

SENATE BILL No. 479

AN ACT concerning elections; relating to conformity with the help America vote act of 2002; amending K.S.A. 25-216, 25-414, 25-1122d, 25-1123, 25-1216, 25-1223, 25-2507 and 25-2806 and K.S.A. 2003 Supp. 25-409, 25-1122, 25-2309, 25-2706, 25-2908, 25-3002 and 25-3008 and repealing the existing sections.

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

Section 1. K.S.A. 25-216 is hereby amended to read as follows: 25-216. The right of any person to vote at any national, state, county and township primary election may be challenged by any elector upon the same ground and his right to vote be determined in the same manner as at a national, state, county and township general election, except as otherwise provided herein.

If the person offering ~~his~~ *such person's* vote ~~be~~ is challenged as unqualified on the ground that ~~he~~ *the person* is not a member of the party announced by ~~himself, he~~ *such person, the person* shall make and subscribe an affidavit in the following form, which shall be presented to and retained by the election board, and returned by the supervising judge with the poll list:

STATE OF KANSAS, COUNTY OF \_\_\_\_\_, ss.

I, \_\_\_\_\_, ~~do solemnly swear (or affirm) that I am more than eighteen years of age and am qualified to vote under and by virtue of the constitution and the laws of the state of Kansas, and I am an elector of this precinct and election district; that I now reside at \_\_\_\_\_ (insert street and number, if any) in this precinct, and am a member of and registered voter in this jurisdiction and I am qualified to vote in this election. I am affiliated with the \_\_\_\_\_ party; that I have not signed the petition of a member of any other party who is seeking a nomination at this primary election; and that I have not signed the nominating petition of an independent candidate for any office for which candidates are to be voted for at this primary election.~~

~~Subscribed and sworn to before me I declare under penalty of perjury that the foregoing is true and correct, this \_\_\_\_\_ day of \_\_\_\_\_, A.D. \_\_\_\_\_, \_\_\_\_\_, Voter \_\_\_\_\_, Judge of Election.~~

Sec. 2. K.S.A. 2003 Supp. 25-409 is hereby amended to read as follows: 25-409. (a) If any person challenged pursuant to K.S.A. 25-414, and amendments thereto, shall refuse to subscribe the application for registration pursuant to K.S.A. 25-2309, and amendments thereto, the judges shall reject such person's vote.

(b) If a person is challenged pursuant to K.S.A. 25-414, and amendments thereto, such person shall be permitted to subscribe the application for registration and mark a ballot. *The person shall then execute the affirmation prescribed in subsection (c) of this section before a member of the election board and the ballot shall thereupon be sealed in an envelope. The judges shall write on the envelope the word "provisional" and a statement of the reason for the challenge, and that the ballot contained in the envelope is the same ballot which was challenged pursuant to K.S.A. 25-409 et seq. and amendments thereto. Such statement shall be attested by two of the judges. The judges shall attach the application for registration to the envelope containing the provisional ballot. The envelope shall be numbered to correspond to the number of the provisional voter's name in the registration or poll book, and the word "provisional" shall be written following the voter's name in the poll book. The judges shall provide written information stating how the voter may ascertain whether the voter's provisional ballot was counted and, if such ballot was not counted, the reason therefor.* Such provisional ballots, together with objected to and void ballots packaged in accordance with K.S.A. 25-3008, and amendments thereto, shall be reviewed by the county board of canvassers at the time prescribed for canvassing votes, and such board shall determine the acceptance or rejection of the same. The county board of canvassers shall open all ballots deemed to be valid and include such ballots in the final canvass of election returns.

(c) *The voter's affirmation shall be sufficient if substantially in the following form, but the voter's affirmation shall not contain less than that prescribed in the form:*

VOTER'S AFFIRMATION

STATE OF KANSAS, COUNTY OF \_\_\_\_\_, ss.

*I am a registered voter in this jurisdiction and I am qualified to vote in this election. I declare under penalty of perjury that the foregoing is true and correct. This \_\_\_\_\_ day of \_\_\_\_\_ A.D. \_\_\_\_\_, Voter \_\_\_\_\_, Judge of Election*

Sec. 3. K.S.A. 25-414 is hereby amended to read as follows: 25-414.

(a) It shall be the duty of each judge of election to challenge any person offering to vote, whom the judge shall know or suspect not to be qualified as an elector.

(b) A person who: (1) Has moved from an address in the registration book to another address in the same county; or (2) has not moved, but the registration list indicates otherwise, is a qualified elector, but shall be challenged by an election judge and entitled to cast only a provisional ballot pursuant to K.S.A. 25-409, and amendments thereto.

(c) *Any person who votes after the polling place hours prescribed in K.S.A. 25-106, and amendments thereto, pursuant to a court or other order is entitled to cast only a provisional ballot pursuant to K.S.A. 25-409, and amendments thereto.*

~~(c)~~ (d) The application shall be delivered to the election judges and attached to the provisional ballot envelope. Such application and ballot envelope containing the ballot shall be transmitted to the county election officer with election returns and supplies.

~~(d)~~ (e) Following the determination of acceptance or rejection of any provisional ballot by the county board of canvassers, the county election officer shall update the registration record, if appropriate, for voting in future elections, and send, by nonforwardable first-class mail, to the address specified on the application, notice of disposition of the application. The registrant's name shall not be removed from the official list of eligible voters by reason of such a change of address except as provided in K.S.A. 25-2316c, and amendments thereto.

