

Approved 2-11-92
Date

MINUTES OF THE House COMMITTEE ON Elections

The meeting was called to order by Representative Sherman Jones at
Chairperson

9:10 a.m./p.m. on February 5, 1992 in room 521-S of the Capitol.

All members were present except:

Committee staff present:

Arden Ensley, Revisor
Pat Mah, Research
Shirley Lee, Committee Secretary

Conferees appearing before the committee:

Joe de la Torre, Deputy Assistant Secretary of State

Others attending: see attached list.

Chairman Jones brought two bills before the Committee. One relating to governmental ethics, concerning gifts to certain officers and employees; and the second, relating to elections, concerning campaign finance (Attachment 1). Representative Macy moved that the Committee introduce the two bills. It was seconded by Representative Johnson and the motion carried.

Joe de la Torre, Deputy Secretary of State, appeared before the Committee requesting the introduction of a bill (Attachment 2). Representative Shallenburger moved that the Committee introduce the bill. Representative Baker seconded the motion, and the motion carried.

Representative Macy appeared before the Committee submitting a report from the subcommittee concerning the election ballot bills. The subcommittee made the following recommendations: No action be taken on **HB 2234** and **HB 2327**; **HB 2234** and **HB 2237** be combined due to the fact that they both deal with the same subject matter of requiring that in contested elections, the grounds must be specified with particularity and that they be passed as amended; **HB 2236** and **HB 2239** be combined in as much as they deal with the same subject matter of absentee ballots and that they be passed as amended; **HB 2235** be amended to add and change language; **SB 98** be combined with **HB 2238** as amended; Add **HB 2326**, voting by registered voter whose name has been changed. (Attachment 3)

Representative Macy, Subcommittee Chair, requested that the Committee adopt the changes.

Chairman Jones opened the floor for questions. There were no questions. Representative Bishop moved that the Committee adopt the changes as reported by the subcommittee. Representative Thompson seconded the motion and the motion carried.

Chairman Jones stated the Committee would work on them next Wednesday or Thursday. Representative Shallenburger made a point of interest by stating the five bills could be introduced for convenience. Chairman Jones discussed with Revisor. Representative Shallenburger made a motion that the Committee introduce the five Committee bills related to the balloons provided. Representative Macy seconded and the motion carried.

Chairman Jones stated the Committee would wait till the new bills were received.

Chairman Jones opened the floor for final action on **HB 2291** concerning same day registration. Representative Baker motioned that the Committee report adversely. Representative Praeger seconded the motion. Chairman Jones called for a vote. Seven Committee members opposed, the Chair was undecided, the motion failed. Representative Macy moved to favorably pass **HB 2291**, seconded by Representative Thompson, and the motion carried. Representative Cates requested to be on record as having voted no.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Elections,
room 521-S, Statehouse, at 9:10 a.m./p.m. on February 5, 1992.

~~Chairman Jones opened the floor for final action on **HB 2292**. Representative Love motioned that the Committee favorably pass **HB 2292**. It was seconded by Representative Macy. Chairman Jones opened the floor for discussion. Representatives Wells, Shallenburger and Baker presented discussion. Chairman Jones opened the floor for a vote. The motion was carried. Representatives Baker and Cates requested to be on record as having voted no.~~

~~Chairman Jones opened the floor for final action on **SB 241**. Representative Wells moved to amend line 21 to read "may" instead of "shall." Representative Macy seconded the motion and the motion carried. Representative Thompson moved to pass favorably as amended on **SB 241**. Representative Macy seconded the motion, and the motion carried.~~

With no further business, the meeting was adjourned at 9:55 a.m.

HOUSE BILL NO. _____

By

AN ACT relating to elections; concerning campaign finance; amending K.S.A. 1991 Supp. 25-4143 and repealing the existing section.

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

Section 1. K.S.A. 1991 Supp. 25-4143 is hereby amended to read as follows: 25-4143. As used in the campaign finance act, unless the context otherwise requires:

(a) "Candidate" means an individual who: (1) Appoints a treasurer or a candidate committee,

(2) makes a public announcement of intention to seek nomination or election to state or local office,

(3) makes any expenditure or accepts any contribution for the purpose of influencing such person's nomination or election to any state or local office, or

(4) files a declaration or petition to become a candidate for state or local office.

(b) "Candidate committee" means a committee appointed by a candidate to receive contributions and make expenditures for the candidate.

(c) "Commission" means the Kansas commission on governmental standards and conduct created by K.S.A. 25-4119a and amendments thereto.

(d) (1) "Contribution" means: (A) Any advance, conveyance, deposit, distribution, gift, loan or payment of money or any other thing of value made for the purpose of influencing the nomination or election of any individual to state or local office;

(B) a transfer of funds between any two or more candidate committees, party committees or political committees;

House Elections
2-5-92
Attachment 1

(C) the payment, by any person other than a candidate, candidate committee, party committee or political committee, of compensation to an individual for the personal services rendered without charge to or for a candidate's campaign or to or for any such committee;

(D) the purchase of tickets or admissions to, or advertisements in journals or programs for, testimonial events.

(2) "Contribution" does not include:

(A) The value of volunteer services provided without compensation;

(B) costs to a volunteer related to the rendering of volunteer services not exceeding a fair market value of \$50 during an allocable election period as provided in K.S.A. 25-4149 and amendments thereto;

(C) payment by a candidate or candidate's spouse for personal meals, lodging and travel by personal automobile of the candidate or candidate's spouse while campaigning;

(D) the value of goods donated to events such as testimonial events, bake sales, garage sales and auctions by any person not exceeding a fair market value of \$50 per event.

(3) The amount or value of any "contribution" made at the time of any testimonial event shall not include and shall be reduced by the amount of any expenditure or expenditures made by the candidate to any third party vendor for providing goods or services at such testimonial event to the person making such contribution.

(e) "Election" means: (1) A primary or general election for state or local office and (2) a convention or caucus of a political party held to nominate a candidate for state or local office.

(f) (1) "Expenditure" means: (A) Any purchase, payment, distribution, loan, advance, deposit or gift of money or any other thing of value made for the purpose of influencing the nomination or election of any individual to state or local office;

(B) any contract to make an expenditure;

(C) a transfer of funds between any two or more candidate committees, party committees or political committees;

(D) payment of a candidate's filing fees.

(2) "Expenditure" does not include:

(A) The value of volunteer services provided without compensation;

(B) costs to a volunteer incidental to the rendering of volunteer services not exceeding a fair market value of \$50 during an allocable election period as provided in K.S.A. 25-4149 and amendments thereto;

(C) payment by a candidate or candidate's spouse for personal meals, lodging and travel by personal automobile of the candidate or candidate's spouse while campaigning or payment of such costs by the treasurer of a candidate or candidate committee;

(D) the value of goods donated to events such as testimonial events, bake sales, garage sales and auctions by any person not exceeding fair market value of \$50 per event; or

(E) any communication by an incumbent elected state or local officer with one or more individuals unless the primary purpose thereof is to influence the nomination or election of a candidate.

(g) "Party committee" means the state committee of a political party regulated by article 3 of chapter 25 of the Kansas Statutes Annotated, or the county central committee or the state committee of a political party regulated under article 38 of chapter 25 of the Kansas Statutes Annotated or the bona fide national organization or committee of those political parties regulated by the Kansas Statutes Annotated, or not more than one political committee established by the state committee of any such political party and designated as a recognized political committee for the senate or not more than one political committee established by the state committee of any such political party and designated as a recognized political committee for the house

of representatives.

(h) "Person" means any individual, committee, corporation, partnership, trust, organization or association.

(i) "Political committee" means any combination of two or more individuals or any person other than an individual, a major purpose of which is to support or oppose any candidate for state or local office, but not including any candidate committee or party committee.

(j) "Receipt" means a contribution or any other money or thing of value, but not including volunteer services provided without compensation, received by a treasurer in the treasurer's official capacity.

(k) "State office" means any state office as defined in K.S.A. 25-2505 and amendments thereto.

(l) "Testimonial event" means an event held for the benefit of an individual who is a candidate to raise funds for such candidate's campaign. Testimonial events include but are not limited to dinners, luncheons, rallies, barbecues and picnics.

(m) "Treasurer" means a treasurer of a candidate or of a candidate committee, a party committee or a political committee appointed under the campaign finance act or a treasurer of a combination of individuals or a person other than an individual which is subject to paragraph (2) of subsection (a) of K.S.A. 25-4172 and amendments thereto.

(n) "Local office" means an elective office of a city of the first class, a unified school district having 35,000 or more pupils regularly enrolled in the preceding school year, a county or of the board of public utilities.

Sec. 2. K.S.A. 1991 Supp. 25-4143 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the Kansas register.

HOUSE BILL NO. _____

By

AN ACT relating to governmental ethics; concerning gifts to certain officers and employees; amending K.S.A. 1991 Supp. 46-237 and 46-271 and repealing the existing sections.

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

Section 1. K.S.A. 1991 Supp. 46-237 is hereby amended to read as follows: 46-237. (a) No state officer or employee or candidate for state office shall accept, or agree to accept any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service having an aggregate value of \$40 or more in any calendar year from any one person known to have a special interest, under circumstances where such person knows or should know that a major purpose of the donor is to influence such person in the performance of their official duties or prospective official duties.

(b) No person with a special interest shall offer, pay, give or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality or service having an aggregate value of \$40 or more in any calendar year to any state officer or employee or candidate for state office with a major purpose of influencing such officer or employee in the performance of official duties or prospective official duties.

(c) No person licensed, inspected or regulated by a state agency shall offer, pay, give or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service having an aggregate value of \$40 or more in any calendar year to such agency or any state officer or employee of that agency.

(d) Hospitality in the form of recreation, food and beverages ~~are~~ is presumed not to be given to influence a state

officer or employee in the performance of such officer's or employee's official duties or prospective official duties, except when a particular course of official action is to be followed as a condition thereon. For the purposes of this subsection, the term recreation shall not include the providing or the payment of the cost of transportation or lodging.

(e) Gifts in the form of products displaying the company name or insignia which are designed and distributed for advertising purposes in the general course of business of the employer of the lobbyist on whose behalf the gift is given are presumed to be given for advertising purposes and are presumed not to be given to influence a state officer or employee in the performance of such officer's or employee's official duties or prospective official duties, except when a particular course of official action is to be followed as a condition thereon.

~~(e)~~ (f) Except when a particular course of official action is to be followed as a condition thereon, this section shall not apply to (1) any contribution reported in compliance with the campaign finance act; or (2) a commercially reasonable loan or other commercial transaction in the ordinary course of business.

~~(f)~~ (g) No state officer or employee shall accept any payment of honoraria for any speaking engagement except that a member of the state legislature or a part-time officer or employee of the executive branch of government shall be allowed to receive reimbursement in the preparation for and the making of a presentation at a speaking engagement in an amount fixed by the Kansas commission on governmental standards and conduct prior to the acceptance of the speaking engagement. Nothing in this section shall be construed to prohibit the reimbursement of state officers and employees for reasonable expenses incurred in attending seminars, conferences and other speaking engagements.

~~(g)~~ (h) The provisions of this section shall not be applicable to or prohibit the acceptance of gifts from governmental agencies of foreign nations except that any gift accepted from such foreign governmental agency, having an

aggregate value of \$100 or more, shall be accepted on behalf of the state of Kansas.

(h) (i) No legislator shall solicit any contribution to be made to any organization for the purpose of paying for travel, subsistence and other expenses incurred by such legislator or other members of the legislature in attending and participating in meetings, programs and activities of such organization or those conducted or sponsored by such organization, but nothing in this act or the act of which this act is amendatory shall be construed to prohibit any legislator from accepting reimbursement for actual expenses for travel, subsistence, hospitality, entertainment and other expenses incurred in attending and participating in meetings, programs and activities sponsored by the government of any foreign nation, or any organization organized under the laws of such foreign nation or any international organization or any national, nonprofit, nonpartisan organization established for the purpose of serving, informing, educating and strengthening state legislatures in all states of the nation, when paid from funds of such organization and nothing shall be construed to limit or prohibit the expenditure of funds of and by any such organization for such purposes.

Sec. 2. K.S.A. 1991 Supp. 46-271 is hereby amended to read as follows: 46-271. No lobbyist shall offer, pay, give or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service having an aggregate value of \$40 or more in any calendar year to any state officer or employee or candidate for state office with a major purpose of influencing such officer or employee in the performance of official duties or prospective official duties. Hospitality in the form of recreation, food and beverages ~~are~~ is presumed not to be given to influence a state officer or employee or candidate for state office in the performance of official duties, except when a particular course of official action is to be followed as a condition thereon.

15

Gifts in the form of products displaying the company name or insignia which are designed and distributed for advertising purposes in the general course of business of the employer of the lobbyist on whose behalf the gift is given are presumed to be given for advertising purposes and are presumed not to be given to influence a state officer or employee in the performance of such officer's or employee's official duties or prospective official duties, except when a particular course of official action is to be followed as a condition thereon.

Except when a particular course of official action is to be followed as a condition thereon, this section shall not apply to (1) any contribution reported in compliance with the campaign finance act as amended, or (2) a commercially reasonable loan or other commercial transaction in the ordinary course of business.

Sec. 3. K.S.A. 1991 Supp. 46-237 and 46-271 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.

25-3602. Petition documents; where filed; successive filings; contents; verification; circulator; withdrawal; signature; void after days; time of election. Each petition shall contain one or more documents pertaining to a single issue or proposition under one distinctive title. The documents shall be filed with the county election officer or other official, if another official is designated in the applicable statutes. The filing shall be made at one time all in one group. Later or successive filings of documents relating to the same issue or proposition shall be deemed to be separate petitions and not a part of any earlier or later filing.

(b) Each petition shall, unless otherwise specifically required: (1) Clearly state the question which petitioners seek to bring to an election;

(2) name the taxing subdivision or other political subdivision in which an election is sought to be held; and

(3) contain the following recital above the spaces provided for signatures: "I have personally signed this petition. I am a registered elector of the state of Kansas and of

(here insert name of political or taxing subdivision) and my residence address is correctly written after my name."

The recital shall be followed by blank spaces for the signature, residence address and date of signing for each person signing the petition.

When petitioners are required by law to possess qualifications in addition to being registered electors,

the form of the petition shall be amended to contain a recital specifying the additional qualifications required and stating that the petitioners possess the qualifications.

(c) Every petition shall contain, at the end of each set of documents carried by each circulator, a verification, signed by the circulator, to the effect that the circulator personally witnessed the signing of the petition by each person whose name appears thereon. The circulator of a petition shall be duly registered to vote and a resident of the political or taxing subdivision in which the election is sought to be held.

(d) Any person who has signed a petition who desires to withdraw such person's name may do so by giving written notice to the county election officer or other designated official not later than the third day following the date upon which the petition is filed.

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

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

(6) Any time a petition requires signatures equal to a percentage of registered voters, such percentage shall be based on the most recent number of registered voters as reported to the office of the Secretary of State pursuant to KSA 25-233.

House Elections
2-5-92
Attachment 2

JUDITH K. MACY
REPRESENTATIVE, FORTY-THIRD DISTRICT
JOHNSON & DOUGLAS COUNTIES
P.O. BOX 572
DESOTO, KANSAS 66018



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE-CHAIR: ELECTIONS
MEMBER: JUDICIARY
LOCAL GOVERNMENT
PENSIONS, INVESTMENTS AND
BENEFITS

February 3, 1992

ELECTIONS - SUB-COMMITTEE

J. K. M.

SUBJECT: ELECTION BALLOT BILLS

H.B. 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2327
S.B. 98

This Sub-Committee, comprised of Chairman Macy, Representatives Shallenburger, Thompson, Wells and Cozine, makes the following recommendations after reviewing the above referenced bills:

H.B. 2233 and H.B. 2327

Recommends the committee take no action on these bills in as much as they have been included in S.B. 98.

H.B. 2234 and H.B. 2237

Testimony was received from Representative Hackler regarding her contested election and the handout reflects suggestions from her testimony which she feels would better clarify the "grounds" on which a contested election must be brought. The committee chose not to include the suggested language into this bill for the following reasons:

KSA 25-1436(b) - Amended language might further restrict those voters who were deprived of the right to vote by specifying that they "presented themselves at the polls."

