

Approved 2-22-91  
Date

MINUTES OF THE House COMMITTEE ON Elections

The meeting was called to order by Representative Tom Sawyer at  
Chairperson

9:10 a.m./p.m. on Wednesday, February 20, 1991 in room 521-S of the Capitol.

All members were present except:

Committee staff present:

Pat Mah, Research  
Arden Ensley, Revisor  
Ellie Luthye, Committee Secretary

Conferees appearing before the committee:

Representative Carol Sader  
Representative Robert Vancrum  
Ron Thornburgh, Office of the Secretary of State

The House Elections Committee was called to order by Chairman Tom Sawyer at 9:10 a.m. on Wednesday, February 20th in Room 521-S.

The Chair opened hearings on HB 2319, concerning blank lines for write-in votes for offices of governor and lieutenant governor.

Representative Sader appeared as a sponsor and proponent of this bill. She stated this bill was the opportunity to amend the Kansas election code and restore to the people their constitutional right to vote for whomever they choose. (Attachment 1)

Representative Vancrum next appeared before the committee in support of HB 2319. He stated if there were concerns about write-in votes for both Governor and Lieutenant Governor you could simply have a write-in vote for Governor with the Lieutenant Governor to be chosen later. However, he felt the bill was fine the way it was written.

The Chair called on Ron Thornburgh, from the office of the Secretary of State who presented an amendment. He stated his amendment would not hinder the right of an individual to be a write-in candidate but would ease the administrative burden write-in votes for the office of Governor will cause. The amendment would require write-in candidates for the office of Governor and Lieutenant Governor to file an affidavit with the Secretary of State no later than 12:00 noon on the 2nd Monday preceeding the General election. Also, a write-in vote for the offices of Governor and Lieutenant Governor would not be counted unless the pair of candidates had filed the affidavit and 1) both candidates names were written on the ballot or 2) only the name of the candidate for Governor is written on the ballot. (Attachment 2) The Chair closed hearings on HB 2319.

Hearings were then opened on HB 2325. Ron Thornburgh, from the office of the Secretary of State, appeared before the committee and offered an amendment to HB 2325. The amendment would require a candidate for write-in vote to file an affidavit with the Secretary of State's office no later than 12:00 noon on the 2nd Monday preceeding the General election. It would also provide that a write-in vote for President and Vice President not be counted unless the pair of candidates had filed an affidavit and 1) both candidates names are written on the ballot or 2) only the name of the candidate for President is written on the ballot. Additionally, the write-in candidate would have to include a list of presidential electors and alternates. Following his testimony hearings were closed on HB 2325. (Attachment 3)

CONTINUATION SHEET

MINUTES OF THE \_\_\_\_\_ House COMMITTEE ON \_\_\_\_\_ Elections \_\_\_\_\_,  
room 521-S, Statehouse, at 9:10 a.m./p.m. on Wednesday, February 20, 1991.

The Chair opened the floor for committee discussion and final action on HB 2319. Representative King made a motion to adopt the amendment, seconded by Representative Thompson and the motion carried. Representative Shallenburger made a motion to pass HB 2319, as amended, seconded by Representative Macy and the motion carried.

HB 2325 was next presented to the committee for discussion and final action. Following discussion Representative Shallenburger made a motion to pass HB 2325 without the amendment, seconded by Representative McKechnie and the motion carried.

Carol Williams, Public Disclosure Commission, appeared before the committee and requested a bill be introduced to amend KSA-25-901 to read "the adoption or defeat of any question submitted to any city, unified school district, community college, township or county election" shall have a treasurer and file a report. Representative Shallenburger made a motion to introduce this bill, seconded by Representative Wells and the motion carried.

Representative Baker made a motion to introduce a bill which would place school boards of the 5th enrollment category under the Campaign Finance Act. This was seconded by Representative Shallenburger and the motion carried.

Representative King made a motion to introduce legislation that changes the date of the Presidential Preference Primary to city and school primaries rather than general election. Representative Shallenburger seconded and the motion carried.

Chairman Sawyer made the announcement that all sub-committee reports would be ready by Thursday and the committee would begin discussing them.

The minutes for the meeting on February 19th were presented for approval. Representative Stephens made a motion to accept the minutes as presented, seconded by Representative McKechnie and the motion carried.

The meeting of the House Elections Committee was adjourned at 10:05 a.m. The next meeting will be held on Thursday, February 21st at 9:00 a.m. in Room 521-S.



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TOPEKA

HOUSE OF  
REPRESENTATIVES

TESTIMONY ON HB 2319  
HOUSE ELECTIONS COMMITTEE

February 20, 1991

COMMITTEE ASSIGNMENTS  
CHAIRPERSON: PUBLIC HEALTH AND WELFARE  
VICE-CHAIRPERSON: ECONOMIC DEVELOPMENT  
VICE-CHAIRPERSON: JOINT COMMITTEE ON HEALTH  
CARE DECISIONS FOR THE  
1990'S  
RANKING DEMOCRATIC MEMBER: SRS TASK FORCE  
MEMBER: PENSIONS, INVESTMENTS AND BENEFITS  
JOINT COMMITTEE ON ECONOMIC  
DEVELOPMENT

I come before you today as a sponsor and proponent of HB 2319. Very simply, this bill amends the Kansas election code to provide for write-in votes for the offices of governor and lieutenant governor.

In 1973, the Kansas Legislature passed a law that required the governor and lieutenant governor to be elected jointly. At the same time, the legislature passed the law prohibiting write-in votes for these offices. The rationale was that because candidates for governor and lieutenant governor ran as a team, a write-in for one candidate and not the other would be meaningless.

