

SENATE BILL No. 106

By Committee on Judiciary

1-28

1 AN ACT enacting the revised uniform law on notarial acts; repealing the
2 uniform law on notarial acts; amending K.S.A. 16-1611, 58-2209 and
3 58-2211 and K.S.A. 2020 Supp. 25-3602, 25-3902, 25-3902a, 25-3904,
4 25-3904a, 49-512, 58-652 and 58-4403 and repealing the existing
5 sections; also repealing K.S.A. 53-101, 53-102, 53-103, 53-104, 53-
6 105, 53-105a, 53-106, 53-107, 53-109, 53-113, 53-114, 53-115, 53-116,
7 53-117, 53-119, 53-120, 53-501, 53-502, 53-503, 53-504, 53-505, 53-
8 506, 53-507, 53-508, 53-510 and 53-511 and K.S.A. 2020 Supp. 53-
9 118, 53-121 and 53-509.

10

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

12

13 New Section 1. (a) Sections 1 through 31, and amendments thereto,
14 shall be known and may be cited as the revised uniform law on notarial
15 acts.

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17 (b) This section shall take effect on and after January 1, 2023.

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19 New Sec. 2. As used in the revised uniform law on notarial acts:

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21 (a) "Acknowledgment" means a declaration by an individual before a
22 notarial officer that the individual has signed a record for the purpose
23 stated in the record and, if the record is signed in a representative capacity,
24 that the individual signed the record with proper authority and signed it as
25 the act of the individual or entity identified in the record.

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27 (b) "Electronic" means relating to technology having electrical,
28 digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

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30 (c) "Electronic signature" means an electronic symbol, sound or
31 process attached to or logically associated with a record and executed or
32 adopted by an individual with the intent to sign the record.

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34 (d) "In a representative capacity" means acting as:

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36 (1) An authorized officer, agent, partner, trustee or other
representative for a person other than an individual;

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(2) a public officer, personal representative, guardian or other
representative, in the capacity stated in a record;

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(3) an agent or attorney-in-fact for a principal; or

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(4) an authorized representative of another in any other capacity.

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(e) "Notarial act" means an act, whether performed with respect to a
tangible or electronic record, that a notarial officer may perform under the
law of this state. "Notarial act" includes taking an acknowledgment,

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1 administering an oath or affirmation, taking a verification on oath or
2 affirmation, witnessing or attesting a signature, certifying or attesting a
3 copy and noting a protest of a negotiable instrument.

4 (f) "Notarial officer" means a notary public or other individual
5 authorized to perform a notarial act.

6 (g) "Notary public" means an individual commissioned to perform a
7 notarial act by the secretary of state.

8 (h) "Official stamp" means a physical image affixed to or embossed
9 on a tangible record or an electronic image attached to or logically
10 associated with an electronic record, including an official notary seal.

11 (i) "Person" means an individual, corporation, business trust,
12 statutory trust, estate, trust, partnership, limited liability company,
13 association, joint venture, public corporation, government or governmental
14 subdivision, agency or instrumentality or any other legal or commercial
15 entity.

16 (j) "Record" means information that is inscribed on a tangible
17 medium or that is stored in an electronic or other medium and is
18 retrievable in perceivable form.

19 (k) "Sign" means, with present intent to authenticate or adopt a
20 record, to:

21 (1) Execute or adopt a tangible symbol; or

22 (2) attach to or logically associate with the record an electronic
23 symbol, sound or process.

24 (l) "Signature" means a tangible symbol or an electronic signature
25 that evidences the signing of a record.

26 (m) "Stamping device" means:

27 (1) A physical device capable of affixing to or embossing on a
28 tangible record an official stamp; or

29 (2) an electronic device or process capable of attaching to or logically
30 associating with an electronic record an official stamp.

31 (n) "State" means a state of the United States, the District of
32 Columbia, Puerto Rico, the United States Virgin Islands or any territory or
33 insular possession subject to the jurisdiction of the United States.

34 (o) "Verification on oath or affirmation" means a declaration, made
35 by an individual on oath or affirmation before a notarial officer, that a
36 statement in a record is true.

37 (p) This section shall take effect on and after January 1, 2023.

38 New Sec. 3. (a) This act applies to a notarial act performed on or after
39 January 1, 2023.

40 (b) This section shall take effect on and after January 1, 2023.

41 New Sec. 4. (a) A notarial officer may perform the following notarial
42 acts:

43 (1) Taking an acknowledgment;

- 1 (2) administering an oath or affirmation;
- 2 (3) taking a verification upon oath or affirmation;
- 3 (4) witnessing or attesting a signature;
- 4 (5) certifying or attesting a copy;
- 5 (6) noting a protest of a negotiable instrument; and
- 6 (7) performing a notarial act authorized by the law of this state.

7 (b) A notarial officer may certify that a tangible copy of an electronic
8 record is an accurate copy of the electronic record.

9 (c) This section shall take effect on and after January 1, 2023.

10 New Sec. 5. (a) A notarial officer who takes an acknowledgment of a
11 record shall determine, from personal knowledge or satisfactory evidence
12 of the identity of the individual, that the individual appearing before the
13 officer and making the acknowledgment has the identity claimed and that
14 the signature on the record is the signature of the individual.

15 (b) A notarial officer who takes a verification of a statement on oath
16 or affirmation shall determine, from personal knowledge or satisfactory
17 evidence of the identity of the individual, that the individual appearing
18 before the officer and making the verification has the identity claimed and
19 that the signature on the statement verified is the signature of the
20 individual.

21 (c) A notarial officer who witnesses or attests to a signature shall
22 determine, from personal knowledge or satisfactory evidence of the
23 identity of the individual, that the individual appearing before the officer
24 and signing the record has the identity claimed.

25 (d) A notarial officer who certifies or attests a copy of a record or an
26 item that was copied shall determine that the copy is a full, true and
27 accurate transcription or reproduction of the record or item.

28 (e) A notarial officer who makes or notes a protest of a negotiable
29 instrument shall determine the matters provided in K.S.A. 84-3-505(b),
30 and amendments thereto.

31 (f) This section shall take effect on and after January 1, 2023.

32 New Sec. 6. (a) If a notarial act relates to a statement made in or a
33 signature executed on a record, the individual making the statement or
34 executing the signature shall appear personally before the notarial officer.

35 (b) This section shall take effect on and after January 1, 2023.

36 New Sec. 7. (a) A notarial officer has personal knowledge of the
37 identity of an individual appearing before the officer if the individual is
38 personally known to the officer through dealings sufficient to provide
39 reasonable certainty that the individual has the identity claimed.

40 (b) A notarial officer has satisfactory evidence of the identity of an
41 individual appearing before the officer if the officer can identify the
42 individual:

43 (1) By means of:

1 (A) A passport, driver's license or government-issued nondriver
2 identification card that is current or expired not more than three years
3 before performance of the notarial act; or

4 (B) another form of government identification issued to an individual
5 that is current or expired not more than three years before performance of
6 the notarial act, contains the signature and a photograph of the individual
7 and is satisfactory to the officer; or

8 (2) by a verification on oath or affirmation of a credible witness
9 personally appearing before the officer and known to the officer or whom
10 the officer can identify on the basis of a passport, driver's license or
11 government-issued nondriver identification card that is current or expired
12 not more than three years before performance of the notarial act.

13 (c) A notarial officer may require an individual to provide additional
14 information or identification credentials necessary to assure the officer of
15 the identity of the individual.

16 (d) This section shall take effect on and after January 1, 2023.

17 New Sec. 8. (a) A notarial officer may refuse to perform a notarial act
18 if the officer is not satisfied that the:

19 (1) Individual executing the record is competent or has the capacity to
20 execute the record; or

21 (2) individual's signature is knowingly and voluntarily made.

22 (b) A notarial officer may refuse to perform a notarial act unless
23 refusal is prohibited by the law of this state or by federal law.

24 (c) This section shall take effect on and after January 1, 2023.

25 New Sec. 9. (a) If an individual is physically unable to sign a record,
26 the individual may direct an individual other than the notarial officer to
27 sign the individual's name on the record. The notarial officer shall insert:

28 "Signature affixed by (name other than the individual) at the direction
29 of (name of individual)" or similar words.

30 (b) This section shall take effect on and after January 1, 2023.

31 New Sec. 10. (a) A notarial act may be performed in this state by:

32 (1) A notary public of this state;

33 (2) a judge, clerk or deputy clerk of any court of this state;

34 (3) a county clerk or deputy county clerk;

35 (4) an election commissioner or assistant election commissioner; or

36 (5) any other person authorized to perform the specific act by the law
37 of this state.

38 (b) The signature and title of an individual performing a notarial act
39 in this state are prima facie evidence that the signature is genuine and that
40 the individual holds the designated title.

41 (c) The signature and title of a notarial officer described in subsection
42 (a)(1), (a)(2), (a)(3) or (a)(4) conclusively establish the authority of the
43 officer to perform the notarial act.

1 (d) This section shall take effect on and after January 1, 2023.

2 New Sec. 11. (a) A notarial act performed in another state has the
3 same effect under the law of this state as if performed by a notarial officer
4 of this state if the act performed in that state is performed by:

5 (1) A notary public of that state;

6 (2) a judge, clerk or deputy clerk of a court of that state; or

7 (3) any other individual authorized by the laws of that state to
8 perform the notarial act.

