

Substitute for SENATE BILL No. 8

By Committee on Ethics, Elections and Local Government

2-16

1 AN ACT concerning elections; relating to advance voting ballots
2 submitted by mail on election day; amending K.S.A. 25-1132, 25-1133,
3 25-1134 and 25-1136 and K.S.A. 2016 Supp. 25-1122 and 25-3107 and
4 repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2016 Supp. 25-1122 is hereby amended to read as
8 follows: 25-1122. (a) Any registered voter may file with the county
9 election officer where the person is a resident, or where the person is
10 authorized by law to vote as a former precinct resident, an application for
11 an advance voting ballot. The signed application shall be transmitted only
12 to the county election officer by personal delivery, mail, facsimile or as
13 otherwise provided by law.

14 (b) If the registered voter is applying for an advance voting ballot to
15 be transmitted in person, the voter shall provide identification pursuant to
16 K.S.A. 25-2908, and amendments thereto.

17 (c) If the registered voter is applying for an advance voting ballot to
18 be transmitted by mail, the voter shall provide with the application for an
19 advance voting ballot the voter's current and valid Kansas driver's license
20 number, nondriver's identification card number or a photocopy of any
21 other identification provided by K.S.A. 25-2908, and amendments thereto.

22 (d) A voter may vote a provisional ballot according to K.S.A. 25-409,
23 and amendments thereto, if:

24 (1) The voter is unable or refuses to provide current and valid
25 identification; or

26 (2) the name and address of the voter provided on the application for
27 an advance voting ballot do not match the voter's name and address on the
28 registration book. The voter shall provide a valid form of identification as
29 defined in K.S.A. 25-2908, and amendments thereto, to the county election
30 officer in person or provide a copy by mail or electronic means before the
31 meeting of the county board of canvassers. At the meeting of the county
32 board of canvassers the county election officer shall present copies of
33 identification received from provisional voters and the corresponding
34 provisional ballots. If the county board of canvassers determines that a
35 voter's identification is valid and the provisional ballot was properly cast,
36 the ballot shall be counted.

1 (e) No county election officer shall provide an advance voting ballot
2 to a person who is requesting an advance voting ballot to be transmitted by
3 mail unless:

4 (1) The county election official verifies that the signature of the
5 person matches that on file in the county voter registration records.
6 Signature verification may occur by electronic device or by human
7 inspection. In the event that the signature of a person who is requesting an
8 advance voting ballot does not match that on file, the county election
9 officer shall attempt to contact the person and shall offer the person
10 another opportunity to provide the person's signature for the purposes of
11 verifying the person's identity. If the county election officer is unable to
12 reach the person, the county election officer may transmit a provisional
13 ballot, however, such provisional ballot may not be counted unless a
14 signature is included therewith that can be verified; and

15 (2) the person provides such person's full Kansas driver's license
16 number, Kansas nondriver's identification card number issued by the
17 division of vehicles, or submits such person's application for an advance
18 voting ballot and a copy of identification provided by K.S.A. 25-2908, and
19 amendments thereto, to the county election officer for verification. If a
20 person applies for an advance voting ballot to be transmitted by mail but
21 fails to provide identification pursuant to this subsection or the
22 identification of the person cannot be verified by the county election
23 officer, the county election officer shall provide information to the person
24 regarding the voter rights provisions of subsection (d) and shall provide
25 the person an opportunity to provide identification pursuant to this
26 subsection. For the purposes of this act, Kansas state offices and offices of
27 any subdivision of the state will allow any person seeking to vote by an
28 advance voting ballot the use of a photocopying device to make one
29 photocopy of an identification document at no cost.

30 (f) Applications for advance voting ballots to be transmitted to the
31 voter by mail shall be filed only at the following times:

32 (1) For the primary election occurring on the first Tuesday in August
33 in both even-numbered and odd-numbered years, between April 1 of such
34 year and the ~~last business day~~ *Tuesday* of the week preceding such primary
35 election.

36 (2) For the general election occurring on the Tuesday following the
37 first Monday in November in both even-numbered and odd-numbered
38 years, between 90 days prior to such election and the ~~last business day~~
39 *Tuesday* of the week preceding such general election.

40 (3) For question submitted elections occurring on the date of a
41 primary or general election, the same as is provided for ballots for election
42 of officers at such election.

