

Approved: January 30, 1996

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION AND ELECTIONS.

The meeting was called to order by the Chair, Carol Dawson, at 9:00 a.m. on January 24, 1996 in Room 521-S of the Capitol.

All members were present except:     Rep. Dee Yoh, Excused  
  Rep. Kay O'Connor, Excused

Committee staff present:     Jim Wilson, Revisor of Statutes  
  Dennis Hodgins,  
  Carolyn Rampey, Legislative Research Department  
  Donna Lutjohann, Committee Secretary

Conferees appearing before the committee: Brad Bryant, Asst Secretary of State

Others attending: See attached list

Madam Chairman Dawson requested bill introductions from committee members. None were made.

The Chair recognized Brad Bryant to answer questions regarding independent candidates that committee members asked at a previous meeting. The questions and copies of the statutes that clarify the questions are in Attachment 1.

The minutes of January 19 and 23, 1996 were brought to the Committee's attention. Rep. Gilbert made a motion to approve the minutes. It was seconded by Rep. Wells. The motion carried.

Madam Chairman Dawson adjourned the meeting at 9:45 a.m. with the next meeting scheduled January 25, 1996 in Room 512-S of the Capitol.

GOVERNMENTAL ORGANIZATION AND ELECTIONS  
COMMITTEE GUEST LIST

DATE: January 24, 1996

NAME	REPRESENTING
Brad Bryant	Sec. of State
Charlie Smithson	RCGSC
Carol Williams	RCGSC

Ron Thornburgh  
Secretary of State



2nd Floor, State Capitol  
300 S.W. 10th Ave.  
Topeka, KS 66612-1594  
(913) 296-2236

## STATE OF KANSAS

### House Committee on Governmental Organization and Elections

Brad Bryant, Deputy Assistant Secretary of State  
Elections and Legislative Matters

January 18, 1996

Madam Chair and Members of the Committee:

Questions have been raised about the legality of candidate filings by affiliated and unaffiliated persons. As we understand them, the questions are as follows:

1. Can one person be nominated by more than one party for the same office in the same election?

K.S.A. 25-306

K.S.A. 25-303(g)

2. Can a person seek more than one type of nomination, thereby appearing on the ballot more than once for the same office in the same election?

K.S.A. 25-202(c)

K.S.A. 25-213

K.S.A. 25-613

3. Can a candidate in a partisan primary who filed by June 10 also file as an independent candidate on the day before the primary?

K.S.A. 25-303(b)

K.S.A. 25-202(c)

HOUSE GOVT ORG & ELECTIONS  
January 24, 1996  
Attachment 1-1

Corporations (913) 296-4564  
FAX (913) 296-4570

Elections (913) 296-4561  
Administration (913) 296-2236  
FAX (913) 291-3051

UCC (913) 296-3650  
FAX (913) 296-3659

shall be filed with the secretary of state no later than 12:00 noon on the 2nd Monday preceding the general election for those offices.

(d) An affidavit of write-in candidacy for the offices of president and vice-president shall be filed with the secretary of state no later than 12:00 noon on the 2nd Monday preceding the general election for those offices.

(e) An affidavit of write-in candidacy for state offices elected on a statewide basis other than offices subject to subsection (c) shall be filed with the secretary of state no later than 12:00 noon on the second Monday preceding the election at which the write-in candidate seeks nomination or election.

History: R.S. 1923, 25-305; L. 1925, ch. 164, § 1; L. 1927, ch. 202, § 1; L. 1968, ch. 406, § 92; L. 1972, ch. 130, § 1; L. 1983, ch. 120, § 2; L. 1988, ch. 119, § 3; L. 1991, ch. 100, § 3; L. 1992, ch. 237, § 3; L. 1993, ch. 287, § 3; July 1.

Source or prior law:

L. 1893, ch. 78, § 7; L. 1897, ch. 129, § 7; L. 1901, ch. 183, § 1; Revised, 1923.

Revisor's Note:

Section was amended twice in 1992 session, see also 25-305a.

Attorney General's Opinions:

Independent nominations; requirements; party affiliations; party candidacy; petitions. 92-81.

#### CASE ANNOTATIONS

1. Refusal of clerk to place name on ballot considered. *Bower v. Clemans*, 61 K. 129, 58 P. 969.

2. Section applies to party as well as independent nominations. *Parsons v. Ryan*, 144 K. 370, 372, 373, 374, 60 P.2d 910.