9 (b) The signature and title of an individual performing a notarial act
10 in another state are prima facie evidence that the signature is genuine and
11 that the individual holds the designated title.

12 (c) The signature and title of a notarial officer described in subsection
13 (a)(1) or (a)(2) conclusively establish the authority of the officer to
14 perform the notarial act.

15 (d) This section shall take effect on and after January 1, 2023.

16 New Sec. 12. (a) A notarial act performed under the authority and in
17 the jurisdiction of a federally recognized Indian tribe has the same effect
18 under the law of this state as if performed by a notarial officer of this state,
19 if the act performed in the jurisdiction of the tribe is performed by:

20 (1) A notary public of the tribe;

21 (2) a judge, clerk or deputy clerk of a court of the tribe; or

22 (3) any other individual authorized by the law of the tribe to perform
23 the notarial act.

24 (b) The signature and title of an individual performing a notarial act
25 under the authority of and in the jurisdiction of a federally recognized
26 Indian tribe are prima facie evidence that the signature is genuine and that
27 the individual holds the designated title.

28 (c) The signature and title of a notarial officer described in subsection
29 (a)(1) or (a)(2) conclusively establish the authority of the officer to
30 perform the notarial act.

31 (d) This section shall take effect on and after January 1, 2023.

32 New Sec. 13. (a) A notarial act performed under federal law has the
33 same effect under the law of this state as if performed by a notarial officer
34 of this state, if the act performed under federal law is performed by:

35 (1) A judge, clerk or deputy clerk of a court;

36 (2) an individual in military service or performing duties under the
37 authority of military service who is authorized to perform notarial acts
38 under federal law;

39 (3) an individual designated a notarizing officer by the United States
40 department of state for performing notarial acts overseas; or

41 (4) any other individual authorized by federal law to perform the
42 notarial act.

43 (b) The signature and title of an individual acting under federal

1 authority and performing a notarial act are prima facie evidence that the
2 signature is genuine and that the individual holds the designated title.

3 (c) The signature and title of an officer described in subsection (a)(1),
4 (a)(2) or (a)(3) conclusively establish the authority of the officer to
5 perform the notarial act.

6 (d) This section shall take effect on and after January 1, 2023.

7 New Sec. 14. (a) If a notarial act is performed under authority and in
8 the jurisdiction of a foreign state or constituent unit of the foreign state or
9 is performed under the authority of a multinational or international
10 governmental organization, the act has the same effect under the law of
11 this state as if performed by a notarial officer of this state.

12 (b) If the title of office and indication of authority to perform notarial
13 acts in a foreign state appears in a digest of foreign law or in a list
14 customarily used as a source for that information, the authority of an
15 officer with that title to perform notarial acts is conclusively established.

16 (c) The signature and official stamp of an individual holding an office
17 described in subsection (b) are prima facie evidence that the signature is
18 genuine and the individual holds the designated title.

19 (d) An apostille in the form prescribed by the hague convention of
20 October 5, 1961, and issued by a foreign state party to the convention
21 conclusively establishes that the signature of the notarial officer is genuine
22 and that the officer holds the indicated office.

23 (e) A consular authentication issued by an individual designated by
24 the United States department of state as a notarizing officer for performing
25 notarial acts overseas and attached to the record with respect to which the
26 notarial act is performed conclusively establishes that the signature of the
27 notarial officer is genuine and that the officer holds the indicated office.

28 (f) As used in this section, "foreign state" means a government other
29 than the United States, a state or a federally recognized Indian tribe.

30 (g) This section shall take effect on and after January 1, 2023.

31 New Sec. 15. (a) A remotely located individual may comply with
32 section 6, and amendments thereto, by using communication technology to
33 appear before a notary public.

34 (b) A notary public located in this state may perform a notarial act
35 using communication technology for a remotely located individual if:

36 (1) The notary public:

37 (A) Has personal knowledge under section 7(a), and amendments
38 thereto, of the identity of the individual;

39 (B) has satisfactory evidence of the identity of the remotely located
40 individual by oath or affirmation from a credible witness appearing before
41 the notary public under this section or section 7(b), and amendments
42 thereto; or

43 (C) has obtained satisfactory evidence of the identity of the remotely

1 located individual by using at least two different types of identity proofing;

2 (2) the notary public is able reasonably to confirm that a record
3 before the notary public is the same record in which the remotely located
4 individual made a statement or on which the individual executed a
5 signature;

6 (3) the notary public, or a person acting on behalf of the notary
7 public, creates an audio-visual recording of the performance of the notarial
8 act; and

9 (4) for a remotely located individual located outside the United
10 States:

11 (A) The record:

12 (i) Is to be filed with or relates to a matter before a public official or
13 court, governmental entity or other entity subject to the jurisdiction of the
14 United States; or

15 (ii) involves property located in the territorial jurisdiction of the
16 United States or involves a transaction substantially connected with the
17 United States; and

18 (B) the act of making the statement or signing the record is not
19 prohibited by the foreign state in which the remotely located individual is
20 located.

21 (c) If a notarial act is performed under this section, the certificate of
22 notarial act required by section 16, and amendments thereto, and the short-
23 form certificate provided in section 17, and amendments thereto, shall
24 indicate that the notarial act was performed using communication
25 technology.

26 (d) A short-form certificate provided in section 17, and amendments
27 thereto, for a notarial act subject to this section is sufficient if it:

28 (1) Complies with rules and regulations adopted pursuant to section
29 27, and amendments thereto; or

30 (2) is in the form provided in section 17, and amendments thereto,
31 and contains a statement substantially as follows: "This notarial act
32 involved the use of communication technology."

33 (e) A notary public, a guardian, conservator or agent of a notary
34 public or a personal representative of a deceased notary public, shall retain
35 the audio-visual recording created under subsection (b)(3) or cause the
36 recording to be retained by a repository designated by or on behalf of the
37 person required to retain the recording. Unless a different period is
38 required by rules and regulations adopted pursuant to section 27, and
39 amendments thereto, the recording shall be retained for a period of at least
40 10 years after the recording is made.

41 (f) Before a notary public performs the notary public's initial notarial
42 act under this section, the notary public shall notify the secretary of state
43 that the notary public will be performing notarial acts with respect to

1 remotely located individuals, identify the technologies the notary public
2 intends to use and provide evidence of completion of the course of study
3 and passing of the examination required by section 23, and amendments
4 thereto. If the secretary of state has established standards in rules and
5 regulations adopted pursuant to section 27, and amendments thereto, for
6 approval of communication technology or identity proofing, the
7 communication technology and identity proofing shall conform to the
8 standards. A notary public notifying the secretary of state under this
9 section shall pay an information and services fee in an amount to be
10 determined by the secretary of state but not to exceed \$25. The secretary of
11 state shall remit all moneys received under this section to the state
12 treasurer in accordance with the provisions of K.S.A. 75-4215, and
13 amendments thereto. Upon receipt of each such remittance, the state
14 treasurer shall deposit the entire amount in the state treasury to the credit
15 of the information and services fee fund.

16 (g) As used in this section:

17 (1) "Communication technology" means an electronic device or
18 process that:

19 (A) Allows a notary public and a remotely located individual to
20 communicate with each other simultaneously by sight and sound; and

21 (B) when necessary and consistent with other applicable law,
22 facilitates communication with a remotely located individual who has a
23 vision, hearing or speech impairment.

24 (2) "Foreign state" means a jurisdiction other than the United States, a
25 state or a federally recognized Indian tribe.

26 (3) "Identity proofing" means a process or service by which a third
27 person provides a notary public with a means to verify the identity of a
28 remotely located individual by a review of personal information from
29 public or private data sources.

30 (4) "Outside the United States" means a location outside the
31 geographic boundaries of the United States, Puerto Rico, the United States
32 Virgin Islands, and any territory, insular possession or other location
33 subject to the jurisdiction of the United States.

34 (5) "Remotely located individual" means an individual who is not in
35 the physical presence of the notary public who performs a notarial act
36 under subsection (b).

37 (h) This section shall take effect on and after January 1, 2023.

38 New Sec. 16. (a) A notarial act shall be evidenced by a certificate that
39 shall:

40 (1) Be executed contemporaneously with the performance of the
41 notarial act;

42 (2) be signed and dated by the notarial officer and, if the notarial
43 officer is a notary public, be signed in the same manner as on file with the

1 secretary of state;

2 (3) identify the jurisdiction in which the notarial act is performed;

3 (4) contain the title of office of the notarial officer; and

4 (5) if the notarial officer is a notary public, indicate the date of
5 expiration, if any, of the officer's commission.

6 (b) If a notarial act regarding a tangible record is performed by a
7 notary public, an official stamp shall be affixed to or embossed on the
8 certificate. If a notarial act is performed regarding a tangible record by a
9 notarial officer other than a notary public and the certificate contains the
10 information specified in subsections (a)(2), (a)(3) and (a)(4), an official
11 stamp may be affixed to or embossed on the certificate. If a notarial act
12 regarding an electronic record is performed by a notarial officer and the
13 certificate contains the information specified in subsections (a)(2), (a)(3),
14 (a)(4) and (a)(5), an official stamp may be attached to or logically
15 associated with the certificate.

