

Approved: 3-7-95  
Date

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS, CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT & GOVERNMENTAL STANDARDS .

The meeting was called to order by Chairperson Sen. Janice Hardenburger at 1:30 p.m. on February 22, 1995 in Room 529-S of the Capitol.

All members were present except: Senator Martin, Excused

Committee staff present: Dennis Hodgins, Legislative Research Department  
Arden Ensley, Revisor of Statutes  
Stacey Soldan, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Senator Hardenburger requested approval of the minutes from February 21, 1995 meeting.

Senator Sallee made the motion to approve the minutes and was seconded by Senator Wisdom. The motion passed.

Senator Clark presented the subcommittee report on **SB 91**. Discussion followed concerning advance voting for precinct committeemen and precinct committeewomen.

Senator Bond made a motion to amend page two to put "shall" in place of "may". Sen. Wisdom seconded the motion. The motion carried.

Senator Clark presented a substitute bill for **SB 91**. (attachment 1) It changes "absentee voting" to "advanced voting" for all elected offices and questioned submitted elections.

Senator Wisdom made a motion to adopt the substitute bill. Senator Sallee seconded the motion. The motion carried.

Action occurred on **SB 232**. Senator Hardenburger stated this was a clean-up bill requested by the Secretary of State's Office.

Senator Clark made a motion to amend **SB 232** from 14 days to 21 days in sections 10, 11, 12, and 13; exception being page 12 line 23 to keep original language of 14 days. Senator Parkinson seconded the motion. The motion carried.

Discussion followed concerning page 3, lines 16-19, what 5% of the most recent number of registered voters means. Brad Bryant was asked to return to clarify questions from the committee concerning **SB 232** at the next meeting.

The meeting adjourned at 2:25 p.m.

The next meeting is scheduled for February 23, 1995.

SENATE ELECTIONS, CONGRESSIONAL &  
LEGISLATIVE APPORTIONMENT AND  
GOVERNMENTAL STANDARDS COMMITTEE GUEST  
LIST

DATE: 2-22-95

NAME	REPRESENTING
George Arubet	Sec. of State
Brew Bryant	"
Elgie Stinson	of Election Commission

## Substitute for SENATE BILL NO. \_\_\_\_\_

By Committee on Elections, Congressional and Legislative  
Apportionment and Governmental Standards

AN ACT relating to elections; concerning advance voting; amending  
K.S.A. 25-409, 25-435, 25-1117, 25-1119, 25-1120, 25-1121,  
25-1122, 25-1122a, 25-1122c, 25-1122d, 25-1123, 25-1124,  
25-1126, 25-1128, 25-1129, 25-1130, 25-1131, 25-1132,  
25-1134, 25-1135, 25-1136, 25-1137, 25-1138, 25-1139,  
25-1806, 25-1808, 25-1811, 25-2709, 25-2804, 25-2909,  
25-3002, 25-3706, 25-4412 and 25-4611 and repealing the  
existing sections.

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

Section 1. K.S.A. 25-1119 is hereby amended to read as follows: 25-1119. (a) ~~It shall be lawful for any registered elector of this state who is to be absent from the county in which the elector resides, or in which the elector is authorized by law to vote as a former precinct resident as defined by K.S.A. 25-3701, upon the day of any primary, general or question submitted election, and who is actually so absent during all of the time that polls are open on such day, to vote an absentee ballot on all offices, other than precinct committeeman and committeewoman, and~~ Any registered voter is eligible to vote by advance voting ballot on all offices and to vote by advance voting ballot on questions submitted on which such elector would otherwise be entitled to vote.

~~(b) It shall be lawful for any registered elector of this state, who, because of sickness or physical disability or because of religious belief or practice, is unable to vote at such elector's voting place on the day of any primary, general or question submitted election, to vote an absentee ballot on all offices, other than precinct committeeman or committeewoman, and to vote an absentee ballot on questions submitted on which such~~

~~elector-would-otherwise-be-entitled-to-vote-~~

~~(c)--It-shall-be-lawful-for-any-registered--elector--of--this state, who, because of service as a judge or clerk on an election board, is unable to vote at such elector's voting place on the day of any primary, general or question submitted election, to vote an absentee ballot on all offices, other than precinct committeeman or committeewoman, and to vote an absentee ballot on questions submitted on which such elector would otherwise be entitled to vote-~~

(d) (b) The votes of such electors shall be cast and received and canvassed as provided in this act.

Sec. 2. K.S.A. 25-1120 is hereby amended to read as follows: 25-1120. When the names to appear on ballots are definitely known and not later than 20 days prior to any primary, general or question submitted election each county election officer shall cause to be prepared such number of absentee advance voting ballots and ballot envelopes as in the election officer's judgment are necessary to carry out the requirements of this act. Except as otherwise provided in this section, such ballots shall contain the names and cities of residence of all persons who are candidates for all national, state, county, city, township and school offices, which names may be written, typewritten or printed. On the same line with each candidate's name shall be a square in the ordinary form, or parentheses in which the voter can place a cross or check mark. In the case of elections required by law to be conducted on a partisan basis, such ballot shall indicate the political party of each candidate. In counties in which ballots, for elections at which precinct committeemen and committeewomen are elected, are not the same or reproductions of the same ballots presented to electors at the polls for voting on election day, the ballots may contain blank lines for writing in names of candidates for precinct committeemen and committeewomen together with the number of the precinct or name of the township of such candidate. On the same line with each blank line shall be a square in the ordinary form

or parenthesis in which the voter can place the appropriate mark.

