

Approved

3-26-92

Date

MINUTES OF THE House COMMITTEE ON Elections

The meeting was called to order by Representative Sherman Jones at

Chairperson

9:10

March 3

92

521-S

_____ a.m./p.m. on _____, 19____ in room _____ 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:

Tom Sawyer, Majority Leader

Mark Parkinson

Michael Woolf, Kansas Common Cause

Sheila Hochhauser

Sydney Carlin, Citizens Group of Manhattan

Debra Frey, Citizens Group of Manhattan

Joe de la Torre, Secretary of State Office

Others attending: see attached list.

Chairman Jones opened the hearing for **HB 2893** - Income tax credits for contributors to candidates and political parties.

Representative Parkinson appeared before the Committee in support of **HB 2893**. In his testimony he stated the bill provides that Kansas taxpayers who contribute to Kansas candidates or political party committees are entitled to up to a \$25 state income tax credit. A couple filing jointly could receive up to a \$50 credit. He stressed that this was a credit and not a deduction. As a result, passage of the bill would create a great incentive for individuals to make political donations (see attachment 1).

Chairman Jones opened the floor for questions. The Committee addressed questions to Representative Parkinson as it related to credit for pacs, cost, other state systems, consideration of 50% tax credit, reporting to public disclosure and amending the bill to meet reporting requirements.

Majority Leader, Tom Sawyer, appeared before the Committee in support of **HB 2893**. In his testimony he stated the bill would provide tax credits for people who make small campaign contributions. He further indicated that one of the best ways to reduce the influence of special interest groups is to encourage more participation from individuals, particularly small contributors of which he believed would result from the bill (see attachment 2).

Chairman Jones opened the floor for questions. The Committee addressed questions to the Majority Leader as it related to presidential campaign, non partisan elections, campaign finance act, tax credit amount per race and lowering campaign limits.

Michael Woolf appeared before the Committee in support of **HB 2893**. In his testimony he echoed Representative Parkinson and Majority Leader testimonies (see attachment 3)

Chairman Jones opened the floor for questions and opponents. There were none and he closed the hearing.

Chairman Jones opened the hearing for **HB 3124** - Concerning elections; relating to petitions.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Elections,
room 521-S, Statehouse, at 9:10 a.m./p.m. on March 3, 1992.

Representative Hochhauser appeared before the Committee in support of **HB 3124**. In her testimony she stated the bill was introduced to clarify the tax payers protest petition process. She identified a group of citizens from Riley County as having had collected over 1,700 signatures to put a proposed tax budget on the ballot from the petition to vote by the people. The petitions were invalidated because of technical defect. She provided the Committee copies of the petitions and pointed out the reasons given for the invalidation (see attachment 4). She stated **HB 3124** would help simplify the process. She provided ~~the Committee a balloon~~ to the bill proposing changes (see attachment 4). She further stated the problem was not an isolated incident but rather it had occurred in other counties. She expressed the current statute obscures the protest petition process and that the bill would clarify the process.

Chairman Jones opened the floor for questions. Committee members addressed questions to Representative Hochhauser as it related to the adequacy of the law in previous years, the proposal not addressing the problem, amending the bill to certify petitions are valid, and residency of the circulator of a petition.

Sydney Carlin appeared before the Committee as a proponent to the bill. In her testimony she expressed concerns regarding the process as she had experienced it and stated citizen groups need to be empowered to petition for an election when one is needed (see attachment 5). In her closing statement she informed the Committee that Stan Handshy was unable to be present but had provided written testimony to be considered by the Committee (see attachment 6).

Chairman Jones opened the floor for questions. There was one question from the Committee regarding the County offering a list of registered voters to the citizen group.

Debra Frey appeared before the Committee in support of the bill. In her testimony she stated citizens of Kansas in a very practical sense, have absolutely lost their constitutional "right to petition." She encouraged the Committee to act on the bill so that citizens of Kansas may be confirmed and supported if they choose to exercise their "right to petition." Ms. Frey also informed the Committee that Valerie Petersen and Kathleen O'Neil wanted to be present but was unable to. Their written testimonies are available (see attachment 7, 8, and 9).

Chairman Jones opened the floor for questions. There was one question from the Committee asking if the citizens group could appeal to the district court.

Joe de la Torre appeared before the Committee. In his testimony he stated the issue of petitions was a complicated one. He indicated that Legislative Research did a study and found the word petition was identified in 972 statutes according to a memo dated August 27, 1991 (see attachment 10). He stated he supported the issue of making the process easier for the people to redress their concerns, and that a committee of County Clerks and the Secretary of State Office was recently established to look at the issues being addressed. He expressed a concern that he had was to be sure that additional problems were not being created. He further stated he opposed to having County Clerks provide legal opinion.

Chairman Jones opened the floor for questions. The Committee addressed questions to Mr. Torre as it related to having the Attorney General draft and certify petitions. Arden Ensley, Revisor, expressed the difficulty in writing a standard petition. Other questions from the Committee were related to having the County Attorney review, certify and enforce the petitions.

