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

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

39 New Sec. 22. K.S.A. 25-4401 through 25-4414, inclusive, and
40 amendments thereto, and sections 21 and 22, and amendments thereto,
41 shall be known and may be cited as the electronic and electromechanical
42 voting systems act.

43 Sec. 23. K.S.A. 25-4601 is hereby amended to read as follows: 25-

1 4601. As used in this act unless the context otherwise requires:

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

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

10 ~~—(c) “Optical scanning equipment” means apparatus designed to ex-~~
11 ~~amine and detect opaque marks on ballots which represent votes and~~
12 ~~count and tabulate those votes by electronic methods.~~

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

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

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

21 Sec. 24. K.S.A. 25-4602 is hereby amended to read as follows: 25-
22 4602. (a) The board of county commissioners and the county election
23 officer of any county may provide for use of a system using optical scan-
24 ning equipment to be used in the county at national, state, county, town-
25 ship, city and school primary and general elections and in question sub-
26 mitted elections.

27 (b) ~~When the board of county commissioners of any county is pre-~~
28 ~~sented with a petition requesting a vote on the proposition of using a~~
29 ~~system using optical scanning equipment in such county, signed by elec-~~
30 ~~tors equal in number to not less than 10% of the votes cast for secretary~~
31 ~~of state in the county at the last preceding general election at which the~~
32 ~~secretary of state was elected, such board of county commissioners shall~~
33 ~~submit the proposition to the voters of such county at the next succeeding~~
34 ~~state primary or general election. If a majority of the votes cast on the~~
35 ~~proposition are in favor of the proposition, the board of county commis-~~
36 ~~sioners and the county election officer shall provide such a system to be~~
37 ~~used at national, state, county, township, city and school primary and~~
38 ~~general elections and in question submitted elections.~~

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

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

14 Sec. 25. K.S.A. 25-4603 is hereby amended to read as follows: 25-
15 4603. The secretary of state shall examine and approve the kinds or makes
16 of systems using optical scanning equipment, *including operating systems,*
17 *firmware and software,* and no kind or make of such system shall be used
18 at any election unless and until it receives ~~approval~~ *certification* by the
19 secretary of state and a statement thereof is filed in the office of the
20 secretary of state.

21 Sec. 26. K.S.A. 25-4604 is hereby amended to read as follows: 25-
22 4604. (a) Any person, firm or corporation desiring to sell any kind or make
23 of system using optical scanning equipment to counties in this state may
24 make a request in writing of the secretary of state to examine the kind or
25 make of the system using optical scanning equipment which it desires to
26 sell and shall accompany the request with a certified check in the amount
27 of \$250 payable to the secretary of state, and shall furnish at its own
28 expense such optical scanning equipment and other items necessary for
29 operation of such system to the secretary of state ~~at the capitol in the city~~
30 ~~of Topeka, Kansas,~~ for use ~~by the secretary~~ in examining such equipment
31 and system. The secretary of state may require such person, firm or cor-
32 poration to furnish a competent person to explain the system and dem-
33 onstrate by the operation of such system that ~~it will do all the things~~
34 ~~required by this act and applicable Kansas Statutes Annotated, and~~
35 ~~amendments thereto, and can be safely used~~ *such system complies with*
36 *state and federal laws.* The secretary of state may employ a competent
37 person or persons to assist in the examination and to advise the secretary
38 as to the sufficiency of such system and equipment and to pay such per-
39 sons reasonable compensation therefor. The costs of employment and
40 other costs associated with the approval of such system shall be paid ~~in~~
41 ~~advance~~ by the applicant.

42 (b) The secretary of state may require a review of any theretofore
43 approved system using optical scanning equipment and the operation

1 thereof. Such review shall be commenced by the secretary of state giving
2 written notice to the person, firm or corporation which sought approval
3 of the system and to each county election officer and county commis-
4 sioner of counties known to have purchased, leased or rented any such
5 system or equipment. Such notice shall fix a time and place of hearing at
6 which those persons wishing to be heard may appear and give oral or
7 written testimony and explanation of the system, its optical scanning
8 equipment and operation and experience had therewith. After such hear-
9 ing date and after such review as the secretary of state deems appropriate,
10 the secretary of state may renew approval of the system and such equip-
11 ment, require changes therein for continued approval thereof or rescind
12 approval previously given on either a conditioned or permanent basis.