16 (c) A certificate of a notarial act is sufficient if it meets the
17 requirements of subsections (a) and (b) and:

18 (1) Is in a short form set forth in section 17, and amendments thereto;

19 (2) is in a form otherwise permitted by the law of this state;

20 (3) is in a form permitted by the law applicable in the jurisdiction in
21 which the notarial act was performed; or

22 (4) sets forth the actions of the notarial officer and the actions are
23 sufficient to meet the requirements of the notarial act as provided in
24 sections 5, 6 and 7, and amendments thereto, or the law of this state.

25 (d) By executing a certificate of a notarial act, a notarial officer
26 certifies that the officer has complied with the requirements and made the
27 determinations specified in sections 4, 5 and 6, and amendments thereto.

28 (e) A notarial officer shall not affix the officer's signature to, or
29 logically associate it with, a certificate until the notarial act has been
30 performed.

31 (f) If a notarial act is performed regarding a tangible record, a
32 certificate shall be part of, or securely attached to, the record. If a notarial
33 act is performed regarding an electronic record, the certificate shall be
34 affixed to, or logically associated with, the electronic record. If the
35 secretary of state has established standards in rules and regulations
36 adopted pursuant to section 27, and amendments thereto, for attaching,
37 affixing or logically associating the certificate, the process shall conform
38 to the standards.

39 (g) If a notary public willfully neglects or refuses to attach to a
40 notarial certificate the date of expiration of the notary public's commission,
41 as provided in subsection (a)(5), then the notary public is guilty of a class
42 C nonperson misdemeanor.

43 (h) This section shall take effect on and after January 1, 2023.

1 New Sec. 17. The secretary of state shall adopt rules and regulations
2 providing short-form certificates of notarial acts that are sufficient for the
3 purposes indicated if completed with the information required by law.

4 New Sec. 18. (a) The official stamp of a notary public shall include
5 the notary public's name exactly as it appears on the application for
6 commission as a notary public, the words "notary public" and "State of
7 Kansas", and other information required by the secretary of state, and be
8 capable of being copied together with the record to which it is affixed or
9 attached or with which it is logically associated. No notary public shall use
10 such stamp unless an impression thereof has been filed in the office of the
11 secretary of state.

12 (b) This section shall take effect on and after January 1, 2023.

13 New Sec. 19. (a) A notary public is responsible for the security of the
14 notary public's stamping device and shall not allow another individual to
15 use the device to perform a notarial act. On resignation from, or the
16 revocation or expiration of, the notary public's commission, or on the
17 expiration of the date set forth in the stamping device, if any, the notary
18 public shall disable the stamping device by destroying, defacing,
19 damaging, erasing or securing it against use in a manner that renders it
20 unusable. On the death or adjudication of incompetency of a notary public,
21 the notary public's personal representative or guardian or any other person
22 knowingly in possession of the stamping device shall render it unusable by
23 destroying, defacing, damaging, erasing or securing it against use in a
24 manner that renders it unusable.

25 (b) If a notary public's stamping device is lost or stolen, the notary
26 public or the notary public's personal representative or guardian shall
27 promptly notify the secretary of state on discovering that the device is lost
28 or stolen.

29 (c) This section shall take effect on and after January 1, 2023.

30 New Sec. 20. (a) A notary public shall maintain a journal in which the
31 notary public chronicles all notarial acts that the notary public performs.
32 The notary public shall retain the journal for 10 years after the
33 performance of the last notarial act chronicled in the journal.

34 (b) A journal shall be created on a tangible medium or in an
35 electronic format. A notary public shall maintain only one journal in a
36 tangible medium or one or more journals in an electronic format to
37 chronicle all notarial acts performed regarding electronic records. If the
38 journal is maintained on a tangible medium, it shall be a permanent, bound
39 register with numbered pages. If the journal is maintained in an electronic
40 format, it shall be in a permanent, tamper-evident electronic format
41 complying with the rules and regulations of the secretary of state.

42 (c) An entry in a journal shall be made contemporaneously with
43 performance of the notarial act and contain the following information:

- 1 (1) The date and time of the notarial act;
- 2 (2) a description of the record, if any, and type of notarial act;
- 3 (3) the full name and address of each individual for whom the notarial
- 4 act is performed;
- 5 (4) if identity of the individual is based on personal knowledge, a
- 6 statement to that effect;
- 7 (5) if identity of the individual is based on satisfactory evidence, a
- 8 brief description of the method of identification and the identification
- 9 credential presented, if any, including the date of issuance and expiration
- 10 of any identification credential; and
- 11 (6) the fee, if any, charged by the notary public.
- 12 (d) If a notary public's journal is lost or stolen, the notary public shall
- 13 promptly notify the secretary of state on discovering that the journal is lost
- 14 or stolen.
- 15 (e) On resignation from, or the revocation or suspension of, a notary
- 16 public's commission, the notary public shall retain the notary public's
- 17 journal in accordance with subsection (a) and inform the secretary of state
- 18 where the journal is located.
- 19 (f) Instead of retaining a journal as provided in subsections (a) and
- 20 (e), a current or former notary public may transmit the journal to a
- 21 repository approved by the secretary of state.
- 22 (g) On the death or adjudication of incompetency of a current or
- 23 former notary public, the notary public's personal representative or
- 24 guardian or any other person knowingly in possession of the journal shall:
- 25 (1) Retain the notary public's journal in accordance with subsection
- 26 (a) or transmit the journal to a repository approved by the secretary of
- 27 state; and
- 28 (2) inform the secretary of state where the journal is located.
- 29 (h) This section shall take effect on and after January 1, 2023.
- 30 New Sec. 21. (a) A notary public may select one or more tamper-
- 31 evident technologies to perform notarial acts with respect to electronic
- 32 records. A person shall not require a notary public to perform a notarial act
- 33 with respect to an electronic record with a technology that the notary
- 34 public has not selected.
- 35 (b) Before a notary public performs the notary public's initial notarial
- 36 act with respect to an electronic record, a notary public shall notify the
- 37 secretary of state that the notary public will be performing notarial acts
- 38 with respect to electronic records, identify the technology the notary public
- 39 intends to use and provide evidence of completion of the course of study
- 40 and passing of the examination required by section 23, and amendments
- 41 thereto. If the secretary of state has established standards in rules and
- 42 regulations for approval of technology pursuant to section 27, and
- 43 amendments thereto, the technology shall conform to such standards. If the

1 technology conforms to the standards, the secretary of state shall approve
2 the use of the technology. A notary public notifying the secretary of state
3 pursuant to this section shall pay an information and services fee in an
4 amount determined by the secretary of state adopted in rules and
5 regulations, not to exceed \$25. The secretary of state shall remit all
6 moneys received under this section to the state treasurer in accordance
7 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
8 receipt of each such remittance, the state treasurer shall deposit the entire
9 amount in the state treasury to the credit of the information and services
10 fee fund.

11 (c) A register of deeds may accept for recording a tangible copy of an
12 electronic record containing a notarial certificate as satisfying any
13 requirement that a record accepted for recording be an original, if the
14 notarial officer executing the notarial certificate certifies that the tangible
15 copy is an accurate copy of the electronic record.

16 (d) This section shall take effect on and after January 1, 2023.

17 New Sec. 22. (a) An individual qualified under subsection (c) may
18 apply to the secretary of state for a commission as a notary public. The
19 applicant shall file with the secretary of state an application for
20 appointment as a notary public that includes:

21 (1) An oath of office;

22 (2) an assurance in the form of a surety bond or its functional
23 equivalent in the amount of \$12,000 that shall be issued by a surety or
24 other entity licensed or authorized to do business in this state;

25 (3) evidence of completion of the course of study and passing of the
26 examination required by section 23, and amendments thereto, if required;

27 (4) the official signature and an impression of the stamp to be used by
28 the notary public; and

29 (5) an application fee in the amount of \$10.

30 (b) An application, oath of office and surety bond or its functional
31 equivalent received pursuant to this section and a record of commission
32 issued under this section shall be filed in the office of the secretary of state
33 and properly indexed in that office. The secretary of state shall remit all
34 moneys received under this section to the state treasurer in accordance
35 with the provisions of K.S.A. 75-4215, and amendments thereto. Upon
36 receipt of each such remittance, the state treasurer shall deposit the entire
37 amount in the state treasury to the credit of the state general fund.

38 (c) An applicant for a commission as a notary public shall:

39 (1) Be at least 18 years of age;

40 (2) be a citizen of the United States;

41 (3) be a resident of this state or be a resident of a state bordering on
42 this state and have a regular place of employment or practice in this state;

43 (4) be able to read and write the English language; and

1 (5) not be disqualified to receive a commission by section 24, and
2 amendments thereto.

3 (d) The assurance required in subsection (a) shall cover acts
4 performed during the term of the notary public's commission and shall be
5 in the form prescribed by the secretary of state. If a notary public violates
6 law with respect to notaries public in this state, the surety or issuing entity
7 is liable under the assurance. No suit shall be instituted against a notary
8 public or the surety or issuing entity under the notary public's assurance
9 more than three years after the cause of action accrues. The surety or
10 issuing entity shall give notice to the secretary of state 30 days before
11 canceling the assurance. The surety or issuing entity shall no longer be
12 liable on such assurance 30 days after receipt of such notice by the
13 secretary of state. Whenever the secretary of state receives such notice of
14 intent to cancel a notary public's assurance, the secretary of state shall
15 notify the affected notary public that unless such notary public files
16 another assurance satisfying the requirements of this subsection with the
17 secretary of state on or before the cancellation date, then such notary
18 public will no longer be authorized to perform notarial acts within this
19 state. The surety or issuing entity shall notify the secretary of state not later
20 than 30 days after making a payment to a claimant under the assurance or
21 the denial of a claim under the assurance. A notary public may perform
22 notarial acts in this state only during the period that a valid assurance is on
23 file with the secretary of state.