43 (4) For question submitted elections not occurring on the date of a

1 primary or general election, between the time of the first published notice
2 thereof and the ~~last business day~~ *Tuesday* of the week preceding such
3 question submitted election, except that if the question submitted election
4 is held on a day other than a Tuesday, the ~~county election officer shall~~
5 ~~determine the final date for mailing of advance voting ballots, but such~~
6 ~~date shall not be more than three business days~~ *one week* before such
7 election.

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

10 (6) For the presidential preference primary, between January 1 of the
11 year in which such primary is held and the ~~last business day of the week~~
12 preceding such primary election *by one week*.

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

17 (g) Unless an earlier date is designated by the county election office,
18 applications for advance voting ballots transmitted to the voter in person in
19 the office of the county election officer shall be filed on the Tuesday next
20 preceding the election and on each subsequent business day until no later
21 than 12 noon on the day preceding such election. If the county election
22 officer so provides, applications for advance voting ballots transmitted to
23 the voter in person in the office of the county election officer also may be
24 filed on the Saturday preceding the election. Upon receipt of any such
25 properly executed application, the county election officer shall deliver to
26 the voter such ballots and instructions as are provided for in this act.

27 An application for an advance voting ballot filed by a voter who has a
28 temporary illness or disability or who is not proficient in reading the
29 English language or by a person rendering assistance to such voter may be
30 filed during the regular advance ballot application periods until the close
31 of the polls on election day.

32 The county election officer may designate places other than the central
33 county election office as satellite advance voting sites. At any satellite
34 advance voting site, a registered voter may obtain an application for
35 advance voting ballots. Ballots and instructions shall be delivered to the
36 voter in the same manner and subject to the same limitations as otherwise
37 provided by this subsection.

38 (h) Any person having a permanent disability or an illness which has
39 been diagnosed as a permanent illness is hereby authorized to make an
40 application for permanent advance voting status. Applications for
41 permanent advance voting status shall be in the form and contain such
42 information as is required for application for advance voting ballots and
43 also shall contain information which establishes the voter's right to

1 permanent advance voting status.

2 (i) On receipt of any application filed under the provisions of this
3 section, the county election officer shall prepare and maintain in such
4 officer's office a list of the names of all persons who have filed such
5 applications, together with their correct post office address and the
6 precinct, ward, township or voting area in which the persons claim to be
7 registered voters or to be authorized by law to vote as former precinct
8 residents and the present resident address of each applicant. Names and
9 addresses shall remain so listed until the day of such election. The county
10 election officer shall maintain a separate listing of the names and addresses
11 of persons qualifying for permanent advance voting status. All such lists
12 shall be available for inspection upon request in compliance with this
13 subsection by any registered voter during regular business hours. The
14 county election officer upon receipt of the applications shall enter upon a
15 record kept by such officer the name and address of each applicant, which
16 record shall conform to the list above required. Before inspection of any
17 advance voting ballot application list, the person desiring to make the
18 inspection shall provide to the county election officer identification in the
19 form of driver's license or other reliable identification and shall sign a log
20 book or application form maintained by the officer stating the person's
21 name and address and showing the date and time of inspection. All records
22 made by the county election officer shall be subject to public inspection,
23 except that the voter identification information required by subsections (b)
24 and (c) and the identifying number on ballots and ballot envelopes and
25 records of such numbers shall not be made public.

26 (j) If a person on the permanent advance voting list fails to vote in
27 four consecutive general elections held on the Tuesday succeeding the first
28 Monday in November of each even-numbered and odd-numbered year, the
29 county election officer may mail a notice to such voter. The notice shall
30 inform the voter that the voter's name will be removed from the permanent
31 advance voting list unless the voter renews the application for permanent
32 advance voting status within 30 days after the notice is mailed. If the voter
33 fails to renew such application, the county election officer shall remove the
34 voter's name from the permanent advance voting list. Failure to renew the
35 application for permanent advance voting status shall not result in removal
36 of the voter's name from the voter registration list.

37 (k) The secretary of state may adopt rules and regulations in order to
38 implement the provisions of this section and to define valid forms of
39 identification.