Sec. 4. K.S.A. 2003 Supp. 25-1122 is hereby amended to read as follows: 25-1122. (a) Any registered voter may file with the county election officer where such person is a resident, or where such person is authorized by law to vote as a former precinct resident, an application for an 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, and such voter is a first-time voter, such voter shall provide a form of valid identification such as a current and valid Kansas driver's license, nondriver's identification card, utility bill, bank statement, paycheck, government check or other government document containing the voter's current name and address as indicated on the registration book.*

(c) *If the registered voter is applying for an advance voting ballot to be transmitted by mail, and such voter is a first-time voter, such voter shall provide on the application for an advance voting ballot the voter's current and valid Kansas driver's license number, nondriver's identification card number or the last four digits of the voter's social security number, or shall provide with the application a copy of the voter's current and valid Kansas driver's license, nondriver's identification card, utility bill, bank statement, paycheck, government check or other government document containing the voter's current name and address as indicated on the registration book.*

(d) *If a first-time voter is unable or refuses to provide current and valid identification, or if the name and address do not match the voter's name and address on the registration book, the voter may vote a provisional ballot according to K.S.A. 25-409, and amendments thereto. The voter shall provide a valid form of identification as defined in subsection (c) of this section 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) 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 even-numbered years, between April 1 of such year and the last business day of the week preceding such primary election.

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

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

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

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

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

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

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

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

~~(e)~~ (f) Unless an earlier date is designated by the county election officer, 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 12:00 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 sick, physically disabled or illiterate voter 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.

In any county having a population exceeding 250,000, 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, such 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.

~~(d)~~ (g) Any person having a permanent physical 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.

~~(e)~~ (h) 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 such persons claim to be registered voters or to be authorized by law to vote as former precinct residents and the present resident address of each applicant. Such 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 such 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 such inspection shall provide to the county election officer identification in the form of driver's license or other reliable identification and shall sign a log book or application form maintained by such officer stating such person's name and address and showing the date and time of inspection. All records made by the county election officer shall be subject to public inspection, except that *the voter identification information required by subsections (b) and (c) and the identifying number on ballots and ballot envelopes and records of such number numbers* shall not be made public.

~~(f)~~ (i) If a person on the permanent advance voting list fails to vote in two consecutive general elections held on the Tuesday succeeding the first Monday in November of each even-numbered year, the county election officer may mail a notice to such voter. Such 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.

(j) *For the purposes of this section, "first-time voter" means a registered voter who has not previously voted in any election in the county in which the voter desires to vote. First-time voter includes a person whose name was removed from the county registration list in accordance with K.S.A. 25-2316c, and amendments thereto, and who has re-registered.*

(k) *The secretary of state may adopt rules and regulations defining valid forms of identification.*

Sec. 5. K.S.A. 25-1122d is hereby amended to read as follows: 25-1122d. (a) The application for an advance voting ballot *to be transmitted by mail* shall be accompanied by an affirmation in substance as follows:

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

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

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

(Please print name)

do solemnly affirm *under penalty of perjury* that I am a qualified elector of the \_\_\_\_\_ precinct of the \_\_\_\_\_ ward, residing at number \_\_\_\_\_ on \_\_\_\_\_ street, city of \_\_\_\_\_, or in the township of \_\_\_\_\_, county of \_\_\_\_\_, and state of Kansas. My date of birth is \_\_\_\_\_ (month/day/year).

*I understand that if I have not previously voted in any election in this county, I must*

provide one of the following forms of identification with this application in order to receive a ballot:

- (1) A current and valid Kansas driver's license number or nondriver's identification card number; or
- (2) the last four digits of my social security number; or
- (3) a copy of a current and valid Kansas driver's license or nondriver's identification card, utility bill, bank statement, paycheck, government check, or other government document that shows my name and address.

I am entitled to vote an advance voting ballot and I have not voted and will not otherwise vote at the election to be held on \_\_\_\_\_ (date). My political party is \_\_\_\_\_ (to be filled in only when requesting primary election ballots). I desire my ballots to be sent to the following address

\_\_\_\_\_

Signature of voter.

Note: False statement on this affirmation is a ~~class C misdemeanor~~ *severity level 9, non-person felony.*

(b) *The application for an advance voting ballot to be transmitted in person shall be accompanied by an affirmation in substance as follows:*

*Affirmation of an Elector of the County of \_\_\_\_\_ and State of Kansas Desiring to Vote an Advance Voting Ballot*  
State of \_\_\_\_\_, County of \_\_\_\_\_, ss:

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

(Please print name)

do solemnly affirm under penalty of perjury that I am a qualified elector of the \_\_\_\_\_ precinct of the \_\_\_\_\_ ward, residing at number \_\_\_\_\_ on \_\_\_\_\_ street, city of \_\_\_\_\_, or in the township of \_\_\_\_\_, county of \_\_\_\_\_, and state of Kansas. My date of birth is \_\_\_\_\_(month/day/year).

*I understand that if I have not previously voted in any election in this county, I must provide one of the following forms of identification with this application in order to receive a ballot: a current and valid Kansas driver's license or nondriver's identification card, utility bill, bank statement, paycheck, government check or other government document that shows my name and address.*

*I am entitled to vote an advance voting ballot and I have not voted and will not otherwise vote at the election to be held on \_\_\_\_\_ (date). My political party is \_\_\_\_\_ (to be filled in only when requesting primary election ballots).*

\_\_\_\_\_  
Signature of voter.