24 (e) Any person injured by the failure of a notary public to faithfully
25 perform any notarial act for which a bond or its functional equivalent is
26 given under the laws of this state may sue in the person's own name in any
27 court of competent jurisdiction to recover the damages the person may
28 have sustained by such failure.

29 (f) The secretary of state shall issue a commission as a notary public
30 to an applicant for a term of four years, unless sooner revoked under
31 section 24, and amendments thereto, if such applicant complies with the
32 provisions of this section.

33 (g) A commission to act as a notary public authorizes the notary
34 public to perform notarial acts. The commission does not provide the
35 notary public any immunity or benefit conferred by law of this state on
36 public officials or employees. A notary public shall not be considered a
37 state officer.

38 (h) If a notary public changes name by any legal action, such notary
39 shall obtain a new official stamp that meets the requirements established
40 by section 18, and amendments thereto, and the stamp shall contain the
41 new name of the notary public. Prior to performing any acts as a notary
42 public after such change, the notary shall mail or deliver to the secretary of
43 state notice of the change of name and shall include a specimen of the new

1 stamp and a specimen of the notary's new official signature.

2 (i) If a notary public obtains a new stamp for any reason, the notary
3 shall mail or deliver to the secretary of state notice of the change of stamp
4 that shall include an impression of the new stamp.

5 (j) An individual may resign from the office of notary public by
6 sending by mail or delivering to the secretary of state a notification of the
7 individual's resignation or intent or desire to resign. The individual's
8 commission as notary public shall terminate upon delivery of the
9 notification.

10 (k) A notary public's commission may not be automatically renewed.
11 A notary public who desires to renew a commission shall be qualified and
12 apply for a new commission pursuant to this section.

13 (l) This section shall take effect on and after January 1, 2023.

14 New Sec. 23. (a) Before a notary public performs the notary public's
15 initial notarial act with respect to an electronic record, a notary public shall
16 pass an examination administered by the secretary of state or an entity
17 approved by the secretary of state. The examination shall be based on the
18 course of study described in subsection (b).

19 (b) The secretary of state or an entity approved by the secretary of state
20 shall offer regularly a course of study to notaries public in this state. The
21 course shall cover the laws, rules, procedures and ethics relevant to
22 notarial acts with respect to electronic records.

23 (c) This section shall take effect on and after January 1, 2023.

24 New Sec. 24. (a) The secretary of state may deny, refuse to renew,
25 revoke, suspend or impose a condition on a commission as notary public
26 for any act or omission that demonstrates the individual lacks the honesty,
27 integrity, competence or reliability to act as a notary public, including:

28 (1) Failure to comply with this act;

29 (2) a fraudulent, dishonest, deceitful, misstatement or omission in the
30 application for a commission as a notary public submitted to the secretary
31 of state;

32 (3) a conviction of the applicant or notary public of any felony or a
33 crime involving fraud, dishonesty or deceit, including entering into a
34 diversion agreement in lieu of further criminal proceedings for such crime;

35 (4) a finding against, or admission of liability by, the applicant or
36 notary public in any legal proceeding or disciplinary action based on the
37 applicant's or notary public's fraud, dishonesty or deceit;

38 (5) failure by the notary public to discharge any duty required of a
39 notary public, whether by this act, rules and regulations of the secretary of
40 state or any federal or state law;

41 (6) use of false or misleading advertising or representation by the
42 notary public representing that the notary has a duty, right or privilege that
43 the notary does not have;

1 (7) violation by the notary public of a rule and regulation of the
2 secretary of state regarding a notary public;

3 (8) denial, refusal to renew, revocation, suspension or conditioning of
4 a notary public commission in another state;

5 (9) failure of the notary public to maintain an assurance as provided
6 in section 22(d), and amendments thereto;

7 (10) denial, revocation or suspension of a professional license, if such
8 denial, revocation or suspension was for fraud, dishonesty, deceit or any
9 cause substantially relating to the duties or responsibilities of a notary
10 public;

11 (11) cessation of United States citizenship;

12 (12) incapacitation to such a degree that the person is incapable of
13 reading or writing the English language;

14 (13) violation of section 25(b), (c) or (d), and amendments thereto; or

15 (14) violation of section 25(a), (e), (f), (g) or (h), and amendments
16 thereto.

17 (b) An individual whose commission as a notary public has been
18 revoked for a reason described in subsections (a)(1) through (a)(13) may
19 not apply for a new commission until the expiration of four years from the
20 date of such revocation. An individual whose commission as a notary
21 public has been revoked for the reason described in subsection (a)(14) may
22 not apply for or receive a new commission for such individual's lifetime.

23 (c) The authority of the secretary of state to deny, refuse to renew,
24 suspend, revoke or impose conditions on a commission as a notary public
25 does not prevent a person from seeking and obtaining other criminal or
26 civil remedies provided by law.

27 (d) This section shall take effect on and after January 1, 2023.

28 New Sec. 25. (a) A commission as a notary public does not authorize
29 an individual to:

30 (1) Assist persons in drafting legal records, give legal advice or
31 otherwise practice law;

32 (2) act as an immigration consultant or an expert on immigration
33 matters;

34 (3) represent a person in a judicial or administrative proceeding
35 relating to immigration to the United States, United States citizenship or
36 related matters; or

37 (4) receive compensation for performing any of the activities listed in
38 this subsection.

39 (b) A notary public may not perform a notarial act with respect to a
40 record to which the officer or the officer's spouse is a party or in which
41 either of them has a direct financial or beneficial interest. A notarial act
42 performed in violation of this subsection is voidable.

43 (c) For purposes of subsection (b), a notarial officer has a direct

1 financial or beneficial interest in a transaction if the notarial officer:

2 (1) With respect to a financial transaction, is named in a record,
3 individually, as a principal to the transaction; or

4 (2) with respect to a real property transaction, is named in a record,
5 individually, as a grantor, grantee, mortgagor, mortgagee, trustor, trustee,
6 beneficiary, vendor, vendee, lessor or lessee to the transaction.

7 (d) For purposes of subsection (b), a notarial officer has no direct
8 financial or beneficial interest in a transaction when the notarial officer
9 acts in the capacity of an agent, employee, insurer, attorney, escrow agent
10 or lender for a person having a direct financial or beneficial interest in the
11 transaction.

12 (e) A notary public shall not engage in false or deceptive advertising.

13 (f) A notary public, other than an attorney licensed to practice law in
14 this state, may not use the term "notario" or "notario publico" or any
15 equivalent non-English term in any business card, advertisement, notice or
16 sign.

17 (g) A notary public, other than an attorney licensed to practice law in
18 this state, shall not advertise or represent that the notary public may assist
19 persons in drafting legal records, give legal advice or otherwise practice
20 law. If a notary public who is not an attorney licensed to practice law in
21 this state in any manner advertises or represents that the notary public
22 offers notarial services, whether orally or in a record, including broadcast
23 media, print media, and the internet, the notary public shall include the
24 following statement, or an alternate statement authorized or required by
25 the secretary of state, in the advertisement or representation, prominently
26 and in each language used in the advertisement or representation and in
27 each language in which notarial services are offered: "I am not an attorney
28 licensed to practice law in this state. I am not allowed to draft legal
29 records, give advice on legal matters, including immigration, or charge a
30 fee for those activities." If the form of advertisement or representation is
31 not broadcast media, print media or the internet and does not permit
32 inclusion of the statement required by this subsection because of size, it
33 shall be displayed prominently or provided at the place of performance of
34 the notarial act before the notarial act is performed.

35 (h) Except as otherwise allowed by law, a notary public shall not
36 withhold access to or possession of an original record provided by a
37 person that seeks performance of a notarial act by the notary public.

38 (i) Violation of subsections (f) or (g) is a class B nonperson
39 misdemeanor.

40 (j) Violation of subsections (e), (f) or (g) constitutes a deceptive act or
41 practice pursuant to K.S.A. 50-626, and amendments thereto, and shall be
42 subject to the remedies and penalties provided by the Kansas consumer
43 protection act.

1 (k) This section shall take effect on and after January 1, 2023.

2 New Sec. 26. (a) Except as otherwise provided in section 25(b), and
3 amendments thereto, the failure of a notarial officer to perform a duty or
4 meet a requirement specified in this act does not invalidate a notarial act
5 performed by the notarial officer. The validity of a notarial act under this
6 act does not prevent an aggrieved person from seeking to invalidate the
7 record or transaction that is the subject of the notarial act or from seeking
8 other remedies based on state or federal law. This section does not validate
9 a purported notarial act performed by an individual who does not have the
10 authority to perform notarial acts.

11 (b) This section shall take effect on and after January 1, 2023.