40 Sec. 2. K.S.A. 25-1132 is hereby amended to read as follows: 25-
41 1132. (a) All advance voting ballots which are received in the office of the
42 county election officer *or the polling place* not later than the hour for
43 closing of the polls on the date of any election specified in ~~subsection (b)~~

1 of K.S.A. 25-1122(f), and amendments thereto, shall be delivered by the
2 county election officer to the appropriate special election board provided
3 for in K.S.A. 25-1133, and amendments thereto.

4 (b) *Subject to the deadline for receipt by the office of the county*
5 *election officer as set forth in this subsection, all advance voting ballots*
6 *received by mail by the office of the county election officer after the*
7 *closing of the polls on the date of any election specified in K.S.A. 25-*
8 *1122(f), and amendments thereto, and which are postmarked before the*
9 *close of the polls on the date of the election, shall be delivered by the*
10 *county election officer to a special election board or the county board of*
11 *canvassers, as determined by the secretary of state, for canvassing in a*
12 *manner consistent, as nearly as may be, with other advance voting ballots.*
13 *The deadline for the receipt by mail of the advance voting ballots by the*
14 *office of the county election officer shall be the last delivery of mail by the*
15 *United States postal service on the third day following the date of the*
16 *election, unless additional time is permitted by the secretary. The secretary*
17 *of state shall adopt rules and regulations to implement this subsection.*

18 Sec. 3. K.S.A. 25-1133 is hereby amended to read as follows: 25-
19 1133. (a) The county election officer of every county, which does not use
20 voting machines, optical scanning systems or electronic or
21 electromechanical voting systems, shall establish a special election board.
22 Such special election board shall consist of the election board members in
23 the precinct in which is located the office of the county election officer or
24 the members of such additional election boards of the county as the county
25 election officer may designate. Such special election board shall meet at
26 the voting place in the precinct in which is located the office of the county
27 election officer on election day, *or as provided by rules and regulations*
28 *adopted by the secretary of state as authorized by K.S.A. 25-1132(b), and*
29 *amendments thereto.*

30 (b) In counties where voting machines, optical scanning systems or
31 electronic or electromechanical voting systems are used, the county
32 election officer shall appoint a special election board consisting of at least
33 three members. Such members shall be registered voters of such county.
34 Such special election board shall meet in the office of the county election
35 officer on election day or at such time before election day as the county
36 election officer deems necessary, *or as provided by rules and regulations*
37 *adopted by the secretary of state as authorized by K.S.A. 25-1132(b), and*
38 *amendments thereto.*

39 Sec. 4. K.S.A. 25-1134 is hereby amended to read as follows: 25-
40 1134. (a) The county election officer in counties which have a special
41 election board established under K.S.A. 25-1133, and amendments thereto,
42 shall deliver all advance voting ballots to the special election board when
43 such special election board convenes, and thereafter as advance voting

1 ballots are received during election day, until the time for closing of the
2 polls, *or as provided by rules and regulations adopted by the secretary of*
3 *state as authorized by K.S.A. 25-1132(b), and amendments thereto.*

4 (b) The special election board may conduct the original canvass of
5 advance voting ballots when the board convenes, but shall not complete
6 final tabulation prior to election day.

7 Sec. 5. K.S.A. 25-1136 is hereby amended to read as follows: 25-
8 1136. (a) The vote of any advance voting voter may be challenged in the
9 same manner as other votes are challenged, as nearly as may be, and the
10 judges of the special election board shall determine the validity of each
11 advance voting ballot. Whenever the judges determine that the form
12 accompanying an advance voting ballot is insufficient, or that the voter is
13 not a registered voter, or the challenge is otherwise sustained, the advance
14 voting ballot envelope shall not be opened. In all such cases, the judges
15 shall endorse on the back of the envelope the word "provisional" and state
16 the reason for sustaining the challenge.

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

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

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

32 (e) Void, provisional and objected to advance voting ballots shall be
33 transmitted to the county election officer in the same manner as personally
34 cast provisional ballots are transmitted but shall be placed in separate
35 envelopes or sacks, appropriately labeled and sealed. Votes contained in
36 void and provisional advance voting ballots shall not be included in the
37 total of votes certified by the special election board. Void, provisional and
38 objected to advance voting ballots shall be reviewed by the board of
39 county canvassers, and such board shall finally determine the acceptance
40 or rejection of each void, provisional or objected to ballot.

