

## HOUSE BILL No. 2054

By Committee on Elections

1-18

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1 AN ACT concerning elections; relating to requests for recounts of votes  
2 after an election; modifying the deadline for submitting such requests;  
3 amending K.S.A. 25-3107 and repealing the existing section.  
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 25-3107 is hereby amended to read as follows: 25-  
7 3107. (a) At the time of commencement of any canvass by the county  
8 board of canvassers the county election officer shall present to the county  
9 board of canvassers the preliminary abstracts of election returns, together  
10 with the ballots and records returned by the election boards and, as  
11 provided by rules and regulations adopted by the secretary of state as  
12 authorized by K.S.A. 25-1132(b), and amendments thereto, advance voting  
13 ballots received after the closing of the polls pursuant to K.S.A. 25-  
14 1132(b), and amendments thereto. The county board of canvassers shall  
15 inspect and check the records presented by the county election officer and  
16 shall hear any questions which the county election officer believes  
17 appropriate for determination of the board. The county board of canvassers  
18 shall do what is necessary to obtain an accurate and just canvass of the  
19 election and shall finalize the preliminary abstract of election returns by  
20 making any needed changes, and certifying its authenticity and accuracy.  
21 The certification of the county board of canvassers shall be attested by the  
22 county election officer. Neither the county board of canvassers nor the  
23 county election officer shall open or unseal sacks or envelopes of ballots,  
24 except as is required by K.S.A. 25-409, 25-1136 and 25-1337, and  
25 amendments thereto, or other specific provision of law or as is authorized  
26 to carry out a recount under subsection (b), or as authorized under  
27 subsection (e).

28 (b) If a majority of the members of the county board of canvassers  
29 shall determine that there are manifest errors appearing on the face of the  
30 poll books of any election board, which might make a difference in the  
31 result of any election, or if any candidate shall request the recount of the  
32 ballots cast in all or in only specified voting areas for the office for which  
33 the person is a candidate, or if any registered elector who cast a ballot in a  
34 question submitted election requests a recount in all or only specified  
35 voting areas to determine the result of the election, the county board of  
36 canvassers shall cause a special election board appointed by the county

1 election officer to meet under the supervision of the county election officer  
2 and recount the ballots with respect to any office or question submitted  
3 specified by the county board of canvassers or requested by the candidate  
4 or elector. If a recount is required in a county that uses optical scanning  
5 systems as defined in K.S.A. 25-4601 et seq., and amendments thereto, or  
6 electronic or electromechanical voting systems, as defined in K.S.A. 25-  
7 4401, and amendments thereto, the method of conducting the recount shall  
8 be at the discretion of the person requesting the recount. The county  
9 election officer shall not be a member of the special election board. Before  
10 the special election board meets to recount the ballots upon a properly  
11 filed request, the party who makes the request shall file with the county  
12 election officer a bond, with security to be approved by the county or  
13 district attorney, conditioned to pay all costs incurred by the county in  
14 making the recount. In the event that the candidate requesting the recount  
15 is declared the winner of the election as a result of the recount, or if as a  
16 result of the recount a question submitted is overturned, no action shall be  
17 taken on the person's bond and the county shall bear the costs incurred for  
18 the recount. Any recount must be requested in writing and filed with the  
19 county election officer not later than 5 p.m. on the day following the *last*  
20 meeting of the county board of canvassers. The request shall specify which  
21 voting areas are to be recounted. The county election officer shall  
22 immediately notify any candidate involved in the election for which the  
23 recount is requested, or shall notify the county chairperson of each  
24 candidate's party. Any ~~the~~ recount shall be initiated not later than the  
25 following day and shall be completed not later than 5 p.m. on the fifth day  
26 following the filing of the request for a recount, including Saturdays,  
27 Sundays and holidays. Upon completion of any recount under this  
28 subsection, the election board shall package and reseal the ballots as  
29 provided by law and the county board of canvassers shall complete its  
30 canvass. The members of the special election board shall be paid as  
31 prescribed in K.S.A. 25-2811, and amendments thereto, for time actually  
32 spent making the recount.

33 (c) (1) The provisions of this subsection shall apply to ~~candidates at~~  
34 any election for:

- 35 (A) Any state or national office elected on a statewide basis;  
36 (B) the office of president or vice president of the United States;  
37 (C) the office of members of *the* United States house of  
38 representatives;  
39 (D) *the* office of members of *the* state senate or house of  
40 representatives whose district is located in two or more counties; and  
41 (E) *the* office of members of *the* state board of education.

42 (2) Any candidate may request a recount in one or more counties.  
43 Any such recount must be requested in writing and filed with the secretary

1 of state not later than 5 p.m. on the ~~second Friday following the election~~  
2 *day following the last meeting of the county board of canvassers*  
3 *canvassing votes in the election for which the recount is requested.* The  
4 request shall specify which counties are to be recounted. If a recount is  
5 required in a county that uses optical scanning systems as defined in  
6 K.S.A. 25-4601, and amendments thereto, or electronic or  
7 electromechanical voting systems, as defined in K.S.A. 25-4401, and  
8 amendments thereto, the method of conducting the recount shall be at the  
9 discretion of the person requesting the recount. Except as provided by this  
10 subsection and subsection (d), the person requesting the recount shall file  
11 with the secretary of state a bond, with security to be approved by the  
12 secretary of state, conditioned to pay all costs incurred by the counties and  
13 the secretary of state in making the recount. The amount of the bond shall  
14 be determined by the secretary of state. A candidate described in  
15 subsection (c)(1)(D) and (E) may post a bond as provided by subsection  
16 (b) in lieu of the bond required by this subsection. In the event that the  
17 candidate requesting the recount is declared the winner of the election as a  
18 result of the recount, no action shall be taken on the candidate's bond and  
19 the counties shall bear the costs incurred for the recount.

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

38 (d) (1) The provisions of this subsection shall apply to ~~candidates at~~  
39 *any general elections for:*

- 40 (A) Any state or national office elected on a statewide basis;  
41 (B) the office of president or vice president of the United States;  
42 (C) the office of members of *the* United States house of  
43 representatives;

1 (D) *the* office of members of *the* state senate or house of  
2 representatives; and

3 (E) *the* office of members of *the* state board of education.

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

9 (3) Not later than 60 days following a recount conducted pursuant to  
10 this subsection, the board of county commissioners of each county in  
11 which the recount occurred shall certify to the secretary of state the  
12 amount of all necessary direct expenses incurred by the county. Payment  
13 for such expenses shall be made to the county treasurer of the county upon  
14 warrants of the director of accounts and reports pursuant to vouchers  
15 approved by the secretary of state. Upon receipt of such payment and  
16 reimbursements, the county treasurer shall deposit the entire amount  
17 thereof in the county election fund, if there is one and if there is not then to  
18 the county general fund.

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

23 (e) Procedures for canvassing and challenging advance voting ballots  
24 received by mail after the closing of the polls pursuant to K.S.A. 25-  
25 1132(b), and amendments thereto, shall be as set forth in rules and  
26 regulations adopted by the secretary of state as authorized by K.S.A. 25-  
27 1132(b), and amendments thereto.

28 Sec. 2. K.S.A. 25-3107 is hereby repealed.

29 Sec. 3. This act shall take effect and be in force from and after its  
30 publication in the statute book.