13 (c) The secretary of state may appoint persons to assist county elec-
14 tion officers or county commissioners in the testing of any system using
15 optical scanning equipment and the programs of the system.

16 Sec. 27. K.S.A. 25-4607 is hereby amended to read as follows: 25-
17 4607. The ballot information shall be in the order of arrangement pro-
18 vided for in article 6, chapter 25 of Kansas Statutes Annotated for official
19 ballots. Such information may be printed on both sides of one ballot or
20 on more than one ballot. Nothing in this act shall be construed as pro-
21 hibiting the use of multiple ballots when the information for any election
22 exceeds the capacity of a single ballot. Voting squares *or ovals* may be
23 placed before or after the names of candidates and statements of ques-
24 tions or on a separate paper corresponding to the ballot upon which the
25 names of candidates and statements of questions appear. Voting squares
26 *or ovals* shall be of such size as is compatible with the system used. Ballots
27 shall be printed on paper and with ink compatible with the system used
28 and the information printed in as plain clear type and size as the ballot
29 spaces permit. ~~At the bottom of~~ *On* each ballot shall be printed a box,
30 which shall be placed on the ballot in such a manner so as not to interfere
31 with the scanning of the ballot. *Such box shall be provided to allow for*
32 *the insertion of a unique mark designated by the county election officer*
33 *to verify the authenticity of the ballot.*

34 Sec. 28. K.S.A. 25-4609 is hereby amended to read as follows: 25-
35 4609. (a) ~~When a voter is handed a ballot, such~~ *Each* voter shall be in-
36 structed *how* to mark the ballot as directed, ~~and to not mark the ballot~~
37 ~~in any other way~~ *before such voter enters the voting booth.* The voter shall
38 also be instructed to place such person's ballot or ballots in a ballot sleeve
39 or other container after voting, in order that no ~~ballot upon which a choice~~
40 ~~is indicated~~ *is votes* are exposed.

41 (b) In case any elector after entering the voting booth asks for further
42 instruction concerning the manner of voting, two ~~judges~~ *election board*
43 *members* of opposite political parties shall give such instruction to such

1 elector, but no ~~judge~~ *election board member* or other election officer or
2 person assisting an elector shall in any manner request, suggest or seek
3 to persuade or induce any elector to vote for or against any candidate,
4 question or ticket. ~~After receiving such instruction, such elector shall vote~~
5 ~~as in the case of an unassisted voter.~~

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

10 Sec. 29. K.S.A. 25-4610 is hereby amended to read as follows: 25-
11 4610. (a) The optical scanning equipment may be located at any place
12 within the county approved by the county election officer.

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

35 Sec. 30. K.S.A. 25-4611 is hereby amended to read as follows: 25-
36 4611. (a) As soon as the polls are closed, ~~an election~~ *the supervising judge*
37 ~~shall open the ballot box and~~ count the number of ballots or envelopes
38 containing ballots that have been cast to determine that the number of
39 ballots ~~does not exceed~~ *equals* the number of voters shown on the poll
40 book. If there is ~~an excess~~ *a discrepancy*, this fact shall be reported in
41 writing to the county election officer with the reasons therefor if known.
42 ~~The total number of voters shall be entered on the tally sheets.~~

43 (b) The election judge shall place all ballots that have been cast in

1 the container provided for the purpose, which shall be sealed and deliv-
2 ered by two election ~~judges~~ *board members* who shall not be of the same
3 political party, to the counting location together with the *provisional*,
4 unused, void and defective ballots and returns.