12 New Sec. 27. (a) The secretary of state shall adopt rules and
13 regulations to implement this act. Rules and regulations adopted regarding
14 the performance of notarial acts with respect to electronic records shall not
15 require, or accord greater legal status or effect to, the implementation or
16 application of a specific technology or technical specification. The rules
17 and regulations may include, but are not limited to:

18 (1) Prescribing the manner of performing notarial acts regarding
19 tangible and electronic records;

20 (2) including provisions to ensure that any change to or tampering
21 with a record bearing a certificate of a notarial act is self-evident;

22 (3) including provisions to ensure integrity in the creation,
23 transmittal, storage or authentication of electronic records or signatures;

24 (4) prescribing the process of granting, renewing, conditioning,
25 denying, suspending or revoking a notary public commission and assuring
26 the trustworthiness of an individual holding a commission as notary
27 public;

28 (5) including provisions to prevent fraud or mistake in the
29 performance of notarial acts;

30 (6) establishing the process for approving and accepting surety bonds
31 and other forms of assurance as allowed by law; and

32 (7) providing for the administration of the examination and the course
33 of study required by law.

34 (b) The secretary of state shall adopt rules and regulations regarding
35 notarial acts using communication technology for a remotely located
36 individual including, but not limited to:

37 (1) Prescribing the means of performing a notarial act involving a
38 remotely located individual using communication technology;

39 (2) establishing standards for communication technology and identity
40 proofing;

41 (3) establishing requirements or procedures to approve providers of
42 communication technology and the process of identity proofing; and

43 (4) establishing standards and a period for the retention of an audio-

1 visual recording created when performing a notarial act using
2 communication technology for a remotely located individual.

3 (c) In adopting rules and regulations about notarial acts with respect
4 to electronic records, the secretary of state shall consider, so far as is
5 consistent with this act:

6 (1) The most recent standards regarding electronic records
7 promulgated by national bodies, such as the national association of
8 secretaries of state; and

9 (2) standards, practices and customs of other jurisdictions that
10 substantially enact this act.

11 New Sec. 28. (a) A commission or appointment as a notary public in
12 effect on January 1, 2023, continues until its date of expiration. A notary
13 public who applies to renew a commission as a notary public on or after
14 January 1, 2023, is subject to and shall comply with this act. A notary
15 public, in performing notarial acts after January 1, 2023, shall comply with
16 this act.

17 (b) This section shall take effect on and after January 1, 2023.

18 New Sec. 29. (a) This act does not affect the validity or effect of a
19 notarial act performed before January 1, 2023.

20 (b) A cause of action that has accrued against a notary public or the
21 notary public's securities before January 1, 2023, are governed by any
22 statute or other rule amended or repealed by this act as if amendment or
23 repeal had not occurred.

24 (c) This section shall take effect on and after January 1, 2023.

25 New Sec. 30. (a) In applying and construing this uniform act,
26 consideration shall be given to the need to promote uniformity of the law
27 with respect to its subject matter among states that enact it.

28 (b) This section shall take effect on and after January 1, 2023.

29 New Sec. 31. (a) This act modifies, limits and supersedes the federal
30 electronic signatures in global and national commerce act, 15 U.S.C. §
31 7001 et seq., except that nothing in this act modifies, limits or supersedes §
32 7001(c) of that act or authorizes electronic delivery of any of the notices
33 described in § 7003(b) of that act.

34 (b) This section shall take effect on and after January 1, 2023.

35 Sec. 32. On and after January 1, 2023, K.S.A. 16-1611 is hereby
36 amended to read as follows: 16-1611. (a) If a law requires a signature or
37 record to be notarized, acknowledged, verified or made under oath, the
38 requirement is satisfied if the electronic signature of the person authorized
39 to perform those acts, together with all other information required to be
40 included by other applicable law, is attached to or logically associated with
41 the signature or record.

42 ~~(b) The secretary of state is hereby authorized to promulgate rules
43 and regulations establishing procedures for an electronic notarization.~~

1 such person's name may do so by giving written notice to the county
2 election officer or other designated official not later than the third day
3 following the date upon which the petition is filed.

4 (d) Any petition shall be null and void unless submitted to the county
5 election officer or other designated official within 180 days of the date of
6 the first signature on the petition.

7 (e) Unless the governing body of the political or taxing subdivision in
8 which the election is sought to be held authorizes a special election, all
9 elections which are called as a result of the filing of a sufficient petition
10 shall be held at the next succeeding primary or general election as defined
11 by K.S.A. 25-2502, and amendments thereto, in which the political or
12 taxing subdivision is participating.

13 (f) When a petition requires signatures equal in number to a
14 percentage of the total number of registered voters, such percentage shall
15 be based on the most recent number of registered voters as certified to the
16 office of the secretary of state pursuant to ~~subsection (g)~~ of K.S.A. 25-
17 2311(g), and amendments thereto.

18 Sec. 34. On and after January 1, 2023, K.S.A. 2020 Supp. 25-3902 is
19 hereby amended to read as follows: 25-3902. (a) Except as provided in
20 K.S.A. 25-312a, and amendments thereto, when a district convention is
21 provided by law to be held to elect a person to be appointed to fill a
22 vacancy in a district office, the county chairperson designated in
23 subsection (b) or (c), within 21 days of receipt of notice that a vacancy has
24 occurred or will occur, shall call and convene a convention of all
25 committeemen and committeewomen of the party of the precincts in such
26 district for the purpose of electing a person to be appointed by the
27 governor to fill the vacancy. If such county chairperson is absent or for any
28 reason is unable to call, or refuses to call such convention, then the county
29 vice-chairperson shall call the convention and perform the other duties
30 under this section required of such chairperson.

31 (b) If the district lies within a single county, the county chairperson of
32 such county shall call the convention by mailing a notice, at least seven
33 days before the date of the convention, to each precinct committeeman and
34 committeewoman who is entitled to vote at the convention pursuant to
35 subsection (e).

36 (c) If all or part of more than one county lies within the district, the
37 county chairperson of the county in which the greatest number of qualified
38 voters of the district reside shall call the convention by mailing a notice of
39 the convention to each county chairperson of the party in each such county
40 at least 10 days before the date of the convention. Such convention shall
41 be held at a location within the district selected by the chairperson calling
42 the convention. Such county chairperson, within three days after receipt of
43 such notice, shall mail notice of the convention to the committeemen and

1 committeewomen in their counties who are entitled to vote at the
2 convention pursuant to subsection (e).

3 (d) The notice of such convention shall state:

4 (1) The place where the convention is to be held;

5 (2) the time when the convention will convene; and

6 (3) the purpose for which the convention is to be held.

7 (e) At the time and place fixed for holding the convention, the county
8 chairperson who called the convention shall act as temporary chairperson
9 and shall call the convention to order. One-third of the eligible members of
10 the convention shall constitute a quorum for such election. In the event a
11 quorum is not present at the time and place that such convention is called,
12 the members present shall adjourn the convention to a day and time
13 certain, which shall be not later than 14 days after such adjournment of
14 such convention, and provide for notification of the time and place of such
15 adjourned convention to be given to the eligible members not present. The
16 convention shall organize by electing a permanent chairperson and such
17 other officers as necessary. After the convention is organized, it shall elect
18 a person to be appointed by the governor to fill the vacancy. Such election
19 shall be by secret ballot and the person elected shall be the one who
20 receives the majority of all the votes cast. If no person receives a majority
21 of all votes cast on any ballot, the balloting shall continue until some
22 person receives a majority of all the votes cast. Each committeeman and
23 committeewoman of the party of the precincts in such district shall be
24 entitled to vote. Except as provided in subsection (f), no precinct
25 committeeman or committeewoman shall be represented or shall vote by
26 proxy. The convention may adopt such rules necessary to govern its
27 procedure in making nominations, voting, counting, and canvassing votes
28 and for the conduct of any business which may properly be brought before
29 the convention, but such rules shall not be in conflict with the provisions
30 of this section.

31 (f) (1) A precinct committeeman or committeewoman may vote by
32 proxy at a convention called pursuant to this section whenever such
33 precinct committeeman or committeewoman is unable to attend the
34 convention and cast such precinct committeeman's or committeewoman's
35 ballot.

36 (2) A precinct committeeman or committeewoman may designate
37 another precinct committeeman or committeewoman to cast such precinct
38 committeeman's or precinct committeewoman's ballot at such convention
39 by proxy. Any proxy authorized by this subsection shall:

40 (A) Designate the precinct committeeman or committeewoman who
41 shall cast the precinct committeeman's or precinct committeewoman's vote
42 by proxy;

43 (B) be signed by the precinct committeeman or precinct

1 committeewoman authorizing the proxy; and

2 (C) contain an acknowledgment of such precinct committeeman's or
3 precinct committeewoman's signature ~~which~~ *that* complies with ~~K.S.A. 53-~~
4 ~~509~~ *section 17*, and amendments thereto.