The county election officer of any county may number such **absentee** advance voting ballots. If the county election officer of any county elects to prepare **absentee** advanced voting ballots and ballot envelopes without identifying consecutive numbers, such officer shall prepare and distribute such ballots and envelopes in accordance with a plan approved by the secretary of state. If the county election officer elects to number such ballots, all **absentee** advance voting ballots shall be consecutively numbered, and the ballot envelope for each ballot, if such envelope is required as provided in K.S.A. 25-1123, and amendments thereto, shall bear the same number as the ballot. The ballot envelope shall also bear a declaration in substance as follows:

**THIS DECLARATION MUST BE  
COMPLETED AND SIGNED**

"I \_\_\_\_\_ do hereby declare that I marked the enclosed ballot and that such ballot was enclosed and sealed in this envelope by me. My legal residence is in the \_\_\_\_\_ precinct, \_\_\_\_\_ township, (or, in the \_\_\_\_\_ precinct of the \_\_\_\_\_ ward, \_\_\_\_\_ street in the city of \_\_\_\_\_), in the county of \_\_\_\_\_, state of Kansas.

(Signed) \_\_\_\_\_."

The ballot envelope shall also contain a statement advising the voter that the signed envelope will be separated from the ballot to guarantee the confidentiality of the vote cast.

The ballot envelope to be used for voting by a former precinct resident shall also state the place of former residence of the voter and the date of removal therefrom to the voter's present residence.

Sec. 3. K.S.A. 25-1121 is hereby amended to read as follows: 25-1121. It shall be the duty of the secretary of state to prescribe the general forms of **absentee** advance voting ballots to be used in all primary and general elections and the form of the

printed instructions to voters containing a statement of all the requirements of this act, to enable voters to comply with such requirements of this act, ~~to enable voters to comply with such requirements.~~ Such prescribed forms shall be transmitted to the county election officers ~~thirty-five--(35)~~ 35 days before each primary and general election.

Sec. 4. K.S.A. 25-1122 is hereby amended to read as follows: 25-1122. (a) Any person described in K.S.A. 25-1119, and amendments thereto, or any qualified elector of such person's county of residence, on behalf of such person, may file with the county election officer where such person is a resident, or where such person is authorized by law to vote as a former precinct resident, an application for an absentee advance voting ballot.

(b) Applications made by or on behalf of persons specified in ~~subsection-(a)-of~~ K.S.A. 25-1119, and amendments thereto, for absentee advance voting ballots to be transmitted to the voter by mail ~~or-by-the-person-making-application-on-behalf-of--the--voter~~ shall be filed only at the following times:

(1) For the primary election occurring on the first Tuesday in August in even-numbered years, between April 1 of such year and the last business day of the week preceding such primary election.

(2) For the general election occurring on the Tuesday succeeding the first Monday in November in even-numbered years, between 90 days prior to such election and the last business day of the week preceding such general election.

(3) For the primary election held five weeks preceding the first Tuesday in April, between January 1 of the year of such election and the last business day of the week preceding such primary election.

(4) For the general election occurring on the first Tuesday in April, between January 1 of the year of such election and the last business day of the week preceding such general election.

(5) For question submitted elections occurring on the date of a primary or general election, the same as is provided for

ballots for election of officers at such election.

(6) For question submitted elections not occurring on the date of a primary or general election, between the time of the first published notice thereof and the last business day of the week preceding such question submitted election, except that if the question submitted election is held on a day other than a Tuesday, the county election officer shall determine the final date for mailing of absentee advance voting ballots, but such date shall not be more than three business days before such election.

(7) For any special election of officers, at such time as is specified by the secretary of state.

(8) For the presidential preference primary, between January 1 of the year in which such primary is held and the last business day of the week preceding such primary election.

The county election officer of any county may receive applications prior to the time specified in this subsection (b) and hold such applications until the beginning of the prescribed application period. Such applications shall be treated as filed on that date.

(c) Except as otherwise provided in subsection (e), applications made by persons specified in ~~subsection (a)~~ of K.S.A. 25-1119, and amendments thereto, for advance voting ballots to be transmitted to the voter in person in the office of the county election officer shall be filed only on the Tuesday next preceding the election, or such earlier date as the county election officer may designate, on each subsequent business day and, if the county election officer so provides, on Saturday, until no later than 12:00 noon on the day preceding such election. Upon receipt of any such application, properly executed, the county election officer shall deliver to the voter, ~~in the ballot envelope,~~ such ballots and instructions as are provided for in this act.

(d) Except as otherwise provided in subsection (e), applications made ~~by--or~~ on behalf of persons specified in

~~subsection--(b)--of~~ K.S.A. 25-1119, and amendments thereto, for absentee advance voting ballots to be transmitted to the voter by ~~mail, messenger or by~~ the person making application on behalf of the voter shall be filed ~~not--more--than--90--days--prior--to--the--election--or--later--than--12:00--noon--on--the--day--of--such--election~~ only on the Tuesday next preceding the election, or such earlier date as the county election officer may designate, on each subsequent business day and, if the county election officer so provides, on Saturday, until no later than the hour for closing of the polls on the day of the election. Notwithstanding this provision, advance voting ballots shall be received in accordance with K.S.A. 25-1132, and amendments thereto.