With no further questions, Chairman Jones closed the hearing for **HB 3124**.

Chairman Jones informed the Committee that they would act on the minutes dated February 26 and 27 at the next meeting scheduled for Thursday, March 5, 1992. The meeting adjourned at 10:25 a.m.

STATE OF KANSAS

MARK PARKINSON
REPRESENTATIVE, 14TH DISTRICT
REPRESENTING OLATHE AND OVERLAND PARK
16000 W. 136TH TERRACE
OLATHE, KANSAS 66062
913-829-5044



TOPEKA

HOUSE OF
REPRESENTATIVES

TESTIMONY IN SUPPORT OF H.B. 2893

COMMITTEE ASSIGNMENTS

MEMBER: ELECTIONS
JUDICIARY
TRANSPORTATION

At the outset I want to thank Chairman Jones for scheduling this bill for hearing and allowing us the opportunity to once again address the issue of campaign finance.

House Bill 2893 is not complicated. It provides that Kansas taxpayers who contribute to Kansas candidates or political party committees are entitled to up to a \$25 state income tax credit. A couple filing jointly could receive up to a \$50 credit. It is important to emphasize that this is a credit and not a deduction. As a result, passage of the bill would create a great incentive for individuals to make political donations.

The purpose of the legislation is to promote and hopefully expand participation of individuals in the political process. Currently, the largest percentage of contributions to legislative races are from political action committees. Attached to this testimony is information from the Kansas Commission on Governmental Standards and Conduct. It demonstrates the heavy reliance on PAC's in legislative races. In 1990 39.2% of contributions to House of Representative candidates came from PAC's, while only 25.5% came from individual contributors.

It is interesting to note that this is not the case in statewide races. In those races only 3.8% of the money came from PAC's. Fully 52.3% is attributable to individual contributors.

Our efforts to increase individual contributors has thus far focused on two fairly extreme measures. The first is to ban PAC contributions. We fully debated that issue last year, and there were solid arguments on both sides. Regardless of your feelings on the issue, it is readily apparent to me that the votes to enact this reform are not present. The second is to institute a system of public financing. Again, there are good arguments on both sides, and again the political muscle to enact this reform is not present.

Tax credits are a more moderate approach, offer many of the same benefits, and avoid many of the downfalls of the other reforms. Tax credits offer a tremendous incentive for individual contributions. For contributions up to \$25, a Kansas taxpayer would have the ability to contribute and the contribution is essentially free. It is deducted from the total tax liability. Properly used,

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candidates could dramatically increase their individual contributions and at the same time reduce the importance of PAC and corporate contributions.

The inevitable question is cost. A decent estimate is around \$1.6 million per year. Two states and the District of Columbia provide similar credits. Oregon is one of the states and keeps excellent records on participation. Attached is a breakdown of its participation levels since 1980. The average participation for those years has been 4.05% of the returns. We have 1.6 million taxpayers in Kansas who are eligible for the credit. If we experience 4.05% participation and the full \$25 credit is used the cost would be 1.6 million dollars.

This has the potential to completely change the way we finance Kansas campaigns. I believe it does so in a positive manner and is completely non-partisan in its approach and impact. I appreciate the committees attention to this issue and I am open to any questions.

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SUMMARY OF 1990 ELECTION YEAR
CONTRIBUTIONS TO STATE CANDIDATES
BY TYPE OF CONTRIBUTOR

TYPE OF CONTRIBUTOR	STATEWIDE CANDIDATES		HOUSE OF REP. CANDIDATES	
	AMOUNT	PERCENT	AMOUNT	PERCENT
Political Action Committee	\$ 275,566	3.8	\$1,079,455	39.2
Individuals	3,800,245	52.3	702,393	25.5
Corporations, Businesses, Unions	1,379,281	19.0	191,850	7.0
Party Committees	97,906	1.3	31,683	1.1
Candidate's/Spouse's Personal Funds	663,104	9.1	213,862	7.8
Out-of-State Organizations	759,177	10.4	234,200	8.5
Miscellaneous & Unitemized	297,593	4.1	302,848	11.0
TOTAL CONTRIBUTIONS	\$7,272,872	100%	\$2,756,291	100%

SUMMARY OF 1990
ELECTION YEAR EXPENDITURES
BY STATE CANDIDATES

TYPE OF EXPENDITURE	Expenditures Made by the Candidate's Campaign			
	STATEWIDE		HOUSE	
	Amount	Percent	Amount	Percent
Printing & Mailing/Distribution of Campaign Literature	\$1,238,438	17.9%	\$1,167,010	43.9%
Newspaper & Other Publication Advertising	142,639	2.1	368,637	13.9
Radio & Television Advertising	2,419,908	35.0	153,005	5.7
Yard Signs, Bumper Stickers, Buttons, Billboards	303,455	4.4	218,618	8.2
Fund Raising Expenses	54,634	.8	48,970	1.8
Contributions Made to Other Candidates, Party Committees and Political Committees	42,406	.6	130,080	4.9
Reimbursement/Payments to Candidate	10,585	.2	104,670	3.9
Miscellaneous & Unitemized	2,694,896	39.0	470,311	17.7
TOTAL DOLLARS EXPENDED BY A CANDIDATE	\$6,906,961	100%	\$2,661,301	100%