3. Imposition on First and Fourteenth Amendment rights to run for office were outweighed by state's interest. *Dr. John Hagelin for President Committee v. Graves*, 804 F.Supp. 1377, 1378, 1379 (1992).

#### 25-305a.

History: R.S. 1923, 25-305; L. 1925, ch. 164, § 1; L. 1927, ch. 202, § 1; L. 1968, ch. 406, § 92; L. 1972, ch. 130, § 1; L. 1983, ch. 120, § 2; L. 1988, ch. 119, § 3; L. 1991, ch. 100, § 3; L. 1992, ch. 291, § 11; Repealed, L. 1993, ch. 287, § 15; July 1.

**25-305b.** Write-in candidates; affidavits for candidacy; filing. Persons who desire to be write-in candidates for president and vice-president of the United States or governor and lieutenant governor shall file an affidavit of write-in candidacy with the secretary of state no later than 12:00 noon on the second Monday preceding the general election for those offices.

History: L. 1992, ch. 291, § 12; July 1.

**25-306.** Person may accept only one nomination; certificates of nomination; no refund when candidacy or nomination withdrawn. No person shall accept more than one nomination for the same office.

Whenever any person shall receive two or more nominations for the same office at different dates he shall be deemed to have accepted the nomination first made and to have declined the others, unless within the time limited for filing certificates of nomination he shall file in the office where such certificates of nomination are required to be filed a written statement, signed and sworn to by him, designating which one of such nominations he desires to accept; and upon the filing thereof he shall be deemed to have declined the other nominations.

Whenever any person shall receive two or more nominations for the same office on the same date, it shall be his duty, within the time limited for the filing of certificates of nomination, to file with the officer with whom the certificates of nomination are filed a written statement, signed and sworn to by him, designating which one of such nominations he desires to accept, and upon the filing thereof he shall be deemed to have declined the other nominations; and if he shall refuse or neglect to so file such an election, the officer with whom the certificates of nomination are filed shall, immediately upon the expiration of the time for the filing of certificates of nomination, make and file in his office an election of one nomination for such candidate. The county election officer shall print such candidate's name upon the official ballot under the designation so selected, but under no other designation whatever.

All certificates of nomination, when filed, shall be open under proper regulations to public inspection, and the secretary of state and county election officers having charge of such certificates shall preserve the same in their respective offices for one year after the election. No filing fee shall be refunded to any person withdrawing his candidacy or nomination under authority of this act [\*].

History: L. 1893, ch. 78, § 8; L. 1897, ch. 129, § 8; L. 1901, ch. 177, § 5; L. 1903, ch. 228, § 1; R.S. 1923, 25-306; L. 1955, ch. 205, § 1; L. 1968, ch. 406, § 93; L. 1970, ch. 135, § 3; March 5.

\* "This act," see 25-306a, 25-306b.

the secretary of state in verifying the sufficiency of these petitions as required by law.

The secretary of state shall transmit such petitions to the county election officer of each county for which petitions were presented to be examined for sufficiency pursuant to the provisions of K.S.A. 25-301 *et seq.* and amendments thereto and applicable regulations. Not more than 20 days following receipt of such petitions from the secretary of state, the county election officer shall return these documents to the secretary of state certifying the number of sufficient signatures thereon. The secretary of state shall gather all petitions and determine whether a sufficient number of signatures was submitted. The secretary of state shall forthwith notify the person who submitted the declaration of intent to circulate such petitions of the sufficiency or insufficiency of the number of signatures.

History: L. 1965, ch. 251, § 1; L. 1970, ch. 133, § 2; L. 1984, ch. 137, § 3; April 5.

**Cross References to Related Sections:**

Affidavit of newly organized party, see 25-117.

**Attorney General's Opinions:**

Collection of signatures on petition of political party seeking recognition; sufficiency; validity. 87-7.

**25-302b.** Recognized political party, loss of recognition. Any recognized political party whose nominee for any office for which the officer is elected from the state as a whole fails to receive at least 1% of the total vote cast for any such office in this state at any general election, or which fails to nominate persons for such offices, shall cease to be a recognized political party. The secretary of state shall notify all county election officers that such party has ceased to be recognized.

History: L. 1984, ch. 137, § 4; April 5.