(e) Any person having a permanent physical disability or an illness which has been diagnosed as a permanent illness who would be qualified to vote an absentee advance voting ballot pursuant to ~~subsection--(b)--of~~ K.S.A. 25-1119, and amendments thereto, is hereby authorized to make or to have made on their behalf an application for permanent absentee-voter advance voting status. Applications for permanent absentee-voter advance voting status shall be in the form and contain such information as is required for application for absentee advance voting ballots but shall also contain information which establishes the voter's right to permanent absentee-voter advance voting status.

(f) On receipt of any application filed under the provisions of this section, the county election officer shall prepare and maintain in such officer's office a list of the names of all persons who have filed such applications, or in whose behalf such applications have been filed, together with their correct post office address and the precinct, ward, township or voting area in which such persons claim to be registered voters or to be authorized by law to vote as former precinct residents and the present resident address of each applicant, which names and addresses shall remain so listed until the day of such election available for inspection upon request in compliance with this subsection by any registered voter during regular business hours.



The county election officer upon receipt of such applications shall enter upon a record kept by such officer the name and address of each such person, which record shall conform to the list above required. The county election officer shall maintain a separate listing of the names and addresses of persons qualifying for permanent ~~absentee--voter~~ advance voting status. Before inspection of any ~~absentee~~ advance voting ballot application list, the person desiring to make such inspection shall provide to the county election officer identification in the form of driver's license or other reliable identification and shall sign a log book or application form maintained by such officer stating such person's name and address and showing the date and time of inspection. All records made by the county election officer shall be subject to public inspection, except that the identifying number on ballots and ballot envelopes and records of such number shall in no case be made public.

(g) If an advance voting ballot is destroyed, spoiled, lost or not received by the voter, the voter may request a replacement ballot from the county election officer as provided in this subsection. When a request is timely received under this subsection, the county election officer shall deliver the ballot to the voter if the voter is present in the office of the county election officer, or promptly transmit the ballot by mail to the voter at the address contained in the original application, except when prohibited in the subsection. The county election officer shall keep a record of each replacement advance voting ballot provided under this subsection.

Sec. 5. K.S.A. 25-1122d is hereby amended to read as follows: 25-1122d. (a) If the application for an ~~absentee~~ advance voting ballot is made by the person desiring to vote an ~~absentee~~ advance voting ballot, such application shall be accompanied by an affirmation in substance as follows:

Affirmation of an Elector of the County of \_\_\_\_\_ and State of Kansas Desiring to Vote an ~~Absentee~~ Advance Voting Ballot

State of \_\_\_\_\_, County of \_\_\_\_\_, ss:

I, \_\_\_\_\_,

(Please print name)

do solemnly affirm that I am a qualified elector of the \_\_\_\_\_ precinct of the \_\_\_\_\_ ward, residing at number \_\_\_\_\_ on \_\_\_\_\_ street, city of \_\_\_\_\_, or in the township of \_\_\_\_\_, county of \_\_\_\_\_, and state of Kansas, ~~and that~~ I am entitled to vote an absentee advance voting ballot and ~~that because of my (absence from the county) (sickness or physical disability) (religious belief or practice) I will be unable to attend and vote at my regular voting place at the \_\_\_\_\_ election to be held on \_\_\_\_\_, and that~~ I have not voted and will not otherwise vote at ~~such election~~ the election to be held on \_\_\_\_\_ (date). My political party is \_\_\_\_\_ (to be filled in only when requesting primary election ballots). I desire my ballots to be sent to the following address

\_\_\_\_\_

\_\_\_\_\_

Signature of voter.

Note: False statement on this affirmation is a class C misdemeanor.

(b) If the application for an absentee advance voting ballot is made on behalf of the person desiring to vote an absentee advance voting ballot by a qualified elector of such person's county of residence, such application shall be accompanied by an affirmation in substance as follows:

Affirmation of an Elector on Behalf of an Elector of the County of \_\_\_\_\_, and State of Kansas Desiring to Vote an Absentee Advance Voting Ballot

State of \_\_\_\_\_, County of \_\_\_\_\_, ss:

I, \_\_\_\_\_,

(Please print name)

Senate Elections  
2-22-95  
Attachment 1-8

do solemnly, sincerely and truly declare and affirm that I am a qualified elector of the \_\_\_\_\_ precinct of the \_\_\_\_\_ ward, residing at number \_\_\_\_\_ on \_\_\_\_\_ street, city of \_\_\_\_\_, or in the township of \_\_\_\_\_, county of \_\_\_\_\_, and state of Kansas, and do solemnly, sincerely and truly declare and affirm that \_\_\_\_\_, a qualified elector of the \_\_\_\_\_  
 (Please print name)

precinct of the \_\_\_\_\_ ward, residing at number \_\_\_\_\_ on \_\_\_\_\_ street, city of \_\_\_\_\_, or in the township of \_\_\_\_\_, county of \_\_\_\_\_, and state of Kansas, is entitled to vote an absentee advance voting ballot ~~and-that-because-of--his--or--her (absence--from--the--county)--(sickness--or--physical-disability) (religious-belief-or-practice)-he-or-she-will-be-unable-to-attend and-vote-at-his-or-her-regular-voting-place-at-the-election-to-be held-on-the-day-of-the-----election,-----, 19--~~ at the election to be held on \_\_\_\_\_ (date), and desires to vote under the provisions of the absent advance voting law. ~~His-or-her~~ Such person's political party is \_\_\_\_\_ (to be filled in only when requesting primary election ballots). ~~He--or--she~~ This person desires that such ballots to be sent to the following address

\_\_\_\_\_  
 \_\_\_\_\_  
 Signature.