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OREGON POLITICAL TAX CREDIT--PARTICIPATION AND AMOUNT RAISED

YEAR	PARTICIPATION PERCENT	NUMBER OF RETURNS	TOTAL DOLLARS
1989	3.7	43,000	\$2,706,000
1988	NA	NA	2,858,000
1987	3.4	35,000	2,042,000
1986	5.2	53,000	1,582,000
1985	4.1	42,000	1,187,000
1984	5.2	52,000	1,516,000
1983	NA	NA	1,037,000
1982	4.2	45,000	1,305,000
1981	2.9	32,000	940,000
1980	3.7	42,000	1,209,000

NOTE: Pre-1986 only 50% of contribution was a tax credit up to the limit of \$50.
Post-1986 100% of contribution was a tax credit up to the limit of \$50.

State of Kans

House of Representatives

REPRESENTATIVE MICHAEL TOM SAWYER
Majority Leader



Topeka Address
State Capitol
Room 381 West
Topeka, Kansas 66612
(913) 296-7630

Wichita Address
1116 Dayton Street
Wichita, Kansas 67213
(316) 265-7096

Office of the Majority Leader

March 3, 1992

Thank you for the opportunity to appear before you today.

I am here to urge your support of House Bill 2893. House Bill 2893 would provide tax credits for people who make small campaign contributions.

As I am sure you're aware, I am a strong supporter of campaign finance reform. One of the best ways to reduce the influence of special interest groups is to encourage more participation from individuals, particularly small contributors. I believe House Bill 2893 would do just that.

Thank you again for your attention to this matter. I would be happy to answer any questions that you might have.

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COMMON CAUSE / KANSAS

701 Jackson, Room B-6 • Topeka, Kansas 66603 • (913) 235-3022

TESTIMONY IN SUPPORT OF HOUSE BILL 2893
by Michael Woolf, Executive Director
March 3, 1992

Thank you Mr. Chairman, members of the Committee for allowing me to testify today in support of House Bill 2893 which would establish a tax credit of up to \$25.00 for an individual (or \$50.00 for joint filers) for contributions to candidates or to political parties.

Common Cause supports this proposal as a way to increase contributions from individual citizens who would not normally give to candidates or parties. This is the way many people believe campaigns should be financed; instead of most of the money coming from wealthy individuals, PACs, and other special interests.

The federal government allowed a tax credit such as this up until 1986 when it was eliminated. Currently, Oregon is the only state that employs such a tax credit. There are two major differences between this proposal and Oregon: 1) their limits are \$50 and \$100 and , 2) they also allow the tax credit for PAC contributions (Common Cause in Oregon is working to remove the latter provision). I would also like to note that Colorado Common Cause, and other public interest groups, are currently gathering signatures to place an election reform initiative on the ballot which includes a tax credit provision.

In the 1990 House elections 54.6% of all contributions came from PACs, corporations, unions, businesses and out of state organizations; only 25.5% came from individuals. The 1988 Senate figures are not much different with 50.1% from special interest groups and 29.1% from individuals. Political parties only contributed 1.1% and 3.0% respectively.

House Bill 2893, if enacted, might help to level these percentages by decreasing special interest contributions, encouraging individuals to contribute, and providing political parties with funds to strengthen their efforts.

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Attachment 3*

HOUSE BILL No. 3124

By Committee on Judiciary

2-25

8 AN ACT concerning elections; relating to petitions; amending K.S.A.
9 1991 Supp. 25-3602 and repealing the existing ~~section~~ sections
10 25-3601 and

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

12 Section 1. K.S.A. 1991 Supp. 25-3602 is hereby amended to read _____ insert attached section

13 as follows: 25-3602. (a) Each petition shall consist of one or more
14 documents pertaining to a single issue or proposition under one
15 distinctive title. The documents shall be filed with the county elec-
16 tion officer or other official, if another official is designated in the
17 applicable statutes. The filing shall be made at one time all in one
18 group. Later or successive filings of documents relating to the same
19 issue or proposition shall be deemed to be separate petitions and
20 not a part of any earlier or later filing.

21 (b) Each petition shall, unless otherwise specifically required: (1)
22 Clearly state the question which petitioners seek to bring to an
23 election *and an explanation of the effect of voting for or against*
24 *such question;*

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

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

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

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

36 When petitioners are required by law to possess qualifications in
37 addition to being registered electors, the form of the petition shall
38 be amended to contain a recital specifying the additional qualifica-
39 tions required and stating that the petitioners possess the qualifi-
40 cations; *and*

41 (c) Every petition shall (4) contain the following recital, at the
42 end of each set of documents carried by each circulator, a verifi-
43 cation, signed by the circulator, to the effect that the circulator