KSA 25-1436(c) - Amended language to clarify what an "illegal" or "legal" vote is. Committee felt this might limit these categories by specifically stating this language.

Committee requested an amendment to KSA 25-1439 be added to compute time so that it would exclude week-ends and holidays.

The committee recommends these bills be combined due to the fact they both deal with the same subject matter of requiring that in contested elections, the grounds must be specified with particularity, and that they be passed as amended.

J. Elections
2-5-92
Att. 3

H.B. 2236 and H.B. 2239

H.B. 2236 - Testimony was received from the Secretary of State's office regarding this bill. Their office is in support of this bill. The committee made some minor changes in the language to permit flexibility in implementing.

H.B. 2239 - The committee struck the words "and such receipt recorded." Discussion of the group was that this could jeopardize the counting of ballots which had in fact been timely received but perhaps due to no fault of the candidates might not have yet been "recorded" by staff persons in a county election office. There was uncertainty as to what "recorded" might mean to various county election offices.

The committee recommends these two bills be combined in as much as they deal with the same subject matter of absentee ballots and that they be passed as amended.

H.B. 2235

Added language to include that if the difference was 1% or whichever was less to require the recount and require it be manual.

Changed language allowing person requesting the recount to decide the method.

The committee recommends this bill be passed as amended.

S.B. 98 and H.B. 2238

H.B. 2238 - This bill was passed by the House Elections standing committee but was essentially killed when it was stricken from the House calendar. This committee recommends it be included in S.B. 98. The Secretary of State's office spoke on this bill and requested we change the language in the bill to permit the required notice be posted in a prominent place at the voting poll, rather than require poll workers to hand a separate piece of paper to each voter. Included in the Research document was the problem of a name change prior to an election. This committee recommends this be addressed in this bill.

The committee recommends this bill, as combined with H.B. 2238, be passed as amended.

HOUSE BILL No. 2236

By Representative Wells

2-13

2-3

8 AN ACT relating to elections; concerning absentee ballots; amending _____ K.S.A. 25-1132 and
9 K.S.A. 1990 Supp. 25-1120 and repealing the existing section _____ sections
10

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

12 Section 1. K.S.A. 1990 Supp. 25-1120 is hereby amended to read
13 as follows: 25-1120. When the names to appear on ballots are def-
14 initely known and not later than 20 days prior to any primary, general
15 or question submitted election each county election officer shall cause
16 to be prepared such number of absentee ballots and ballot envelopes
17 as in the election officer's judgment are necessary to carry out the
18 requirements of this act. Such ballots shall contain the names and
19 cities of residence of all persons who are candidates for all national,
20 state, county, city, township and school offices, which names may
21 be written, typewritten or printed. On the same line with each
22 candidate's name shall be a square in the ordinary form, or paren-
23 theses in which the voter can place a cross or check mark. In the
24 case of elections required by law to be conducted on a partisan basis,
25 such ballot shall indicate the political party of each candidate.

26 The county election officer of any county may number such ab-
27 sentee ballots. If the county election officer of any county elects to
28 prepare absentee ballots and ballot envelopes without identifying
29 consecutive numbers, such officer shall prepare and distribute such
30 ballots and envelopes in accordance with a plan approved by the
31 secretary of state. If the county election officer elects to number
32 such ballots, all absentee ballots shall be consecutively numbered,
33 and the ballot envelope for each ballot shall bear the same number
34 as the ballot. The ballot envelope shall also bear a ~~printed form of~~
35 declaration in substance as follows:

36 **THIS DECLARATION MUST BE**
37 **COMPLETED AND SIGNED**

38 "I _____ do hereby declare that I marked the enclosed ballot and that such
39 ballot was enclosed and sealed in this envelope by me. My legal residence is in the
40 _____ precinct, _____ township, (or, in the _____ precinct of
41 the _____ ward, _____ street in the city of _____), in the
42 county of _____, state of Kansas.

43 (Signed) _____"

HOUSE BILL No. 2239

HB 2236

2

- 1 The ballot envelope to be used for voting by a former precinct
- 2 resident shall also state the place of former residence of the voter
- 3 and the date of removal therefrom to the voter's present residence.
- 4 ~~Sec. 2. K.S.A. 1000 Supp. 25-1120 is hereby repealed.~~
- 5 ~~Sec. 3. This act shall take effect and be in force from and after~~
- 6 its publication in the statute book.

Section ~~2~~. K.S.A. 25-1132 is hereby amended to read as follows:
25-1132. All absentee ballots which ~~reach~~ are received, ~~and such~~
~~receipt recorded, in the office of~~ the county election officer 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 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.

Sec. 3. K.S.A. 25-1132 and K.S.A 1991 Supp.
25-1120 are hereby repealed.

HOUSE BILL No. 2235

By Representative Wells

2-13

8 AN ACT relating to elections; concerning recounts of ballots; amend-
9 ing K.S.A. 1990 Supp. 25-3107 and repealing the existing section.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 1990 Supp. 25-3107 is hereby amended to read
13 as follows: 25-3107. (a) At the time of commencement of any canvass
14 by the county board of canvassers the county election officer shall
15 present to the county board of canvassers the preliminary abstracts
16 of election returns, together with the ballots and records returned
17 by the election boards. The county board of canvassers shall inspect
18 and check the records presented by the county election officer and
19 shall hear any questions which the county election officer believes
20 appropriate for determination of the board. The county board of
21 canvassers shall do what is necessary to obtain an accurate and just
22 canvass of the election and shall finalize the preliminary abstract of
23 election returns by making any needed changes, and certifying its
24 authenticity and accuracy. The certification of the county board of
25 canvassers shall be attested by the county election officer. Neither
26 the county board of canvassers nor the county election officer shall
27 open or unseal sacks or envelopes of ballots, except as is required
28 by K.S.A. 25-409, 25-1136 and 25-1337, and amendments thereto,
29 or other specific provision of law or as is authorized to carry out a
30 recount under subsection (b).

31 (b) If a majority of the members of the county board of canvassers
32 shall determine that there are manifest errors appearing on the face
33 of the poll books of any election board, which might make a dif-
34 ference in the result of any election, ~~or that the difference in the~~
35 ~~number of ballots cast for the candidates for any office is 25 or less;~~
36 ~~or if that any candidate shall request has requested~~ the recount of
37 the ballots cast in all or in only specified voting areas for the office
38 for which such person is a candidate, ~~or if any registered elector~~
39 ~~voter~~ who cast a ballot in a question submitted election requests
40 a recount in all or only specified voting areas to determine the result
41 of the election, the county board of canvassers shall cause a special
42 election board appointed by the county election officer to meet under
43 the supervision of the county election officer and recount the ballots

_____, or if

the lesser of either:
(1) One percent or less than the total number of
ballots cast for all candidates for such office; or
(2) twenty-five ballots or less, the county board
of canvassers shall cause a special election board
to be appointed to meet under the supervision of
the county election officer and recount the ballots
for such office or question. The method of conducting
such recount shall be a manual recount by members of
the special election board. If any candidate requests

2-5

36

1 with respect to any office or question ~~submitted specified by the~~
2 ~~county board of canvassers or~~ requested by such candidate or elector.
3 If a recount is ~~required in a county that uses optical scanning~~
4 ~~systems as defined in K.S.A. 25-4601 et seq., and amendments~~
5 ~~thereto,~~ the method of conducting the recount shall be at the dis-
6 cretion of the person requesting such recount ~~a manual recount~~
7 ~~by members of the special election board.~~ The county election officer
8 shall not be a member of such special election board. *If a recount*
9 *is made at the request of a candidate,* before the special election
10 board meets to recount the ballots upon a properly filed request,
11 the party who makes the request shall file with the county election
12 officer a bond, with security to be approved by the county or district
13 attorney, conditioned to pay all costs incurred by the county in
14 making such recount. In the event that the candidate requesting the
15 recount is declared the winner of the election as a result of the
16 recount, or if as a result of the recount a question submitted is
17 overturned, no action shall be taken on the person's bond and the
18 county shall bear the costs incurred for the recount. Any recount
19 requested must be requested in writing of the county election officer
20 not later than 12:00 noon on the Monday following the election. The
21 request shall specify which voting areas are to be recounted. Any
22 such recount shall be initiated not later than the following day and
23 shall be completed not later than the Friday of such week at 5:00
24 p.m. Upon completion of any recount under this subsection, the
25 election board shall package and reseal the ballots as provided by
26 law and the county board of canvassers shall complete its canvass.
27 The members of the special election board shall be paid as prescribed
28 in K.S.A. 25-2811 and amendments thereto for time actually spent
29 making the recount.
30 Sec. 2. K.S.A. 1990 Supp. 25-3107 is hereby repealed.
31 Sec. 3. This act shall take effect and be in force from and after
32 its publication in the statute book.

requested by a candidate or a registered voter

at the discretion of the person requesting such recount

or a registered voter

SENATE BILL No. 98

By Committee on Elections

1-31

11 AN ACT relating to elections; concerning ~~the validity, form and~~
12 ~~content of~~ ballots; amending K.S.A. 25-601, 25-605, 25-615, ~~25-~~
13 ~~616, 25-617,~~ 25-618, 25-620 and ~~25-621, 25-621 and 25-3002~~ and
14 repealing the existing sections.

25-2902 and K.S.A. 1991 Supp. 25-616, 25-617
and 25-3002

15
16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. K.S.A. 25-601 is hereby amended to read as follows:
18 25-601. *The secretary of state shall prescribe the ballot format but*
19 *ballots shall contain the information required by this section and be*
20 *substantially in the form set out in this section.* The official general
21 ballot for national and state offices shall be printed upon one
22 ballot, and the official general ballot for county and township
23 offices shall may be printed upon another one ballot. All official
24 general ballots shall be printed in black ink on paper through which
25 the printing or writing cannot be read. Such ballots shall be printed
26 on white paper or paper colored as authorized by rules and regu-
27 lations adopted by the secretary of state.

28 On the back or outside of each official general ballot, so as to
29 appear when folded, shall be printed the words "official general
30 ballot," followed by the words "national and state offices" or "
31 county and township offices," followed by the voting place for which
32 the ballot is prepared and the date of the election. No person's name
33 shall appear on the back or outside of a ballot. All nominations made
34 and certified as provided by law, and none other, shall be printed
35 on either the official general ballot. The names of candidates for
36 every office to be voted for at the general election shall be arranged
37 under the office to which each has been nominated.

38 Sec. 2. K.S.A. 25-605 is hereby amended to read as follows: 25-
39 605. When a constitutional amendment is to be submitted to the
40 voters of the state, a separate ballot shall may be provided by the
41 county election officers: or the proposition may be combined with
42 the official general ballot provided for in K.S.A. 25-601 and amend-
43 ments thereto. If such propositions are printed on a separate ballot,

2-7

1 such ballot shall comply with the requirements for ballots for election
 2 of officers insofar as such requirements are applicable. *The secretary*
 3 *of state shall prescribe the ballot format but a ballot shall include*
 4 *the information required by this section and be substantially in the*
 5 *form specified in this section.* The constitutional amendment as a
 6 whole followed by the prescribed statement of intent or purpose of
 7 the proposition with explanation of the effect of voting for or against
 8 it shall be printed on the ballot. Each proposition to amend the
 9 constitution shall be preceded by the words, "Shall the following be
 10 adopted?" If there is more than one constitutional amendment to
 11 be voted upon, the different amendments shall be separately num-
 12 bered and printed, and be separated by a broad solid line $\frac{1}{8}$ th inch
 3 wide or by double lines approximately $\frac{1}{8}$ th inch apart.

Opposite and after each amendment, submitted shall be printed
 15 two squares, one above the other. To the left [*right*] of the upper
 16 one of the squares shall be printed the word "Yes," and to the left
 17 [*right*] of the lower one of the squares shall be printed the word
 18 "No." Across the entire width of the ballot, at the top *preceding*
 19 *such proposition or propositions*, shall be printed the following in-
 20 structions: "To vote in favor of any question submitted upon this
 21 ballot, make a cross or check mark in the square to the right [*left*]
 22 of the word 'Yes'; to vote against it, make a cross or check mark in
 23 the square to the right [*left*] of the word 'No.'" On the back of
 24 each ballot shall be printed, in addition to other required matters,
 25 the words "questions submitted." *If such propositions are printed*
 26 *on a separate ballot*, county election officers may cause to be printed
 27 on the outside of question submitted such ballots "Ballot
 3 No. _____" with the blank filled with a number to aid in distin-
 29 guishing such ballots when more than one question submitted ballot
 30 is voted upon at a voting place.

31 Sec. 3. K.S.A. 25-615 is hereby amended to read as follows: 25-
 32 615. The surnames of the candidates of each political party for the
 33 offices of president and vice-president, with the political designation
 34 thereof placed at the right of the surnames, shall be in one line.
 35 There shall be a square placed at the right of such political
 36 designation in which each voter may designate by a cross or
 37 check mark such voter's choice for presidential electors. *The*
 38 *secretary of state shall prescribe the ballot format but* the foregoing
 39 shall be *substantially* as shown in the sample form of the official
 40 general ballot in K.S.A. 25-616 and amendments thereto.

41 Sec. 4. K.S.A. ~~25-616~~ is hereby amended to read as follows: 25-
 42 616. ~~The secretary of state shall prescribe the ballot format but the~~
 43 ~~national offices part of the official general ballot for national and state~~

~~25-616. Form for national offices part of official general ballot.~~ The national offices part of the official general ballot for national and state offices shall be in the form shown in this section and the state offices part of such ballot shall be in the form shown in K.S.A. 25-617, and amendments thereto.

The secretary of state shall prescribe the ballot format but

1 ~~offices shall be substantially in the form shown in this section and~~
2 ~~the state offices part of such ballot shall be substantially in the form~~
3 ~~shown in K.S.A. 25-617, and amendments thereto.~~

4 STATE OF KANSAS
5 OFFICIAL GENERAL BALLOT
6 National and State Offices
7 County of _____
8 November _____, 19____

STATE OF KANSAS
OFFICIAL GENERAL BALLOT
National and State Offices
County of _____
November _____, 19____

NATIONAL OFFICES

substantially

NATIONAL OFFICES

12 To vote for presidential electors for candidates for president and vice-president
13 make a cross or check mark in the square at the right left of the names of the
14 candidates.

left

- 16 FOR PRESIDENTIAL ELECTORS FOR PRESIDENT AND
17 VICE-PRESIDENT JONESTERN AND DOE..... Republican
- 18 FOR PRESIDENTIAL ELECTORS FOR PRESIDENT AND
19 VICE-PRESIDENT ROEHEAD AND RICHARDBY..... Democrat
- 20 FOR PRESIDENTIAL ELECTORS FOR PRESIDENT AND
21 VICE-PRESIDENT JANEBRAND AND JOHNBERG.....Independent
- 22 Nominations

left

24 To vote for a person make a cross or check mark in the square at the right left
25 of the person's name. To vote for a person whose name is not printed on the ballot,
26 write the person's name in the blank space and make a cross or check mark in the
27 square to the right left.

left

- 29 FOR UNITED STATES SENATOR Vote for One
- 30 DAN BOBING, Brussell Republican
- 31 ROBERTA SMITH, Salina Democrat
- 32 _____

- 33 FOR UNITED STATES REPRESENTATIVE
- 34 _____ DISTRICT Vote for One
- 35 ELMER O'BRIEN, Wichita Democrat
- 36 WM.T. MILLER, Maple City Republican
- 37 _____

40 When any office is not to be elected, it shall be omitted from the
41 ballot.

42 Sec. 5. K.S.A. [25-617 is hereby amended to read as follows: 25-
43 617. The secretary of state shall prescribe the ballot format but the

1991
Supp.

To vote for presidential electors for candidates for president and vice-president make a cross or check mark in the square at the right of the names of the candidates. To vote for presidential electors to be selected by candidates for president and vice-president whose names are not printed on the ballot, write the persons' names in the appropriate blank spaces and make a cross or check mark in the square at the right of the names of the candidates.