Note: False statement on this affirmation is a class C misdemeanor.

(c) An application for permanent absentee--voter advance voting status shall be on a form prescribed by the secretary of state for this purpose. Such application shall contain an affirmation concerning substantially the same information required in subsection (a) or (b) and in addition thereto a

*Senate Elections  
 2-22-95  
 Attachment 1-9*

statement regarding the permanent character of such illness or disability.

(d) Any application by or on behalf of a former precinct resident shall state both the former and present residence, address, precinct and county of such former precinct resident and the date of change of residence.

Sec. 6. K.S.A. 25-1123 is hereby amended to read as follows: 25-1123. When an application for an absentee advance voting ballot has been filed in accordance with K.S.A. 25-1122 and amendments thereto, the county election officer shall transmit to the voter applying therefor, or to the person making application on behalf of such voter, one each of the appropriate ballots. ~~Such ballots shall be transmitted by mail, or may be delivered to the person making application in the office of the election officer, together with the printed instructions prescribed by the secretary of state and a ballot envelope bearing upon the outside a printed form as described in K.S.A. 25-1120 and amendments thereto and the same number as the number of the ballot.~~ No advance voting ballot shall be transmitted by the county election officer by any means prior to the 20th day before the election for which an application for an advance voting ballot has been received by such county election officer. If the advance voting ballot is transmitted by mail or by the person making application on behalf of the voter, such ballot shall be transmitted with printed instructions prescribed by the secretary of state and a ballot envelope bearing upon the outside a printed form as described in K.S.A. 25-1120, and amendments thereto, and the same number as the number of the ballot. If the advance voting ballot is transmitted to the applicant in person in the office of the county election officer, such advance voting ballot and printed instructions shall be transmitted in an advance voting ballot envelope bearing upon the outside a printed form as described in K.S.A. 25-1120, and amendments thereto, and the same number as the number of the ballot unless the voter elects to deposit the advance voting ballot into a locked ballot box without an

envelope. ~~Except--for--ballots--transmitted--to--voters--having permanent-absentee--voter--status,--such~~ All ballots shall be transmitted to the absentee advance voting voter not more than 20 days before the election but within two business days of the receipt of such voter's application ~~or--within--five--days--of--the receipt--of--the--printed--absentee--ballots~~ by the election officer, ~~whichever--occurs--later~~ or the commencement of such 20-day period. ~~Such--ballots--shall--be--automatically--transmitted--to--absentee voters--having--permanent-absentee-voter-status-for-each-election conducted--within--their--precinct--from--and--after--the--filing--of--original---application--pursuant--to--subsection--(e)--of--K.S.A. 25-1122,--and--amendments--thereto,--within--five--days--of--the--receipt of--the--printed--absentee--ballots--by--the--county--election--officer.~~ In primary elections required to be conducted on a partisan basis, the election officer shall deliver to such voter the ballot of the political party ~~requested--in--the--application~~ of the applicant.

Sec. 7. K.S.A. 25-1124 is hereby amended to read as follows: 25-1124. (a) Any person qualified to vote pursuant to K.S.A. 25-1119 and amendments thereto, upon receiving any ballot transmitted to such person as provided in this act, shall cast their vote as follows: The voter shall make a cross or check mark in the square or parentheses opposite the name of each candidate or question for whom the voter desires to vote. The voter shall make no other mark, and shall allow no other person to make any mark, upon such ballot. If the advance voting ballot was transmitted by mail or by a person on behalf of the voter, the voter shall then personally place the ballot in the ballot envelope bearing the same number as the ballot and seal the envelope. The voter shall then fill out in full the form on the ballot envelope and shall sign the same. The ballot envelope shall be mailed or otherwise transmitted to the county election officer. If the advance voting ballot was transmitted to the voter in person in the office of the county election officer, the voter may deposit such ballot into a locked ballot box without an

Senate Elections  
2-22-95  
Attachment 1-11

envelope.

(b) Any sick, physically disabled or illiterate voter who is unable to mark or transmit an absentee advance voting ballot and who has received an absentee advance voting ballot pursuant to K.S.A. 25-1119(b) and amendments thereto, may request assistance in marking or transmitting an absentee advance voting ballot.

(c) The county election officer shall allow a person to assist a sick, physically disabled or illiterate voter in marking and transmitting an absentee advance voting ballot, provided a written statement is signed by the person who renders assistance to the sick, physically disabled or illiterate voter and submitted to the county election officer with the absentee ballot. The statement shall be on a form prescribed by the secretary of state and shall contain a statement from the person providing assistance that the person has not exercised undue influence on the voting decision of the sick, physically disabled or illiterate voter and that the person providing assistance has marked the ballot as instructed by the sick, physically disabled or illiterate voter.

(d) Any person assisting a sick, physically disabled or illiterate voter in marking and transmitting an absentee advance voting ballot who knowingly and willfully fails to sign and submit the statement required by this section shall be guilty of a class E felony.