5 (g) After a person has been elected to be appointed to fill a vacancy in
6 a district office, the chairperson or vice-chairperson of the convention shall
7 execute a certificate, under oath, stating that such person has been duly
8 elected to be appointed to fill such vacancy and shall transmit such
9 certificate either by hand delivery by a person designated by such
10 chairperson or vice-chairperson or by registered mail, return receipt
11 requested, to the governor and a copy thereof to the secretary of state. If
12 transmitted by registered mail, such certificate and the copy thereof shall
13 be mailed within 24 hours of such election, unless the day following such
14 election is a Sunday or legal holiday, in which case it shall be mailed by
15 the next regular business day. Thereupon, and not later than seven days
16 after such certificate is received in the office of the governor, the governor,
17 or in the governor's absence the lieutenant governor, shall fill such vacancy
18 by appointing to such district office the person so elected. In the event the
19 governor or lieutenant governor fails to appoint any person as required by
20 this subsection after receiving a lawfully executed certificate hereunder,
21 such person shall be deemed to have been so appointed notwithstanding
22 such failure. The person so appointed may qualify and enter upon the
23 duties of the district office immediately after appointment.

24 Sec. 35. On and after January 1, 2023, K.S.A. 2020 Supp. 25-3902a
25 is hereby amended to read as follows: 25-3902a. (a) When a vacancy
26 occurs in the office of member of the state board of education, the county
27 chairperson designated in subsection (b), (c) or (d), within 21 days of
28 receipt of notice that a vacancy has occurred or will occur shall call and
29 convene a district convention for the purpose of electing a person to be
30 appointed by the governor to fill the vacancy. Such person shall be an
31 elector of the same political party as that of the board member vacating
32 such position and shall reside in the board member district corresponding
33 to such board member position. If such county chairperson is absent or for
34 any reason is unable to call or refuses to call such convention, then the
35 county vice-chairperson shall call the convention and perform the other
36 duties required of such chairperson under this section.

37 (b) If the board member district lies within a single county, the county
38 chairperson of such county shall call a convention of all precinct
39 committeemen and committeewomen of the party of the precincts in such
40 district in the manner provided by ~~subsections (b) and (d)~~ of K.S.A. 25-
41 3902(b) *and (d)*, and amendments thereto, and such convention shall be
42 conducted as provided in subsection (e).

43 (c) If all or part of more than one and less than five counties lie

1 within the board member district, the county chairperson of the county in
2 which the greatest number of qualified voters of the district reside shall
3 call a convention of all precinct committeemen and committeewomen of
4 the party of the precincts in such district in the manner provided by
5 ~~subsections (e) and (d)~~ of K.S.A. 25-3902(c) and (d), and amendments
6 thereto, and such convention shall be conducted as provided in subsection
7 (e). Such convention shall be held at a location within the district selected
8 by the chairperson calling the convention.

9 (d) If all or part of five or more counties lie within the board member
10 district, the county chairperson of the county in which the greatest number
11 of qualified voters of the district reside shall call a convention of all county
12 chairpersons and vice-chairpersons of the party of the counties in such
13 district. Such convention shall be held at a location within the district
14 selected by the chairperson calling the convention. Such county
15 chairperson shall call the convention by mailing a notice to each such
16 county chairperson and vice-chairperson, at least seven days before the
17 date of the convention. Such notice shall state: (1) The place where the
18 convention is to be held; (2) the time when the convention will convene;
19 and (3) the purpose for which the convention is to be held, and such
20 convention shall be conducted as provided in subsection (e).

21 (e) At the time and place fixed for holding the convention, the county
22 chairperson who called the convention shall act as temporary chairperson
23 and shall call the convention to order. One-third of the eligible members of
24 the convention shall constitute a quorum for such election. In the event a
25 quorum is not present at the time and place that such convention is called,
26 the members present shall adjourn the convention to a day and time
27 certain, which shall be not later than 14 days after adjournment of such
28 convention, and provide for notification of the time and place of such
29 adjourned convention to be given to the eligible members not present. The
30 convention shall proceed to organize by electing a permanent chairperson
31 and such other officers as necessary. After the convention is organized, it
32 shall proceed to elect a person to be appointed by the governor to fill the
33 vacancy. Such election shall be by secret ballot and the person elected
34 shall be the one who shall receive the majority of all the votes cast. If no
35 person receives a majority of all votes cast on any ballot, the balloting
36 shall continue until some person receives a majority of all the votes cast.
37 Each county chairperson and vice-chairperson of the party of the counties
38 in such district shall be entitled to vote. Except as provided in subsection
39 (f), no county chairperson or vice-chairperson shall be represented or shall
40 vote by proxy. The convention may adopt such rules as necessary to
41 govern its procedure in making nominations, voting, counting and
42 canvassing votes and for the conduct of any business which may properly
43 be brought before the convention, but such rules shall not be in conflict

1 with the provisions of this section.

2 (f) (1) A precinct committeeman or committeewoman who serves as
3 county chairperson or vice-chairperson may vote by proxy at a convention
4 called pursuant to this section whenever such precinct committeeman or
5 committeewoman is unable to attend the convention and cast such precinct
6 committeeman's or committeewoman's ballot.

7 (2) A precinct committeeman or committeewoman may designate
8 another precinct committeeman or committeewoman to cast such precinct
9 committeeman's or precinct committeewoman's ballot at such convention
10 by proxy. Any proxy authorized by this subsection shall:

11 (A) Designate the precinct committeeman or committeewoman who
12 shall cast the precinct committeeman's or precinct committeewoman's vote
13 by proxy;

14 (B) be signed by the precinct committeeman or precinct
15 committeewoman authorizing the proxy; and

16 (C) contain an acknowledgment of such precinct committeeman's or
17 precinct committeewoman's signature which complies with ~~K.S.A. 53-509~~
18 *section 17*, and amendments thereto.

19 (g) After a person has been elected to be appointed to fill a vacancy in
20 the office of member of the state board of education, the chairperson or
21 vice-chairperson of the convention shall execute a certificate, under oath,
22 stating that such person has been duly elected to be appointed to fill such
23 vacancy and shall transmit such certificate to the governor. Thereupon, and
24 not later than seven days after such certificate is received in the office of
25 the governor, the governor, or in the governor's absence the lieutenant
26 governor, shall fill such vacancy by appointing to the office of member of
27 the state board of education the person so elected. In the event the
28 governor or lieutenant governor fails to appoint any person as required by
29 this subsection after receiving a lawfully executed certificate hereunder,
30 such person shall be deemed to have been so appointed notwithstanding
31 such failure. The person so appointed may qualify and enter upon the
32 duties of office immediately after appointment.

33 (h) A person shall be elected to be appointed to fill a vacancy in the
34 office of member of the state board of education within 35 days after such
35 vacancy occurs. If no person is so elected within the 35-day period, the
36 governor shall fill such vacancy by appointment of an elector of the same
37 political party as that of the board member vacating such position and who
38 resides in the board member district corresponding to such board member
39 position. The person so appointed may qualify and enter upon the duties of
40 office immediately after appointment.

41 Sec. 36. On and after January 1, 2023, K.S.A. 2020 Supp. 25-3904 is
42 hereby amended to read as follows: 25-3904. (a) When a district
43 convention is provided by law to be held to elect a person to fill a vacancy

1 in a party candidacy for a district office, the county chairperson designated
2 in subsection (b) or (c), within 14 days of the receipt of the notice that the
3 vacancy has occurred or will occur shall call and convene a convention of
4 all committeemen and committeewomen of the political party from the
5 precincts in such district. If such county chairperson is absent or for any
6 reason is unable to call, or refuses to call such convention, then the
7 corresponding county vice-chairperson shall call the convention and
8 perform the other duties under this section required of such chairperson.

9 (b) If the district lies within a single county, the county chairperson of
10 such county shall call the convention by mailing a notice at least seven
11 days before the date of the convention to the committeemen and
12 committeewomen in such county who are entitled to vote at such
13 convention pursuant to subsection (e).

14 (c) If all or part of more than one county lies within the district, the
15 county chairperson of the county in which the greatest number of qualified
16 voters of the district reside shall call the convention by mailing a notice of
17 such convention to each county chairperson of the party in each such
18 county, at least 10 days before the date of the convention. Such convention
19 shall be held at a location within the district selected by the chairperson
20 calling the convention. Such county chairpersons shall, within three days
21 after receipt of such notice, mail notice of such convention to the
22 committeemen and committeewomen in their counties who are entitled to
23 vote at such convention pursuant to subsection (e).

24 (d) The notice of such convention shall state: (1) The place where the
25 convention is to be held; (2) the time when the convention will convene;
26 and (3) the purpose for which the convention is to be held.

27 (e) At the time and place fixed for holding the convention, the county
28 chairperson who called the convention shall act as temporary chairperson
29 and shall call the convention to order. One-third of the eligible members of
30 the convention shall constitute a quorum for such election. In the event a
31 quorum is not present at the time and place that such convention is called,
32 the members present shall adjourn the convention to a day and time
33 certain, which shall not be later than six days after such adjournment of
34 such convention, and provide for notification of the time and place of such
35 adjourned convention to be given to the eligible members not present. The
36 convention shall organize by electing a permanent chairperson and such
37 other officers as necessary. After the convention is organized, it shall elect
38 a person to fill such vacancy in the party candidacy. Such election shall be
39 by secret ballot and the person elected shall be the one who receives the
40 majority of all the votes cast. If no person receives a majority of all votes
41 cast on any ballot, the balloting shall continue until some person receives a
42 majority of all the votes cast. Each committeeman and committeewoman
43 of the party of the precincts in such district shall be entitled to vote. Except

1 as provided in subsection (f), no precinct committeeman or
2 committeewoman shall be represented or shall vote by proxy. The
3 convention may adopt rules as necessary to govern its procedure in making
4 nominations, voting, counting and canvassing votes and for the conduct of
5 any business which may properly be brought before the convention, but
6 such rules shall not be in conflict with the provisions of this section.