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1 personally witnessed the signing of the petition by each person
 2 whose name appears thereon. The circulator of a petition shall
 3 be duly registered to vote and a resident of the political or
 4 taxing subdivision in which the election is sought to be
 5 held: "I am the circulator of this petition. I have personally wit-
 6 nessed the signing of the petition by each person whose name appears
 7 thereon. I am a registered elector of the state of Kansas and of

8
 9 (here insert name of political or taxing subdivision)

10
 11 (Signature of circulator)

12
 13 (Circulator's residence address)

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

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

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

27 Sec. 2. K.S.A. 1991 Supp. 25-3602 ~~is~~ hereby repealed. _____ 25-3601 and

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

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Section. 1. K.S.A. 1991 Supp. 25-3601 is hereby amended to read as follows: 25-3601. When under the laws of this state a petition is required or authorized as a part of the procedure applicable to the state as a whole or any legislative election district or to any county, city, school district or other municipality, or part thereof, the provisions of this act shall apply, except as is otherwise specifically provided in the statute providing for such petition. The sufficiency of each signature and the number thereof on any such petition shall be determined in accordance with the provisions of K.S.A. 25-3601 to 25-3607, inclusive, and amendments thereto by the county election officer or such other official as designated in the applicable statute. When any statute makes specific provisions concerning matters that K.S.A. 25-3601 et seq. and amendments thereto also has requirements which are different therefrom, the provisions of the specific statute shall control. The county election officer or such other official as designated in the applicable statute shall give to a person or persons requesting information on filing such petitions a copy of article 36 of chapter 25 of the Kansas Statutes Annotated, and amendments thereto.

Renumber remaining sections accordingly.

PETITION

We, the undersigned, as registered electors of Riley County, Kansas, request an election upon the proposition of Resolution No. 060691-18, A Resolution Creating A Building Fund Pursuant to K.S.A. 19-15,116, which Resolution seeks to authorize an annual tax of not to exceed one mill upon all tangible property in said county for not to exceed ten (10) years which levy shall not exceed \$2,500,000.00. This proposition was adopted by the Board of County Commissioners of Riley County, Kansas, the 6th day of June, 1991.

I HAVE PERSONALLY SIGNED THIS PETITION. I AM A REGISTERED ELECTOR OF THE STATE OF KANSAS AND OF THE COUNTY OF RILEY AND MY RESIDENCE ADDRESS IS CORRECTLY WRITTEN AFTER MY NAME.

<u>Signature</u>	<u>Residence Address</u>	<u>Date of Signing</u>
<u>Adeline M. Ercusni</u>	<u>301 E. Aburne</u>	<u>22 Jul 91</u>
<u>Lucy J. Lunn</u>	<u>212 E. Randolph</u>	<u>22 July 91</u>
<u>Michael S. Scudera, Jr.</u>	<u>R11 Box 19 Randolph, KS</u>	<u>22 Jul 91</u>
<u>Betty Olson</u>	<u>307 Harison ^{Randolph}</u>	<u>July 22, 1991</u>
<u>Bernard Emil Rohde</u>	<u>242 E. Aburne</u>	<u>July 22, 91</u>
<u>Jeffrey D. Rohde</u>	<u>213 E. Harison Randolph</u>	<u>July 22, 91</u>
<u>Donna M. Rohde</u>	<u>" " "</u>	<u>July 22, 1991</u>
<u>Luma Rolfs</u>	<u>RR1 Box 98 Randolph</u>	<u>July 22, 1991</u>
<u>Dorothy Sloan</u>	<u>R1 Box 93 Randolph</u>	<u>July 22, 1991</u>
<u>Bernice E. Henry</u>	<u>308 East Randolph</u>	<u>July 22, 1991</u>
<u>Raymond T. Kump</u>	<u>R-1 Box 135 Randolph</u>	<u>July 22, 1991</u>
<u>Alpha Johnson</u>	<u>R1 Box 134 Randolph</u>	<u>W. Riley Co.</u>
<u>Anthony R. Howard</u>	<u>210 E. Randolph</u>	<u>July 22, 1991</u>
<u>Karon L. Sharp</u>	<u>RR1 Box 21 Leonardville</u>	<u>July 23, 1991</u>
<u>Jim M. Sallacik</u>	<u>724 Piem Manhattan</u>	<u>7-23-91</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

STATE OF KANSAS, COUNTY OF RILEY, SS:

JILL L. HORTON
 NOTARY PUBLIC
 STATE OF KANSAS
 MY APPT. EXPIRES 2-3-93

Subscribed and Sworn to before me this 26th day of July, 1991.

Jill L. Horton
 Notary Public

I, Judy M. HEWARD, do hereby verify that the forgoing persons have affixed their signature to this Petition on the date set forth above and that I am the circulator of this petition and am now registered to vote and a resident of the County of Riley (State of Kansas) in which the election is sought to be had.

Judy M. Heward
 (Signature)

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Testimony In Favor of House Bill #3124

by

Sydney L. Carlin

March 3, 1992

I spoke with Representative Hochhauser about the difficulty I experienced regarding the petition process and appreciate that she has introduced House Bill #3124, and arranged for us to come before you in support of this Bill.