Sec. 8. K.S.A. 25-1135 is hereby amended to read as follows:  
25-1135. The special election boards established under K.S.A. 25-1133, and amendments thereto, shall canvass absentee advance voting ballots as is provided by law for the original canvass of ballots at voting places, except as is otherwise provided in this section and K.S.A. 25-1136, and amendments thereto. The supervising judge of the special election board shall announce in a clear and distinct voice the names of the absentee advance voting voters whose ballots have been received, and thereupon, the clerk of the election board shall enter check the names of such voters upon ~~one--or--more--special~~ the absentee-poll-books

Senate Elections  
2-22-95  
Attachment 1-12

advance voting voter list prescribed by K.S.A. 25-1126, and amendments thereto. If a ballot has been received from a voter whose name is not on such list, the name shall be entered on the advance voting poll book. One of the judges shall open each ballot envelope without defacing the form printed thereon and without mutilating the enclosed ballot or ballots. Such ballots shall then be disposed of as if the absentee advance voting voters were present. One of the judges shall clip the numbers from the ballots and deposit them in the proper ballot boxes without unfolding them. Until the closing of the polls, at least ~~twenty-five-(25)~~ 25 ballots shall remain uncounted in each ballot box.

Sec. 9. K.S.A. 25-409 is hereby amended to read as follows:  
25-409. (a) If any person challenged pursuant to K.S.A. 25-414, and amendments thereto, shall refuse to subscribe the oath tendered pursuant to K.S.A. 25-410, and amendments thereto, the judges shall reject such person's vote.

(b) If the person challenged pursuant to K.S.A. 25-414, and amendments thereto, subscribes the oath prescribed by K.S.A. 25-410, and amendments thereto, and the judges are satisfied that such person is a legal voter, the person shall be allowed to vote in the same manner as any other voter. If the judges are not satisfied that such person is a legal voter, such person shall be permitted to mark an absentee advance voting ballot, which shall thereupon be sealed in an envelope, and the judges shall endorse on the envelope the word "challenged" and a statement of the reason for the challenge, and that the ballot contained in the envelope is the same ballot which was challenged pursuant to K.S.A. 25-409 et seq. and amendments thereto. Such statement shall be attested by two of the judges. The envelope shall be numbered to correspond to the number of the challenged voter's name in the poll book, and the word "challenged" shall be written following the voter's name in the poll book. Such challenged ballots, together with objected to and void ballots packaged in accordance with K.S.A. 25-3008, and amendments thereto, shall be

opened and reviewed by the county board of canvassers, and such board shall determine the acceptance or rejection of the same.

Sec. 10. K.S.A. 25-435 is hereby amended to read as follows: 25-435. The provisions of article 11 of chapter 25 of Kansas Statutes Annotated, and amendments thereto, relating to absentee advance voting ballots shall apply to elections under this act only insofar as they do not conflict with the provisions of this act, except that the county election officer shall not accept any application for an absentee advance voting ballot later than the 21st day before the election.

Sec. 11. K.S.A. 25-1117 is hereby amended to read as follows: 25-1117. (a) "Question submitted election" means any election at which a special question is to be voted on by the electors of the state or a part of them.

(b) "Election officer" means the county clerk or the election commissioner, if there is one, or the city clerk when specifically charged by law to conduct a particular election.

(c) "Ballot" or "absentee advance voting ballot" means the ballot a voter casts when he is not in the county in which he resides on election day, except ballots cast under the authority of K.S.A. 25-1214 to 25-1228.

Sec. 12. K.S.A. 25-1122a is hereby amended to read as follows: 25-1122a. The county election officer of any county in which voting machines are used may authorize persons filing applications for absentee advance voting ballots as provided by K.S.A. 25-1122, and amendments thereto, to cast their votes upon voting machines. If the county election officer authorizes the use of voting machines by absentee advance voting voters such officer shall equip the office of the county election officer with enough voting machines to enable all absentee voters to cast their votes upon such machines.

Such machines shall be of a make certified by the secretary of state and shall be sealed in a manner to allow tabulation of the total vote only at the time of the closing of the polls on the day of the election for which such machines are used.

Senate Elections  
2-22-95  
Attachment 1-14



Sec. 13. K.S.A. 25-1122c is hereby amended to read as follows: 25-1122c. Upon receipt of an application filed pursuant to K.S.A. 25-1122, and amendments thereto, the county election officer of a county which authorizes the use of voting machines for tabulation of absentee advance voting ballots shall notify the person that ~~he~~ such person may ~~cast-his~~ vote in person at the office of the county election officer during the times established by the election officer.

Sec. 14. K.S.A. 25-1126 is hereby amended to read as follows: 25-1126. A list of the names of all absentee advance voting voters of the precinct from whom absentee advance voting ballots have been received shall be given to the supervising judge with the voting supplies, and if additional absentee advance voting ballots are received, the names of voters from whom they are received shall be promptly added to such list. Such list shall be available at the voting place at all times on election day.

Sec. 15. K.S.A. 25-1128 is hereby amended to read as follows: 25-1128. (a) No voter shall mark or transmit to the county election officer more than one absentee advance voting ballot, or set of one of each kind of absentee advance-voting ballot, if the voter is entitled to vote more than one such ballot at a particular election.

(b) No person, unless authorized by K.S.A. 25-1119 and amendments thereto, shall mark, sign or transmit to the county election officer any absentee advance voting ballot or absentee advance voting ballot envelope.

(c) No person shall willfully and falsely affirm, declare or subscribe to any material fact in an affirmation form for an absentee advance voting ballot, or set of absentee advance voting ballots if the voter is entitled to vote more than one kind of absentee advance voting ballot at a particular election, or in a declaration form on an absentee advance voting ballot envelope.

(d) Nothing in this section shall be construed to prohibit any person from mailing, carrying or otherwise conveying absentee

Senate Elections  
2-22-95  
Attachment 1-15

advance voting ballots or sets of absentee advance voting ballots to the county election officer upon request of absentee advance voting voters.

(e) Violation of any provision of this section is a class C misdemeanor.