Note: False statement on this affirmation is a *severity level 9, nonperson felony.*

(c) An application for permanent advance voting status shall be on a form prescribed by the secretary of state for this purpose. Such application shall contain an affirmation concerning substantially the same information required in subsection (a) and in addition thereto a statement regarding the permanent character of such illness or disability.

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

Sec. 6. K.S.A. 25-1123 is hereby amended to read as follows: 25-1123. (a) When an application for an advance voting ballot has been filed in accordance with K.S.A. 25-1122, and amendments thereto, the county election officer shall transmit to the voter applying therefor one each of the appropriate ballots. Except as provided by subsection (b), the county

election officer shall transmit the advance voting ballots to the voter at one of the following addresses as specified by the voter on such application: (1) The voter's residential address or mailing address as indicated on the registration list; (2) the voter's temporary residential address; or (3) a medical care facility as defined in K.S.A. 65-425, and amendments thereto, psychiatric hospital, hospice or adult care home where the voter resides. No advance voting ballot shall be transmitted by the county election officer by any means prior to the 20th day before the election for which an application for an advance voting ballot has been received by such county election officer. If the advance voting ballot is transmitted by mail, such ballot shall be transmitted with printed instructions prescribed by the secretary of state and a ballot envelope bearing upon the outside a printed form as described in K.S.A. 25-1120, and amendments thereto, and the same number as the number of the ballot. If the advance voting ballot is transmitted to the applicant in person in the office of the county election officer or at a satellite advance voting site, such advance voting ballot and printed instructions shall be transmitted in an advance voting ballot envelope bearing upon the outside a printed form as described in K.S.A. 25-1120, and amendments thereto, and the same number as the number of the ballot unless the voter elects to deposit the advance voting ballot into a locked ballot box without an envelope. All ballots shall be transmitted to the advance voting voter not more than 20 days before the election but within two business days of the receipt of such voter's application by the election officer or the commencement of such 20-day period. In primary elections required to be conducted on a partisan basis, the election officer shall deliver to such voter the ballot of the political party of the applicant.

(b) The restrictions in subsection (a) relating to where a county election officer may transmit an advance voting ballot shall not apply to an advance voting ballot requested pursuant to an application for an advance voting ballot filed by a sick, physically disabled or illiterate voter.

(c) *The county election officer shall compare the driver's license number, nondriver's identification card number, social security number or copy of other valid identification provided by a first-time voter to the voter registration list verified by the division of motor vehicles in accordance with federal law. If no identification information was provided by the first-time voter, or if such information does not match the information on the voter registration list, the county election officer shall not transmit an advance voting ballot.*

Sec. 7. K.S.A. 25-1216 is hereby amended to read as follows: 25-1216. (a) Every person who is qualified and eligible to vote by federal services absentee ballot under the provisions of this act may make application for such ballot to the county election officer of the county of such voter's residence or to the secretary of state. Such application shall be made by postcard application provided for and prescribed in the federal act or on a form to be prescribed by the secretary of state. Any such application ~~made before the election to be held in August of any even-numbered year also may be valid for the election to be held in November of that year~~ shall be valid for any election at which such voter otherwise is entitled to vote between the date of the application through the next two regularly scheduled general elections for national or state office.

(b) If the voter is residing outside the United States or is a member of the United States armed forces or a spouse or dependent of a member of the armed forces and a qualified elector and cannot vote timely by mail, the voter may apply for registration and an absentee ballot by facsimile. The voter may also request that the county election officer transmit to such voter by facsimile a ballot, or a second ballot, as the case may be. The voter may then either mail or transmit by facsimile such voter's voted ballot, back to the county election officer.

If the voter chooses to transmit the voted ballot to the county election officer by facsimile, the transmittal shall contain the following statement: "I understand that by faxing my voted ballot I am voluntarily waiving my

right to a secret ballot.” This statement shall be followed by the voter’s signature and the date. Upon receipt of the transmittal, the county election officer shall place the voted ballot along with the signed statement and affidavit in an appropriately marked envelope and seal it. The county election officer and such officer’s staff shall take the steps necessary to keep the voted ballots received by facsimile as confidential as practicable.

Sec. 8. K.S.A. 25-1223 is hereby amended to read as follows: 25-1223. (a) *The chief state election official, as defined in K.S.A. 25-2504, and amendments thereto, shall: (1) Be responsible for providing information regarding voter registration and absentee ballot procedures; and (2) accept valid voter registrations and absentee ballot applications as required under the federal act.*

(b) The secretary of state may utilize the services of such election officials and county officers for such purposes and to such extent as ~~he~~ *the secretary of state* may deem appropriate in the exercise of ~~his~~ *the secretary of state’s* powers and duties under this act and it shall be the duty of such election officials and county officers to furnish the secretary of state such services as ~~he~~ *the secretary of state* may require, and within the time which the secretary of state shall prescribe.

Sec. 9. K.S.A. 2003 Supp. 25-2309 is hereby amended to read as follows: 25-2309. (a) Any person may apply in person, by mail, through a voter registration agency, or by other delivery to a county election officer to be registered. Such application shall be made on: (1) A form approved by the secretary of state, which shall be provided by a county election officer or chief state election official upon request in person, by telephone or in writing; or (2) the mail voter registration application prescribed by the federal election commission. Such application shall be signed by the applicant under penalty of perjury and shall contain the original signature of the applicant or the computerized, electronic or digitized transmitted signature of the applicant.