**25-302c.** Same; listing of affiliated voters. When a political party ceases to be recognized, each county election officer shall list as unaffiliated any registered voters then affiliated with that party.

History: L. 1984, ch. 137, § 5; April 5.

**25-303.** Independent nominations; section not applicable to certain elections; number of signers of petition; requirements. (a) This section shall not apply to city and school elections, nor to election of other officers provided by law to be elected in April.

(b) All nominations other than party nominations shall be independent nominations. No person who has declared and retains a party affiliation in accordance with K.S.A. 25-3301

and amendments thereto shall be eligible to accept an independent nomination for any office.

Independent nominations of candidates for any office to be filled by the voters of the state at large may be made by nomination petitions signed by not less than 5,000 qualified voters for each candidate and in the case of governor and lieutenant governor for each pair of such candidates.

(c) Independent nominations of candidates for offices to be filled by the voters of a county, district or other division less than a state may be made by nomination petitions signed by voters equal in number to not less than 4% of the current total of qualified voters of such county, district or other division as compiled by the office of the secretary of state in the case of state offices and as compiled in the office of the county election officer and certified to the secretary of state in accordance with K.S.A. 25-2311, and amendments thereto, in the case of local offices, and in no case to be signed by less than 25 nor more than 5,000 qualified voters of such county, district or division, for each candidate.

(d) Independent nominations of candidates for offices to be filled by the voters of a township may be made by nomination papers signed by not less than 5% of the current total of qualified voters of such township, computed as above provided, for each candidate, and in no case to be signed by less than 10 such voters of such township for each candidate.

(e) The signatures to such nomination petitions need not all be appended to one paper, but each registered voter signing an independent certificate of nomination shall add to the signature such petitioner's place of residence and post office address. All signers of each separate nomination petition shall reside in the same county and election district of the office sought. The affidavit of a qualified elector who resides in such county and election district or of the candidate shall be appended to each petition and shall contain, at the end of each set of documents carried by each circulator, a verification, signed by the circulator, to the effect that such circulator personally witnessed the signing of the petition by each person whose name appears thereon. The person making such affidavit shall be duly registered to vote.

(f) No such nomination paper shall contain the name of a candidate for governor without in the same such paper containing the name

of a candidate for lieutenant governor, and if it does it shall be void.

(g) No person shall join in nominating more than one person for the same office, and if this is done, the name of such petitioner shall not be counted on any certificate.

History: R.S. 1923, 25-303; L. 1943, ch. 155, § 1; L. 1968, ch. 406, § 90; L. 1973, ch. 153, § 16; L. 1982, ch. 154, § 1; L. 1988, ch. 119, § 2; L. 1990, ch. 120, § 2; L. 1990, ch. 129, § 1; L. 1991, ch. 99, § 2; L. 1992, ch. 194, § 4; April 30.

Source or prior law:

L. 1893, ch. 78, § 5; L. 1897, ch. 129, § 5; L. 1901, ch. 177, § 3.

Research and Practice Aids:

Elections ⇌ 143.

C.J.S. Elections §§ 109, 110.

Attorney General's Opinions:

Simultaneous candidacies; simultaneous nomination to same office. 84-86.

Elections; independent nominations; requirements; signators; effect of voting in primary. 92-49.

Independent nominations; requirements; party affiliations; party candidacy; petitions. 92-81.

CASE ANNOTATIONS

1. Section cited in construing act prior to amendment of 1897. *Simpson v. Osborne*, 52 K. 328, 330, 34 P. 747.

2. Cited in reviewing and construing primary election laws; new parties. *Wiggins v. Ryan*, 152 K. 629, 632, 633, 634, 106 P.2d 711.

3. Cited; 25-306 held inapplicable to primary nominations. *State v. Tipton*, 166 K. 145, 148, 199 P.2d 463.

4. Requirements governing nominating petitions serve valid state interests; not unconstitutional burden on access to ballot. *Merritt v. Graves*, 702 F.Supp. 828, 830 (D. Kan. 1988).