- FOR PRESIDENTIAL ELECTORS FOR PRESIDENT AND VICE-PRESIDENT JONESTERN AND DOE..... Republican
- FOR PRESIDENTIAL ELECTORS FOR PRESIDENT AND VICE-PRESIDENT ROEHEAD AND RICHARDBY..... Democrat
- FOR PRESIDENTIAL ELECTORS FOR PRESIDENT AND VICE-PRESIDENT JANEBRAND AND JOHNBERG.....Independent
- FOR PRESIDENTIAL ELECTORS FOR PRESIDENT AND VICE-PRESIDENT _____ and _____

To vote for a person make a cross or check mark in the square at the right of the person's name. To vote for a person whose name is not printed on the ballot, write the person's name in the blank space and make a cross or check mark in the square to the right.

left

- FOR UNITED STATES SENATOR Vote for One
- DAN BOBING, Brussell Republican
- ROBERTA SMITH, Salina Democrat
- _____

- FOR UNITED STATES REPRESENTATIVE
- _____ DISTRICT Vote for One
- ELMER O'BRIEN, Wichita Democrat
- WM.T. MILLER, Maple City Republican
- _____

When any office is not to be elected, it shall be omitted from the ballot.

History: L. 1973, ch. 153, § 6; L. 1977, ch. 135, § 1; L. 1975, ch. 157, § 5; L. 1973, ch. 106, § 3; L. 1981, ch. 105, § 6; L. 1981,

1 ~~state offices part of the official general ballot for national and state~~
2 ~~offices shall follow the national offices part substantially as is shown~~
3 ~~in this section.~~

4 -----
5 STATE OFFICES
6 -----

7 To vote for the pair of candidates, make a cross or check mark in the square at
8 the right left of the names of the candidates for governor and lieutenant governor.
9 -----

10 FOR GOVERNOR AND LIEUTENANT

11 GOVERNOR

Vote for One Pair

- 12 Sam Jones, Wichita Republican
- 13 and Bob Smith, Arkansas City Republican
- 14 Carol Johnson, Mahaska Democrat
- 15 and Roger Wright, Penalosa Democrat

16 -----
17 To vote for a person, make a cross or check mark in the square at the right left
18 of the person's name. To vote for a person whose name is not printed on the ballot,
19 write the person's name in the blank space and make a cross or check mark in the
20 square to the right left.

21 -----
22 FOR SECRETARY OF STATE

Vote for One

- 23 ELIZABETH JUANITA MOORE, Zoomer Republican
- 24 RUSSEL ADAM, Topeka Democrat
- 25 JOAN SAYLOR, Goodland Prohibition
- 26 CHARLES (CHUCK) BROWNING, Kansas City Independent
- 27 Nomination

28 _____
29 -----
30 FOR ATTORNEY GENERAL

Vote for One

- 31 _____
- 32 _____
- 33 _____

34 -----
35 (and continuing in like manner for any other officers
36 elected from the state as a whole)

37 FOR STATE SENATOR

38 _____ DISTRICT

Vote for One

- 39 _____
- 40 _____
- 41 _____

25-617. ~~State offices part of official general ballot form.~~ The state offices part of the official general ballot for national and state offices shall follow the national offices part as is shown in this section.

STATE OFFICES

To vote for the pair of candidates, make a cross or check mark in the square at the right of the names of the candidates for governor and lieutenant governor. To vote for persons for governor and lieutenant governor whose names are not printed on the ballot, write the names of such persons in the blank spaces and make a cross or check mark in the square to the right.

FOR GOVERNOR AND LIEUTENANT

GOVERNOR

Vote for One Pair

- Sam Jones, Wichita _____
- Bob Smith, Arkansas City Republican
- Carol Johnson, Mahaska _____
- Roger Wright, Penalosa Democrat
- _____

To vote for a person, make a cross or check mark in the square at the right of the person's name. To vote for a person whose name is not printed on the ballot, write the person's name in the blank space and make a cross or check mark in the square to the right.

FOR SECRETARY OF STATE

Vote for One

- ELIZABETH JUANITA MOORE, Zoomer Republican
- RUSSEL ADAM, Topeka Democrat
- JOAN SAYLOR, Goodland Prohibition
- CHARLES (CHUCK) BROWNING, Kansas City Independent
- _____ Nomination

FOR ATTORNEY GENERAL

Vote for One

- _____
- _____
- _____

(and continuing in like manner for any other officers elected from the state as a whole)

FOR STATE SENATOR

_____ DISTRICT

Vote for One

- _____
- _____
- _____

The secretary of state shall prescribe the ballot format but

substantially

left

left

2-10

FOR STATE REPRESENTATIVE

2 _____ DISTRICT *Vote for One*

3 _____

4 _____

5 _____

6 _____

FOR DISTRICT JUDGE

8 _____ DISTRICT *Vote for One*

9 _____

10 _____

11 _____

12 _____

FOR DISTRICT MAGISTRATE JUDGE

13 _____ DISTRICT *Vote for One*

16 _____

17 _____

18 _____

19 _____

FOR DISTRICT ATTORNEY

20 _____ JUDICIAL DISTRICT *Vote for One*

22 _____

23 _____

24 _____

25 _____

FOR STATE BOARD OF EDUCATION MEMBER

26 _____ DISTRICT *Vote for One*

27 _____

29 _____

30 _____

31 _____

32 _____

33 _____

34 _____

35 _____

36 _____

37 _____

38 _____

39 _____

40 _____

41 _____

42 _____

43 _____

When any office is not to be elected, it shall be omitted from the ballot.

When a voting machine does not provide sufficient space to accommodate the full names of the candidates for governor and lieutenant governor, only the surname of such candidates shall be required to be printed on the ballot label unless surnames of one or more of the candidates are the same.

Sec. 6. K.S.A. 25-618 is hereby amended to read as follows: 25-618. The official general ballot for county and township offices shall may be separate from the official general ballot for national and state offices and or may be combined with the official general ballot provided for in K.S.A. 25-601 and amendments thereto. The secretary of state shall prescribe the ballot format but the ballot shall

FOR STATE REPRESENTATIVE

_____ DISTRICT *Vote for One*

FOR DISTRICT JUDGE

_____ DISTRICT *Vote for One*

FOR DISTRICT MAGISTRATE JUDGE

_____ DISTRICT *Vote for One*

FOR DISTRICT ATTORNEY

_____ JUDICIAL DISTRICT *Vote for One*

FOR STATE BOARD OF EDUCATION MEMBER

_____ DISTRICT *Vote for One*

When any office is not to be elected, it shall be omitted from the ballot.

When a voting machine does not provide sufficient space to accommodate the full names of the candidates for governor and lieutenant governor, only the surname of such candidates shall be required to be printed on the ballot label unless surnames of one or more of the candidates are the same.

History: L. 1973, ch. 153, § 7; L. 1975, ch. 208, § 1; L. 1976, ch. 181, § 4; L. 1978, ch. 137, § 6; L. 1981, ch. 165, § 7; L. 1986, ch. 115, § 74; L. 1991, ch. 100, § 2; July 1.

2-11

2-12

1 be *substantially* in the form shown in this section and K.S.A. 25-
2 611, as amended and amendments thereto.

3 STATE OF KANSAS
4 OFFICIAL GENERAL BALLOT

5 County and Township Offices
6 County of _____, City (or Township) of _____
7 November _____, 19____
8 -----

9 To vote for a person, make a cross or check mark in the square at the *right left*
10 of the person's name. To vote for a person whose name is not printed on the ballot,
11 write the person's name in the blank space and make a cross or check mark in the
12 square to the *right left*.

13 -----
14 FOR COUNTY COMMISSIONER

15 _____ DISTRICT

Vote for One

- 16 _____
- 17 _____
- 18 _____

19 -----
20 FOR COUNTY CLERK

Vote for One

- 21 _____
- 22 _____
- 23 _____

24 -----
25 FOR COUNTY TREASURER

Vote for One

- 26 _____
- 27 _____
- 28 _____

29 -----
30 And continuing in like manner for all county and township offices
31 to be elected.

32 Sec. 7. K.S.A. 25-620 is hereby amended to read as follows: 25-
33 620. Except for propositions to amend the constitution, when a
34 proposition or question is to be submitted to the voters of the state
35 or any part thereof, a separate ballot shall be provided by the county
36 election officers; *except that when such proposition or question is*
37 *to be submitted at an election conducted at the time of the holding*
38 *of an election of officers such proposition may be printed on the*
39 *ballot for the election of such officers. The secretary of state shall*
40 *prescribe the ballot format but the ballot shall substantially comply*
41 *with the requirements for ballots for election of officers insofar as*
42 *such requirements are applicable and the provisions of this section.*

43 On the ballot there shall be printed the proposition or question to

2-12

1 be voted on. Each proposition or question shall be preceded by the
2 words, "Shall the following be adopted?" If there is more than one
3 proposition or question to be voted on, the different propositions or
4 questions shall be separately numbered and printed, and be sepa-
5 rated by a broad solid line 1/8th inch wide or by double lines ap-
6 proximately 1/8th inch apart.

7 Opposite and after each proposition and question shall be printed
8 two squares, one above the other. To the left [right] of the upper
9 one of the squares shall be printed the word "Yes," and to the left
10 [right] of the lower one of the squares shall be printed the word
11 "No." Across the entire width of the ballot, at the top, shall be
12 printed the following instructions: "To vote in favor of any question
13 submitted upon this ballot, make a cross or check mark in the square
14 to the right [left] of the word 'Yes'; to vote against it, make a cross
or check mark in the square to the right [left] of the word 'No'."
16 On the back of each such ballot shall be printed, in addition to other
17 required matters, the words "questions submitted." County election
18 officers shall cause to be printed on the outside of question submitted
19 ballots "Ballot No. _____" with the blank filled with a number
20 to aid in distinguishing such ballots when more than one question
21 submitted ballot is voted upon at a voting place.

22 Sec. 8. K.S.A. 25-621 is hereby amended to read as follows: 25-
23 621. (a) *The secretary of state shall prescribe the ballot format but*
24 *whenever the proposition of the method of selection of judge of the*
25 *district court is submitted to the voters, the form of the ballot shall*
26 *substantially be as provided in K.S.A. 20-2901 and amendments*
27 *thereto and may be combined with the official general ballot provided*
28 *for in K.S.A. 25-601 and amendments thereto.*

29 (b) This section shall be part of and supplemental to chapter 25
30 of the Kansas Statutes Annotated.

31 Sec. 9. K.S.A. 25-3002 is hereby amended to read as follows:
32 25-3002. (a) ~~The rules prescribed in this section shall apply to:~~

- 33 (1) ~~The original canvass by election boards.~~
- 34 (2) ~~Intermediate and final canvasses by county boards of~~
- 35 ~~canvassers.~~
- 36 (3) ~~Final canvass by the state board of canvassers.~~
- 37 (4) ~~All election contests.~~
- 38 (5) ~~All other officers canvassing or having a part in the canvass~~
- 39 ~~of any election.~~

40 (b) Rules for canvassers:

- 41 (1) ~~No ballot, or any portion thereof, shall be invalidated by any~~
- 42 ~~technical error unless it is impossible to determine the voter's in-~~
- 43 ~~tention. Determination of the voter's intention shall rest in the dis-~~

25-3002. Rules for canvassers, validity of ballots or parts thereof. (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) Any ballot upon which an identifying mark has been made shall be wholly void and no vote thereon shall be counted. Determination of whether a mark is an identifying mark 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. The secretary of state may adopt rules and regulations describing certain types of marks upon ballots which may be considered identifying marks, but such rules shall not be considered as either all inclusive or as conclusive.~~

~~(3) Any ballot which has been defaced, mutilated or torn shall be wholly void and no vote thereon shall be counted.~~

2 ~~(4) The occurrences listed in this subpart~~
2 ~~(4) 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 said portion, but the remainder of the votes in other portions of the ballot shall be counted. The occurrences to which this subpart (4) shall apply are:~~

such

(A) Whenever a voting mark shall be made in the square at the right 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.

2

left

1991
Supp.

1 *creation of the board canvassing in the case of a canvass and in the*
2 *election court in the case of an election contest.*

3 (2) Any ballot upon which an identifying mark has been
4 made shall be wholly void and no vote thereon shall be
5 counted. Determination of whether a mark is an identifying
6 mark shall rest in the discretion of the board canvassing in the
7 ease of a canvass and in the election court in the case of an
8 election contest. The secretary of state may adopt rules and
9 regulations describing certain types of marks upon ballots
10 which may be considered identifying marks, but such rules
11 shall not be considered as either all inclusive or as conclusive.

12 (3) Any ballot which has been defaced, mutilated or torn
13 shall be wholly void and no vote thereon shall be counted.

14 (4) The occurrences listed in this subpart (4) (2) shall not in-
15 validate the whole ballot but shall invalidate that portion, and that
16 portion only, in which the occurrence appears. The votes on such
17 portion of the ballot shall not be counted for any candidate listed
18 or written in said portion, but the remainder of the votes in other
19 portions of the ballot shall be counted. The occurrences to which
20 this subpart (4) (2) shall apply are:

21 (A) Whenever a voting mark shall be made in the square at the
22 right [left] of the name of more than one candidate for the same
23 office, except when the ballot instructs that more than one candidate
24 is to be voted.

25 (B) Whenever a voting mark is placed in the square at the right
26 [left] of a space where no candidate is listed.

27 ~~Sec. 9. 10. K.S.A. 25-601, 25-605, 25-615, 25-616, 25-617, 25-~~
28 ~~618, 25-620 and 25-621, 25-621 and 25-3002~~ are hereby repealed.

29 ~~Sec. 10. 11.~~ This act shall take effect and be in force from and
30 after its publication in the statute book.

25-2902 and K.S.A. 1991 Supp.
25-616, 25-617 and 25-3002

HOUSE BILL No. 2238

(B) Whenever a voting mark is placed in the square at the ~~right~~ of a space where no candidate is listed. left

(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.

History: L. 1968, ch. 406, § 31; L. 1975, ch. 204, § 9; L. 1976, ch. 189, § 2; L. 1991, ch. 100, § 4; July 1.

and amendments thereto

Sec. 10. K.S.A. 25-2902 is hereby amended to read as follows:

25-2902. Unlawful marking or mutilation of ballots. (a) It shall be unlawful to make any mark upon a ballot except a cross or check mark in a voting square opposite the name of a person for whom the voter desires to vote. It shall be unlawful to deface or tear a ballot or to erase any printed figure or letter thereon. It shall be unlawful for any person other than the voter to erase

any mark or name written on a ballot by a voter.

(b) If a voter tears, defaces or wrongfully marks a ballot, the voter shall return it to the election board and receive a new ballot or set of ballots. The voter may successively obtain additional ballots or sets of ballots (but not more than one ballot or set of ballots at a time), but no voter shall be provided more than three sets in all.

History: L. 1968, ch. 406, § 25; L. 1978, ch. 137, § 12, July 1.

(c) In all elections in which printed paper ballots are utilized, there shall be posted in each voting booth,

a notice containing the following information and in substantially the following form:

Notice

If you tear, deface or make a mistake and wrongfully mark any ballot, you must return it to the election board and receive a new ballot or set of ballots."

2-14

HOUSE BILL No. 2326

By Representatives Sawyer, Sader, Sebelius and Shallenburger

2-13

8 AN ACT relating to elections; concerning changes in names of voters;
9 amending K.S.A. 1990 Supp. 25-2316c and repealing the existing
10 section.