(b) Applications made under this section shall give voter eligibility requirements and such information as is necessary to identify the applicant and to determine the qualifications of the applicant as an elector and the facts authorizing such person to be registered, including, but not limited to, the following data:

- (1) Name;
- (2) place of residence, including specific address or location, and mailing address if the residence address is not a permissible postal address;
- (3) date of birth;
- (4) sex;
- (5) the last four digits of the person’s social security number *or the person’s full driver’s license or nondriver’s identification card number*;
- (6) telephone number, if available;
- (7) naturalization data (if applicable);
- (8) if applicant has previously registered or voted elsewhere, residence at time of last registration or voting;
- (9) when present residence established;
- (10) name under which applicant last registered or voted, if different from present name;
- (11) an attestation that the applicant meets each eligibility requirement;
- (12) a statement that the penalty for submission of a false voter registration application is a maximum presumptive sentence of 17 months in prison;
- (13) a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes;
- (14) a statement that if an applicant does register to vote, the office to which a voter registration application is submitted will remain confidential and will be used only for voter registration purposes; ~~and~~
- (15) *boxes for the applicant to check to indicate whether the applicant*

*is or is not a citizen of the United States, together with the question “Are you a citizen of the United States of America?”;*

*(16) boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day, together with the question “Will you be 18 years of age on or before election day?”;*

*(17) in reference to paragraphs (15) and (16) the statement “If you checked ‘no’ in response to either of these questions, do not complete this form.”;*

*(18) a statement that the applicant may be required to provide identification when voting; and*

~~(15)~~ (19) political party affiliation declaration, if any. An applicant’s failure to make a declaration will result in the applicant being registered as an unaffiliated voter.

If the application discloses any previous registration in any other county or state, as indicated by paragraph (8) or (10), or otherwise, the county election officer shall upon the registration of the applicant, give notice to the election official of the place of former registration, notifying such official of applicant’s present residence and registration, and authorizing cancellation of such former registration.

(c) Any person who applies for registration through a voter registration agency shall be provided with, in addition to the application under subsection (b), a form which includes:

(1) The question “If you are not registered to vote where you live now, would you like to apply to register to vote here today?”;

(2) a statement that if the applicant declines to register to vote, this decision will remain confidential and be used only for voter registration purposes;

(3) a statement that if the applicant does register to vote, information regarding the office to which the application was submitted will remain confidential and be used only for voter registration purposes; and

(4) if the agency provides public assistance, (i) the statement “Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.”;

(ii) boxes for the applicant to check to indicate whether the applicant would like to register or declines to register to vote, together with the statement “IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.”;

(iii) the statement “If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private.”; and

(iv) the statement “If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with the Kansas Secretary of State.”

(d) If any person, in writing, declines to register to vote, the voter registration agency shall maintain the form prescribed by subsection (c).

(e) A voter registration agency shall transmit the completed registration application to the county election officer not later than five days after the date of acceptance. Upon receipt of an application for registration, the county election officer shall send, by nonforwardable mail, a notice of disposition of the application to the applicant at the postal delivery address shown on the application. If a notice of disposition is returned as undeliverable, a confirmation mailing prescribed by K.S.A. 25-2316c, and amendments thereto, shall occur.

(f) If an application is received while registration is closed, such application shall be considered to have been received on the next following day during which registration is open.

(g) A person who completes an application for voter registration shall



be considered a registered voter when the county election officer adds the applicant's name to the county voter registration list.

(h) Any registered voter whose residence address is not a permissible postal delivery address shall designate a postal address for registration records. When a county election officer has reason to believe that a voter's registration residence is not a permissible postal delivery address, the county election officer shall attempt to determine a proper mailing address for the voter.

(i) Any registered voter may request that such person's residence address be concealed from public inspection on the voter registration list and on the original voter registration application form. Such request shall be made in writing to the county election officer, and shall specify a clearly unwarranted invasion of personal privacy or a threat to the voter's safety. Upon receipt of such a request, the county election officer shall take appropriate steps to ensure that such person's residence address is not publicly disclosed. Nothing in this subsection shall be construed as requiring or authorizing the secretary of state to include on the voter registration application form a space or other provision on the form that would allow the applicant to request that such applicant's residence address be concealed from public inspection.

(j) No application for voter registration shall be made available for public inspection or copying unless the information required by paragraph (5) of subsection (b) has been removed or otherwise rendered unreadable.

(k) *If an applicant fails to answer the question prescribed in paragraph (15) of subsection (b), the county election officer shall send the application to the applicant at the postal delivery address given on the application, by nonforwardable mail, with a notice of incompleteness. The notice shall specify a period of time during which the applicant may complete the application in accordance with K.S.A. 25-2311, and amendments thereto, and be eligible to vote in the next election.*

Sec. 10. K.S.A. 25-2507 is hereby amended to read as follows: 25-2507. (a) "Poll book" means a book in which each voter may sign the voter's signature and a number is assigned by one of the clerks of the election board when the voter is given a ballot or set of ballots. If the county election officer determines that voters shall sign the poll book, such book shall also contain on each page the declaration prescribed by subsection (d).