**25-304.** Certificates of nomination; party certificates; party names; presidential electors. All certificates of nomination shall be in writing, shall contain the name of each person nominated, with such person's residence and the office for which nominated. Party certificates of nomination shall designate in not more than two words of which the word "party" shall be one, the political party which the convention, primary election or caucus making the nominations represented; as, for instance, "republican party," "democratic party," "people's party," "populist party," or "prohibition party"; but a compound or hyphenated word shall not be used to designate the name of a political party within the meaning of this act. When electors for president and vice-president of the United States are nominated, the names of the candidates for president and vice-president may also be shown on the certificates. Independent nomination petitions for presidential

electors shall contain the names of each elector and the names of the candidates for president and vice-president of the United States, together with the residence of each elector and candidate. The provisions of this section shall not apply to city or school elections, nor to the election of officers for which it is provided by law to be elected at the time of city and school elections.

History: R.S. 1923, 25-304; L. 1968, ch. 406, § 91; L. 1979, ch. 106, § 2; July 1.

Source or prior law:

L. 1893, ch. 78, § 6; L. 1897, ch. 129, § 6; L. 1901, ch. 177, § 4.

Research and Practice Aids:

Elections ⇌ 144.

C.J.S. Elections §§ 108, 135.

Certificate of nomination, *Vernon's Kansas Forms* § 2251.

Attorney General's Opinions:

Simultaneous candidacies; simultaneous nomination to same office. 84-86.

CASE ANNOTATIONS

1. Objection to emblem waived when not raised in proper time. *Ogg v. Glover*, 72 K. 247, 83 P. 1039.

**25-305.** Deadlines for filing certificates of nomination by convention or caucus and independent nomination petitions; deadlines for filing affidavit of write-in candidacy for state offices elected on a statewide basis. (a) Certificates of nomination by convention or caucus for the nomination of candidates for national, state, county and township offices shall be filed with the secretary of state, or the county election officer, not later than 12:00 noon, on the day fixed for the deadline for filing petitions for nomination and declarations of intent to become candidates in accordance with K.S.A. 25-205 and amendments thereto, preceding the national, state, county and township general election, except when such date falls on Saturday, Sunday or a holiday, and then not later than 12:00 noon the following day that is not a Saturday, Sunday or a holiday.

(b) Independent nomination petitions for the nomination of candidates for national, state, county and township offices shall be filed with the secretary of state or the county election officer no later than 12:00 noon on the Monday preceding the date fixed for the holding of primary elections in accordance with K.S.A. 25-203, and amendments thereto, preceding a national, state, county or township general election.

(c) An affidavit of write-in candidacy for the offices of governor and lieutenant governor

*Indep cand  
deadline*

county election commissioner, the expense of printing and distributing ballots and all other expenses connected with and that are necessary to provide for national, state, county, township, city and school primary and general elections shall be paid by the county. Expenses connected with registration and copies of registration lists by cities of the first and second classes shall be paid by such cities. Whenever it is provided by law that certain election expenses shall be paid or reimbursed by any city, school district, community junior college district or any public special district, this section shall not be construed to prevent such reimbursement.

History: L. 1963, ch. 227, § 2; L. 1968, ch. 406, § 64; April 30.

**Cross References to Related Sections:**

Liability for and apportionment of expenses of elections, see 25-2201 to 25-2205.

Expenses of voter registration, see 25-2315.

**Research and Practice Aids:**

Counties ⇐ 134; Municipal Corporations ⇐ 860.

C.J.S. Counties § 209; Municipal Corporations § 1835 et seq.

**25-120.** Election expenses; tax levy, use of proceeds. The expenses of elections in counties not having a county election commissioner shall be paid by the county out of the county general fund, or the board of county commissioners of any such county may levy a tax each year upon the taxable tangible property in the county for the payment of the election expenses, both direct and indirect, of elections for which it is provided by law shall be conducted by the county election officer or the county clerk and to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. 12-1774, and amendments thereto, by cities located in the county. Said levy shall be in addition to all other tax levies authorized or limited by law and shall not be subject to nor within any specific or aggregate tax levy limit prescribed by K.S.A. 79-1947 or acts amendatory thereof.

History: L. 1963, ch. 227, § 3; L. 1968, ch. 406, § 65; L. 1979, ch. 52, § 137; July 1.

**Cross References to Related Sections:**

Liability for and apportionment of expenses of election, see 25-2201 to 25-2205.

Expenses of voter registration, see 25-2315.

**Research and Practice Aids:**

Counties ⇐ 134.

C.J.S. Counties § 209.

**25-121.**

History: L. 1963, ch. 227, § 4; Repealed, L. 1968, ch. 406, § 145; April 30.