7 (f) (1) A precinct committeeman or committeewoman may vote by
8 proxy at a convention called pursuant to this section whenever such
9 precinct committeeman or committeewoman is unable to attend the
10 convention and cast such precinct committeeman's or committeewoman's
11 ballot.

12 (2) A precinct committeeman or committeewoman may designate
13 another precinct committeeman or committeewoman to cast such precinct
14 committeeman's or precinct committeewoman's ballot at such convention
15 by proxy. Any proxy authorized by this subsection shall:

16 (A) Designate the precinct committeeman or committeewoman who
17 shall cast the precinct committeeman's or precinct committeewoman's vote
18 by proxy;

19 (B) be signed by the precinct committeeman or precinct
20 committeewoman authorizing the proxy; and

21 (C) contain an acknowledgment of such precinct committeeman's or
22 precinct committeewoman's signature which complies with ~~K.S.A. 53-509~~
23 *section 17*, and amendments thereto.

24 (g) After a person has been elected to fill a vacancy in a party
25 candidacy for a district office, the chairperson or vice-chairperson of the
26 convention shall execute a certificate, under oath, stating that such person
27 has been duly elected to fill such vacancy and that such person has agreed
28 to accept the nomination. The person elected to fill such vacancy shall
29 execute a notarized written statement stating that such person agrees to
30 accept the nomination. The chairperson or vice-chairperson shall transmit
31 such certificate to the secretary of state or appropriate county election
32 officer, as the case may be, within 21 days of receipt of the notice that the
33 vacancy has occurred or will occur.

34 (h) For the purposes of this section, the word "shall" imposes a
35 mandatory duty and no court may construe that word in any other way.

36 Sec. 37. On and after January 1, 2023, K.S.A. 2020 Supp. 25-3904a
37 is hereby amended to read as follows: 25-3904a. (a) When a vacancy
38 occurs in a party candidacy for the office of member of the state board of
39 education, the county chairperson designated in subsection (b), (c) or (d),
40 within 10 days of receipt of notice that the vacancy has occurred or will
41 occur, shall call and convene a district convention for the purpose of
42 electing a person to fill such vacancy. If such county chairperson is absent
43 or for any reason is unable to call or refuses to call such convention, then

1 the county vice-chairperson shall call the convention and perform the other
2 duties required of such chairperson under this section.

3 (b) If the board member district lies within a single county, the county
4 chairperson of such county shall call a convention of all precinct
5 committeemen and committeewomen of the party of the precincts in such
6 district in the manner provided by K.S.A. 25-3904(b) and (d), and
7 amendments thereto, and such convention shall be conducted in the
8 manner provided in K.S.A. 25-3904(e), and amendments thereto.

9 (c) If all or part of more than one and less than five counties lie
10 within the board member district, the county chairperson of the county in
11 which the greatest number of qualified voters of the district reside shall
12 call a convention of all precinct committeemen and committeewomen of
13 the party of the precincts in such district in the manner provided by K.S.A.
14 25-3904(c) and (d), and amendments thereto, and such convention shall be
15 conducted as provided in K.S.A. 25-3904(e), and amendments thereto.
16 Such convention shall be held at a location within the district selected by
17 the chairperson calling the convention.

18 (d) If all or part of five or more counties lie within the board member
19 district, the county chairperson of the county in which the greatest number
20 of qualified voters of the district reside shall call a convention of all county
21 chairpersons and vice-chairpersons of the party of the counties in such
22 district. Such convention shall be held at a location within the district
23 selected by the chairperson calling the convention. Such county
24 chairperson shall call the convention by mailing a notice to each such
25 county chairperson and vice-chairperson at least seven days before the
26 date of the convention. Such notice shall state: (1) The place where the
27 convention is to be held; (2) the time when the convention will convene;
28 and (3) the purpose for which the convention is to be held.

29 (e) At the time and place fixed for holding the convention, the county
30 chairperson who called the convention shall act as temporary chairperson
31 and shall call the convention to order. One-third of the eligible members of
32 the convention shall constitute a quorum for such election. In the event a
33 quorum is not present at the time and place that such convention is called,
34 the members present shall adjourn the convention to a day and time
35 certain, which shall be not later than three days after such adjournment of
36 such convention and provide for notification of the time and place of such
37 adjourned convention to be given to the eligible members not present. The
38 convention shall proceed to organize by electing a permanent chairperson
39 and such other officers as necessary. After the convention is organized, it
40 shall proceed to elect a person to fill the vacancy in the party candidacy.
41 Such election shall be by secret ballot and the person elected shall be the
42 one who shall receive the majority of all the votes cast. If no person
43 receives a majority of all votes cast on any ballot, the balloting shall

1 continue until some person receives a majority of all the votes cast. Each
2 county chairperson and vice-chairperson of the party of the counties in
3 such district shall be entitled to vote. Except as provided in subsection (f),
4 no county chairperson or vice-chairperson shall be represented or shall
5 vote by proxy. The convention may adopt rules necessary to govern its
6 procedure in making nominations, voting, counting and canvassing votes
7 and for the conduct of any business which may properly be brought before
8 the convention, but such rules shall not be in conflict with the provisions
9 of this section.

10 (f) (1) A precinct committeeman or committeewoman who serves as
11 county chairperson or vice-chairperson may vote by proxy at a convention
12 called pursuant to this section whenever such precinct committeeman or
13 committeewoman is unable to attend the convention and cast such precinct
14 committeeman's or committeewoman's ballot.

15 (2) A precinct committeeman or committeewoman may designate
16 another precinct committeeman or committeewoman to cast such precinct
17 committeeman's or precinct committeewoman's ballot at such convention
18 by proxy. Any proxy authorized by this subsection shall:

19 (A) Designate the precinct committeeman or committeewoman who
20 shall cast the precinct committeeman's or precinct committeewoman's vote
21 by proxy;

22 (B) be signed by the precinct committeeman or precinct
23 committeewoman authorizing the proxy; and

24 (C) contain an acknowledgment of such precinct committeeman's or
25 precinct committeewoman's signature which complies with ~~K.S.A. 53-509~~
26 *section 17*, and amendments thereto.

27 (g) After a person has been elected to fill a vacancy in a party
28 candidacy for the office of member of the state board of education, the
29 chairperson or vice-chairperson of the convention shall execute a
30 certificate, under oath, stating that such person has been duly elected to fill
31 such vacancy and that such person has agreed to accept the nomination.
32 The person elected to fill such vacancy shall execute a notarized written
33 statement stating that such person agrees to accept the nomination. The
34 chairperson or vice-chairperson shall transmit such certificate to the
35 secretary of state, within 14 days of receipt of the notice that the vacancy
36 has occurred or will occur.

37 (h) For the purposes of this section, the word "shall" imposes a
38 mandatory duty and no court may construe that word in any other way.

39 Sec. 38. On and after January 1, 2023, K.S.A. 2020 Supp. 49-512 is
40 hereby amended to read as follows: 49-512. (a) A state public trust shall be
41 created to administer relocation assistance pursuant to this act and to
42 acquire, hold and dispose of property as specified in this act.

43 (b) The trust shall have five trustees appointed by the governor,

1 subject to confirmation by the senate as provided by K.S.A. 75-4315b, and
2 amendments thereto. Except as provided by K.S.A. 46-2601, and
3 amendments thereto, no person appointed as trustee shall exercise any
4 power, duty or function as a trustee until confirmed by the senate. The
5 terms of trustees first appointed shall be as follows: One trustee shall serve
6 for a term expiring the first March 15 following appointment, one for a
7 term expiring the second March 15 following appointment, one for a term
8 expiring the third March 15 following appointment and two for terms
9 expiring the fourth March 15 following appointment. Thereafter, trustees
10 shall be appointed for terms of four years and until their successors are
11 appointed and confirmed. Whenever a vacancy on the trust occurs, the
12 governor shall fill the vacancy by appointment and the appointee shall
13 hold office for the unexpired term. Each trustee shall hold office until a
14 successor has been appointed and confirmed. A trustee may be removed
15 only for cause.

16 (c) The trustees, who shall be deemed public officers, shall be paid
17 amounts from funds of the trust for per diem compensation as provided in
18 K.S.A. 75-3212, and amendments thereto, for members of the legislature,
19 for each day of actual attendance at any meeting of the trust.

20 (d) Every person becoming a trustee first shall take the oath of office
21 required of a state elected official. The oath of office shall be administered
22 by a person authorized to administer oaths in the state of Kansas and shall
23 be filed with the secretary of state.

24 (e) Every officer and employee who handles funds of the trust shall
25 furnish bond or other good and sufficient security in an amount and upon
26 such terms as established by the state committee on surety bonds and
27 insurance pursuant to K.S.A. 75-4101 et seq., and amendments thereto, but
28 in no event shall any bond or other security be required of a trustee. The
29 cost of the bond shall be paid from funds of the trust.

30 (f) The trustees shall adopt bylaws for the administration and
31 regulation of the affairs of the trust. All such bylaws shall be submitted in
32 writing to the governor and must be approved by the governor before
33 taking effect.