(b) "Registration book" means: (1) A book or list containing the names and other information relating to registered voters. Registration books shall have the names entered therein before the same or copies thereof are delivered to the supervising judges. Registration books may also contain blank lines on which each voter shall sign the voter's signature. If the county election officer determines that voters shall sign the registration book, such book shall also contain on each page the declaration prescribed by subsection (d); or

(2) a book meeting the requirements of K.S.A. 25-2507 (b)(1), and amendments thereto; containing blank lines on which each voter shall sign the voter's signature; containing on each page the declaration prescribed by subsection (d); and containing the numbers assigned by one of the clerks of the election board when voters are given ballots or sets of ballots.

(c) "Party affiliation lists" means a list containing the names of all registered voters of a county who have lawfully designated a party affiliation.

(d) "Declaration" means the following: "I, the undersigned, declare under penalty of perjury that I am ~~only a qualified~~ *qualified* registered voter ~~of~~ in the state of Kansas, county of \_\_\_\_\_, that I have not signed a name other than my own in order to represent myself as any other registered voter, and that I *am qualified to vote and* have not previously voted and will not vote again at this election.

Sec. 11. K.S.A. 2003 Supp. 25-2706 is hereby amended to read as

follows: 25-2706. (a) The county election officer shall prepare and furnish copies of all registrations and all books, maps, instructions and blanks needed for the use and guidance of election boards and voters. County election officers may adopt such rules and regulations for elections as may be needed and not in conflict with state law or rules and regulations. Such rules and regulations shall be submitted to the secretary of state for approval.

(b) The county election officer shall furnish printed instructions to election boards, defining their duties and the law governing elections.

(c) (1) The county election officer shall furnish:

(A) Printed instructions to voters ~~and~~;

(B) a list of voters' rights and responsibilities;

(C) a sample ballot;

(D) notification of the date of the election; and

(E) the polling place hours. ~~which~~

(2) Each of the items in paragraph (1) shall be posted in every voting place at every election; ~~and~~

(3) Wherever the secretary of state deems it advisable, ~~the instructions and a list of voters' rights and responsibilities~~ all items listed in subsection (c) shall be printed in English and in a language or languages other than English.

(d) The secretary of state shall specify the form and contents of instructions to voters, list of voters' rights and responsibilities and instructions to election boards. Such specifications shall be transmitted to county election officers and may be changed from time to time by the secretary of state.

Sec. 12. K.S.A. 25-2806 is hereby amended to read as follows: 25-2806. The county election officer ~~may hold a school of~~ shall provide instruction for election board judges and clerks before each election. The instruction ~~in such school~~ shall relate to all matters which in the opinion of the county election officer require additional knowledge, explanation to, or training of such judges relating to elections generally, voting machines, ballots or duties in connection with any of the foregoing.

Sec. 13. K.S.A. 2003 Supp. 25-2908 is hereby amended to read as follows: 25-2908. (a) Each polling place shall use either: (1) A registration book and a poll book, as defined in K.S.A. 25-2507(a) and K.S.A. 25-2507(b)(1), and amendments thereto; or (2) a registration book, as defined in K.S.A. 25-2507(b)(2), and amendments thereto. The county election officer shall determine which books are used in each county, and which book voters shall sign.

(b) ~~Persons desiring to vote shall give their names, and if required their residence, to the judges of election, one of whom shall announce the name in a loud and distinct tone of voice, and if the name is in the registration books, the member of the election board having the registration record shall repeat the name. For the purpose of identifying voters at the polling place, the voter shall add the voter's signature, as listed in the registration book, to the registration book beside the voter's printed name or to the poll book and the voter shall be allowed to vote. An election board member shall provide the required signature at the request of and on behalf of any voter who is unable to personally affix a handwritten signature by reason of physical disability, visual handicap or lack of proficiency in reading the English language or any voter 65 or more years of age. The judges shall give the voter one and only one of each ballot to be cast at the election, on the upper right-hand corner of each of which shall be written the number corresponding to the voter's number in the registration book or poll books, and the voter's name shall be marked in the registration books and the party affiliation list. If the voter refuses to sign the registration book or poll book, the election board judge shall challenge such person's vote pursuant to K.S.A. 25-414, and amendments thereto. A person desiring to vote shall provide to the election board: (1) the voter's name; (2) if required, the voter's address; and (3) the voter's signature on the registration or poll book.~~

(c) A member of the election board shall:

(1) Announce the voter's name in a loud and distinct tone of voice, and, if the name is in the registration books, the member of the election board having the registration record shall repeat the name;

(2) request the voter's signature on the registration or poll book;

(3) provide the required signature at the request of and on behalf of any voter who is unable to personally affix a handwritten signature by reason of physical disability, visual handicap or lack of proficiency in reading the English language;

(4) if the voter is a first-time voter as described in subsection (h) of this section, request valid identification from the voter;

(5) give the voter one ballot, on the upper right-hand corner of which shall be written the number corresponding to the voter's number in the registration book or poll book; and

(6) mark the voter's name in the registration book and party affiliation list.

(d) A first-time voter shall provide to the election board a form of valid identification such as a current and valid Kansas driver's license, nondriver's identification card, utility bill, bank statement, paycheck, government check or other government document. The document provided in accordance with this section shall contain the voter's current name and address as indicated on the registration book or poll book.