1991

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

13 ~~Section 1. K.S.A. 1990 Supp. 25-2316c is hereby amended to~~
14 ~~read as follows: 25-2316c. (a) When a registered voter changes name~~
15 ~~by marriage, divorce or legal proceeding, if such voter is otherwise~~
16 ~~qualified to vote at such voting place, such voter must reregister~~
17 ~~in order to be eligible to vote, except that when a registered~~
18 ~~voter legally changes name during the period of 30 days pre-~~
19 ~~ceding an election, such voter shall be allowed to vote at such~~
20 ~~any election on the condition that such voter first gives an affidavit~~
21 ~~to the election judges stating the facts relevant to such change of~~
22 ~~name. Upon receipt of an affidavit of change of name, the~~
23 ~~county election officer shall send to the address specified on~~
24 ~~the affidavit, by forwardable first-class mail, a notice that it is~~
25 ~~necessary to reregister to vote. The notice also shall include~~
26 ~~voter registration materials if the voter is still a resident of the~~
27 ~~county of original registration. The notice authorized by this~~
28 ~~subsection shall be on a form prescribed by the secretary of~~
29 ~~state. Any voter giving such affidavit shall be given an application~~
30 ~~for registration and upon completion thereof, the county election~~
31 ~~officer shall send, by nonforwardable first-class mail, a new certifi-~~
32 ~~cate of registration.~~

33 (b) When a registered voter changes residence, such voter must
34 reregister in order to be eligible to vote, except that when a reg-
35 istered voter changes residence from one place in a precinct to
36 another place within the same precinct during the period of 30 days
37 preceding an election, such voter shall be allowed to vote at such
38 election on the condition that such voter first gives an affidavit to
39 the election judges stating the facts relevant to such change of res-
40 idence. Whenever the county election officer receives from any elec-
41 tion officer a notice of registration of a voter in a different place
than that shown in the records of the county election officer, such
officer shall remove the name of such voter from the registration

Section 1. K.S.A. 1991 Supp. 25-2316c is hereby amended to read as follows:

~~25-2316c. Change in name or address, registration voided, when, removal of name from registration book and party affiliation lists for failure to vote, notice of removal. (a) When a registered voter changes name by marriage, divorce or legal proceeding, such voter must reregister in order to be eligible to vote, except that when a registered voter legally changes name during the period of 30 days preceding an election, such voter shall be allowed to vote at such election on the condition that such voter first gives an affidavit to the election judges stating the facts relevant to such change of name. Upon receipt of an affidavit of change of name, the county election officer shall send to the address specified on the affidavit, by forwardable first-class mail, a notice that it is necessary to reregister to vote. The notice also shall include voter registration materials if the voter is still a resident of the county of original registration. The notice authorized by this subsection shall be on a form prescribed by the secretary of state.~~

(b) When a registered voter changes residence, such voter must reregister in order to be eligible to vote, except that when a registered voter changes residence from one place in a precinct to another place within the same precinct during the period of 30 days preceding an election, such voter shall be allowed to vote at such election on the condition that such voter first gives an affidavit to the election judges stating the facts relevant to such change

if such voter is otherwise qualified to vote at such voting place

any

and authorizes the county election officer to change the voter's voter registration records to reflect such change

The county election officer shall send, by nonforwardable first-class mail, a new certificate of registration to any voter giving such affidavit.

3-15

book and party affiliation list.

(c) When a voter fails to vote at a general election at which members of the United States presidential electoral college are elected, such voter's name shall be subject to removal from the voter registration book and the party affiliation list in the manner provided in subsection (d). When a voter fails to vote at any other general election held on the Tuesday following the first Monday in November in an even-numbered year, such voter's name may be subject to removal from the voter registration book and the party affiliation list in the manner provided in subsection (d) if the county election officer determines that the removal of the names of voters who failed to vote in such election is necessary to the maintenance of accurate voter registration records.

(d) When a voter's name is subject to removal from the registration book and the party affiliation list as provided in subsection (c), the county election officer shall attempt to notify such voter by first-class mail at the mailing address specified in the registration book. Such notification shall advise that the registration books show that the person did not vote in the applicable November general election and that it is necessary to reregister if the residence of such person has changed. Such notification shall be mailed in an envelope or on a postcard which clearly indicates that it is not to be forwarded to another address. If such notification is not returned undelivered to the county election officer and no address correction which indicates that the voter has moved is received by the county election officer, the voter's name shall not be removed from the registration book or party affiliation list. If such notification is returned undelivered to the county election officer or if an address correction which indicates that the voter has moved is received by the county election officer, the county election officer shall check to verify that the mailing address on the notification is the same as that on the voter registration list. If it is determined that an error was made in addressing the notification, another notice shall be sent to the correct mailing address. If it is determined that no error was made in addressing the original notification or if the second notification is returned undelivered or an address correction is received therefor, the name of such person shall be stricken from the registration books and the party affiliation lists.

(e) Except as otherwise provided by law, when a voter dies or is disqualified for voting, the registration of the voter shall be void, and the county election officer shall remove such voter's name from the registration books and the party affiliation lists. Whenever (1) an obituary notice appears in a newspaper having general circulation

of residence. Whenever the county election officer receives from any election officer a notice of registration of a voter in a different place than that shown in the records of the county election officer, such officer shall remove the name of such voter from the registration book and party affiliation list.

(c) When a voter fails to vote at a general election at which members of the United States presidential electoral college are elected, such voter's name shall be subject to removal from the voter registration book and the party affiliation list in the manner provided in subsection (d). When a voter fails to vote at any other general election held on the Tuesday following the first Monday in November in an even-numbered year, such voter's name may be subject to removal from the voter registration book and the party affiliation list in the manner provided in subsection (d) if the county election officer determines that the removal of the names of voters who failed to vote in such election is necessary to the maintenance of accurate voter registration records.

(d) When a voter's name is subject to removal from the registration book and the party affiliation list as provided in subsection (c), the county election officer shall attempt to notify such voter by first-class mail at the mailing address specified in the registration book. Such notification shall advise that the registration books show that the person did not vote in the applicable November general election and that it is necessary to reregister if the residence of such person has changed. Such notification shall be mailed in an envelope or on a postcard which clearly indicates that it is not to be forwarded to another address. If such notification is not returned undelivered to the county election officer and no address correction which indicates that the voter has moved is received by the county election officer, the voter's name shall not be removed from the registration book or party affiliation list. If such notification is returned undelivered to the county election officer or if an address correction which indicates that the voter has moved is received by the county election officer, the county election officer shall check to verify that the mailing address on the notification is the same as that

1 in the county reports the death of a registered voter, or (2) a reg-
 2 istered voter requests in writing that such voter's name be removed
 3 from registration, or (3) a court of competent jurisdiction orders
 4 removal of the name of a registered voter from registration lists, or
 5 (4) the name of a registered voter appears on a list of deceased
 6 residents compiled by the secretary of health and environment as
 7 provided in K.S.A. 65-2422, and amendments thereto, or appears
 8 on a copy of a death certificate provided by the secretary of health
 9 and environment, or (5) pursuant to K.S.A. 25-2316d, and amend-
 10 ments thereto, a registered voter fails to vote in two consecutive
 11 state general elections the county election officer shall remove from
 12 the registration books and the party affiliation lists in such officer's
 13 office the name of any person shown by such list or death certificate
 14 to be deceased. The county election officer shall not use or permit
 15 the use of such lists of deceased residents or copies for any other
 16 purpose than provided in this section.

17 (f) Election board judges are hereby authorized to administer
 18 oaths for the purpose of taking affidavits under this section. All such
 19 affidavits shall be made upon forms approved by the secretary of
 20 state. Every affidavit given under this section shall be returned to
 21 the county election officer with the registration books.

22 (g) Except as otherwise provided in this section, no person whose
 23 name has been removed from the registration books shall be entitled
 24 to vote until such person has registered again.

25 ~~Sec. 2. K.S.A. 1990 Supp. 25-2316c is hereby repealed.~~

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

on the voter registration list. If it is determined that an error was made in addressing the notification, another notice shall be sent to the correct mailing address. If it is determined that no error was made in addressing the original notification or if the second notification is returned undelivered or an address correction is received therefor, the name of such person shall be stricken from the registration books and the party affiliation lists.

(e) Except as otherwise provided by law, when a voter dies or is disqualified for voting, the registration of the voter shall be void, and the county election officer shall remove such voter's name from the registration books and the party affiliation lists. Whenever (1) an obituary notice appears in a newspaper having general circulation in the county reports the death of a registered voter, or (2) a registered voter requests in writing that such voter's name be removed from registration, or (3) a court of competent jurisdiction orders removal of the name of a registered voter from registration lists, or (4) the name of a registered voter appears on a list of deceased residents compiled by the secretary of health and environment as provided in K.S.A. 65-2422, and amendments thereto, or appears on a copy of a death certificate provided by the secretary of health and environment, or (5) pursuant to K.S.A. 25-2316d, and amendments thereto, a registered voter fails to vote in two consecutive state general elections the county election officer shall remove from the registration books and the party affiliation lists in such officer's office the name of any person shown by such list or death certificate to be deceased. The county election officer shall not use or permit the use of such lists of deceased residents or copies for any other purpose than provided in this section.

(f) Election board judges are hereby authorized to administer oaths for the purpose of taking affidavits under this section. All such affidavits shall be made upon forms approved by the secretary of state. Every affidavit given under this section shall be returned to the

county election officer with the registration books.

(g) Except as otherwise provided in this section, no person whose name has been removed from the registration books shall be entitled to vote until such person has registered again.

~~History: L. 1977, ch. 138, § 2; L. 1980, ch. 112, § 2; L. 1980, ch. 110, § 4; L. 1982, ch. 154, § 4; L. 1988, ch. 120, § 2; L. 1989, ch. 109, § 2; July 1.~~

2-17

HOUSE BILL No. 2234

By Representative Wells

2-13

3-18

8 AN ACT relating to elections; concerning the grounds for contest of
9 ~~election~~; amending K.S.A. 25-1436 and ~~25-1437~~ and repealing the
10 existing sections. elections

, 25-1437 and 25-1439 and K.S.A. 1991 Supp. 25-2708

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

13 Section 1. K.S.A. 25-1436 is hereby amended to read as follows:
14 25-1436. (1) Any contest of election to which K.S.A. 25-1435, and
15 amendments thereto, applies shall be brought on any one or more
16 of the following grounds:

17 (a) The person to whom a certificate of election was issued was
18 ineligible to hold such office at the time of the election;

19 (b) some voters were deprived of the right of voting for a can-
20 didate or on a question submitted, when such voters had the right
21 under the election laws of this state to vote thereon, and such
22 deprivation could change the result of the election;

23 (c) illegal votes were received or legal votes were rejected which
24 could change the result of the election;

25 (d) error or fraud occurred in computing the results of the elec-
26 tion which could change the result of the election;

27 (e) the person to whom the certificate of election was issued
28 offered or gave, or caused to be offered or given, a bribe to any
29 person charged by law with any election duty, for the purpose of
30 procuring such person's election; or

31 (f) any other cause which shows that another was the person to
32 whom the certificate of election for such office should have been
33 issued.

34 (2) *In stating the grounds for contest in accordance with this*
35 *section, the specific facts and circumstances alleged to constitute*
36 *such grounds shall be specified with particularity.*

37 Sec. 2. K.S.A. 25-1437 is hereby amended to read as follows:
38 25-1437. Any registered voter desiring to contest an election of a
39 person to an office shall be referred to as the contestant, and the
40 person whose election is contested shall be referred to as the con-
41 testee. The contestant, if authorized under K.S.A. 25-1435, and
42 amendments thereto, shall file a written notice of contest specifying
43 the grounds upon which the contest is based. The notice shall specify

1 with particularity the facts and circumstances in support of consti-
 2 tuting the grounds alleged for the contest. In the case of an office
 3 elected on less than a statewide basis, the notice of contest shall be
 4 filed with the clerk of the district court of the county in which the
 5 person whose election is contested resides. In the case of an officer
 6 elected on a statewide basis, including presidential electors, the
 7 notice of contest shall be filed with the clerk of the district court
 8 of Shawnee county, and the place of trial shall not be changed.
 9 ~~Sec. 3. K.S.A. 25-1436 and 25-1437 are hereby repealed.~~
 10 Sec. 4. This act shall take effect and be in force from and after 6
 11 its publication in the statute book.

HOUSE BILL No. 2237

Sec. 3. K.S.A. 25-1439 is hereby amended to read as follows:

~~25-1439. Time for filing notice of con-~~
~~test, copy of notice to election official.~~ The
 notice of contest shall be filed within five _____ calendar
 days after the certificate of election is issued
 except in the case of question submitted
 elections. In the case of a question submit-
 ted on a statewide basis such notice shall be _____ calendar
 filed within five/days after the publication
 of the determination of the results of such
 election and in the case of other question
 submitted elections such notice shall be _____ calendar
 filed within five/days after the certification
 by the county board of canvassers of the
 final abstract of the election returns. Within _____ calendar
 five-(5) days after such filing in the case of
 election to an office, the clerk of the district
 court shall cause a copy thereof to be served
 upon the contestee and upon the secretary
 of state or the county election officer autho-
 rized to issue the certificate of election as
 the case may be. _____
 History: L. 1978, ch. 138, § 6; July 1. _____

and no additional
 time shall be added
 to such period by
 reason of service
 by mail

3-19

Sect 4 K.S.A. 1991 Supp. 25-2708 is hereby amended to read as follows: 25-2708. (a) The county election officer shall preserve all ballots, books and records delivered to such officer by election boards and make the same available to any canvassing board or election court who it is provided by law shall have access to the same.

(b) The county election officer shall preserve all county, city, school district and township ballots for six months and all state and national ballots for 22 months. At the expiration of such time, the county election officer shall destroy them without previously opening any of the envelopes, in the presence of two electors of approved integrity and good repute, members of the two leading political parties. Such electors shall be designated by the board of county commissioners. If the election of any officer or any question submitted at such time is being contested, the ballots shall not be destroyed until such contest is finally decided. In all cases of contested elections filed upon grounds specified in K.S.A. 25-1436 and amendments thereto, and filed in accordance with the requirements

of K.S.A. 25-1434 *et seq.* and amendments thereto, either of the parties contesting shall have the right to have such ballots opened and to have all errors of the judges in counting the ballots corrected by the court or body trying such contest. Such ballots shall be opened in open court or in an open session of such body and the presence of the officer having the custody thereof.

(c) The three copies of the certified abstract of each voting place and the three copies of all certified abstracts of the county board of canvassers shall be distributed as follows:

(1) One copy shall be retained as a permanent record in the office of the county election officer.

(2) One copy shall be delivered to the chairperson of the county committee of the political party of the candidate for governor who received the greatest number of votes in the last state general election.

(3) One copy shall be delivered to the chairperson of the county committee of the political party of the candidate for governor who received the second greatest number of votes in the last state general election.

(d) Other election supplies, books, records, lists and papers shall be destroyed as provided by law.

Sec. 5. K.S.A. 25-1436, 25-1437 and 25-1439 and K.S.A. 1991 Supp. 25-2708 are hereby repealed.

~~CONFIDENTIAL~~
Fax No. 1-296-1153 (Legislative Services)

3 Pages

RE: House Election Sub-Committee

This is for your meeting at 2:30 p.m., Room 521-S, on Wednesday, January 29, 1992.

I suggest K.S.A. 25-1436(b) be changed to read as follows:

"(b) some voters presented themselves at the polls and were deprived of the right of voting for a candidate or on a question submitted, when such voters had the right under the election laws of this state to vote thereon, and such deprival could change the result of the election."

That K.S.A. 25-1436(c) be changed to read as follows:

"(c) that unregistered voters voted resulting in votes being received or legally registered voters were rejected which could change the result of the election;"

And that K.S.A. 60-206(a) Computation; Legal Holiday Defined-be changed by adding after the word "computation" in line 10 of that paragraph (see Rules of Civil Procedure by West Publishing) the following;

". . . except that this provision shall not apply in Contest of Election proceedings provided for in Article 14, Chapter 25."

And by adding at the end of K.S.A. 60-206(e) the following;

". . . except in Contests of Elections provided for in Article 14, Chapter 25."

I hope this helps!

ETH

SESSION OF 1991

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2326

As Amended by House Committee on
Elections

Brief*

H.B. 2326 amends current law to remove the 30 day deadline for a voter to reregister in order to be eligible to vote because a name change has occurred. The bill would provide that, when a registered voter has a name change by marriage, divorce, or legal proceeding and is otherwise qualified to vote at a voting place, the voter would be allowed to vote at any election only on the condition that the voter first gives an affidavit to the election judges that states the facts relevant to the change of name and authorizes the county election officer to make the name change on the voter's voter registration records. The county election officer then would be required to send, by nonforwardable first-class mail, a new certificate of registration to the voter.

Current law requires that voters must reregister to be eligible to vote when they change their names except when registered voters legally change their names during a 30 day period preceding an election. In this case, voters are allowed to vote at the upcoming election provided that they give their election judges an affidavit stating the facts relevant to the name change. After receipt of such an affidavit, the county election officer sends notice to these voters that they must reregister in order to be eligible to continue to vote.