In February of last year both of my junior high boys entered, and won first place in their divisions, a DAR essay contest on the Bill of Rights. We talked as a family about citizen rights and how individuals are protected by the Constitution. We talked about how our local government affects the community in which we live, and about the idea that each of us can make a difference. The words were beautiful, and inspirational. A few months later, I had the opportunity to put my case on the line when I became involved in an effort to petition to bring an item to a vote in Riley County. I began to learn how politics enters into the game. Today I am here because I still believe in the Bill of Rights and am still trying to make a difference.

In June of 1991 I was involved in developing a petition regarding a local tax issue. I was concerned about a reverse referendum which appeared in the classified section of the official county newspaper. I became aware through conversations with other citizens that the item had apparently gone unnoticed by many, many people. I learned that there also had been a great number of inquiries to the County Clerk's office, and at the urging of these citizens, decided to take the issue to the people in the form of a petition.

Upon inquiry the County Clerk advised me that a petition would require 10% of the voters who voted in the last election of Secretary of State. Upon further inquiry I was told the number would be 1220.

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I asked the County Clerk for petition assistance, if she could provide a sample petition to work from and was told that I would have to check the statutes and draw one up. The clerk later said that she had been advised to say that she was not an attorney and could not give legal advice, that I would have to hire an attorney. An attorney was hired - a former legislator who had been a member of this committee. We supplied him the information on the item. He returned to me a document which should have fulfilled all legal requirements.

I learned through the County Clerk's office that:

- * each person was required to be a registered voter of the county.
- * signatures were required to be legible.
- * signatures were required to be exactly as the voter had registered.
- * T's must be crossed and I's dotted.
- * the address must be correctly written and as was registered.

I became anxious about these details and whether enough proper signatures could be obtained. I later worried about the verification - could I both sign a petition page and verify that I carried that sheet? How many persons would have moved or changed their names or failed to vote in the last presidential election who would sign the document? A careful review of petition law was done by a research person, and I began to line up the petition circulators, have the petition typed, and photocopies made. It was a grueling and exhausting effort and yet one that became exhilarating because of the magnificent success with which the effort was received throughout the county.

Sixty-one persons returned petition documents. Every township was covered. It was an effort which sprouted wings of its own. We helped each other by carrying voter registration lists and checking proper signatures on the spot. Approximately 1800 signatures were collected and 1742 were later validated by the County Clerk's office. (520 more than required.)

During the early stages of the effort I carried a page of the petition to the County Clerk and the County Attorney to see if the petition document had obvious problems - as I was concerned still about the details. These elected officials did not recognize obvious flaws in the document or the manner of collecting signatures.

Twenty-five days later the petitions were collected, a few days early, in order that we could count and ascertain whether a greater effort was needed. We were ready to submit the petition. At 4:00 p.m. I called the County Clerk to advise that we would be there the next morning. Then I was told that it was only fair that I be told that all signatures of petition circulators must be notarized. So in the remaining few hours of the deadline I went to work getting people to come and reclaim their petitions, take them to be notarized and return them to me. As a result, a couple of persons had gone on vacation and were unavailable to comply with this request.

We turned in about 177 pages of signatures and learned that the numbers were adequate. The newspaper printed stories of the successful petition campaign.

While I was away on vacation I learned that the County Clerk had not submitted the petition to the County Commission, and had instead sent it to the Commission's paid counsel for an opinion of validity. His opinion was that the petition was invalid. We asked the County Attorney for his opinion and he referred the problem to the Attorney General's office and an informal opinion followed that the Attorney General concurred with the County Counselor. The matter never was formally sent to the County Commission so in an effort to be sure that they were aware of the will of the people, our attorney presented copies of the petition to them during an open meeting.

What I have outlined to you is a concrete instance in which ordinary citizens went to extraordinary lengths to actively participate in the democratic process. Ultimately these efforts failed because of technicalities in a law, a law so vague that it required an opinion of the State Attorney General for clarification.

We are testifying here today because we need your help. We need you to enact legislation that will make it easier for ordinary citizens to exercise their right

to petition their government. We think House Bill # 3124 is a step in the right direction. We have spoken to individuals in Neosho, Labette and Sedgwick Counties who have had similar problems with petitions this year. We know that the problem exists throughout the state. Certainly we understand that the law must be written in precise, legal language, but it also needs to be clear and understandable in order that the democratic processes are facilitated, rather than easily obstructed.

The overriding reason for a bill to correct the pitfalls in a citizen's group circulating a petition is the obvious. First the elected body should adequately explain the need. That was not done in our case. In addition they should use the media to explain why 2.5 million dollars of our money is needed and for what. That was not done in our case - no publicity - no explanation - no effort to persuade. New public officials may be an answer but also we need to be empowered to petition for an election when one is needed.

Thank you for this opportunity.



Sydney L. Carlin
Manhattan, Kansas

Legislative Elections Committee,
(3-3-92)

This is in response to a request for information concerning our experiences in a recall petition attempt at the county level; specifically an attempt to recall a local sheriff.