(e) If a first-time voter is unable or refuses to provide current and valid identification at the polling place, or if the name and address do not match the voter's name and address on the registration book or poll book, the voter may vote a provisional ballot according to K.S.A. 25-409, and amendments thereto. The voter shall provide a valid form of identification as defined in subsection (d) of this section 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.

(f) If the name of any person desiring to vote at an election is not in the registration books, an election board member shall print the name and address of the person appearing to vote in the registration book or poll book. The person appearing to vote shall add such person's signature to the registration book or poll book beside such person's printed name, as listed in the registration book or poll book, and the election board judge shall challenge such person's vote pursuant to K.S.A. 25-414, and amendments thereto. During the pendency of a challenge other voters shall be given ballots and be permitted to vote.

~~(e)~~ (g) A voter who has received an advance voting ballot may vote a provisional ballot on election day at the precinct polling place where the voter resides. If the voter returns the advance voting ballot to a judge or clerk at the precinct polling place, the judge or clerk shall void such advance voting ballot. Any such provisional ballot shall be counted only if the county board of canvassers determines that the provisional ballot was properly cast and the voter has not otherwise voted at such election.

(h) For the purposes of this section, "first-time voter" means a registered voter who has not previously voted in any election in the county in which the voter desires to vote. First-time voter includes a person whose name was removed from the county registration list in accordance with K.S.A. 25-2316c, and amendments thereto, and has re-registered.

(i) The secretary of state may adopt rules and regulations defining valid forms of identification.

Sec. 14. K.S.A. 2003 Supp. 25-3002 is hereby amended to read as follows: 25-3002. (a) The rules prescribed in this section shall apply to:

(1) The original canvass by election boards.

(2) Intermediate and final canvasses by county boards of canvassers.

- (3) Final canvass by the state board of canvassers.
- (4) All election contests.
- (5) All other officers canvassing or having a part in the canvass of any election.
  - (b) Rules for canvassers:
    - (1) No ballot, or any portion thereof, shall be invalidated by any technical error unless it is impossible to determine the voter's intention. Determination of the voter's intention shall rest in the discretion of the board canvassing in the case of a canvass and in the election court in the case of an election contest.
    - (2) The occurrences listed in this subpart (2) shall not invalidate the whole ballot but shall invalidate that portion, and that portion only, in which the occurrence appears. The votes on such portion of the ballot shall not be counted for any candidate listed or written in such portion, but the remainder of the votes in other portions of the ballot shall be counted. The occurrences to which this subpart (2) shall apply are:
      - (A) Whenever a voting mark shall be made in the square at the left of the name of more than one candidate for the same office, except when the ballot instructs that more than one candidate is to be voted.
      - (B) Whenever a voting mark is placed in the square at the left of a space where no candidate is listed.
    - (3) When a registered voter has cast a provisional ballot intended for a precinct other than the precinct in which the voter resides but located within the same county, the canvassers shall count the votes for those offices or issues which are identical in both precincts. The canvassers shall not count the votes for those offices or issues which differ from the offices or issues appearing on the ballot used in the precinct in which the voter resides.
    - ~~(e)~~ (4) A write-in vote for those candidates for the offices of governor and lieutenant governor shall not be counted unless the pair of candidates have filed an affidavit of candidacy pursuant to K.S.A. 25-305 and amendments thereto, and:
      - ~~(1)~~ (A) Both candidates' names are written on the ballot; or
      - ~~(2)~~ (B) only the name of the candidate for governor is written on the ballot.
    - ~~(d)~~ (5) A write-in vote for those candidates for the offices of president and vice-president shall not be counted unless the pair of candidates have filed an affidavit of candidacy pursuant to K.S.A. 25-305 and amendments thereto, and:
      - ~~(1)~~ (A) Both candidates' names are written on the ballot; or
      - ~~(2)~~ (B) only the name of the candidate for president is written on the ballot.
    - ~~(e)~~ (6) A write-in vote for candidates for state offices elected on a statewide basis other than offices subject to ~~subsection (e) paragraph (4)~~ shall not be counted unless the candidate has filed an affidavit of candidacy pursuant to K.S.A. 25-305, and amendments thereto.
    - ~~(f)~~ (7) Any advance voting or mail ballot whose envelope containing the voter's written declaration is unsigned, shall be wholly void and no vote thereon shall be counted.
    - (8) *No ballot cast by a first-time voter as defined in K.S.A. 25-2908, and amendments thereto, or K.S.A. 25-1122, and amendments thereto, shall be counted if the voter fails to provide valid identification.*

Sec. 15. K.S.A. 2003 Supp. 25-3008 is hereby amended to read as follows: 25-3008. Before leaving the voting place the supervising judge shall ascertain that the election supplies and ballots that are to be returned have been packaged, packed and separated as provided in this section:

- (a) All ballots both voted and unvoted, except void, objected to and provisional ballots, shall be placed in bags or sacks. Such bags or sacks shall be sealed and appropriately labeled. The method of sealing and labeling shall be a method approved by the secretary of state and directed by the county election officer.
- (b) Ballots that are spoiled and returned by the voter shall be marked

“spoiled” on the back thereof and shall be placed in the bags or envelopes specified in subsection (a) of this section.

(c) Provisional ballot envelopes containing ballots, with applications for registration attached, shall be placed in an appropriately labeled envelope, and shall be sealed as in subsection (a) of this section.