Background

Representatives from the Kansas AFL-CIO and the Secretary of State's Office appeared before the Committee to support the bill. The representative from the Secretary of State's Office suggested amendments to the bill which were subsequently adopted by the Committee. The amendments related to having the affidavit provided by the voter authorize the county election officer to change the voter's voter registration record to reflect the name change rather than requiring the voter to provide a separate completed application to reregister under the new name.

* Supplemental Notes are prepared by the Legislative Research Department and do not express legislative intent.

HOUSE BILL No. 2326

By Representatives Sawyer, Sader, Sebelius and Shallenburger

2-13

8 AN ACT relating to elections; concerning changes in names of voters;
9 amending K.S.A. 1990 Supp. 25-2316c and repealing the existing
10 section.

11

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

13 Section 1. K.S.A. 1990 Supp. 25-2316c is hereby amended to
14 read as follows: 25-2316c. (a) When a registered voter changes name
15 by marriage, divorce or legal proceeding, *if such voter is otherwise*
16 *qualified to vote at such voting place*, such voter ~~must reregister~~
17 ~~in order to be eligible to vote, except that when a registered~~
18 ~~voter legally changes name during the period of 30 days pre-~~
19 ~~ceding an election, such voter shall be allowed to vote at such~~
20 ~~any election on the condition that such voter first gives an affidavit~~
21 ~~to the election judges stating the facts relevant to such change of~~
22 ~~name. Upon receipt of an affidavit of change of name, the~~
23 ~~county election officer shall send to the address specified on~~
24 ~~the affidavit, by forwardable first-class mail, a notice that it is~~
25 ~~necessary to reregister to vote. The notice also shall include~~
26 ~~voter registration materials if the voter is still a resident of the~~
27 ~~county of original registration. The notice authorized by this~~
28 ~~subsection shall be on a form prescribed by the secretary of~~
29 ~~state. Any voter giving such affidavit shall be given an application~~
30 ~~for registration and upon completion thereof, the county election~~
31 ~~officer shall send, by nonforwardable first-class mail, a new certifi-~~
32 ~~cate of registration.~~

33 (b) When a registered voter changes residence, such voter must
34 reregister in order to be eligible to vote, except that when a reg-
35 istered voter changes residence from one place in a precinct to
36 another place within the same precinct during the period of 30 days
37 preceding an election, such voter shall be allowed to vote at such
38 election on the condition that such voter first gives an affidavit to
39 the election judges stating the facts relevant to such change of res-
40 idence. Whenever the county election officer receives from any elec-
41 tion officer a notice of registration of a voter in a different place
42 than that shown in the records of the county election officer, such
43 officer shall remove the name of such voter from the registration

1 book and party affiliation list.

2 (c) When a voter fails to vote at a general election at which
3 members of the United States presidential electoral college are
4 elected, such voter's name shall be subject to removal from the voter
5 registration book and the party affiliation list in the manner provided
6 in subsection (d). When a voter fails to vote at any other general
7 election held on the Tuesday following the first Monday in November
8 in an even-numbered year, such voter's name may be subject to
9 removal from the voter registration book and the party affiliation list
10 in the manner provided in subsection (d) if the county election officer
11 determines that the removal of the names of voters who failed to
12 vote in such election is necessary to the maintenance of accurate
13 voter registration records.

14 (d) When a voter's name is subject to removal from the regis-
15 tration book and the party affiliation list as provided in subsection
16 (c), the county election officer shall attempt to notify such voter by
17 first-class mail at the mailing address specified in the registration
18 book. Such notification shall advise that the registration books show
19 that the person did not vote in the applicable November general
20 election and that it is necessary to reregister if the residence of such
21 person has changed. Such notification shall be mailed in an envelope
22 or on a postcard which clearly indicates that it is not to be forwarded
23 to another address. If such notification is not returned undelivered
24 to the county election officer and no address correction which in-
25 dicates that the voter has moved is received by the county election
26 officer, the voter's name shall not be removed from the registration
27 book or party affiliation list. If such notification is returned unde-
28 livered to the county election officer or if an address correction which
29 indicates that the voter has moved is received by the county election
30 officer, the county election officer shall check to verify that the
31 mailing address on the notification is the same as that on the voter
32 registration list. If it is determined that an error was made in ad-
33 dressing the notification, another notice shall be sent to the correct
34 mailing address. If it is determined that no error was made in
35 addressing the original notification or if the second notification is
36 returned undelivered or an address correction is received therefor,
37 the name of such person shall be stricken from the registration books
38 and the party affiliation lists.

39 (e) Except as otherwise provided by law, when a voter dies or
40 is disqualified for voting, the registration of the voter shall be void,
41 and the county election officer shall remove such voter's name from
42 the registration books and the party affiliation lists. Whenever (1)
43 an obituary notice appears in a newspaper having general circulation

1 in the county reports the death of a registered voter, or (2) a reg-
2 istered voter requests in writing that such voter's name be removed
3 from registration, or (3) a court of competent jurisdiction orders
4 removal of the name of a registered voter from registration lists, or
5 (4) the name of a registered voter appears on a list of deceased
6 residents compiled by the secretary of health and environment as
7 provided in K.S.A. 65-2422, and amendments thereto, or appears
8 on a copy of a death certificate provided by the secretary of health
9 and environment, or (5) pursuant to K.S.A. 25-2316d, and amend-
10 ments thereto, a registered voter fails to vote in two consecutive
11 state general elections the county election officer shall remove from
12 the registration books and the party affiliation lists in such officer's
13 office the name of any person shown by such list or death certificate
14 to be deceased. The county election officer shall not use or permit
15 the use of such lists of deceased residents or copies for any other
16 purpose than provided in this section.

17 (f) Election board judges are hereby authorized to administer
18 oaths for the purpose of taking affidavits under this section. All such
19 affidavits shall be made upon forms approved by the secretary of
20 state. Every affidavit given under this section shall be returned to
21 the county election officer with the registration books.

22 (g) Except as otherwise provided in this section, no person whose
23 name has been removed from the registration books shall be entitled
24 to vote until such person has registered again.

25 Sec. 2. K.S.A. 1990 Supp. 25-2316c is hereby repealed.

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

SUPPLEMENTAL NOTE ON SENATE BILL NO. 83

**As Further Amended by House Committee on
Appropriations**

Brief*

S.B. 83 amends current law to remove the 30 day deadline for a voter to reregister in order to be eligible to vote because a name change has occurred. The bill would provide that, when a registered voter has a name change by marriage, divorce, or legal proceeding and is otherwise qualified to vote at a voting place, the voter would be allowed to vote at any election only on the condition that the voter first gives an affidavit to the election judges that states the facts relevant to the change of name and authorizes the county election officer to make the name change on the voter's voter registration records. The county election officer then would be required to send, by nonforwardable first-class mail, a new certificate of registration. (Current law requires that voters must reregister to be eligible to vote when they change their names except when registered voters legally change their names during a 30 day period preceding an election. In this case, voters are allowed to vote at the upcoming election provided that they give their election judges an affidavit stating the facts relevant to the name change. After receipt of such an affidavit, the county election officer sends notice to these voters that they must reregister in order to be eligible to continue to vote.)

In addition, the bill removes the requirement that the name of a voter be automatically purged from the registration books and the party affiliation lists when the voter has failed to vote in two consecutive state general elections. The other amendments found in subsection (c) of the bill are a clarification of existing law.

Background

A representative from the Secretary of State's Office appeared before the Senate Committee on Elections in support of the bill. The representative stated that, in light of current federal legislation aimed at increasing voter registration, one of the purposes of the bill is to make it easier for those individuals who are registered to vote to stay registered. In regard to restricting voting privileges for individuals who have changed their names, the representative stated that current

* Supplemental Notes are prepared by the Legislative Research Department and do not express legislative intent.

law could be unconstitutional because it is more likely to affect women than men. No individuals appeared before the Senate Committee in opposition to the bill.

After a public hearing on the bill, the House Committee on Elections amended the bill. The introduced version of S.B. 83 contained a section that would have allowed a registered voter who changes his or her name prior to an election to vote by completing an affidavit which states the facts relevant to the name change. The House Committee struck this section from the bill and replaced it with a section from 1991 H.B. 2326. The section from H.B. 2326 was the same as the original section of S.B. 83 in that it allows a registered voter who changes his or her name prior to an election to vote by completing an affidavit. In addition, the section from H.B. 2326 allows the affidavit provided by the voter to authorize the county election officer to change the voter's voter registration record to reflect the name change and then requires the county election officer to send a new certificate of registration to the voter.

The House Committee on Appropriations further amended the bill to provide for the postponement of the presidential preference primary election from April, 1992 to April, 1996.

SENATE BILL No. 83

By Committee on Elections

1-30

11 AN ACT relating to elections; concerning removal of names of voters
12 from voter registration books and party affiliation lists; presidential
13 preference primary election date; amending K.S.A. 1990 Supp.
14 25-2316c and 25-4501 and repealing the existing section sections;
15 also repealing K.S.A. 25-2316d.
16

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

18 Section 1. K.S.A. 1990 Supp. 25-2316c is hereby amended to
19 read as follows: 25-2316c. (a) When a registered voter changes name
20 by marriage, divorce or legal proceeding, such voter must re-
21 register in order to be eligible to vote, except that when a
22 registered voter legally changes name during the period of 30
23 days preceding an election, such voter shall be allowed to vote
24 at such any election on the condition that such voter first gives
25 an affidavit to the election judges stating the facts relevant to
26 such change of name. Upon receipt of an affidavit of change
27 of name, the county election officer shall send to the address
28 specified on the affidavit, by forwardable first-class mail, a no-
29 tice that it is necessary to reregister to vote. The notice also
30 shall include voter registration materials if the voter is still a
31 resident of the county of original registration. The notice au-
32 thorized by this subsection shall be on a form prescribed by
33 the secretary of state. by marriage, divorce or legal proceeding,
34 if such voter is otherwise qualified to vote at such voting place, such
35 voter must reregister in order to be eligible to vote, except that
36 when a registered voter legally changes name during the period
37 of 30 days preceding an election, such voter shall be allowed to
38 vote at such any election on the condition that such voter first
39 gives an affidavit to the election judges stating the facts relevant
40 to such change of name and authorizes the county election officer
41 to change the voter's voter registration records to reflect such
42 change. Upon receipt of an affidavit of change of name, the
43 county election officer shall send to the address specified on

1 the affidavit, by forwardable first-class mail, a notice that it is
2 necessary to reregister to vote. The notice also shall include
3 voter registration materials if the voter is still a resident of the
4 county of original registration. The notice authorized by this
5 subsection shall be on a form prescribed by the secretary of
6 state. The county election officer shall send, by nonforwardable first-
7 class mail, a new certificate of registration to any voter giving such
8 affidavit.

9 (b) When a registered voter changes residence, such voter must
10 reregister in order to be eligible to vote, except that when a reg-
11 istered voter changes residence from one place in a precinct to
12 another place within the same precinct during the period of 30 days
13 preceding an election, such voter shall be allowed to vote at such
14 election on the condition that such voter first gives an affidavit to
15 the election judges stating the facts relevant to such change of res-
16 idence. Whenever the county election officer receives from any elec-
17 tion officer a notice of registration of a voter in a different place
18 than that shown in the records of the county election officer, such
19 officer shall remove the name of such voter from the registration
20 book and party affiliation list.

21 (c) When a voter fails to vote at a general election at which
22 members of the United States presidential electoral college are
23 elected, such voter's name shall be subject to removal from the
24 voter registration book and the party affiliation list in the man-
25 ner provided in subsection (d). When a voter fails to vote at
26 any other general election held on the Tuesday following the
27 first Monday in November in an even-numbered year, such
28 voter's name may be subject to removal from the voter regis-
29 tration book and the party affiliation list in the manner provided
30 in subsection (d) if the county election officer determines that
31 the removal of the names of voters who failed to vote in such
32 election is necessary to the maintenance of accurate voter reg-
33 istration records.

34 (d) When a voter's name is subject to removal from the regis-
35 tration book and the party affiliation list as provided in subsection
36 (e) subsections (a) and (b) or when a voter fails to vote at any
37 general election held on the Tuesday following the first Monday of
38 an even-numbered year, the county election officer shall attempt to
39 notify such voter by first-class mail at the mailing address specified
40 in the registration book. Such notification shall advise that the reg-
41 istration books show that the person did not vote in the applicable
42 November general election and that it is necessary to reregister if
43 the residence of such person has changed. Such notification shall be

1 mailed in an envelope or on a postcard which clearly indicates that
2 it is not to be forwarded to another address. If such notification is
3 not returned undelivered to the county election officer and no ad-
4 dress correction which indicates that the voter has moved is received
5 by the county election officer, the voter's name shall not be removed
6 from the registration book or party affiliation list. If such notification
7 is returned undelivered to the county election officer or if an address
8 correction which indicates that the voter has moved is received by
9 the county election officer, the county election officer shall check to
10 verify that the mailing address on the notification is the same as
11 that on the voter registration list. If it is determined that an error
12 was made in addressing the notification, another notice shall be sent
13 to the correct mailing address. If it is determined that no error was
14 made in addressing the original notification or if the second notifi-
15 cation is returned undelivered or an address correction is received
16 therefor, the name of such person shall be stricken from the reg-
17 istration books and the party affiliation lists.

18 ~~(e)~~ (d) Except as otherwise provided by law, when a voter dies
19 or is disqualified for voting, the registration of the voter shall be
20 void, and the county election officer shall remove such voter's name
21 from the registration books and the party affiliation lists. Whenever
22 (1) an obituary notice appears in a newspaper having general cir-
23 culation in the county reports the death of a registered voter, or (2)
24 a registered voter requests in writing that such voter's name be
25 removed from registration, or (3) a court of competent jurisdiction
26 orders removal of the name of a registered voter from registration
27 lists, or (4) the name of a registered voter appears on a list of
28 deceased residents compiled by the secretary of health and envi-
29 ronment as provided in K.S.A. 65-2422, and amendments thereto,
30 or appears on a copy of a death certificate provided by the secretary
31 of health and environment, ~~or (5) pursuant to K.S.A. 25-2316d,~~
32 ~~and amendments thereto, a registered voter fails to vote in two~~
33 ~~consecutive state general elections~~ the county election officer shall
34 remove from the registration books and the party affiliation lists in
35 such officer's office the name of any person shown by such list or
36 death certificate to be deceased. The county election officer shall
37 not use or permit the use of such lists of deceased residents or copies
38 for any other purpose than provided in this section.

39 ~~(f)~~ (e) Election board judges are hereby authorized to administer
40 oaths for the purpose of taking affidavits under this section. All such
41 affidavits shall be made upon forms approved by the secretary of
42 state. Every affidavit given under this section shall be returned to
43 the county election officer with the registration books.

1 ~~(g)~~ (f) Except as otherwise provided in this section, no person
2 whose name has been removed from the registration books shall be
3 entitled to vote until such person has registered again.

4 Sec. 2. K.S.A. 1990 Supp. 25-4501 is hereby amended to read
5 as follows: 25-4501. On the first Tuesday in April of ~~1992~~ 1996,
6 and every fourth year thereafter, there shall be held a presidential
7 preference primary election.

8 Sec. 2 3. K.S.A. 25-2316d and K.S.A. 1990 Supp. 25-2316c and
9 25-4501 are hereby repealed.

10 Sec. 3 4. This act shall take effect and be in force from and after
11 its publication in the statute book.

MEMORANDUM

Kansas Legislative Research Department

Room 545-N -- Statehouse
Topeka, Kansas 66612-1586
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October 21, 1991

Re: Contest of Election for the *Wellman v. Wells* Lawsuit

Pursuant to directions from the Legislative Coordinating Council, this memorandum was prepared to explain the technical problems and procedures which arose in the contested election court case of *Wellman v. Wells* and to summarize the bills introduced during the 1991 Session relative to the issue (H.B.'s 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2327, and S.B. 98).