Sec. 16. K.S.A. 25-1129 is hereby amended to read as follows: 25-1129. If more than one application for an absentee advance voting ballot is filed with the county election officer under the provisions of K.S.A. 25-1122 and amendments thereto, giving different addresses of the same voter, the county election officer shall determine which is the correct address of the voter. The county election officer shall send the absentee advance voting ballot only to the correct address of the voter.

Sec. 17. K.S.A. 25-1130 is hereby amended to read as follows: 25-1130. Absentee Advance voting ballots for questions submitted in statewide county elections shall be prepared by election officers according to such form as is specified by the secretary of state. The secretary of state shall specify the form of absentee advance voting ballots for questions submitted in such detail as ~~he~~ the secretary deems appropriate. Political party designation of the voter shall not appear on such ballots. Such ballots shall be prepared and transmitted at the same time as other absentee advance voting ballots.

The secretary of state shall prescribe voting instructions to accompany every question submitted absentee advance voting ballot, and when the question submitted election is also a primary or general election, such instructions may be combined with other instructions to voters. The secretary of state shall prescribe the form of absentee advance voting ballot envelopes to be used when only a question submitted is to be voted upon. Absentee Advance voting ballots for questions submitted shall bear the same serial number as the absentee advance voting ballot envelope used for transmission thereof.

Forms of absentee advance voting ballot, ballot envelope and voter instructions in question submitted elections which are not

Senate Elections  
2-22-95  
Attachment 1-16

statewide shall be prescribed by the county election officer in charge of such election, in conformity with any applicable provisions of law and, as nearly as practicable, in conformity with forms prescribed by the secretary of state for statewide elections.

Absentee Advance voting ballots for questions submitted shall be cast, counted, tabulated, canvassed and handled in the same manner as other absentee advance voting ballots. Votes of absentee advance voting voters may be challenged or objected to in question submitted elections in the same manner as in other elections.

Sec. 18. K.S.A. 25-1131 is hereby amended to read as follows: 25-1131. The secretary of state may adopt rules and regulations, not inconsistent with this act, relating to absentee advance voting ballots and the voting thereof. This section shall not be deemed to require adoption of rules and regulations by the secretary of state to carry out any duty ~~he-has~~ under this act.

Sec. 19. K.S.A. 25-1132 is hereby amended to read as follows: 25-1132. All absentee advance voting ballots which are received in the office of the county election officer not later than the hour for closing of the polls on the date of any election specified in subsection (b) of K.S.A. 25-1122 and amendments thereto, shall be delivered by the county election officer to the appropriate special election board provided for in K.S.A. 25-1133 and amendments thereto.

Sec. 20. K.S.A. 25-1134 is hereby amended to read as follows: 25-1134. (a) The county election officer in counties which have a special election board established under subsection (a) or subsection (c) of K.S.A. 25-1133, and amendments thereto, shall deliver all absentee advance voting ballots to the special election board when such special election board convenes, and thereafter as absentee advance voting ballots are received during election day, until the time for closing of the polls.

(b) In counties having a special election board established under subsection (b) of K.S.A. 25-1133, and amendments thereto,

the county election officer shall deliver all absentee advance voting ballots to such special election board at the time of the closing of the polls, or as soon as practicable thereafter.

Sec. 21. K.S.A. 25-1136 is hereby amended to read as follows: 25-1136. (a) The vote of any absentee advance voting voter may be challenged in the same manner as other votes are challenged, as nearly as may be, and the judges of the special election board shall determine the validity of each absentee advance voting ballot. Whenever the judges determine that the form accompanying an absentee advance voting ballot is insufficient, or that the voter is not a registered voter, or the challenge is otherwise sustained, the absentee advance voting ballot envelope shall not be opened. In all such cases, the judges shall endorse on the back of the envelope the word "challenged" and the reason for sustaining the challenge.

(b) Any absentee advance voting ballot envelope which has not been signed shall not be opened, and no vote on the ballot therein shall be counted. Such envelope shall be challenged in the same manner in which other votes are challenged.

(c) Whenever it shall be made to appear to the judges of a special election board by sufficient proof that an absentee advance voting voter has died, the envelope containing the absentee advance voting ballot of such deceased voter shall not be opened. In all such cases, the judges shall endorse on the back of the envelope the word "challenged" and the reason for sustaining the challenge.

(d) If objection is made to an absentee advance voting ballot because of form, condition, or marking thereof, the ballot shall be marked "void" if the judges uphold the objection to the entire ballot, and otherwise shall be marked on the back thereof, "objected to" with a statement of the substance of the objection.

(e) Void, challenged and objected to absentee advance voting ballots shall be transmitted to the county election officer in the same manner as personally cast challenged ballots are transmitted but shall be placed in separate envelopes or sacks,

appropriately labeled and sealed. Votes contained in void and challenged absentee advance voting ballots shall not be included in the total of votes certified by the special election board. Void, challenged and objected to absentee advance voting ballots shall be reviewed by the board of county canvassers, and such board shall finally determine the acceptance or rejection of each void, challenged or objected to ballot.

Sec. 22. K.S.A. 25-1137 is hereby amended to read as follows: 25-1137. The totals of votes canvassed by a special election board shall be certified by the members of the special election board. Such certification, the poll books, registration lists, party affiliation lists and absentee advance voting ballots shall be returned to the county election officer and shall be transmitted by ~~him~~ such officer to the county board of canvassers for its canvass as provided by law.