(d) *Provisional ballot envelopes containing ballots cast after the polling place hours prescribed in K.S.A. 25-106, and amendments thereto, pursuant to a court or other order shall be separated from the provisional ballot envelopes described in subsection (c) of this section and packaged and sealed as required by subsection (a) of this section.*

~~(d)~~ (e) Objected to ballots shall be placed in an appropriately labeled envelope, and shall be sealed as in subsection (a) of this section.

~~(e)~~ (f) Ballots that are cast but not counted shall be marked “void” on the back thereof and shall be placed in the same envelope that contains objected to ballots.

~~(f)~~ (g) Ballots specified in subsections (a) and (b) shall be separately packaged from ballots specified in subsections (c), (d) ~~and (e)~~, (e) and (f).

~~(g)~~ (h) Poll books, registration books, party affiliation lists, tally sheets, abstracts and election supplies not listed in the preceding subsections of this section shall be returned sealed but not packaged with the items specified in subsections (a), (b), (c), (d), (e) ~~and (f)~~, (f) and (g).

~~(h)~~ (i) (1) If upon receiving the sealed bags or sacks of ballots after the original canvass, the county election officer discovers that the board which conducted the original canvass failed to provide a tally sheet of write-in votes, the county election officer may appoint a special write-in board to unseal the ballots and count any write-in votes which appear on the ballots. Such write-in votes shall be reported to the county election officer, who shall include them with the official results of the election. When the board completes its tally of write-in votes, the bags or sacks shall be resealed.

(2) The special write-in board shall be appointed by the county election officer from the election boards of the county or from a pool of trained board workers maintained by the county election officer. One member of the board shall be designated by the county election officer as a supervising judge, and the remaining members of the board shall be of different political parties to the extent practicable.

New Sec. 16. County election officers, as defined in K.S.A. 25-2504 and amendments thereto, shall receive instruction relating to their duties in conducting official elections, including procedures for complying with federal and state laws and regulations. The form and content of the instruction shall be determined by the secretary of state.

New Sec. 17. Sections 17 through 32, and amendments thereto, shall be known and may be cited as the help America vote act of 2002 administrative complaint act.

New Sec. 18. Scope. This act provides a uniform, nondiscriminatory administrative procedure for the resolution of any complaint alleging a violation of any provision of title III of the “help America vote act of 2002,” including a violation that has occurred, is occurring, or is about to occur.

New Sec. 19. As used in this act:

(a) “Arbitrator” means a neutral third party selected by the secretary of state who resolves the dispute between the complainant and respondent, and whose decision is final.

(b) “Complainant” means the person who files a complaint with the Kansas secretary of state under this act.

(c) “Respondent” means any state or local election official whose actions are asserted to be in violation of title III in a complaint filed under this act.

(d) “Title III” means title III of the help America vote act of 2002, public law 107-252, 116 Stat. 1666 (2002), codified at 42 United States code § 15481-15485.

New Sec. 20. Any person who believes that a violation of any provision of title III is occurring, has occurred, or is about to occur, may file a complaint with the secretary of state.

New Sec. 21. (a) A complaint shall be made in writing and signed by the complainant under oath before a notary public.

(b) The complaint shall be submitted on a form prescribed by the secretary of state. The complaint form shall be available from the secretary of state or from any county election office.

New Sec. 22. (a) A complaint shall be filed with the secretary of state within 30 days after the occurrence of the actions or events that form the basis for the complaint. For violations that are occurring or about to occur that may need immediate remedy, the complaint shall be timely filed to allow for resolution.

(b) The secretary of state shall deliver a copy of the complaint to each respondent.

(c) If the secretary of state is the respondent in the complaint, the complaint shall be filed and reviewed by the Kansas department of administration and all references to the secretary of state as the determinative body contained in this act shall be construed to refer to the Kansas department of administration.

New Sec. 23. The secretary of state may consolidate complaints if such complaints relate to the same actions or events or raise common questions of law or fact.

New Sec. 24. (a) The secretary of state shall compile and maintain an official record in connection with each complaint filed under this act.

(b) The official record shall contain:

(1) A copy of the complaint, including any amendments made with the permission of the secretary of state;

(2) a copy of any written submission by the complainant;

(3) a copy of any written response by any respondent or other interested person;

(4) any written report or review conducted by the secretary of state or county election officials;

(5) copies of all notices and correspondence to or from secretary of state in connection with the complaint;

(6) originals or copies of any tangible evidence received or considered;

(7) the original recording produced at any hearing conducted on the complaint, and a copy of any transcript produced on the complaint; and

(8) a copy of any final determination made on the complaint.

New Sec. 25. (a) If requested by the complainant, the secretary of state shall conduct a hearing on the record to review the complaint. The secretary of state or other person designated by the secretary of state shall serve as the hearing officer.

(b) The hearing shall be conducted no later than 30 days after the secretary of state receives the complaint. The secretary of state shall give at least 5 days advance notice of the date, time, and place of the hearing to the complainant and each named respondent.

New Sec. 26. (a) To the extent necessary for full disclosure of all relevant facts and issues, the hearing officer shall afford all parties the opportunity to respond, present evidence and argument, and shall not be bound by the technical rules of evidence; provided, the hearing officer may place reasonable limits on the length of the hearing.

(b) The hearing officer may at such hearing officer's discretion give any nonparty an opportunity to present oral or written statements.

(c) All testimony of each party and witness shall be made under oath or affirmation and the hearing officer shall have the power to administer an oath or affirmation for that purpose.