Background

A Contest of Election was filed pursuant to the provisions of K.S.A. 25-1434, *et seq.* Filing the notice of contest was Karlen Christesen-Wellman (now known as Karlen Christesen-Jones), the Contestant. Elaine L. Wells was the Contestee. These individuals were opposing candidates for the position of State Representative of the 59th District seat to the House of Representatives in the November 6, 1990 general election.

In the original tabulation of the results of the election in the initial canvass by the Lyon and Osage county boards of canvassers, it was declared that Christesen-Jones received 3,474 votes and Wells received 3,463 votes. Upon a recount requested by Wells, Wells was declared the winner by the respective county boards of canvassers by a vote of 3,476 to 3,474. The State Board of Canvassers declared Wells the winner on November 28, 1990, and issued to her a Certificate of Election.

Following the filing of the notice of the Contest of Election by Christesen-Jones, District Judge Merlin G. Wheeler, Fifth Judicial District Court of the State of Kansas, granted the motions of both parties for the inspection of ballots pursuant to K.S.A. 25-1447.

A Board of Inspection for Lyon County and a Board of Inspection for Osage County was appointed by Judge Wheeler. These boards recounted all ballots for all precincts in the 59th District in Lyon and Osage counties. The boards identified 651 ballots for inspection by Judge Wheeler that were questionable in some respect and could not be agreed upon by the unanimous vote of the inspectors.

Counsels to the parties reviewed the questionable ballots and agreed on how they should be counted, except for 62 ballots that remained in question. Judge Wheeler reviewed these ballots and issued the finding that 3,485 legal votes were cast for Wells and 3,480 legal votes were cast for Christesen-Jones.

Pursuant to the *Constitution of the State of Kansas*, Article 2, § 8, which states that each legislative house is the judge of elections, returns, and qualifications of its own members, and based upon statutory requirements of K.S.A. 25-1451, the Speaker of the House of Representatives appointed a Select Committee on Election Contest to consider files, records, and evidence transmitted from the Court and to hold public hearings on the contested election. The transcript of the Court hearing was not available for the Committee's review and the Committee was told that it would not be available prior to the designated deadline for submitting the Committee's report. The Committee received a document from the Court entitled "Memorandum Decision and Judgment" that contained information on the Judge's findings of fact and conclusions on some, but not all, of the ballots in question.

The Select Committee on Election Contest held public meetings on six different occasions. The Committee first established its rules of order. The respective counsels for the contestant and contestee were asked by Committee members to present arguments for any election ballot that they considered to be at issue. The Committee members also heard testimony from Christesen-Jones and Wells.

Following the oral arguments of the counsels for the parties, the Committee reviewed the 43 election ballots that were identified by both counsels as being at issue and prepared a report of its recommendations for presentation to the House. The report entitled "Report of Select Committee on Election Contest" was printed in the *Journal of the House*, January 28, 1991, pages 78-86.

Then, in accordance with statutory requirements (K.S.A. 25-1451), a date (February 1, 1991) to present the report was set for special order of business before the full House. During this time the full House, except the Contestee, was to determine, after debate, the person who was the elected member. However, on the special order date and prior to any floor debate on the issue, Christesen-Jones withdrew her election challenge for the 59th seat to the House of Representatives.

Issues Arising From the Contest

Technical problems or procedures that arose from the *Wellman v. Wells* lawsuit are discussed below. The items identified are concerns expressed by Committee members or counsels for the parties.

1. K.S.A. 25-2451 requires, in the absence of rules providing otherwise, the Speaker of the House to appoint a select committee of equal numbers of members of the two parties. While an odd number of members being appointed to such a committee could enhance perceptions of partisan party politics among committee members, this even number of members on the Select Committee on Election Contest prevented the Committee from making recommendations to the full House on issues when tie votes occurred. During the process of making recommendations with regard to the counting of each of the election ballots at issue, there was a tie vote among Committee members for two of the ballots. Therefore, the Committee made no recommendations to the full House in regard to these two ballots.
2. Counsels for the parties noted that the appeal process for any dissatisfaction with the outcome of the issue at question was limited. The law (K.S.A. 25-1450)

allows an appeal to be taken to the Kansas Supreme Court when there is dissatisfaction with the determination of the district court in a contest instituted under the law, except for contests involving the Office of State Senator or House of Representatives. The *Constitution of the State of Kansas*, Article 2, § 8, provides that each legislative house is the judge of elections, returns, and qualifications of its own members. The only question that can be tried by the court is the question of what number of legally cast votes each of the candidates to the contested office received (K.S.A. 25-1451). The court cannot declare who is the winner of the election in question.

3. The transcript of the court hearing was not available for the Committee's review prior to the designated deadline for submitting its report to the House. K.S.A. 25-1451 says that a select committee for such a contest must report to the full House of Representatives not later than ten days after its appointment. In cases where the appeal process is applicable, *i.e.*, contests not involving the Office of State Senator or Representative, K.S.A. 25-1450 requires that the transcript of the case be certified and filed in the Supreme Court as soon as practicable and in any event within 15 days after filing of notice of appeal. The delay in getting the court transcript limited the Committee's access to information on the court's ruling and required the Committee to rely on the memories of counsel for the parties and the document from the Court entitled "Memorandum Decision and Judgment" for facts relevant to the case.
4. Evidence indicated that ballots may not have been properly preserved by methods prescribed by law after the vote had been cast by the voter. K.S.A. 25-3003 requires that a ballot be properly preserved after the vote has been cast.

Example 1: Testimony presented by counsel for one party said that a ballot had been treated as spoiled or objected to by election officials. There were derogatory comments written by the names of certain candidates on the ballot. However, evidence indicated that election officials failed to place the ballot in a properly marked "objected to" envelope as required by law (K.S.A. 25-3008).

Example 2: Election workers placed a ballot in an envelope and wrote on the envelope that the ballot was "not voted." That envelope, in turn, was placed in a storage envelope for void, objected to, or challenged ballots. However, upon inspection, the identifying number on the ballot had been properly clipped and the ballot appeared to be properly cast.

Example 3: It is not known whether one ballot was counted because election workers placed it in a box intended for unused judicial ballots. The inspection board for Osage County appointed by the Court found the ballot when the Board determined that more votes were cast than there were ballots. Although the identifying number in the corner of the ballot was properly clipped, the ballot had not been "strung." That is, it had not been properly preserved after the vote had been cast, raising a question as to whether it had been counted.

5. Committee members were required to address what constitutes an identifying mark on a ballot. K.S.A. 25-3002 provides that a ballot that bears an identifying mark is void and shall not be counted.

Example 1: A voter made two errors in marking his election ballot. To correct the mistakes, the voter wrote "error" beside the marks and wrote his initials to indicate that he had made the corrections. (According to K.S.A. 25-2902, the voter should have returned his ballot to the election board and received a new ballot or set of ballots.) Although K.S.A. 25-3002 provides that a ballot that bears an identifying mark is void and shall not be counted, the same statute also says that no ballot shall be invalidated by a technical error as long as it is possible to determine voter intent.

Example 2: K.S.A. 25-2908 requires that each ballot have a number written upon it which corresponds to the voter's number in the poll books who cast the ballot. Election workers are required by K.S.A. 25-2905 to cut off the identifying number when the ballot has been cast. One ballot had not been properly clipped. It therefore was possible to identify the voter of the ballot.

6. Members of the Committee were required to address whether the ballot of a registered voter who unintentionally cast her vote at an incorrect polling place should be invalidated. The Committee considered during its deliberations the fact that K.S.A. 25-3002 provides that no ballot should be invalidated by a technical error, while Article 5, Section 1, of the *Kansas Constitution* requires a voter to vote in the voting area in which the voter resides.

Example: Election workers informed a voter that she was voting in the wrong precinct, permitted her to vote, and informed her that her vote would be challenged. They also suggested that she vote at another precinct, even though they were not able to assure her that the suggested precinct was correct.

7. For those voters who had made marks on their ballots other than those designated by law, Committee members were required to review the ballots to determine if the intent of each of the voters was clear. K.S.A. 25-2902 says that it is unlawful to make any mark upon a ballot except a cross or check mark in a voting square opposite the name of a person for whom the voter desires to vote. However, K.S.A. 25-3002 provides that no ballot shall be invalidated by a technical error as long as it is possible to determine voter's intent.

Example 1: One ballot had arrows drawn in the left hand column that pointed to the name of each candidate whose voting box had been marked.

Example 2: A voter marked one choice for each elected office using a cross mark, except that, in the case of the two voting boxes for candidates for the 59th House seat, the voter marked a cross mark in one box and a zero in the other box.

Example 3: One ballot had heavy diagonal slashes drawn through the voting boxes to indicate the candidate for each office who was being selected. The slashes extended beyond the boundaries of the selected boxes.

8. K.S.A. 25-2316c allows a 30-day grace period preceding an election in which a person who changes his or her name may vote without reregistering, providing that the person fills out an affidavit stating facts relevant to the name change. Counsel for one of the parties argued that the law discriminates on the basis of gender and that it would not withstand a constitutional challenge.

Example: A vote was cast by a voter who changed her surname from that under which she was registered to vote. She failed to reregister under her new surname as is required by K.S.A. 25-2316c. The ballot was challenged by election officials, placed in a sealed envelope, and not counted.

9. Members of the Committee were required to address what constitutes a defaced, mutilated, or torn ballot. K.S.A. 25-3002 provides that any ballot which has been defaced, mutilated, or torn shall not be counted. The same statute also provides that no ballot shall be invalidated because of a technical error unless it is impossible to declare the voter's intention. Counsel for one of the parties stated that state statutes fail to define what is a defaced or mutilated ballot.

Example 1: After a ballot is marked, election workers are required to cut off an identifying number in the corner of the ballot. A ballot was cut in such a way that part of the ballot containing a box beside the name of a candidate in a race not at issue also was cut off. The part of the ballot that was cut off was retrieved and taped back on the ballot.

Example 2: A ballot had a tear in it. The tear had been taped over with transparent tape. It is not known how the ballot was torn, but, according to counsel for the parties, the ballot may have been torn by an optical scanner used by election officials.

10. The Committee was asked to determine the validity of a telefaxed absentee ballot.

Example: One ballot was a telefaxed absentee ballot that appeared to be properly cast. Because it was a faxed copy, the inspection board appointed by the Judge identified the ballot as questionable.

No evidence was presented to the Court to indicate that the ballot was cast by a qualified voter and the Judge ruled that time did not permit the Court to wait for further information, but that, if additional information became available, it should be considered by the Kansas House of Representatives. Information presented to the Select Committee indicated that an absentee ballot was faxed to a serviceman in Saudi Arabia who marked the original faxed copy and had it delivered to his wife. (Federal law, including a special provision for Operation Desert Shield, permits individuals in the military to cast absentee ballots.) The serviceman's wife testified before the Committee that her husband is a qualified voter and that she had mailed his completed ballot to the proper election officials.

11. Procedural requirements for the filing of absentee ballots needed to be addressed by the Committee. K.S.A. 25-1124 requires that a voter must fill out and sign a "declaration of absent voter" form that is printed on the outside of the envelope in which an absentee ballot is placed. The law (K.S.A. 25-1136) also prohibits election officials from opening an absentee ballot if the form accompanying the ballot is insufficient.

Example 1: The "declaration of absent voter" form for several ballots was neither filled out nor signed. Therefore, election officials did not open and count these ballots since the form accompanying each ballot was insufficient. Because the election was contested, the Court did identify each of the voters and establish that they were indeed qualified.

Example 2: A man obtained an absentee ballot for his paralyzed wife and marked it to reflect her voting choices. He then attempted to help her with her signature, but when the signature was unclear, he went ahead and completed his wife's identifying declaration and signed her name. He also identified on the envelope that he had made the signature for his wife. The law allows a person to render assistance to someone who is in need of the assistance, providing that an affidavit is signed by the person who provides the assistance. However, the man failed to file an affidavit of assistance as required by K.S.A. 25-1124 for absentee ballots.

12. Members of the Committee were asked to determine when a ballot had "reached" an election official. K.S.A. 25-1132 requires that an absentee ballot must "reach" county election officials by the time the polls close.

Example: A ballot was placed in a drop box at the Lyon County Courthouse and not discovered until the day after the election. Therefore, the ballot was never opened. The materials in the drop box are collected once a day between 8:00 a.m. and 8:30 a.m. According to information presented to the Court, the ballot was placed in the box at 8:40 a.m. Information presented also indicated

that the drop box had been used by the voter in past elections to successfully cast her absentee ballot. The box is labeled "Court-house Business Only -- Not for U.S. Mail."

1991 Legislation

Bills introduced during the 1991 Session that are relative to the issue are summarized below:

H.B. 2233 was referred to the House Elections Committee where it currently resides. The bill amends established rules for election canvassers by striking language in current law that says that any ballot upon which an identifying mark has been made or any ballot which has been defaced, mutilated, or torn is void and the votes upon the ballot cannot be counted.

H.B. 2234 was referred to the House Elections Committee where it currently resides. Current law says that the notice of contest must specify with particularity the facts and circumstances "in support of" the grounds alleged for the contest. The bill would change this to require that the notice specify with particularity the facts and circumstances "constituting" the grounds alleged for the contest.

H.B. 2235 was referred to the House Elections Committee where it currently resides. The bill requires a recount of ballots if the difference in the number of ballots cast for the candidates for any office is 25 or less. Current law requires a recount only if the county board of canvassers determines that there are manifest errors or if a candidate requests one. Under the proposed bill, any recount would have to be conducted manually by members of a special election board. Under current law, the person requesting the recount is allowed to decide the method of conducting the recount if the recount is in a county that uses an optical scanning system.

H.B. 2236 was referred to the House Elections Committee where it currently resides. The bill requires that wording be added to the printed declaration on envelopes for absentee election ballots in order to clearly state that the declaration must be completed and signed. The wording would say "This Declaration must be completed and signed."

H.B. 2237 was referred to the House Elections Committee where it currently resides. The bill provides that, in all cases of contested elections "filed upon grounds and requirements designated by law," either of the contesting parties has the right to have the election ballots opened and to have all errors of the judges in counting the ballots corrected by the court or body trying the contest. Current law does not specify that the contested elections must be filed upon grounds and requirements designated by law. It only states that, in all cases of contested elections, either of the parties contesting has the right to have the election ballots opened and to have all errors of the judges in counting the ballots corrected by the court or body trying the contest.

H.B. 2238 had public hearings held by the House Elections Committee. The bill was then passed out and referred to the consent calendar. The House withdrew it from the consent calendar and placed it on General Orders, where it was later stricken from the House calendar. The bill amends current law to require that voters be given a copy of a notice when they vote by printed election ballots. The notice would say that, when an election ballot is torn, defaced, or contains a mistake and is wrongfully marked, the ballot must be returned to the election board and a new ballot obtained.

H.B. 2239 was referred to the House Elections Committee where it currently resides. The bill amends current law to require that all absentee ballots "received and recorded" in the office of the county election officer by the time the polls close be delivered by the county election officer to the appropriate special election board. The change is that an absentee ballot would have to be "received and recorded," not merely "reach" the election officer.

H.B. 2327 was referred to the House Elections Committee where it currently resides. The bill amends established rules for determining validity of election ballots by election canvassers. Current law says that any ballot which has been defaced, mutilated, or torn is void and the votes upon the ballot cannot be counted. The bill would strike this language.

S.B. 98, as amended by the Senate Committee of the Whole, currently is in the House Elections Committee. The bill would do the following:

1. The Secretary of State would be permitted to prescribe the election ballot format for each type of election. The ballots would have to contain information required by law and be substantially in the form specified by law. Current law designates the format of the ballots and the information they must contain. It does not provide for any deviations from the specified format.
2. An official general ballot for county and township offices could be separate or combined with the official general election ballot for national and state offices. Ballots for the method of selection for district court judges and any constitutional amendments or other propositions or questions submitted to voters also could be combined with other official election ballots. Current law requires that election ballots for county and township offices, national and state offices, constitutional amendments, and other propositions or questions each be on a separate ballot.
3. The voting boxes for selection of candidates or propositions on printed ballots would be moved from the right to the left of each of the choices offered.
4. Items 2 and 3 of K.S.A. 25-3002 subsection (b) would be stricken from the law. Item 2 provides that any ballot upon which an identifying mark has been made shall be wholly void and, therefore, not counted by election officials. Item 3 provides that any ballot which has been defaced, mutilated, or torn also shall be wholly void and not counted.