Sec. 23. K.S.A. 25-1138 is hereby amended to read as follows: 25-1138. In counties where voting machines are used, the special election board shall proceed by using voting machines to originally canvass, count and tally the absentee advance voting ballots in accordance with K.S.A. 25-1135 to 25-1137, and amendments thereto.

Sec. 24. K.S.A. 25-1139 is hereby amended to read as follows: 25-1139. No absentee advance voting ballot shall be counted unless marked and transmitted as required by article 11 of chapter 25 of Kansas Statutes Annotated and amendments thereto, except as is otherwise provided in article 12 of ~~said~~ such chapter 25.

Sec. 25. K.S.A. 25-1806 is hereby amended to read as follows: 25-1806. (a) The applicant upon receiving the ballot for presidential and vice-presidential electors shall mark the ballot and then fold the ballot and deposit it and seal it in an envelope furnished by the county election officer.

(b) The voter shall enclose the envelope containing the ballot in a carrier envelope which shall be securely sealed. There shall be imprinted on the outside of the envelope on a form

substantially as follows:

DECLARATION OF NEW RESIDENT,  
FORMER RESIDENT  
OR RELOCATED RESIDENT VOTER

I hereby declare that I have qualified as a new resident voter, a former resident voter or relocated resident voter in this state to vote for presidential and vice-presidential electors. I have not applied nor do I intend to apply for any **absentee** advance voting voter's ballot from any other state or precinct in the case of a relocated resident. I have not voted and I will not vote otherwise than by this ballot.

My legal residence (or last residence in Kansas, if a former resident voter or if a relocated resident) is in the \_\_\_\_\_ precinct, township of \_\_\_\_\_ (or in the \_\_\_\_\_ precinct of the \_\_\_\_\_ ward, \_\_\_\_\_ street in the city of \_\_\_\_\_), in the county of \_\_\_\_\_, state of Kansas.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature of voter)

Note: False statement on this declaration is a class C misdemeanor.

The voter shall sign the declaration upon the carrier envelope as set forth above, and shall then deliver the sealed carrier envelope to the county election officer, who shall keep the carrier envelope in such officer's office until delivered by such officer to the proper election officials to be canvassed.

Sec. 26. K.S.A. 25-1808 is hereby amended to read as follows: 25-1808. All ballots marked by new resident, former resident and relocated resident voters which reach the county election officer not later than the hour for closing of the polls on the date of the election shall be delivered by the county election officer to the special election board provided for in K.S.A. 25-1133, and amendments thereto, at the time prescribed by K.S.A. 25-1134, and amendments thereto, for delivery of **absentee**

Senate Elections  
2-22-95  
Attachment 1-20

advance voting ballots. Such ballots shall be canvassed in the manner provided for absentee advance voting ballots in K.S.A. 25-1135 to 25-1139, inclusive, and amendments thereto. The new resident, former resident or relocated resident voter's name with a notation so designating shall be recorded in a special poll book for new resident, former resident and relocated resident voters.

Sec. 27. K.S.A. 25-1811 is hereby amended to read as follows: 25-1811. Except as otherwise provided in this act, the provisions of law relating to absentee advance voting shall apply also to the casting and counting of ballots and challenging of votes by new residents, former residents or by relocated residents, the furnishing of election supplies, ballots, canvassing of ballots, and making proper returns of the results of the election.

Sec. 28. K.S.A. 25-2709 is hereby amended to read as follows: 25-2709. The county election officer may destroy the following election records after they have been on file for the period stated:

- (1) Appointments and oaths of office of election board members, two years.
- (2) Registration lists, five years.
- (3) Poll books, five years.
- (4) Party affiliation lists, five years.
- (5) Abstracts of voting records, 20 years.
- (6) Affidavits required to be filed by the election laws of the state of Kansas, including absentee advance voting and mail ballot envelopes containing voters' declarations, two years.
- (7) All other election records used at polling places, two years.

Sec. 29. K.S.A. 25-2804 is hereby amended to read as follows: 25-2804. (a) Each person recommended as provided in subsection (a) of K.S.A. 25-2803, and amendments thereto, shall be a resident of the area served by the voting place in which such person is to be a judge or clerk.

(b) All judges and clerks shall have the qualifications of an elector in the election at which they serve, and no judge or clerk shall be a candidate for any office, other than the office of precinct committeeman or precinct committeewoman, to be elected at such election.

(c) The county election officer may establish a pool of trained judges and clerks who shall be recommended by the county chairpersons specified in subsection (a) of K.S.A. 25-2803, and amendments thereto. Judges and clerks in such pool may serve at voting places other than their own if:

(1) The chairpersons specified in subsection (a) of K.S.A. 25-2803, and amendments thereto, or either of them, have failed to make appropriate recommendations;

(2) it is impossible to obtain judges and clerks for a voting place in any other way; or

(3) voting machines are used, in which case the third judge, who shall be trained in the use of voting machines, need not necessarily live in the area of the voting place.

(d) Any judge or clerk serving in a voting place not located in the area in which such judge or clerk resides or serving on a special election board established under subsection (c) of K.S.A. 25-1133, and amendments thereto, shall be allowed to vote an **absentee** advance voting ballot in accordance with the provisions of K.S.A. 25-1119 and amendments thereto or shall be excused from duties as such judge or clerk to vote at the voting place in the area where such judge or clerk resides.

Sec. 30. K.S.A. 25-2909 is hereby amended to read as follows: 25-2909. (a) Any voter unable to mark such person's ballot by reason of physical disability, visual handicap or lack of proficiency in reading the English language or any voter 65 or more years of age may request assistance in voting.