**25-122.**

History: L. 1965, ch. 252, § 1; Repealed, L. 1968, ch. 55, § 28; April 30.

**25-123.** Election to more than one office; incompatible offices. When a person is simultaneously elected to more than one office, such person may accept any such offices that are not incompatible with any other office accepted by such person. If a person accepts election to incompatible offices, the person shall be deemed to have accepted the office last accepted and to have declined any previously accepted incompatible office.

History: L. 1981, ch. 165, § 9; July 1.

**Attorney General's Opinions:**

Simultaneous candidacies; simultaneous nomination to same office. 84-86.

**Article 2.—PRIMARY ELECTIONS**

**25-201.**

History: L. 1908, ch. 54, § 1; L. 1909, ch. 136, § 1; R.S. 1923, 25-201; Repealed, L. 1968, ch. 406, § 145; April 30.

**CASE ANNOTATIONS**

1. Nomination of candidates to fill vacancies must be by primary election. *The State, ex rel., v. Lutz et al.*, 116 K. 621, 623, 227 P. 334.

2. History and source of primary election law discussed. *Parsons v. Ryan*, 144 K. 370, 372, 60 P.2d 910.

**25-202.** Methods of nomination of candidates; limitation on filing for office; exceptions to application of article. (a) Except as otherwise provided in subsection (b) all candidates for national, state, county and township offices shall be nominated by: (1) A primary election held in accordance with article 2 of chapter 25 of the Kansas Statutes Annotated and amendments thereto; or (2) independent nomination petitions signed and filed as provided by existing statutes.

(b) Candidates for any of such offices who are members of any political party whose candidate for governor did not poll at least 5% of the total vote cast for all candidates for governor in the preceding general election shall not be entitled to nomination by primary election but shall be nominated by a delegate or mass convention according to article 3 of chapter 25 of the Kansas Statutes Annotated and amendments thereto.

(c) No candidate for any national, state, county or township office shall file for office as a partisan candidate in a primary election and also file for office as an independent candidate for any national, state, county or township of-

fice in the general election immediately following.

(d) The provisions of article 2 of chapter 25 of the Kansas Statutes Annotated and amendments thereto shall not apply to the justices of the supreme court or to judges of the district court in judicial districts which have approved the proposition of nonpartisan selection of district court judges, as provided in K.S.A. 20-2901 and amendments thereto, nor to special elections to fill vacancies.

History: R.S. 1923, 25-202; L. 1953, ch. 195, § 1; L. 1955, ch. 203, § 1; L. 1968, ch. 406, § 66; L. 1974, ch. 137, § 17; L. 1984, ch. 137, § 1; L. 1989, ch. 106, § 2; July 1.

Source or prior law:  
L. 1908, ch. 54, § 2.

Revision note, 1923:

Revised to eliminate requirement as to United States senator. Same now covered by general law.

Research and Practice Aids:

Elections ⇌ 120 et seq.  
C.J.S. Elections § 89 et seq.

Attorney General's Opinions:

Independent nominations; requirements; party affiliations; party candidacy; petitions. 92-81.

#### CASE ANNOTATIONS

1. Effect of L. 1909, ch. 82, considered. *The State v. Harsha*, 80 K. 72, 73, 101 P. 454; *Martin v. Harsha*, 80 K. 76, 101 P. 456.

2. No candidate elected at primary; party committee has no authority to fill vacancy occurring after primary. *Hamilton v. Raub*, 131 K. 392, 394, 292 P. 396.

3. Certificates of nomination for presidential electors and party nominations must be filed before noon, June 20. *Parsons v. Ryan*, 144 K. 370, 373, 60 P.2d 910.

4. New party candidates for presidential electors must comply with 25-205; statutes reviewed. *Wiggans v. Ryan*, 152 K. 629, 631, 633, 634, 106 P.2d 711.

5. State may require nominating petitions to be filed 91 days in advance of general election. *Dr. John Hagelin for President Committee v. Graves*, 804 F.Supp. 1377, 1382 (1992).

**25-203.** Time of holding primary. (a) Except as otherwise provided in subsection (b), the primary national, state, county and township election shall be held on the first Tuesday of August in even-numbered years for the nomination of all candidates to be voted for at the next following general election.