HOUSE BILL No. 2233

By Representative Wells

2-13

8 AN ACT relating to elections; concerning rules for determining the
9 validity of ballots; amending K.S.A. 25-3002 and repealing the
10 existing section.

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

13 Section 1. K.S.A. 25-3002 is hereby amended to read as follows:
14 25-3002. (a) The rules prescribed in this section shall apply to:

15 (1) The original canvass by election boards.

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

18 (3) Final canvass by the state board of canvassers.

19 (4) All election contests.

20 (5) All other officers canvassing or having a part in the canvass
21 of any election.

22 (b) Rules for canvassers:

23 (1) No ballot, or any portion thereof, shall be invalidated by any
24 technical error unless it is impossible to determine the voter's in-
25 tention. Determination of the voter's intention shall rest in the dis-
26 cretion of the board canvassing in the case of a canvass and in the
27 election court in the case of an election contest.

28 (2) ~~Any ballot upon which an identifying mark has been~~
29 ~~made shall be wholly void and no vote thereon shall be~~
30 ~~counted. Determination of whether a mark is an identifying~~
31 ~~mark shall rest in the discretion of the board canvassing in the~~
32 ~~case of a canvass and in the election court in the case of an~~
33 ~~election contest. The secretary of state may adopt rules and~~
34 ~~regulations describing certain types of marks upon ballots~~
35 ~~which may be considered identifying marks, but such rules~~
36 ~~shall not be considered as either all inclusive or as conclusive.~~

37 (3) ~~Any ballot which has been defaced, mutilated or torn~~
38 ~~shall be wholly void and no vote thereon shall be counted.~~

39 (4) The occurrences listed in this subpart (4) (2) shall not in-
40 validate the whole ballot but shall invalidate that portion, and that
41 portion only, in which the occurrence appears. The votes on such
42 portion of the ballot shall not be counted for any candidate listed
43 or written in said portion, but the remainder of the votes in other

1 portions of the ballot shall be counted. The occurrences to which
2 this subpart ~~(4)~~ (2) shall apply are:

3 (A) Whenever a voting mark shall be made in the square at the
4 right of the name of more than one candidate for the same office,
5 except when the ballot instructs that more than one candidate is to
6 be voted.

7 (B) Whenever a voting mark is placed in the square at the right
8 of a space where no candidate is listed.

9 Sec. 2. K.S.A. 25-3002 is hereby repealed.

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

HOUSE BILL No. 2234

By Representative Wells

2-13

8 AN ACT relating to elections; concerning the grounds for contest of
9 election; amending K.S.A. 25-1436 and 25-1437 and repealing the
10 existing sections.
11

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

13 Section 1. K.S.A. 25-1436 is hereby amended to read as follows:
14 25-1436. (1) Any contest of election to which K.S.A. 25-1435, and
15 amendments thereto, applies shall be brought on ~~any~~ one or more
16 of the following grounds:

17 (a) The person to whom a certificate of election was issued was
18 ineligible to hold such office at the time of the election;

19 (b) some voters were deprived of the right of voting for a can-
20 didate or on a question submitted, when such voters had the right
21 under the election laws of this state to vote thereon, and such
22 deprivation could change the result of the election;

23 (c) illegal votes were received or legal votes were rejected which
24 could change the result of the election;

25 (d) error or fraud occurred in computing the results of the elec-
26 tion which could change the result of the election;

27 (e) the person to whom the certificate of election was issued
28 offered or gave, or caused to be offered or given, a bribe to any
29 person charged by law with any election duty, for the purpose of
30 procuring such person's election; or

31 (f) any other cause which shows that another was the person to
32 whom the certificate of election for such office should have been
33 issued.

34 (2) *In stating the grounds for contest in accordance with this*
35 *section, the specific facts and circumstances alleged to constitute*
36 *such grounds shall be specified with particularity.*

37 Sec. 2. K.S.A. 25-1437 is hereby amended to read as follows:
38 25-1437. Any registered voter desiring to contest an election of a
39 person to an office shall be referred to as the contestant, and the
40 person whose election is contested shall be referred to as the con-
41 testee. The contestant, if authorized under K.S.A. 25-1435, and
42 amendments thereto, shall file a written notice of contest specifying
43 the grounds upon which the contest is based. The notice shall specify

3-42
~~3-42~~

1 with particularity the facts and circumstances ~~in support of consti-~~
2 ~~tuting~~ the grounds alleged for the contest. In the case of an office
3 elected on less than a statewide basis, the notice of contest shall be
4 filed with the clerk of the district court of the county in which the
5 person whose election is contested resides. In the case of an officer
6 elected on a statewide basis, including presidential electors, the
7 notice of contest shall be filed with the clerk of the district court
8 of Shawnee county, and the place of trial shall not be changed.
9 Sec. 3. K.S.A. 25-1436 and 25-1437 are hereby repealed.
10 Sec. 4. This act shall take effect and be in force from and after
11 its publication in the statute book.

HOUSE BILL No. 2235

By Representative Wells

2-13

8 AN ACT relating to elections; concerning recounts of ballots; amend-
9 ing K.S.A. 1990 Supp. 25-3107 and repealing the existing section.

10

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

12 Section 1. K.S.A. 1990 Supp. 25-3107 is hereby amended to read
13 as follows: 25-3107. (a) At the time of commencement of any canvass
14 by the county board of canvassers the county election officer shall
15 present to the county board of canvassers the preliminary abstracts
16 of election returns, together with the ballots and records returned
17 by the election boards. The county board of canvassers shall inspect
18 and check the records presented by the county election officer and
19 shall hear any questions which the county election officer believes
20 appropriate for determination of the board. The county board of
21 canvassers shall do what is necessary to obtain an accurate and just
22 canvass of the election and shall finalize the preliminary abstract of
23 election returns by making any needed changes, and certifying its
24 authenticity and accuracy. The certification of the county board of
25 canvassers shall be attested by the county election officer. Neither
26 the county board of canvassers nor the county election officer shall
27 open or unseal sacks or envelopes of ballots, except as is required
28 by K.S.A. 25-409, 25-1136 and 25-1337, and amendments thereto,
29 or other specific provision of law or as is authorized to carry out a
30 recount under subsection (b).

31 (b) If a majority of the members of the county board of canvassers
32 shall determine that there are manifest errors appearing on the face
33 of the poll books of any election board, which might make a dif-
34 ference in the result of any election; *or that the difference in the*
35 *number of ballots cast for the candidates for any office is 25 or less;*
36 *or if that any candidate shall request has requested* the recount of
37 the ballots cast in all or in only specified voting areas for the office
38 for which such person is a candidate; ~~or if any registered elector~~
39 ~~voter~~ who cast a ballot in a question submitted election requests a
40 recount in all or only specified voting areas to determine the result
41 of the election, the county board of canvassers shall cause a special
42 election board appointed by the county election officer to meet under
43 the supervision of the county election officer and recount the ballots

1 with respect to any office or question submitted specified by the
2 county board of canvassers or requested by such candidate or elector.
3 If a recount is required in a county ~~that uses optical scanning~~
4 ~~systems as defined in K.S.A. 25-4601 et seq., and amendments~~
5 ~~thereto,~~ the method of conducting the recount shall be at the dis-
6 ~~cretion of the person requesting such recount~~ *a manual recount*
7 *by members of the special election board.* The county election officer
8 shall not be a member of such special election board. *If a recount*
9 *is made at the request of a candidate,* before the special election
10 board meets to recount the ballots upon a properly filed request,
11 the party who makes the request shall file with the county election
12 officer a bond, with security to be approved by the county or district
13 attorney, conditioned to pay all costs incurred by the county in
14 making such recount. In the event that the candidate requesting the
15 recount is declared the winner of the election as a result of the
16 recount, or if as a result of the recount a question submitted is
17 overturned, no action shall be taken on the person's bond and the
18 county shall bear the costs incurred for the recount. Any recount
19 requested must be requested in writing of the county election officer
20 not later than 12:00 noon on the Monday following the election. The
21 request shall specify which voting areas are to be recounted. Any
22 such recount shall be initiated not later than the following day and
23 shall be completed not later than the Friday of such week at 5:00
24 p.m. Upon completion of any recount under this subsection, the
25 election board shall package and reseal the ballots as provided by
26 law and the county board of canvassers shall complete its canvass.
27 The members of the special election board shall be paid as prescribed
28 in K.S.A. 25-2811 and amendments thereto for time actually spent
29 making the recount.

30 Sec. 2. K.S.A. 1990 Supp. 25-3107 is hereby repealed.

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

HOUSE BILL No. 2236

By Representative Wells

2-13

8 AN ACT relating to elections; concerning absentee ballots; amending
9 K.S.A. 1990 Supp. 25-1120 and repealing the existing section.

10

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

12 Section 1. K.S.A. 1990 Supp. 25-1120 is hereby amended to read
13 as follows: 25-1120. When the names to appear on ballots are def-
14 initely known and not later than 20 days prior to any primary, general
15 or question submitted election each county election officer shall cause
16 to be prepared such number of absentee ballots and ballot envelopes
17 as in the election officer's judgment are necessary to carry out the
18 requirements of this act. Such ballots shall contain the names and
19 cities of residence of all persons who are candidates for all national,
20 state, county, city, township and school offices, which names may
21 be written, typewritten or printed. On the same line with each
22 candidate's name shall be a square in the ordinary form, or paren-
23 theses in which the voter can place a cross or check mark. In the
24 case of elections required by law to be conducted on a partisan basis,
25 such ballot shall indicate the political party of each candidate.

26 The county election officer of any county may number such ab-
27 sentee ballots. If the county election officer of any county elects to
28 prepare absentee ballots and ballot envelopes without identifying
29 consecutive numbers, such officer shall prepare and distribute such
30 ballots and envelopes in accordance with a plan approved by the
31 secretary of state. If the county election officer elects to number
32 such ballots, all absentee ballots shall be consecutively numbered,
33 and the ballot envelope for each ballot shall bear the same number
34 as the ballot. The ballot envelope shall also bear a printed form of
35 declaration in substance as follows:

36

**THIS DECLARATION MUST BE
COMPLETED AND SIGNED**

37

38 "I _____ do hereby declare that I marked the enclosed ballot and that such
39 ballot was enclosed and sealed in this envelope by me. My legal residence is in the
40 _____ precinct, _____ township, (or, in the _____ precinct of
41 the _____ ward, _____ street in the city of _____), in the
42 county of _____, state of Kansas.

43

(Signed) _____"

1 The ballot envelope to be used for voting by a former precinct
2 resident shall also state the place of former residence of the voter
3 and the date of removal therefrom to the voter's present residence.

4 Sec. 2. K.S.A. 1990 Supp. 25-1120 is hereby repealed.

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

HOUSE BILL No. 2237

By Representative Wells

2-13

8 AN ACT relating to elections; concerning the examination and dis-
9 position of ballots; amending K.S.A. 1990 Supp. 25-2708 and re-
10 pealing the existing section.

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

13 Section 1. K.S.A. 1990 Supp. 25-2708 is hereby amended to read
14 as follows: 25-2708. (a) The county election officer shall preserve all
15 ballots, books and records delivered to such officer by election boards
16 and make the same available to any canvassing board or election
17 court who it is provided by law shall have access to the same.

18 (b) The county election officer shall preserve all county, city,
19 school district and township ballots for six months and all state and
20 national ballots for 22 months. At the expiration of such time, the
21 county election officer shall destroy them without previously opening
22 any of the envelopes, in the presence of two electors of approved
23 integrity and good repute, members of the two leading political
24 parties. Such electors shall be designated by the board of county
25 commissioners. If the election of any officer or any question sub-
26 mitted at such time is being contested, the ballots shall not be
27 destroyed until such contest is finally decided. In all cases of con-
28 tested elections *filed upon grounds specified in K.S.A. 25-1436 and*
29 *amendments thereto, and filed in accordance with the requirements*
30 *of K.S.A. 25-1434 et seq. and amendments thereto*, either of the
31 parties contesting shall have the right to have such ballots opened
32 and to have all errors of the judges in counting the ballots corrected
33 by the court or body trying such contest. Such ballots shall be opened
34 in open court or in an open session of such body and the presence
35 of the officer having the custody thereof.

36 (c) The three copies of the certified abstract of each voting place
37 and the three copies of all certified abstracts of the county board of
38 canvassers shall be distributed as follows:

39 (1) One copy shall be retained as a permanent record in the
40 office of the county election officer.

41 (2) One copy shall be delivered to the chairperson of the county
42 committee of the political party of the candidate for governor who
43 received the greatest number of votes in the last state general

1 election.

2 (3) One copy shall be delivered to the chairperson of the county
3 committee of the political party of the candidate for governor who
4 received the second greatest number of votes in the last state general
5 election.

6 (d) Other election supplies, books, records, lists and papers shall
7 be destroyed as provided by law.

8 Sec. 2. K.S.A. 1990 Supp. 25-2708 is hereby repealed.

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

HOUSE BILL No. 2238

By Representative Wells

2-13

8 AN ACT relating to elections; concerning torn, defaced and wrong-
9 fully marked ballots; amending K.S.A. 25-2901 and repealing the
10 existing section.
11

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

13 Section 1. K.S.A. 25-2901 is hereby amended to read as follows:
14 25-2901. (a) When a voter receives a ballot, or set of ballots, such
15 voter shall go promptly and directly to one of the voting booths and
16 mark the ballots therein. No voter shall be allowed to occupy a
17 booth already occupied by another voter. No voter shall be allowed
18 to occupy a booth more than five (5) minutes if other voters are
19 waiting to occupy the same. The voter shall mark the ballot by
20 making a cross or check mark in the voting squares at the right of
21 the names of candidates.

22 (b) *In all elections in which printed paper ballots are utilized,*
23 *at the time a voter receives a ballot or set of ballots, such voter*
24 *shall be given a copy of a notice containing the following information*
25 *and in substantially the following form:*

26 *Notice*

27 *If you tear, deface or make a mistake and wrongfully mark any ballot, you*
28 *must return it to the election board and receive a new ballot or set of ballots."*

29 Sec. 2. K.S.A. 25-2901 is hereby repealed.

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

HOUSE BILL No. 2239

By Representative Wells

2-13

8 AN ACT relating to elections; concerning absentee ballots; amending
9 K.S.A. 25-1132 and repealing the existing section.

10

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

12 Section 1. K.S.A. 25-1132 is hereby amended to read as follows:
13 25-1132. All absentee ballots which ~~reach~~ *are received, and such*
14 *receipt recorded, in the office of* the county election officer not later
15 than the hour for closing of the polls on the date of any election
16 specified in subsection (b) of K.S.A. 25-1122 *and amendments*
17 *thereto*, shall be delivered by the county election officer to the
18 appropriate special election board provided for in K.S.A. 25-1133
19 *and amendments thereto.*

20 Sec. 2. K.S.A. 25-1132 is hereby repealed.

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

HOUSE BILL No. 2327

By Representatives Sawyer and Shallenburger

2-13

8 AN ACT relating to elections; concerning rules for canvassers;
9 amending K.S.A. 25-3002 and repealing the existing section.

10

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

12 Section 1. K.S.A. 25-3002 is hereby amended to read as follows:
13 25-3002. (a) The rules prescribed in this section shall apply to:

14 (1) The original canvass by election boards.

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

17 (3) Final canvass by the state board of canvassers.

18 (4) All election contests.

19 (5) All other officers canvassing or having a part in the canvass
20 of any election.

21 (b) Rules for canvassers:

22 (1) No ballot, or any portion thereof, shall be invalidated by any
23 technical error unless it is impossible to determine the voter's in-
24 tention. Determination of the voter's intention shall rest in the dis-
25 cretion of the board canvassing in the case of a canvass and in the
26 election court in the case of an election contest.

27 (2) Any ballot upon which an identifying mark has been made
28 shall be wholly void and no vote thereon shall be counted. Deter-
29 mination of whether a mark is an identifying mark shall rest in the
30 discretion of the board canvassing in the case of a canvass and in
31 the election court in the case of an election contest. The secretary
32 of state may adopt rules and regulations describing certain types of
33 marks upon ballots which may be considered identifying marks, but
34 such rules shall not be considered as either all inclusive or as
35 conclusive.