(b) Upon request as provided in subsection (a), the voter shall be accompanied to the voting booth by a person chosen by the voter or, if no person is chosen, by two members of the election board of different political parties, who shall mark the



ballot as such voter directs.

(c) If a voter requests assistance but is challenged, such voter shall be permitted to vote as provided by law for challenged voters.

(d) If a voting place is inaccessible to a disabled voter by reason of stairs or steps, such voter may request that such person's ballot be brought to the entrance to such voting place, for the purpose of allowing such voter to vote. Two members of the election board of different political parties shall take a ballot to the voter so requesting and shall remain with such voter while such person votes. In voting places where paper ballots are used, such board members shall deposit such voter's ballot in the ballot box. In voting places where voting machines are used, such voter shall vote on an absentee advance voting ballot, and, if the county election officer so directs, the two board members, upon returning to the voting place, shall cast the voter's votes, exactly in the manner shown on such voter's ballot, on a voting machine. If the voter's votes are cast on a voting machine, the absentee advance voting ballots used in this subsection shall be marked "VOID" with a notation indicating that the votes thereon have been tabulated on a voting machine. Any such ballot, together with objected to and challenged ballots, shall be packaged in accordance with K.S.A. 25-3008, and amendments thereto.

(e) Intoxication shall not be regarded as a physical disability.

Sec. 31. K.S.A. 25-3002 is hereby amended to read as follows: 25-3002. (a) The rules prescribed in this section shall apply to:

- (1) The original canvass by election boards.
- (2) Intermediate and final canvasses by county boards of canvassers.
- (3) Final canvass by the state board of canvassers.
- (4) All election contests.
- (5) All other officers canvassing or having a part in the

canvass of any election.

(b) Rules for canvassers:

(1) No ballot, or any portion thereof, shall be invalidated by any technical error unless it is impossible to determine the voter's intention. Determination of the voter's intention shall rest in the discretion of the board canvassing in the case of a canvass and in the election court in the case of an election contest.

(2) The occurrences listed in this subpart (2) shall not invalidate the whole ballot but shall invalidate that portion, and that portion only, in which the occurrence appears. The votes on such portion of the ballot shall not be counted for any candidate listed or written in such portion, but the remainder of the votes in other portions of the ballot shall be counted. The occurrences to which this subpart (2) shall apply are:

(A) Whenever a voting mark shall be made in the square at the left of the name of more than one candidate for the same office, except when the ballot instructs that more than one candidate is to be voted.

(B) Whenever a voting mark is placed in the square at the left of a space where no candidate is listed.

(c) A write-in vote for those candidates for the offices of governor and lieutenant governor shall not be counted unless the pair of candidates have filed an affidavit of candidacy pursuant to K.S.A. 25-305 and amendments thereto, and:

(1) Both candidates' names are written on the ballot; or

(2) only the name of the candidate for governor is written on the ballot.

(d) A write-in vote for those candidates for the offices of president and vice-president shall not be counted unless the pair of candidates have filed an affidavit of candidacy pursuant to K.S.A. 25-305 and amendments thereto, and:

(1) Both candidates' names are written on the ballot; or

(2) only the name of the candidate for president is written on the ballot.

(e) A write-in vote for candidates for state offices elected on a statewide basis other than offices subject to subsection (c) shall not be counted unless the candidate has filed an affidavit of candidacy pursuant to K.S.A. 25-305, and amendments thereto.

(f) Any absentee advance voting or mail ballot whose envelope containing the voter's written declaration is unsigned, shall be wholly void and no vote thereon shall be counted.

Sec. 32. K.S.A. 25-3706 is hereby amended to read as follows: 25-3706. The county election officer shall send promptly a copy of each affidavit or application for absentee advance voting ballot, received from a former resident voter, to the county election officer of the county to which such former resident has removed, and the latter election officer shall keep the same on file and maintain an alphabetical index thereof for a period of six (6) months after the election.

Sec. 33. 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 judge shall secure the marking devices against 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 the number of voters shown on the poll book. If there is an excess, 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 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 (1), 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 judge shall place all ballots that have been cast in the container provided for the purpose, which shall be sealed and delivered forthwith by two (2) election judges who shall not be of the same political party, to the counting location together with the 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 (2) election officials 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 (2) 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) Absentee 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 absentee 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) 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. 34. K.S.A. 25-4611 is hereby amended to read as follows: 25-4611. (a) As soon as the polls are closed, an election 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 the number of voters shown on the poll book. If there is an excess, 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 who shall not be

of the same political party, to the counting location together with the 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 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) Absentee 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.

(e) The return printed by the optical scanning equipment, to which has been added the return of write-in and absentee advance voting votes and manually 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. 35. K.S.A. 25-409, 25-435, 25-1117, 25-1119, 25-1120, 25-1121, 25-1122, 25-1122a, 25-1122c, 25-1122d, 25-1123, 25-1124, 25-1126, 25-1128, 25-1129, 25-1130, 25-1131, 25-1132, 25-1134, 25-1135, 25-1136, 25-1137, 25-1138, 25-1139, 25-1806, 25-1808, 25-1811, 25-2709, 25-2804, 25-2909, 25-3002, 25-3706, 25-4412 and 25-4611 are hereby repealed.

Sec. 36. This act shall take effect and be in force from and after its publication in the statute book.

Senate Elections  
2-27-95  
Attachment 1-28