(b) In the year 1992, if new boundary lines are defined and districts established in the manner prescribed by law for the offices of representative in the United States congress, senator and representative in the legislature of the state of Kansas, and member of the state board of education, on or after June 13, 1992, the primary national, state, county and township election shall be held on August 25, 1992,

for the nomination of all candidates to be voted for at the next following general election.

History: L. 1908, ch. 54, § 3; L. 1909, ch. 136, § 2; R.S. 1923, 25-203; L. 1927, ch. 201, § 1; L. 1933, ch. 184, § 1; L. 1943, ch. 104, § 1; L. 1968, ch. 406, § 67; L. 1992, ch. 237, § 1; May 14.

Research and Practice Aids:

Elections ⇌ 126(2).  
C.J.S. Elections § 117.

#### CASE ANNOTATIONS

1. This and following sections considered in nomination of party candidates by primary. *Koehler v. Beggs*, 121 K. 897, 901, 250 P. 268.

2. Act considered generally and title held sufficient. *State, ex rel., v. Beggs*, 126 K. 811, 271 P. 400.

**25-204.** Primary election notice. On or before April second in even-numbered years before the time of holding the statewide primary election, the secretary of state shall prepare and transmit to each county election officer a notice in writing, designating the offices for which candidates are to be nominated at such statewide primary election. Upon receipt of such notice each county election officer shall forthwith publish so much thereof as may be applicable to his county, once each week for three consecutive weeks, in the official county paper. Such notice so published shall state the time when such primary election will be held, together with the offices for which candidates are to be nominated.

History: R.S. 1923, 25-204; L. 1935, ch. 171, § 1; L. 1943, ch. 103, § 3; L. 1968, ch. 406, § 68; April 30.

Source or prior law:

L. 1908, ch. 54, § 4; L. 1917, ch. 178, § 2.

Research and Practice Aids:

Elections ⇌ 126(2).  
C.J.S. Elections § 117.

#### CASE ANNOTATIONS

1. Mandamus to assert right to file for office must be timely brought; dicta. *Powers v. Thorn*, 155 K. 758, 769, 129 P.2d 254.

2. Mentioned; state act providing for distribution of 20 "extra" representatives unconstitutional. *Harris v. Shanahan*, 192 K. 183, 215, 387 P.2d 771.

3. Mentioned; seats in both houses of Kansas legislature must be apportioned on a population basis. *Harris v. Anderson*, 194 K. 302, 311 400 P.2d 25.

4. Mentioned in holding 1968 reapportionment of senate unconstitutional. *Long v. Docking*, 283 F.Supp. 539, 543.

**25-205.** Names of candidates printed on primary election ballots; nomination petitions, form and requirements; declarations of intent with fee; deadline for filing nomination petitions and declarations of intention to become candidate. (a) Except as otherwise provided in



AN ACT relating to elections; concerning the administration and conduct of elections, advance voting and campaign finance; amending K.S.A. 25-105, 25-213, 25-302b, 25-306b, 25-409, 25-435, 25-1117, 25-1119, 25-1120, 25-1121, 25-1122, 25-1122a, 25-1122c, 25-1122d, 25-1123, 25-1124, 25-1126, 25-1128, 25-1129, 25-1130, 25-1131, 25-1132, 25-1134, 25-1135, 25-1136, 25-1137, 25-1138, 25-1139, 25-1806, 25-1808, 25-1811, 25-2311, 25-2709, 25-2804, 25-2810, 25-2909, 25-3002, 25-3107, 25-3203, 25-3205, 25-3302, 25-3706, 25-3902, 25-3902a, 25-3904, 25-3904a, 25-4143, 25-4412 and 25-4611 and K.S.A. 1994 Supp. 25-2808 and 25-4119f and repealing the existing sections.