36 (3) ~~Any ballot which has been defaced, mutilated or torn~~
37 ~~shall be wholly void and no vote thereon shall be counted.~~

38 (4) The occurrences listed in this subpart (4) (3) shall not in-
39 validate the whole ballot but shall invalidate that portion, and that
40 portion only, in which the occurrence appears. The votes on such
41 portion of the ballot shall not be counted for any candidate listed
42 or written in said portion, but the remainder of the votes in other
43 portions of the ballot shall be counted. The occurrences to which

1 this subpart ~~(4)~~ (3) shall apply are:

2 (A) Whenever a voting mark shall be made in the square at the
3 right of the name of more than one candidate for the same office,
4 except when the ballot instructs that more than one candidate is to
5 be voted.

6 (B) Whenever a voting mark is placed in the square at the right
7 of a space where no candidate is listed.

8 Sec. 2. K.S.A. 25-3002 is hereby repealed.

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

SENATE BILL No. 98

By Committee on Elections

1-31

11 AN ACT relating to elections; concerning the *validity*, form and
12 content of ballots; amending K.S.A. 25-601, 25-605, 25-615, 25-
13 616, 25-617, 25-618, 25-620 and ~~25-621~~, *25-621* and 25-3002 and
14 repealing the existing sections.
15

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

17 Section 1. K.S.A. 25-601 is hereby amended to read as follows:
18 25-601. *The secretary of state shall prescribe the ballot format but*
19 *ballots shall contain the information required by this section and be*
20 *substantially in the form set out in this section.* The official general
21 ballot for national and, state offices shall be printed upon one
22 ballot, and the official general ballot for, county and township
23 offices shall *may* be printed upon ~~another~~ *one* ballot. All official
24 general ballots shall be printed in black ink on paper through which
25 the printing or writing cannot be read. Such ballots shall be printed
26 on white paper or paper colored as authorized by rules and regu-
27 lations adopted by the secretary of state.

28 On the back or outside of each official general ballot, so as to
29 appear when folded, shall be printed the words "official general
30 ballot," followed by the words "national and, state offices" or "
31 county and township offices," followed by the voting place for which
32 the ballot is prepared and the date of the election. No person's name
33 shall appear on the back or outside of a ballot. All nominations made
34 and certified as provided by law, and none other, shall be printed
35 on ~~either~~ *the* official general ballot. The names of candidates for
36 every office to be voted for at the general election shall be arranged
37 under the office to which each has been nominated.

38 Sec. 2. K.S.A. 25-605 is hereby amended to read as follows: 25-
39 605. When a constitutional amendment is to be submitted to the
40 voters of the state, a separate ballot ~~shall~~ *may* be provided by the
41 county election officers- *or the proposition may be combined with*
42 *the official general ballot provided for in K.S.A. 25-601 and amend-*
43 *ments thereto. If such propositions are printed on a separate ballot,*

1 such ballot shall comply with the requirements for ballots for election
2 of officers insofar as such requirements are applicable. *The secretary*
3 *of state shall prescribe the ballot format but a ballot shall include*
4 *the information required by this section and be substantially in the*
5 *form specified in this section.* The constitutional amendment as a
6 whole followed by the prescribed statement of intent or purpose of
7 the proposition with explanation of the effect of voting for or against
8 it shall be printed on the ballot. Each proposition to amend the
9 constitution shall be preceded by the words, "Shall the following be
10 adopted?" If there is more than one constitutional amendment to
11 be voted upon, the different amendments shall be separately num-
12 bered and printed, and be separated by a broad solid line 1/8th inch
13 wide or by double lines approximately 1/8th inch apart.

14 Opposite and after each amendment, submitted shall be printed
15 two squares, one above the other. To the ~~left~~ *[right]* of the upper
16 one of the squares shall be printed the word "Yes," and to the ~~left~~
17 *[right]* of the lower one of the squares shall be printed the word
18 "No." Across the entire width of the ballot, at ~~the top~~ *preceding*
19 *such proposition or propositions,* shall be printed the following in-
20 structions: "To vote in favor of any question submitted upon this
21 ballot, make a cross or check mark in the square to the ~~right~~ *[left]*
22 of the word 'Yes'; to vote against it, make a cross or check mark in
23 the square to the ~~right~~ *[left]* of the word 'No'." On the back of
24 each ballot shall be printed, in addition to other required matters,
25 the words "questions submitted." *If such propositions are printed*
26 *on a separate ballot,* county election officers may cause to be printed
27 on the outside of ~~question submitted~~ *such* ballots "Ballot
28 No. _____" with the blank filled with a number to aid in distin-
29 guishing such ballots when more than one question submitted ballot
30 is voted upon at a voting place.

31 Sec. 3. K.S.A. 25-615 is hereby amended to read as follows: 25-
32 615. The surnames of the candidates of each political party for the
33 offices of president and vice-president, with the political designation
34 thereof placed at the right of the surnames, shall be in one line.
35 ~~There shall be a square placed at the right of such political~~
36 ~~designation in which each voter may designate by a cross or~~
37 ~~check mark such voter's choice for presidential electors.~~ *The*
38 *secretary of state shall prescribe the ballot format but* the foregoing
39 shall be *substantially* as shown in the sample form of the official
40 general ballot in K.S.A. 25-616 and amendments thereto.

41 Sec. 4. K.S.A. 25-616 is hereby amended to read as follows: 25-
42 616. *The secretary of state shall prescribe the ballot format but*
43 the national offices part of the official general ballot for national and state

1 offices shall be *substantially* in the form shown in this section and
2 the state offices part of such ballot shall be *substantially* in the form
3 shown in K.S.A. 25-617, and amendments thereto.

4 STATE OF KANSAS
5 OFFICIAL GENERAL BALLOT

6 National and State Offices
7 County of _____
8 November _____, 19____
9 -----

10 NATIONAL OFFICES

11 -----
12 To vote for presidential electors for candidates for president and vice-president
13 make a cross or check mark in the square at the *right left* of the names of the
14 candidates.
15 -----

- 16 FOR PRESIDENTIAL ELECTORS FOR PRESIDENT AND
17 VICE-PRESIDENT JONESTERN AND DOE..... Republican
 - 18 FOR PRESIDENTIAL ELECTORS FOR PRESIDENT AND
19 VICE-PRESIDENT ROEHEAD AND RICHARDBY..... Democrat
 - 20 FOR PRESIDENTIAL ELECTORS FOR PRESIDENT AND
21 VICE-PRESIDENT JANEBRAND AND JOHNBERG.....Independent
- 22 Nominations

23 -----
24 To vote for a person make a cross or check mark in the square at the *right left*
25 of the person's name. To vote for a person whose name is not printed on the ballot,
26 write the person's name in the blank space and make a cross or check mark in the
27 square to the *right left*.
28 -----

- 29 FOR UNITED STATES SENATOR *Vote for One*
- 30 DAN BOBING, Brussell Republican
- 31 ROBERTA SMITH, Salina Democrat
- 32 _____

- 33 FOR UNITED STATES REPRESENTATIVE
- 34 _____ DISTRICT
- 35 *Vote for One*
- 36 ELMER O'BRIEN, Wichita Democrat
- 37 WM.T. MILLER, Maple City Republican
- 38 _____

39 -----
40 When any office is not to be elected, it shall be omitted from the
41 ballot.

42 Sec. 5. K.S.A. 25-617 is hereby amended to read as follows: 25-
43 617. *The secretary of state shall prescribe the ballot format but the*

1 state offices part of the official general ballot for national and state
2 offices shall follow the national offices part *substantially* as is shown
3 in this section.

4 -----
5 STATE OFFICES
6 -----

7 To vote for the pair of candidates, make a cross or check mark in the square at
8 the *right left* of the names of the candidates for governor and lieutenant governor.
9 -----

10 FOR GOVERNOR AND LIEUTENANT
11 GOVERNOR

Vote for One Pair

- 12 Sam Jones, Wichita Republican
- 13 and Bob Smith, Arkansas City Republican
- 14 Carol Johnson, Mahaska Democrat
- 15 and Roger Wright, Penalosa Democrat

16 -----
17 To vote for a person, make a cross or check mark in the square at the *right left*
18 of the person's name. To vote for a person whose name is not printed on the ballot,
19 write the person's name in the blank space and make a cross or check mark in the
20 square to the *right left*.

21 -----
22 FOR SECRETARY OF STATE

Vote for One

- 23 ELIZABETH JUANITA MOORE, Zoomer Republican
- 24 RUSSEL ADAM, Topeka Democrat
- 25 JOAN SAYLOR, Goodland Prohibition
- 26 CHARLES (CHUCK) BROWNING, Kansas City Independent
- 27 _____ Nomination

28 -----
29 -----
30 FOR ATTORNEY GENERAL

Vote for One

- 31 _____
- 32 _____
- 33 _____
- 34 _____

35 (and continuing in like manner for any other officers
36 elected from the state as a whole)

37 FOR STATE SENATOR

38 _____ DISTRICT

Vote for One

- 39 _____
- 40 _____
- 41 _____
- 42 _____

1 FOR STATE REPRESENTATIVE
 2 _____ DISTRICT *Vote for One*
 3 _____
 4 _____
 5 _____
 6 _____
 7 FOR DISTRICT JUDGE
 8 _____ DISTRICT *Vote for One*
 9 _____
 10 _____
 11 _____
 12 _____
 13 FOR DISTRICT MAGISTRATE JUDGE
 14 _____ DISTRICT *Vote for One*
 15 _____
 16 _____
 17 _____
 18 _____
 19 FOR DISTRICT ATTORNEY
 20 _____ JUDICIAL DISTRICT *Vote for One*
 21 _____
 22 _____
 23 _____
 24 _____
 25 FOR STATE BOARD OF EDUCATION MEMBER
 26 _____ DISTRICT *Vote for One*
 27 _____
 28 _____
 29 _____
 30 _____

31 When any office is not to be elected, it shall be omitted from the
32 ballot.

33 When a voting machine does not provide sufficient space to ac-
34 commodate the full names of the candidates for governor and lieu-
35 tenant governor, only the surname of such candidates shall be
36 required to be printed on the ballot label unless surnames of one
37 or more of the candidates are the same.

38 Sec. 6. K.S.A. 25-618 is hereby amended to read as follows: 25-
39 618. The official general ballot for county and township offices shall
40 may be separate from the official general ballot for national and state
41 offices and or may be combined with the official general ballot
42 provided for in K.S.A. 25-601 and amendments thereto. The sec-
43 retary of state shall prescribe the ballot format but the ballot shall

1 be *substantially* in the form shown in this section and K.S.A. 25-
2 611, as amended and amendments thereto.

3 STATE OF KANSAS
4 OFFICIAL GENERAL BALLOT
5 County and Township Offices
6 County of _____, City (or Township) of _____
7 November _____, 19____
8 -----

9 To vote for a person, make a cross or check mark in the square at the right left
10 of the person's name. To vote for a person whose name is not printed on the ballot,
11 write the person's name in the blank space and make a cross or check mark in the
12 square to the right left.

13 -----
14 FOR COUNTY COMMISSIONER
15 _____ DISTRICT Vote for One
16 _____
17 _____
18 _____
19 -----

20 FOR COUNTY CLERK Vote for One
21 _____
22 _____
23 _____
24 -----

25 FOR COUNTY TREASURER Vote for One
26 _____
27 _____
28 _____
29 -----

30 And continuing in like manner for all county and township offices
31 to be elected.

32 Sec. 7. K.S.A. 25-620 is hereby amended to read as follows: 25-
33 620. Except for propositions to amend the constitution, when a
34 proposition or question is to be submitted to the voters of the state
35 or any part thereof, a separate ballot shall be provided by the county
36 election officers, *except that when such proposition or question is*
37 *to be submitted at an election conducted at the time of the holding*
38 *of an election of officers such proposition may be printed on the*
39 *ballot for the election of such officers. The secretary of state shall*
40 *prescribe the ballot format but the ballot shall substantially comply*
41 *with the requirements for ballots for election of officers insofar as*
42 *such requirements are applicable and the provisions of this section.*
43 On the ballot there shall be printed the proposition or question to

1 be voted on. Each proposition or question shall be preceded by the
2 words, "Shall the following be adopted?" If there is more than one
3 proposition or question to be voted on, the different propositions or
4 questions shall be separately numbered and printed, and be sepa-
5 rated by a broad solid line $\frac{1}{8}$ th inch wide or by double lines ap-
6 proximately $\frac{1}{8}$ th inch apart.

7 Opposite and after each proposition and question shall be printed
8 two squares, one above the other. To the left [*right*] of the upper
9 one of the squares shall be printed the word "Yes," and to the left
10 [*right*] of the lower one of the squares shall be printed the word
11 "No." Across the entire width of the ballot, at the top, shall be
12 printed the following instructions: "To vote in favor of any question
13 submitted upon this ballot, make a cross or check mark in the square
14 to the right [*left*] of the word 'Yes'; to vote against it, make a cross
15 or check mark in the square to the right [*left*] of the word 'No'."
16 On the back of each such ballot shall be printed, in addition to other
17 required matters, the words "questions submitted." County election
18 officers shall cause to be printed on the outside of question submitted
19 ballots "Ballot No. _____" with the blank filled with a number
20 to aid in distinguishing such ballots when more than one question
21 submitted ballot is voted upon at a voting place.

22 Sec. 8. K.S.A. 25-621 is hereby amended to read as follows: 25-
23 621. (a) *The secretary of state shall prescribe the ballot format but*
24 *whenever the proposition of the method of selection of judge of the*
25 *district court is submitted to the voters, the form of the ballot shall*
26 *substantially be as provided in K.S.A. 20-2901 and amendments*
27 *thereto and may be combined with the official general ballot provided*
28 *for in K.S.A. 25-601 and amendments thereto.*

29 (b) This section shall be part of and supplemental to chapter 25
30 of the Kansas Statutes Annotated.

31 Sec. 9. K.S.A. 25-3002 is hereby amended to read as follows:
32 25-3002. (a) *The rules prescribed in this section shall apply to:*

33 (1) *The original canvass by election boards.*

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

36 (3) *Final canvass by the state board of canvassers.*

37 (4) *All election contests.*

38 (5) *All other officers canvassing or having a part in the canvass*
39 *of any election.*

40 (b) *Rules for canvassers:*

41 (1) *No ballot, or any portion thereof, shall be invalidated by any*
42 *technical error unless it is impossible to determine the voter's in-*
43 *tention. Determination of the voter's intention shall rest in the dis-*

1 *cretion of the board canvassing in the case of a canvass and in the*
2 *election court in the case of an election contest.*

3 (2) Any ballot upon which an identifying mark has been
4 made shall be wholly void and no vote thereon shall be
5 counted. Determination of whether a mark is an identifying
6 mark shall rest in the discretion of the board canvassing in the
7 case of a canvass and in the election court in the case of an
8 election contest. The secretary of state may adopt rules and
9 regulations describing certain types of marks upon ballots
10 which may be considered identifying marks, but such rules
11 shall not be considered as either all inclusive or as conclusive.

12 (3) Any ballot which has been defaced, mutilated or torn
13 shall be wholly void and no vote thereon shall be counted.

14 (4) The occurrences listed in this subpart (4) (2) shall not in-
15 validate the whole ballot but shall invalidate that portion, and that
16 portion only, in which the occurrence appears. The votes on such
17 portion of the ballot shall not be counted for any candidate listed
18 or written in said portion, but the remainder of the votes in other
19 portions of the ballot shall be counted. The occurrences to which
20 this subpart (4) (2) shall apply are:

21 (A) Whenever a voting mark shall be made in the square at the
22 right [left] of the name of more than one candidate for the same
23 office, except when the ballot instructs that more than one candidate
24 is to be voted.

25 (B) Whenever a voting mark is placed in the square at the right
26 [left] of a space where no candidate is listed.

27 Sec. 9. 10. K.S.A. 25-601, 25-605, 25-615, 25-616, 25-617, 25-
28 618, 25-620 and ~~25-621~~, 25-621 and 25-3002 are hereby repealed.

29 Sec. ~~10.~~ 11. This act shall take effect and be in force from and
30 after its publication in the statute book.