In a misguided attempt to avoid making the law meaningless, the legislature created a clearly unconstitutional law that is violative of the federal constitution's first amendment right of freedom of expression and the fourteenth amendment's guarantees of due process and equal protection of the laws. The write-in prohibition may also violate rights of expression, association and suffrage guaranteed by sections of the Bill of Rights and Article V of our state constitution.

The ACLU filed suit in October 1990 alleging that the ban on write-in votes violates Kansas voter's rights to freedom of speech and equal protection. Kansas law permits write-in votes for every office except president, governor, and lieutenant governor.

In the lawsuit, the state conceded that the statute, which has been on the books for 17 years, is unconstitutional. In fact similar lawsuits have been won in two other states this year. The District Court's findings of fact and conclusions of law in the Kansas case states that "this court will defer granting injunctive relief in this action until the 1991 Session of the Kansas Legislature has had an opportunity to amend the Kansas election code to provide for write-in votes for the offices of Governor and Lieutenant Governor."

This is the 1991 Session of the Kansas Legislature and HB 2319 is our opportunity to amend the Kansas election code to restore to the people of our state their constitutional right to vote for whomever they choose and to make it legal for them to do so.

Thank you.

*Carol H. Sader*

House Elections Committee  
Attachment 1  
2-20-91

Bill Graves  
Secretary of State



2nd Floor, State Capitol  
Topeka, KS 66612-1594  
(913) 296-2236

## STATE OF KANSAS

TESTIMONY OF RON THORNBURGH  
HOUSE ELECTIONS COMMITTEE  
FEBRUARY 20, 1991

House Bill 2319

Thank you Mr. Chairman and members of the committee for the opportunity to appear before you today on behalf of Secretary of State Graves.

We stand in support of House Bill 2319. Prior to last year's general election, the 10th District Federal Court ordered the state of Kansas to provide write-in opportunities for the office of Governor in future elections.

I have attached a copy of our proposed amendments to the bill. These proposals will not hinder the right of any individual to be a write-in candidate and will not hinder the right of any individual to write-in the person of their choice. However, the proposals will ease the administrative burden write-on votes for the office of Governor will cause.

Our first proposal provides that all write-in candidates for the office of Governor file an affidavit declaration of candidacy with our office no later than 12:00 Noon on the second Monday preceding the General Election. This deadline will allow us to notify the county election officers of those candidates in time for their board worker training schools.

The second proposal, in response to some of the problems we have had in determining the validity of write-in votes, provides that a write-in vote is to be counted if:

- 1) The candidate filed an affidavit of write-in candidacy;
- 2) The name of both candidates are written on the ballot; or
- 3) The name of the candidate for Governor is written on the ballot

Again thank you for the opportunity to appear before you and I urge you acceptance of our proposals and the adoption of House Bill 2319.

House Elections Committee  
Attachment 2  
2-20-91

Governor and Lieutenant Write-in votes

Insert at K.S.A. 25-305

New Section (c)

An affidavit of write-in candidacy for the offices of Governor and Lieutenant Governor shall be filed with the Secretary of State no later than 12:00 Noon on the 2nd Monday preceeding the General election for those offices.

Insert and K.S.A. 25-3002(a) (4)

New Section "C"

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

- 1 - both candidates names are written on the ballot; or
- 2 - only the name of the candidate for Governor is written on the ballot.

Bill Graves  
Secretary of State



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Topeka, KS 66612-1594  
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## STATE OF KANSAS

TESTIMONY OF RON THORNBURGH  
HOUSE ELECTIONS COMMITTEE  
FEBRUARY 20, 1991

House Bill 2325

Thank you Mr. Chairman and members of the committee for the opportunity to appear before you today on behalf of Secretary of State Graves.

We stand in support of House Bill 2325. Prior to last year's general election, the 10th District Federal Court ordered the state of Kansas to provide write-in opportunities for the office of Governor in future elections. We would like to extend that opportunity to Presidential candidates as well.

I have attached a copy of our proposed amendments to the bill. These proposals will not hinder the right of any individual to be a write-in candidate and will not hinder the right of any individual to write-in the person of their choice. However, the proposals will ease the administrative burden write-in votes for the office of President will cause.

Our first proposal provides that all write-in candidates for President file an affidavit declaration of candidacy with our office no later than 12:00 Noon on the second Monday preceeding the General Election. This deadline will allow us to notify the county election officers of those candidates in time for their board worker training schools. The only difference between this declaration and our proposed declaration for Gubernatorial write-in votes is that a declaration for a Presidential candidate would have to include a list of presidential electors.

The second proposal, in response to some of the problems we have had in determining the validity of write-in votes, provides that a write-in vote is to be counted if:

- 1) The candidate filed an affidavit of write-in candidacy;
- 2) The name of both candidates are written on the ballot; or
- 3) The name of the candidate for President is written on the ballot

Again thank you for the opportunity to appear before you and I urge your acceptance of our proposals and the adoption of House Bill 2325.

House Elections Committee  
Attachment 3  
2-20-91

Presidential Write-in votes

Insert at K.S.A. 25-305

New Section (c)

An affidavit of write-in candidacy for the offices of President and Vice President shall be filed with the Secretary of State no later than 12:00 Noon on the 2nd Monday preceeding the General election for those offices.

Insert and K.S.A. 25-3002(a) (4)

New Section "C"

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

- 1 - both candidates names are written on the ballot; or
- 2 - only the name of the candidate for President is written on the ballot.