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

Section 1. K.S.A. 25-105 is hereby amended to read as follows: 25-105. Except as otherwise provided by law, the county election officer shall cause notice of the time of the holding of any general election to be published once at least ~~fifteen (15)~~ 15 days before such election, except in the case of special elections, when ~~ten (10)~~ 10 days' notice shall be given. Such notice shall be published in a paper or papers having circulation in such county. Such notice shall state the date and times of such election, the name of each person nominated for any public office to be voted upon and any propositions to be voted upon. If such election is not held in conjunction with another election for which notice of voting areas and polling places has been published, the notice required by this section shall also include such information. *When the names to appear on general election ballots are definitely known and no later than 25 days prior to any general election, the county election officer shall mail a copy of such notice to each person nominated for any public office, and to judicial retention candidates.*

Sec. 2. K.S.A. 25-213 is hereby amended to read as follows: 25-213. At all national and state primary elections, the national and state offices as specified for each in this section shall be printed upon the official primary election ballot for national and state offices and the county and township offices as specified for each in this section shall be printed upon the official primary election ballot for county and township offices. The official primary election ballots shall have the following heading:

OFFICIAL PRIMARY ELECTION BALLOT  
 \_\_\_\_\_ Party

To vote for a person whose name is printed on the ballot make a cross or check mark in the square at the left 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, if any is provided, and make a cross or check mark in the square to the left.

The words national and state or the words county and township shall appear on the line preceding the part of the form shown above.

The form shown shall be followed by the names of the persons for whom nomination petitions or declarations have been filed according to law for political parties having primary elections, and for the national and state offices in the following order: United States senator, United States representative from \_\_\_\_\_ district, governor and lieutenant governor, secretary of state, attorney general, state treasurer, commissioner of insurance, senator \_\_\_\_\_ district, representative \_\_\_\_\_ district, district judge \_\_\_\_\_ district, district magistrate judge \_\_\_\_\_ district, district attorney \_\_\_\_\_ judicial district, and member state board of education \_\_\_\_\_ district. For county and township offices the form shall be followed by the names of persons for whom nomination petitions or declarations have been filed according to law for political parties having primary elections in the following order: commissioner \_\_\_\_\_ district, county clerk, treasurer, register of deeds, county attorney, sheriff, surveyor, township trustee, township treasurer, township clerk. When any office is not to be elected, it shall be omitted from the ballot. Other offices to be elected but not listed, shall be inserted in the proper places. For each office there shall be a statement of the number to vote for.

To the left of each name there shall be printed a square. Official primary election ballots may be printed in one or more columns. The names certified by the secretary of state or county election officer shall be printed on official primary election ballots and no others. In case there are no nomination petitions or declarations on file for any particular office, the title to the office shall be printed on the ballot followed by a blank line with a square, and such title, followed by a blank line, may be printed in the list of candidates published in the official paper. No blank line shall be printed following any office where there are nomination petitions or declarations on file for the office except following the offices

HOUSE GOVT ORG &  
 ELECTIONS, 1/24/96  
 Attachment 1-7

of precinct committeeman and precinct committeewoman. Except as otherwise provided in this section, no person's name shall be printed more than once on either the official primary election ballot for national and state offices or the official primary election ballot for county and township offices. No name that is printed on the official primary election ballot as a candidate of a political party shall be printed or written in as a candidate for any office on the official primary election ballot of any other political party. If a person is a candidate for the unexpired term for an office, the person's name may be printed on the same ballot as a candidate for the next regular term for such office. The name of any candidate on the ballot may be printed on the same ballot as such candidate and also as a candidate for precinct committeeman or committeewoman. No name that is printed on the official primary election ballot for national and state offices shall be printed or written in elsewhere on such ballot or on the official primary election ballot for county and township offices except for precinct committeeman or committeewoman. No name that is printed on the official primary election ballot for county and township offices shall be printed or written in on the official primary election ballot for national and state offices or elsewhere on such county and township ballot except for precinct committeeman or committeewoman.

No person shall be elected to the office of precinct committeeman or precinct committeewoman where no nomination petitions or declarations have been filed, unless the person receives at least five write-in votes. As a result of a primary election, no person shall receive the nomination and no person's name shall be printed on the official general election ballot when no nomination petitions or declarations were filed, unless the person receives votes equal in number to not less than 5% of the total number of registered voters of the party 10% of the electors who voted for the office of secretary of state at the last preceding general election for such office in the state, county or district in which the office is sought, except that a candidate for township office may receive the nomination and have such person's name printed on the ballot where no nomination petitions or declarations have been filed if such candidate receives three or more write-in votes. No such person shall be required to obtain more than 5,000 votes.

Sec. 3. K.S.A. 25-302b is hereby amended to read as follows: 25-302b. Any recognized political party whose nominee for any office for which the officer is elected from the state as a whole fails to receive at least 1% of the total vote cast for any such office in this state at any general election, or which fails to nominate persons for *at least one* such offices office, shall cease to be a recognized political party. The secretary of state shall notify all county election officers that such party has ceased to be recognized.