34 (g) The trustees shall cause an audit to be made of the financial
35 statements of the trust within 30 days after the close of each fiscal year of
36 the trust. The expense of the audit shall be paid from funds of the trust.
37 The trust annually shall file with the governor and the legislature copies of
38 financial documents and reports sufficient to demonstrate the fiscal
39 activity of the trust, including, but not limited to, budgets, financial reports
40 and audits. Amendments to the adopted budget shall be approved by the
41 trustees of the trust and recorded as such in the official minutes of the
42 trust.

43 (h) Meetings of the trustees shall be subject to the open meetings law.

1 Records of the trust and minutes of meetings of the trust shall be written
2 and kept in a place, the location of which shall be recorded in the office of
3 the secretary of state, and shall be subject to the Kansas open records act.
4 The trust shall file a monthly report of all expenditures with the governor,
5 the speaker of the house of representatives and the president of the senate.

6 (i) Any real or personal property may be acquired and held in the
7 name of the trust. When acquired, any conveyance, assignment or other
8 transfer shall be made in the name of the trust by the chairperson of the
9 trust, attested by the secretary of the trust, with the seal of the trust affixed
10 thereto.

11 (j) Any conveyance, assignment or other transfer of any estate in real
12 property, executed by a trust, must be acknowledged by the president or
13 chairperson of the trust subscribing the name of the trust thereto, which
14 acknowledgment shall be in substantially the form provided in the *revised*
15 uniform law on notarial acts. Any instrument of conveyance, assignment
16 or other transfer executed in the name of the trust pursuant to this act and
17 bearing a signature which purports to be the signature of the chairperson of
18 the trust, shall be deemed prima facie evidence that the conveyance,
19 assignment or other transfer is the act of the trust and the trustees thereof,
20 that it was duly executed and signed by the chairperson of the trust who
21 was a trustee of the trust and that the instrument conforms in all respects to
22 the requirements of law, and such conveyance, assignment or other
23 transfer shall be admissible in evidence without further proof of execution.

24 (k) The trust shall not engage in any activity or transaction that is not
25 expressly authorized by this act.

26 (l) No trustee shall be charged personally with any liability
27 whatsoever by reason of any act or omission in the performance of the
28 trust or in the operation of the trust property but any act, liability for any
29 omission or obligation of a trustee or trustees, in the execution of the trust,
30 or in the operation of the trust property, shall extend to the whole of the
31 trust, or so much thereof as may be necessary to discharge such liability or
32 obligation, and not otherwise.

33 (m) Moneys from grants made to the trust pursuant to this act shall be
34 used only for the purposes provided by this act, including payment of the
35 costs of the department of health and environment in implementing and
36 administering this act.

37 (n) On July 1, 2014, or on the date that all of the rights and title to all
38 real and personal property acquired by the trust have been conveyed,
39 assigned or otherwise transferred in the name of the trust pursuant to
40 K.S.A. 2020 Supp. 49-511 through 49-517, and amendments thereto, and
41 the instruments of conveyance, assignment or other transfer have been
42 finally executed, whichever date occurs first, the trust is hereby abolished
43 and the office of each member of the trust is hereby abolished.

1 Sec. 39. On and after January 1, 2023, K.S.A. 2020 Supp. 58-652 is
2 hereby amended to read as follows: 58-652. (a) The authority granted by a
3 principal to an attorney in fact in a written power of attorney is not
4 terminated in the event the principal becomes wholly or partially disabled
5 or in the event of later uncertainty as to whether the principal is dead or
6 alive if:

7 (1) The power of attorney is denominated a "durable power of
8 attorney";

9 (2) the power of attorney includes a provision that states in substance
10 one of the following:

11 (A) "This is a durable power of attorney and the authority of my
12 attorney in fact shall not terminate if I become disabled or in the event of
13 later uncertainty as to whether I am dead or alive"; or

14 (B) "This is a durable power of attorney and the authority of my
15 attorney in fact, when effective, shall not terminate or be void or voidable
16 if I am or become disabled or in the event of later uncertainty as to
17 whether I am dead or alive"; and

18 (3) the power of attorney is signed by the principal, and dated and
19 acknowledged in the manner prescribed by ~~K.S.A. 53-501 et seq., and~~
20 ~~amendments thereto~~ *the revised uniform law on notarial acts*. If the
21 principal is physically unable to sign the power of attorney but otherwise
22 competent and conscious, the power of attorney may be signed by an adult
23 designee of the principal in the presence of the principal and at the specific
24 direction of the principal expressed in the presence of a notary public. The
25 designee shall sign the principal's name to the power of attorney in the
26 presence of a notary public, following which the document shall be
27 acknowledged in the manner prescribed by ~~K.S.A. 53-501 et seq., and~~
28 ~~amendments thereto~~ *the revised uniform law on notarial acts*, to the same
29 extent and effect as if physically signed by the principal.

30 (b) All acts done by an attorney in fact pursuant to a durable power of
31 attorney shall inure to the benefit of and bind the principal and the
32 principal's successors in interest, notwithstanding any disability of the
33 principal.

34 (c) (1) A power of attorney does not have to be recorded to be valid
35 and binding between the principal and attorney in fact or between the
36 principal and third persons.

37 (2) A power of attorney may be recorded in the same manner as a
38 conveyance of land is recorded. A certified copy of a recorded power of
39 attorney may be admitted into evidence.

40 (3) If a power of attorney is recorded any revocation of that power of
41 attorney must be recorded in the same manner for the revocation to be
42 effective. If a power of attorney is not recorded it may be revoked by a
43 recorded revocation or in any other appropriate manner.

1 (4) If a power of attorney requires notice of revocation be given to
2 named persons, those persons may continue to rely on the authority set
3 forth in the power of attorney until such notice is received.

4 (d) A person who is appointed an attorney in fact under a durable
5 power of attorney has no duty to exercise the authority conferred in the
6 power of attorney, unless the attorney in fact has agreed expressly in
7 writing to act for the principal in such circumstances. An agreement to act
8 on behalf of the principal is enforceable against the attorney in fact as a
9 fiduciary without regard to whether there is any consideration to support a
10 contractual obligation to do so. Acting for the principal in one or more
11 transactions does not obligate an attorney in fact to act for the principal in
12 subsequent transactions.

13 (e) The grant of power or authority conferred by a power of attorney
14 in which any principal shall vest any power or authority in an attorney in
15 fact, if such writing expressly so provides, shall be effective only upon: (1)
16 A specified future date; (2) the occurrence of a specified future event; or
17 (3) the existence of a specified condition which may occur in the future. In
18 the absence of actual knowledge to the contrary, any person to whom such
19 writing is presented shall be entitled to rely on an affidavit, executed by
20 the attorney in fact, setting forth that such event has occurred or condition
21 exists.

22 Sec. 40. On and after January 1, 2023, K.S.A. 58-2209 is hereby
23 amended to read as follows: 58-2209. All deeds or other conveyances of
24 lands, or of any estate or interest therein, shall be subscribed by the party
25 granting the same, or by the party's lawful agent or attorney, and may be
26 acknowledged or proved and certified in the manner prescribed by the
27 *revised* uniform law on notarial acts and K.S.A. 58-2216, and amendments
28 thereto.

29 Sec. 41. On and after January 1, 2023, K.S.A. 58-2211 is hereby
30 amended to read as follows: 58-2211. All conveyances, and other
31 instruments affecting real estate must be acknowledged before a person
32 authorized by the *revised* uniform law on notarial acts to perform notarial
33 acts or, if acknowledged within this state, by a county clerk, register of
34 deeds or mayor or clerk of an incorporated city.

35 Sec. 42. On and after January 1, 2023, K.S.A. 2020 Supp. 58-4403 is
36 hereby amended to read as follows: 58-4403. ~~On and after July 1, 2007:~~ (a)
37 If a law requires, as a condition for recording, that a document be an
38 original, be on paper or another tangible medium, or be in writing, the
39 requirement is satisfied by an electronic document satisfying this act.

40 (b) If a law requires, as a condition for recording, that a document be
41 signed, the requirement is satisfied by an electronic signature.

42 (c) *A requirement that a document or a signature associated with a*
43 *document be notarized, acknowledged, verified, witnessed or made under*

1 *oath is satisfied if the electronic signature of the person authorized to*
2 *perform that act, and all other information required to be included, is*
3 *attached to or logically associated with the document or signature. A*
4 *physical or electronic image of a stamp, impression or seal is not required*
5 *to accompany an electronic signature.*

6 Sec. 43. On and after January 1, 2023, K.S.A. 16-1611, 53-101, 53-
7 102, 53-103, 53-104, 53-105, 53-105a, 53-106, 53-107, 53-109, 53-113,
8 53-114, 53-115, 53-116, 53-117, 53-119, 53-120, 53-501, 53-502, 53-503,
9 53-504, 53-505, 53-506, 53-507, 53-508, 53-510, 53-511, 58-2209 and 58-
10 2211 and K.S.A. 2020 Supp. 25-3602, 25-3902, 25-3902a, 25-3904, 25-
11 3904a, 49-512, 53-118, 53-121, 53-509, 58-652 and 58-4403 are hereby
12 repealed.

13 Sec. 44. This act shall take effect and be in force from and after its
14 publication in the statute book.