My wife was a member of the three person recall committee and both of us were actively involved throughout. I can assure you that it was an educational experience! The three factors we had difficulty with were getting accurate information on the methodology, experiencing very clear intimidation attempts, and the unknown as to what the legal system would consider 'sufficient grounds' for a recall.

In relation to the first factor:

1. We were told (by the county clerk's office) that we had to have a petition carrier in each voting precinct in the county or those precincts could not be carried in. This he later modified to allow the three people on the primary committee to carry these precincts directly by themselves if they chose to--or leave them uncarried.
2. We were told that the list of approved carriers had to be on file. They were promptly published in the local newspaper opening them immediately to intimidation attempts.
3. We were also informed that each page of the petition had to be signed and notarized by the involved carrier.

In regards to the second factor:

1. Shortly after the recall was formally announced, the involved person made a press appearance with statements concerning 'legal action' he could take in relation to the petition drive--this is public record and I really believe was an outright intimidation attempt.
2. Several expressed concern that anyone would likely cost them their job through his office, jeopardize their jobs if they were county workers, and hurt their businesses if they had private businesses. A few even made it clear that they had teenage children who would be open for reprisals. Probably the most brazen intimidation attempt was an attempt by some sheriff supporters to have people write to have their medical licenses revoked (my wife being a nurse and myself a physician), justifying this as reasonable since we were trying to cost him his job. This was placed in the Chanute Tribune as an editorial--a public record.

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considered this ridiculous until a member of the sheriffs office auxiliary told me that it had occurred--meaning a complaint filed. Obviously I could never prove direct cause and effect but it hadn't happened before this in several years of medical practice or since, doing it was advocated in the editorial mentioned above, it occurred, and I heard about it (although with disbelief) from the member of the sheriffs' office auxiliary a few days before I formally was told that it really did occur! Yes, the people involved in the complaint were angry at the time for other reasons but I firmly believe they were encouraged to do this! There were several other episodes less blatant.

3. Later, other events occurred that I believe were reprisals. For instance, if a person is arrested in this county, has medical needs, is my patient, and requests me; it has been made clear that I will not be called--in contrast to anyone else in the region.

In summary, to help make a recall a REAL right of the citizens instead of lip-service; we need legislation to make a recall method VERY CLEAR and not open to local interpretation, the required grounds for a recall needs to be clear (i.e. inappropriate action rather than a criminal act), and I believe most importantly there must be VERY CLEAR CRIMINAL PUNISHMENT for intimidation attempts of organizers, carriers of petitions and for signers. Please note that we were repeatedly asked to burn the signed petitions if it was not successful--which is exactly what occurred. At present, it is almost impossible for citizens in Kansas to exercise the right to recall an official successfully as a result of the misinformation and requirements built into the system. In addition, if the person or persons to be recalled are part of a largely lopsided county political system, then the people involved in a recall can fully expect to be threatened personally, their jobs (and amazingly even their professional licenses) in jeopardy, their businesses hurt, and their family involved. This taken together makes a recall effort in Kansas usually little more than a lip-service to what I firmly believe is a basic right of the citizens to hold an elected official to a minimal reasonable level of job competence.

Please don't misunderstand me, I believe in this case it was the right thing to do and would do it again if necessary--but I can guarantee you that doing what you feel is RIGHT and doing what is BEST FOR YOU are not at all the same! Fortunately, since the recall, I believe most of our local people are aware of the problems and good has come out of the effort. Still, our citizens should be able to be involved in exercising the right of a recall attempt with CLEAR information available and some degree of harassment

protection when the action is taken in good faith for the public well-being.



Stan Handshy M.D.
324 S. Main,
Erie, Kansas

Testimony Concerning the Right to Petition

by

Debra L. Frey

March 3, 1992

I got a wake up call from a friend this past summer. She woke me up to the fact that we have to fight for freedom and democracy even right here in the middle of America.

In theory, citizen, is the highest office in a democracy. You, as members of the legislature have been empowered by the citizens of your district to act on their behalf in this representative democracy. As a further check on the power of elected officials and as a direct method of making the will of people known, we as citizens of Kansas and of the United States of America have the "Right to Petition". It's basic.

I always supposed I had the "Right to Petition" and if ever the need be, I would be allowed to exercise that right.

Honorable citizen representatives, after my experience this past year, I will never again take for granted nor assume a particular citizen right. Instead, I stand before you with documentation from across the state of seemingly contradictory verbiage, rulings and legal minutia on the petition law. When combined with the vacuum of readily available citizen information on the topic, the maze of local and state bureaucracy, laws and court cases, collectively form an impenetrable barrier to an ordinary citizen.

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This is the first time I have ever spoken to a legislative body. I do not use the words lightly when I say...The citizens of Kansas in a very practical sense, have absolutely lost their constitutional "Right to Petition"!!

This is not a conclusion I have reached based on an isolated Attorney General's opinion on one petition from Riley County. This barrier of "legalese" has prevented the citizens right to petition in communities across the state, including Barton, Labette, Reno, and Sedgwick Counties. If you think you can write a legally valid petition I challenge you to try!

