{As Amended by Senate Committee of the Whole}

As Amended by Senate Committee

{As Amended by House Committee of the Whole}

As Amended by House Committee

Session of 2017

HOUSE BILL No. 2158

By Representative Miller

1-25


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

Section 1. K.S.A. 25-1132 is hereby amended to read as follows: 25-1132.

(a) All advance voting ballots which are received in the office of the county election officer or the any polling place within the county not later than the hour for closing of the polls on the date of any election specified in subsection (b) of K.S.A. 25-1122(f), and amendments thereto, shall be delivered by the county election officer to the appropriate special election board provided for in K.S.A. 25-1133, and amendments thereto.

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

Sec. 2. K.S.A. 25-1133 is hereby amended to read as follows: 25-
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1133. (a) The county election officer of every county, which does not use
voting machines, optical scanning systems or electronic or
electromechanical voting systems, shall establish a special election board.
Such The special election board shall consist of the election board
members in the precinct in which is located the office of the county
election officer or the members of such additional election boards of the
county as the county election officer may designate. Such The special
election board shall meet at the voting place in the precinct in which is
located the office of the county election officer on election day, or as
provided by rules and regulations adopted by the secretary of state as
authorized by K.S.A. 25-1132(b), and amendments thereto.

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

Sec. 3. K.S.A. 25-1134 is hereby amended to read as follows: 25-
1134. (a) The county election officer in counties which have a special
election board established under K.S.A. 25-1133, and amendments thereto,
shall deliver all advance voting ballots to the special election board when
such the special election board convenes, and thereafter as advance voting
ballots are received during election day, until the time for closing of the
polls, or as provided by rules and regulations adopted by the secretary of
state as authorized by K.S.A. 25-1132(b), and amendments thereto.

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

Sec. 4. K.S.A. 25-1136 is hereby amended to read as follows: 25-
1136. (a) The vote of any advance voting voter may be challenged in the
same manner as other votes are challenged, as nearly as may be, and the
judges of the special election board shall determine the validity of each
advance voting ballot. Whenever the judges determine that the form
accompanying an advance voting ballot is insufficient, or that the voter is
not a registered voter, or the challenge is otherwise sustained, the advance
voting ballot envelope shall not be opened. In all such cases, the judges
shall endorse on the back of the envelope the word "provisional" and state
the reason for sustaining the challenge.

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

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

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

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

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

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

(b) If a majority of the members of the county board of canvassers
shall determine that there are manifest errors appearing on the face of the
poll books of any election board, which might make a difference in the
result of any election, or if any candidate shall request the recount of the
ballots cast in all or in only specified voting areas for the office for which
such the person is a candidate, or if any registered elector who cast a ballot
in a question submitted election requests a recount in all or only specified
voting areas to determine the result of the election, the county board of
canvassers shall cause a special election board appointed by the county
election officer to meet under the supervision of the county election officer
and recount the ballots with respect to any office or question submitted
specified by the county board of canvassers or requested by—such the
candidate or elector. If a recount is required in a county that uses optical
scanning systems as defined in K.S.A. 25-4601 et seq., and amendments
thereto, or electronic or electromechanical voting systems, as defined in
K.S.A. 25-4401, and amendments thereto, the method of conducting the
recount shall be at the discretion of the person requesting such the recount.
The county election officer shall not be a member of such the special
election board. Before the special election board meets to recount the
ballots upon a properly filed request, the party who makes the request shall
file with the county election officer a bond, with security to be approved
by the county or district attorney, conditioned to pay all costs incurred by
the county in making such the recount. In the event that the candidate
requesting the recount is declared the winner of the election as a result of
the recount, or if as a result of the recount a question submitted is
overturned, no action shall be taken on the person's bond and the county
shall bear the costs incurred for the recount. Any recount must be
requested in writing and filed with the county election officer not later than
5 p.m. on the day following the meeting of the county board of canvassers.
The request shall specify which voting areas are to be recounted. The
county election officer shall immediately notify any candidate involved in
the election for which such the recount is requested, or shall notify the
county chairperson of each candidate's party. Any such the recount shall be
initiated not later than the following day and shall be completed not later
than 5 p.m. on the fifth day following the filing of the request for a
recount, including Saturdays, Sundays and holidays. Upon completion of
any recount under this subsection, the election board shall package and
reseal the ballots as provided by law and the county board of canvassers shall complete its canvass. The members of the special election board shall be paid as prescribed in K.S.A. 25-2811, and amendments thereto, for time actually spent making the recount.

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

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

(2) Any candidate may request a recount in one or more counties. Any such recount must be requested in writing and filed with the secretary of state not later than 5 p.m. on the second Friday following the election. The request shall specify which counties are to be recounted. If a recount is required in a county that uses optical scanning systems as defined in K.S.A. 25-4601, and amendments thereto, or electronic or electromechanical voting systems, as defined in K.S.A. 25-4401, and amendments thereto, the method of conducting the recount shall be at the discretion of the person requesting such the recount. Except as provided by this subsection and subsection (d), the person requesting the recount shall file with the secretary of state a bond, with security to be approved by the secretary of state, conditioned to pay all costs incurred by the counties and the secretary of state in making such the recount. The amount of the bond shall be determined by the secretary of state. A candidate described in paragraphs (D) and (E) of subsection (c)(1)(D) and (E) may post a bond as provided by subsection (b) in lieu of the bond required by this subsection. In the event that the candidate requesting the recount is declared the winner of the election as a result of the recount, no action shall be taken on the candidate's bond and the counties shall bear the costs incurred for the recount.

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

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

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

(2) Whenever the election returns reflect that a candidate for office was defeated by ½ of 1% or less of the total number of votes cast and if such the candidate requests a recount in one or more counties of the ballots, the state shall bear the cost of any recount performed using the method by which such the ballots were counted originally.

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

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

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

Sec. 6. K.S.A. 2016 Supp. 25-1122 is hereby amended to read as follows: 25-1122. (a) Any registered voter may file with the county election officer where the person is a resident, or where the person is authorized by law to vote as a former precinct resident, an application for an advance voting ballot. The signed application shall be transmitted
only to the county election officer by personal delivery, mail, facsimile or as otherwise provided by law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

{Sec. 7. K.S.A. 25-2701 is hereby amended to read as follows: 25-2701. (a) The county election officer shall determine the area to be served by each voting place at every election and shall make the same known to any public officers having need of such information in due time for appropriate publication notices or other matters provide notice of such voting places as required by law. Any precinct having less than 20 registered voters shall be included with an adjacent precinct or precincts in a single area to be served by a common voting place. The location of voting places shall be designated by the county election officer as provided by K.S.A. 25-2703, and amendments thereto.

(b) For any election to which this section is applicable, wherever a city is located in two counties, the county election officer of the county in which the greater population of the city is located may designate a voting place located in a portion of the city in the other county to serve an area within that portion of the city within the county in which the greater population of the city is located.

(c) At voting places serving two or more precincts, one or more of which have less than 20 registered voters, all ballots which are identical
shall be deposited in the same ballot box or boxes and such votes shall be counted and canvassed in such a manner as to minimize the possibility of identifying the ballots cast by any voter.

(d) (1) The county election officer may not change a voting place prior to an election without providing mailed notice to the voters affected at least 30 days prior to the election. If an emergency is declared by the county election officer, the mailed notice requirement shall be waived.

(2) Failure to receive notice of a change in the voting place shall not give rise to a cause of action challenging the results of the election.

New Sec. 8. The secretary of state shall issue a press release and post a notice on the secretary of state’s website notifying the public whenever the online voter registration website is unavailable for a period of 24 hours or more.


Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.