41 (f) *Procedures for canvassing and challenging advance voting ballots*
42 *received by mail after the closing of the polls pursuant to K.S.A. 25-*
43 *1132(b), and amendments thereto, shall be as set forth in rules and*

1 *regulations adopted by the secretary of state as authorized by K.S.A. 25-*
2 *1132(b), and amendments thereto.*

3 Sec. 6. K.S.A. 2016 Supp. 25-3107 is hereby amended to read as
4 follows: 25-3107. (a) At the time of commencement of any canvass by the
5 county board of canvassers the county election officer shall present to the
6 county board of canvassers the preliminary abstracts of election returns,
7 together with the ballots and records returned by the election boards *and,*
8 *as provided by rules and regulations adopted by the secretary of state as*
9 *authorized by K.S.A. 25-1132(b), and amendments thereto, advance voting*
10 *ballots received after the closing of the polls pursuant to K.S.A. 25-*
11 *1132(b), and amendments thereto.* The county board of canvassers shall
12 inspect and check the records presented by the county election officer and
13 shall hear any questions which the county election officer believes
14 appropriate for determination of the board. The county board of canvassers
15 shall do what is necessary to obtain an accurate and just canvass of the
16 election and shall finalize the preliminary abstract of election returns by
17 making any needed changes, and certifying its authenticity and accuracy.
18 The certification of the county board of canvassers shall be attested by the
19 county election officer. Neither the county board of canvassers nor the
20 county election officer shall open or unseal sacks or envelopes of ballots,
21 except as is required by K.S.A. 25-409, 25-1136 and 25-1337, and
22 amendments thereto, or other specific provision of law or as is authorized
23 to carry out a recount under subsection (b), *or as authorized under*
24 *subsection (e).*

25 (b) If a majority of the members of the county board of canvassers
26 shall determine that there are manifest errors appearing on the face of the
27 poll books of any election board, which might make a difference in the
28 result of any election, or if any candidate shall request the recount of the
29 ballots cast in all or in only specified voting areas for the office for which
30 such person is a candidate, or if any registered elector who cast a ballot in
31 a question submitted election requests a recount in all or only specified
32 voting areas to determine the result of the election, the county board of
33 canvassers shall cause a special election board appointed by the county
34 election officer to meet under the supervision of the county election officer
35 and recount the ballots with respect to any office or question submitted
36 specified by the county board of canvassers or requested by such candidate
37 or elector. If a recount is required in a county that uses optical scanning
38 systems as defined in K.S.A. 25-4601 et seq., and amendments thereto, or
39 electronic or electromechanical voting systems, as defined in K.S.A. 25-
40 4401, and amendments thereto, the method of conducting the recount shall
41 be at the discretion of the person requesting such recount. The county
42 election officer shall not be a member of such special election board.
43 Before the special election board meets to recount the ballots upon a

1 properly filed request, the party who makes the request shall file with the
2 county election officer a bond, with security to be approved by the county
3 or district attorney, conditioned to pay all costs incurred by the county in
4 making such recount. In the event that the candidate requesting the recount
5 is declared the winner of the election as a result of the recount, or if as a
6 result of the recount a question submitted is overturned, no action shall be
7 taken on the person's bond and the county shall bear the costs incurred for
8 the recount. Any recount must be requested in writing and filed with the
9 county election officer not later than 5 p.m. on the day following the
10 meeting of the county board of canvassers. The request shall specify which
11 voting areas are to be recounted. The county election officer shall
12 immediately notify any candidate involved in the election for which such
13 recount is requested, or shall notify the county chairperson of each
14 candidate's party. Any such recount shall be initiated not later than the
15 following day and shall be completed not later than 5 p.m. on the fifth day
16 following the filing of the request for a recount, including Saturdays,
17 Sundays and holidays. Upon completion of any recount under this
18 subsection, the election board shall package and reseal the ballots as
19 provided by law and the county board of canvassers shall complete its
20 canvass. The members of the special election board shall be paid as
21 prescribed in K.S.A. 25-2811, and amendments thereto, for time actually
22 spent making the recount.

23 (c) (1) The provisions of this subsection shall apply to candidates at
24 any election for:

- 25 (A) Any state or national office elected on a statewide basis;
26 (B) the office of president or vice president of the United States;
27 (C) the office of members of United States house of representatives;
28 (D) office of members of state senate or house of representative
29 whose district is located in two or more counties; and
30 (E) office of members of state board of education.