I was one of more than 80 petition carriers who experienced the heat and humidity last July while gathering 1,742 valid signatures in neighborhoods, ball parks, swimming pools and throughout Riley County. Each petition carrier had a list of registered voters of Riley County, checked the spelling and middle initials. Each person we approached was shown an enlarged copy of a Building Fund Resolution which had appeared three times, in fine print, in the legal section of the local paper and which without a petition requesting a vote, would add \$2.5 million to property taxes in Riley County. Our petition was to request a vote on this new tax. We felt that no adequate explanation had been given as to why this money was needed or what it would be spent for... That is a local issue.

But, the reason I am here today is that our petition was ruled invalid and insufficient. INVALID...INSUFFICIENT...these words struck me down. How could this be? Allow me to briefly review the procedure we followed in submitting our petition.

- * We reviewed the statutes on petitions and copied them to study.
- * We made enlarged copies of the resolution in question.
- * We paid a lawyer, and former member of the Kansas Legislature to draft the actual petition.
- * We then gathered our materials together and asked the Riley County Clerk if the petition was sufficient, since the County Clerk is the first to judge petition validity. She advised us to check with a lawyer, we assured her that we had and she responded that it "should be alright".

Yet, weeks after the door to door work was over, after the County Clerk was to confirm we had submitted the petition all together at one time, within the time limit required to question the resolution and we had more than met the minimum number of signatures of Riley county voters; after the County Counselor, County Attorney and finally the State Attorney General had reviewed the petition, the official opinion was not "alright". It was INVALID....INSUFFICIENT.

I sat in the public library two days after the ruling came down, a mountain of Kansas Statutes before me and Attorney General opinions spread in front, asking myself many 'what if' questions. What if we had used the word "witnessed" instead of "verify", what if we had done it this way or that way...A friend stopped to talk...she said, "How dare they invalidate the constitution? Isn't the right to petition guaranteed in the first amendment of the constitution? In the bill of rights? And isn't this the 200th anniversary of the bill of rights?"

That was my wake up call! We had used a lawyer....a former legislator to draw up the petition. we acted reasonably and did the best we knew. yet it still wasn't good enough? Is this what the founding fathers had in mind?

Here I was consumed with detail. I had overlooked the importance and the intent of the bill of rights which is to give ordinary citizens recourse in this democracy. Something is wrong. The right to petition should not be restricted to only those with elite lawyers or the best contacts in high places ...not in a democracy...not in America...not in Kansas.

That's why I'm here. Please help reclaim this "Right" for ordinary citizens. You can make some verbiage changes in the law and try to simplify it. But, as someone who has been through our current petition process and failed, from a practical standpoint ... the most important thing you need to do is...

MAKE PETITION LAW INFORMATION READILY AVAILABLE...

AT ALL COUNTY CLERK OFFICES IN KANSAS...

IN A STANDARDIZED, CONCISE FORM (Hopefully 1 page)

...so that citizens of Kansas may be confirmed and supported if they choose to exercise their "Right to Petition".

Just as the County Clerk is our resident expert on how a citizen can legally vote, so also the County Clerk should be our resident expert on how a citizen can legally petition.

Our "Right to Petition" was not taken away in a war; it was hidden, slowly, tragically, one court ruling or opinion at a time. Do something powerful and practical. Dig in, find and return to Kansas citizens the constitutional "Right to Petition".

On July 27, 1991 a petition on Resolution No. 060691-18 (Riley County) was presented to Riley County Clerk with 1,742 signatures, well above the 1200 required to call the resolution to a vote.

Seeing that enough signatures were obtained, County Clerk then requested an opinion by County counselor. On August 6th, 1991, he issued his opinion that the petition was invalid, for the following reasons:

"1. The petition failed to clearly state the question which the petitioners seek to bring to election.

A mere statement requesting the governing body to take a certain action will not fulfill the requirement set forth in K.S.A. 25-2602(b)(1).

Attorney General Opinion No's 82-230; 85-160; 86-19."

"2. The petition fails to 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. This is a specific requirement of the statute. The verification by the circulators of the petitions submitted states that the foregoing persons have affixed their signatures to the petition, there is no suggestion that circulator witnessed the affixation of the signatures." Instead our petition stated that "I verify that the foregoing persons have affixed their signatures to this petition on the date set forth

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above, and that I am the circulator of this petition...."

Basically our petition was invalidated on two legal technicalities. The Attorney General's opinion was received on August 19th, 1991 and gave the same two reasons for invalidating the petition.

All of this was and is extremely frustrating to the average citizen. We did everything possible to prepare and submit an adequate document based on the information we the people could gather. In the beginning we asked what was required by the county clerk for a petition. We were told to seek legal counsel to draw up our petition. We did this. Prior to distributing the petition it was shown to the county clerk and county attorney for problems and each found none. Before turning in the petitions the county clerk informed us that each petition needed to be notarized. We did this, and later found out that it was totally unnecessary.

We, the average citizen need the petition laws clarified so that we are empowered rather than discouraged by government regulations.