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

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

17 (e) The return printed by the optical scanning equipment, to which
18 has been added the return of write-in and advance voting votes and man-
19 ually counted votes, shall constitute the official return of each precinct or
20 voting area. Upon completion of the count the returns shall be open to
21 the public. A copy of the returns shall be posted at the office of the county
22 election officer.

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

27 Sec. 31. K.S.A. 25-4612 is hereby amended to read as follows: 25-
28 4612. Optical scanning equipment fraud is:

29 (a) Being in unlawful or unauthorized possession of ballots ~~or programs~~,
30 *optical scanning equipment, computer programs, operating systems, firm-*
31 *ware or software*; or

32 (b) intentionally tampering with, altering, disarranging, defacing, im-
33 pairing or destroying any optical scanning equipment or component part
34 thereof, or any ballot, *operating system, firmware or software* used by a
35 system.

36 Optical scanning equipment fraud is a severity level ~~40~~ (9), nonperson
37 felony.

38 Sec. 32. K.S.A. 25-4613 is hereby amended to read as follows: 25-
39 4613. Optical scanning equipment and systems using optical scanning
40 equipment approved by the secretary of state:

41 (a) Shall be capable of being tested to ascertain that the equipment
42 will correctly count votes cast for all offices and on all questions submit-
43 ted; and

- 1 (b) shall be capable of printing in legible form, reports and summaries
2 of the election results as required by articles 30 and 31 of chapter 25 of
3 Kansas Statutes Annotated; and
- 4 (c) shall be capable of tabulating votes for candidates for nomination
5 or election of ~~at least seven different~~ *all* political parties *officially recog-*
6 *nized pursuant to K.S.A. 25-302a, and amendments thereto;* and
- 7 (d) shall be capable of tabulating votes for any independent candidate
8 of any office; and
- 9 (e) shall be capable of tabulating votes for constitutional amendments
10 or other questions submitted; and
- 11 (f) shall be capable of tabulating the number of “write-in” votes cast
12 for any office; ~~and~~
- 13 (g) shall not count any votes for an office or upon a question sub-
14 mitted when the voter has cast more votes for such office or upon such
15 question than the voter is entitled to cast;
- 16 (h) *shall provide notification when the voter has cast more votes for*
17 *such office or upon such question than the voter is entitled to cast; and*
- 18 (i) *shall meet the requirements of the help America vote act of 2002*
19 *and other federal statutes and regulations governing voting equipment.*
- 20 New Sec. 33. The secretary of state may adopt rules and regulations:
- 21 (a) For the use of optical scanning systems to count votes under the
22 election laws of this state; and
- 23 (b) necessary for the administration of this act.
- 24 New Sec. 34. K.S.A. 25-4601 through 25-4613, inclusive, and
25 amendments thereto, and sections 33 and 34, and amendments thereto,
26 shall be known and may be cited as the optical scanning voting systems
27 act.
- 28 Sec. 35. K.S.A. 25-1307, 25-1308, 25-1309, 25-1310, 25-1311, 25-
29 1312, 25-1313, 25-1314, 25-1315, 25-1317, 25-1318, 25-1319, 25-1320,
30 25-1321, 25-1322, 25-1324, 25-1325, 25-1326, 25-1327, 25-1328, 25-
31 1329, 25-1330, 25-1331, 25-1332, 25-1333, 25-1334, 25-1335, 25-1336,
32 25-1337, 25-1338, 25-1339, 25-1341, 25-1343, 25-4142, 25-4148, 25-
33 4151, 25-4157a, 25-4401, 25-4403, 25-4404, 25-4405, 25-4406, 25-4407,
34 25-4409, 25-4410, 25-4411, 25-4412, 25-4413, 25-4414, 25-4601, 25-
35 4602, 25-4603, 25-4604, 25-4605, 25-4607, 25-4609, 25-4610, 25-4611,
36 25-4612 and 25-4613 and K.S.A. 2006 Supp. 25-4143 are hereby repealed.
- 37 Sec. 36. This act shall take effect and be in force from and after its
38 publication in the statute book.