31 (2) Any candidate may request a recount in one or more counties.
32 Any such recount must be requested in writing and filed with the secretary
33 of state not later than 5 p.m. on the second Friday following the election.
34 The request shall specify which counties are to be recounted. If a recount
35 is required in a county that uses optical scanning systems as defined in
36 K.S.A. 25-4601, and amendments thereto, or electronic or
37 electromechanical voting systems, as defined in K.S.A. 25-4401, and
38 amendments thereto, the method of conducting the recount shall be at the
39 discretion of the person requesting such recount. Except as provided by
40 this subsection and subsection (d), the person requesting the recount shall
41 file with the secretary of state a bond, with security to be approved by the
42 secretary of state, conditioned to pay all costs incurred by the counties and
43 the secretary of state in making such recount. The amount of the bond shall

1 be determined by the secretary of state. A candidate described in
2 ~~paragraphs (D) and (E)~~ of subsection (c)(1)(D) and (E) may post a bond as
3 provided by subsection (b) in lieu of the bond required by this subsection.
4 In the event that the candidate requesting the recount is declared the
5 winner of the election as a result of the recount, no action shall be taken on
6 the candidate's bond and the counties shall bear the costs incurred for the
7 recount.

8 (3) The secretary of state immediately shall notify each county
9 election officer affected by the recount and any candidate involved in the
10 election for which such recount is requested. If the candidate cannot be
11 reached, then the secretary of state shall notify the state chairperson of
12 such candidate's party. Any such recount shall be conducted under the
13 supervision of the county election officers at the direction of the secretary
14 of state, and shall be initiated not later than the following day and shall be
15 completed not later than 5 p.m. on the fifth day following the filing of the
16 request for a recount, including Saturdays, Sundays and holidays. Each
17 county election officer involved in the recount shall appoint a special
18 election board to recount the ballots. The members of the special election
19 board shall be paid as prescribed in K.S.A. 25-2811, and amendments
20 thereto, for time actually spent making the recount. Upon completion of
21 any recount under this subsection, the special election board in each
22 county shall package and reseal the ballots as provided by law and the
23 county board of canvassers shall complete its canvass. The county election
24 officer in each county immediately shall certify the results of the recount
25 to the secretary of state.

26 (d) (1) The provisions of this subsection shall apply to candidates at
27 general elections for:

- 28 (A) Any state or national office elected on a statewide basis;
- 29 (B) the office of president or vice president of the United States;
- 30 (C) the office of members of United States house of representatives;
- 31 (D) office of members of state senate or house of representative; and
- 32 (E) office of members of state board of education.

33 (2) Whenever the election returns reflect that a candidate for office
34 was defeated by $\frac{1}{2}$ of 1% or less of the total number of votes cast and if
35 such candidate requests a recount in one or more counties of the ballots,
36 the state shall bear the cost of any recount performed using the method by
37 which such ballots were counted originally.

38 (3) Not later than 60 days following a recount conducted pursuant to
39 this subsection, the board of county commissioners of each county in
40 which the recount occurred shall certify to the secretary of state the
41 amount of all necessary direct expenses incurred by the county. Payment
42 for such expenses shall be made to the county treasurer of the county upon
43 warrants of the director of accounts and reports pursuant to vouchers

1 approved by the secretary of state. Upon receipt of such payment and
2 reimbursements, the county treasurer shall deposit the entire amount
3 thereof in the county election fund, if there is one and if there is not then to
4 the county general fund.

5 (4) The secretary of state, with the advice of the director of accounts
6 and reports, shall determine the correctness of each amount certified under
7 this section and adjust any discrepancies discovered before approving
8 vouchers for payment to any county.

9 (e) *Procedures for canvassing and challenging advance voting*
10 *ballots received by mail after the closing of the polls pursuant to K.S.A.*
11 *25-1132(b), and amendments thereto, shall be as set forth in rules and*
12 *regulations adopted by the secretary of state as authorized by K.S.A. 25-*
13 *1132(b), and amendments thereto.*

14 Sec. 7. K.S.A. 25-1132, 25-1133, 25-1134 and 25-1136 and K.S.A.
15 2016 Supp. 25-1122 and 25-3107 are hereby repealed.

16 Sec. 8. This act shall take effect and be in force from and after its
17 publication in the statute book.