Valerie Petersen
Manhattan Kansas

My testimony in regard to circulating a petition in Riley County the summer of 1991 is as follows:

I was informed of the publication in the local newspaper of the resolution to renew, repair or construct any building in Riley County that would raise taxes by one mill. Unless contested by a certain percentage of registered voters this resolution would automatically pass but if petitioned then this resolution would have to come before the voters. A group of concerned citizens sought the aid of the Riley County clerk and legal advice as to how a petition should be written and circulated.

Following this advice I began circulating the petition carrying with me the newspaper article, the petition sheet and an enlarged copy of the resolution as it was such small print in the paper. I spent twenty to twenty-four hours knocking on doors, talking to people at ball games expressing my concern as a citizen that we would not be allowed the right to vote on this resolution.

As the deadline drew near I turned in my sheets and then was informed these sheets needed notarized. I then took my sheets to a notary and returned them all notarized. Our group was then told by the Riley County clerk through legal aid that our petitions were not worded clearly and even though we had sufficient signatures the petitions were not valid.

Kathleen I. O'Neil

Kathleen I. O'Neil
March 2, 1992

*1714 Cedar Crest
Manhattan, Mo. 66502*

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MEMORANDUM

Kansas Legislative Research Department

Room 545-N - Statehouse
Topeka, Kansas 66612-1586
(913) 296-3181

August 27, 1991

PROTEST PETITIONS

Pursuant to Legislative Coordinating Council instructions, this memorandum has been prepared to compare features of a number of statutes relating to protest petitions. A computer search by the Revisor's Office identified 477 statutes which contained the word "petition" and either some form of the word "elect" or some form of the word "vote." A 1982 computer search which apparently located all statutes with the word "petition" identified 972 statutes. A number of those statutes do not involve protest petition requirements for voters seeking to force an election (*e.g.*, K.S.A. 1990 Supp. 60-203, which provides that a civil action is commenced under certain circumstances when a petition is filed with the clerk of the court).

Feature Comparison Table

The Legislative Research Department has prepared the attached tables comparing the various protest petition components of approximately 100 statutes. Generally, governing bodies seeking to take actions subject to protest petitions are required to publish the resolution or ordinance for a certain number of weeks in a certain designated newspaper (either the "official" newspaper of the local unit or a newspaper of "general circulation" within the unit). The statutes contain a wide variance in the percentage of voters or electors whose signatures are required to force an election. Many of the protest petition statutes are tied to a certain percentage of the total number of registered voters or qualified electors within the local unit(s). A number of other statutes require signatures of a certain percentage of those voting at a certain election (sometimes for a designated office) in order to force an election. Finally, protest petitions must be filed with certain officials within a certain number of days after the final publication (but see K.S.A. 72-8154 which allows 40 days from the first publication).

Local Initiative

In addition to protest petitions which challenge a proposed action by a local governing body, the attached tables show signature requirements for selected local initiative measures under which voters may propose local laws or actions. For a more detailed discussion on the local initiative process, see the February 13, 1991 memorandum from Mike Heim to the House Federal and State Affairs Committee.

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Sufficiency of Petitions

K.S.A. 1990 Supp. 25-3601 *et seq.*, establishes the criteria for the sufficiency of petitions. Among other requirements, filings must be made "at one time all in one group. Later or successive filings of documents relating to the same issue shall be deemed to be separate petitions . . ." (K.S.A. 1990 Supp. 25-2602 (a)). Initiative petitions must be filed with the appropriate official within a maximum of 180 days of the date of the first signature, pursuant to K.S.A. 1990 Supp. 25-3601 (e), unless the specific statute contains a lower number of days.

Policy Comment

The wide variance in the various components of the protest petition statutes could lead to a good deal of confusion and have other unintended policy implications. For example, K.S.A. 1990 Supp. 12-187 allows voters to initiate action regarding city and county sales taxes. But 10 percent of the electors of a city are required on the petition, while 10 percent of the electors of a county who voted at the last preceding general election for Secretary of State are required. Based on data obtained from the Secretary of State and from Shawnee County for the 1990 election, more signatures would be required to force an election regarding a Topeka sales tax than would be required to force an election regarding a Shawnee County sales tax.

Uniformity Policy Options

Without addressing literally hundreds of protest petition statutes with narrow application (see for example K.S.A. 2-131f regarding Ellis County fairground land acquisition and K.S.A. 3-152a regarding airport improvement general obligation bonds issued by cities located in a county with a total county population between 7,300 and 7,800), the Legislature could apply uniform standards for protest petition requirements for several major categories, including local initiatives, property tax levies, other taxes, and bond issues. Other conceptual lines could be drawn and different requirements maintained pursuant to the type of local units involved (*i.e.*, cities, counties, school districts, townships, etc.). However, any movement toward uniform provisions should recognize that specific components in many statutes were enacted for valid policy reasons. In other words, it is probably appropriate that more signatures are required to force an election to recall an elected official (K.S.A. 25-4311) than are required to force an election on the repeal or imposition of an elderly service levy (K.S.A. 1990 Supp. 12-1680).