(d) Any part of the evidence may be received in written form if doing so will expedite the hearing without substantial prejudice to the interests of any party.

- (e) Official notice may be taken of:
  - (1) Any matter that could be judicially noticed in the courts of this state;
  - (2) the record of other proceedings before the secretary of state;
  - (3) any technical matter within the secretary of state's specialized knowledge; and
  - (4) any code of standards that have been adopted by:
    - (A) An agency of the United States;
    - (B) an agency of this state or of another state; or
    - (C) a nationally recognized organization or association.
  - (f) The hearing officer may conduct all or part of the hearing by telephone or other electronic means, if each participant in the hearing has an opportunity to participate in the entire proceeding.
  - (g) The hearing shall be recorded at the secretary of state's expense. The secretary of state is not required to prepare a transcript at its expense. Any party may request, at the party's expense, that the secretary of state prepare a transcript from the record, or cause additional recordings to be made during the hearing. If a transcript is produced, the secretary of state shall include a copy in the official record.
  - (h) Except for any part of the hearing that the hearing officer rules to be closed pursuant to a provision of law expressly authorizing such closure, the hearing shall be open to the public.

New Sec. 27. (a) The secretary of state may conduct an informal conference to resolve the filed complaint, if both the complainant and respondent have an opportunity to participate in the proceeding.

(b) The secretary of state may conduct a pre-hearing conference to organize issues and procedures to promote an orderly and prompt hearing.

(c) The secretary of state shall give advance notice to the complainant and respondent of the date, time, and place of any conference.

New Sec. 28. Subpoenas. The secretary of state may issue subpoenas for a witness or any material that is relevant to the administration of this act. The secretary of state may issue subpoenas to compel the attendance of witnesses and/or production of books, documents and records anywhere in the state in any hearing held under the provisions of this act.

New Sec. 29. (a) If there has been no hearing, the secretary of state shall review the record and determine whether a violation of title III has been established by a preponderance of evidence. Pursuant to paragraph (3) of subsection (c) of K.S.A. 77-603, the determination of the secretary of state shall be final and shall not be subject to appeal pursuant to the Kansas act for judicial review and civil enforcement of agency actions.

(b) At the conclusion of any hearing, the secretary of state shall determine whether a violation of title III has been established by a preponderance of evidence. The determination of the secretary of state shall be final and shall not be subject to the Kansas act for judicial review and civil enforcement of agency actions.

(c) If the complaint is not timely filed or if the secretary of state determines that a violation has not occurred or that there is insufficient evidence to establish a violation, the secretary of state shall dismiss the complaint.

(d) The secretary of state shall explain in a written decision the reasons for the determination and for any remedy selected.

(e) Except as specified in section 31, and amendments thereto, unless the complainant consents in writing to an extension of time, the final determination of the secretary of state shall be issued within 90 days after the complaint is filed. The final determination shall be mailed to the complainant and each respondent and published on the secretary of state website.

(f) If the secretary of state cannot make a final determination within 90 days after the complaint was filed, or within any extension to which the complainant consents, the complaint shall be referred for final reso-

lution under section 31, and amendments thereto. The record compiled pursuant to section 24, and amendments thereto, shall be made available for use under section 31, and amendments thereto.

New Sec. 30. (a) Upon the finding of a violation, the secretary of state shall provide an appropriate remedy to resolve the grievance. The remedy may include:

(1) An order to any respondent commanding the respondent to take specified action, or prohibiting the respondent from taking specified action;

(2) An order directing the respondent or any of respondent's employees or agents to obtain additional training or education to prevent future violations;

(3) Any other remedy as deemed appropriate by the secretary of state to prevent or remedy the violation or future violations.

(b) The secretary of state may order either party to pay the costs of the hearing, based upon a finding by the secretary of state that such party's actions were egregious, frivolous, harassing, or were for an improper purpose.

New Sec. 31. (a) If the secretary of state does not render a final determination within 90 days after the complaint is filed, or within any extension to which the complainant consents, the complaint shall be resolved under this section.

(b) Within five days after a final determination was due, the secretary of state shall designate the name of an arbitrator to resolve the complaint. The designation shall be in writing and provided to both the complainant and respondent.

(c) The arbitrator may review the record compiled in connection with the complaint, including the tape recording or any transcript of a hearing and any briefs or memoranda, but shall not receive additional testimony or evidence.

(d) The arbitrator shall issue a written resolution within 10 days after the secretary of state's determination was due. The final resolution of the arbitrator shall be mailed to the secretary of state, the complainant, and each respondent, and published on the secretary of state website. Pursuant to paragraph (3) of subsection (c) of K.S.A. 77-603, and amendments thereto, the determination of the arbitrator under this section shall be final and shall not be subject to review under the Kansas act for judicial review and civil enforcement of agency actions.

New Sec. 32. The secretary of state may adopt rules and regulations to administer this act.

Sec. 33. K.S.A. 25-216, 25-414, 25-1122d, 25-1123, 25-1216, 25-1223, 25-2507 and 25-2806 and K.S.A. 2003 Supp. 25-409, 25-1122, 25-2309, 25-2706, 25-2908, 25-3002 and 25-3008 are hereby repealed.

Sec. 34. This act shall take effect and be in force from and after its publication in the statute book.



I hereby certify that the above BILL originated in the  
SENATE, and passed that body

\_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*