Sec. 4. K.S.A. 25-306b is hereby amended to read as follows: 25-306b. (a) Any person who has been nominated by any means whatsoever for any national, state, county or township office may cause such person's name to be withdrawn from nomination by a request in writing, signed by the person and acknowledged before an officer qualified to take acknowledgments of deeds. Any such request shall be filed with the secretary of state in the case of national and state offices and with the county election officer in the case of county and township offices. Except as provided in subsection (b) of this section, in the case of national and state offices, any such request shall be filed within ~~three~~ seven days, including Saturdays, Sundays and holidays, after the meeting of the state board of canvassers for the final canvass of primary election provided for in K.S.A. 25-3205 and amendments thereto. Except as provided in subsection (b) of this section, in the case of county and township offices, any such request shall be filed within 10 days after the meeting of the county board of canvassers to canvass the primary election as provided in K.S.A. 25-3104 and amendments thereto. No name withdrawn as provided in this section shall be printed on the ballots for such office for the general election.

(b) Whenever there has been a vacancy which occurred from a withdrawal under this section, and such vacancy was filled according to law, the person filling the vacancy may cause such person's name to be withdrawn from nomination in the manner provided in subsection (a) of this section at any time prior to the 40th day before the general election.

the list of names of candidates to the county election officers, shall assign, in regular order from the alphabetical list of candidates for each office, the ballot position for each candidate in such a manner that every candidate for any office shall occupy a different ballot position in each division. When, in the case of candidates for national or state offices elected on less than a statewide basis, the secretary of state finds it impossible to make a division which allows each such candidate in any given district an equitable or fair opportunity to have such candidate's name first on the ballot in the respective counties of the district, the secretary of state shall order the county election officers in the various counties of the district to rotate the names of the candidates for such district offices according to precinct to obtain an equitable division. The names of candidates for the same office but for different terms of service therein shall be arranged in groups according to the length of their respective terms.

In the case of the governor and lieutenant governor running together, when the word "candidate" is used in this section, it shall mean pair of candidates.

History: L. 1973, ch. 153, § 17; L. 1975, ch. 204, § 5; L. 1984, ch. 139, § 1; L. 1990, ch. 120, § 3; Jan. 25.

**25-611.** Arrangement of offices on official general ballots. (a) The arrangement of offices on the official general ballot for national and state offices for those offices to be elected shall be in the following order: Names of candidates for the offices of president and vice-president, United States senator, United States representative \_\_\_\_\_ district, governor and lieutenant governor running together, secretary of state, attorney general, (and any other officers elected from the state as a whole), state senator \_\_\_\_\_ district, state representative \_\_\_\_\_ district, district judge \_\_\_\_\_ district, district magistrate judge \_\_\_\_\_ district, district attorney \_\_\_\_\_ judicial district, and state board of education member \_\_\_\_\_ district.

(b) The arrangement of offices on the official general ballot for county and township offices for those offices to be elected shall be in the following order: Names of candidates for county commissioner \_\_\_\_\_ district, county clerk, county treasurer, register of deeds, county attorney, sheriff, county surveyor, township trustee, township treasurer, township clerk.

History: L. 1973, ch. 153, § 18; L. 1976, ch. 181, § 3; L. 1981, ch. 165, § 4; L. 1986, ch. 115, § 73; Jan. 12, 1987.

**25-612.** Arrangement of names of candidates upon ballot; blank spaces for write-in. The arrangement of the names certified under K.S.A. 25-610, and amendments thereto, by the secretary of state shall govern the county election officer in arranging the ballot, and the county election officer in preparing the ballot for the county shall follow the same arrangements as provided in K.S.A. 25-610 and 25-611, and amendments thereto, for the secretary of state, for the candidates nominated for county offices, using the township and precincts of the county in making his division.

Blank spaces shall be left at the end of the list of candidates for each different office equal to the number to be elected thereto, in which the voter may insert the name of any person not printed on the ballot for whom the voter desires to vote for such office.

History: L. 1973, ch. 153, § 19; L. 1984, ch. 139, § 2; L. 1991, ch. 100, § 1; July 1.

Attorney General's Opinions:

Use of stickers bearing name of write-in candidate. 84-99.

**25-613.** Candidates' names on ballots; party designation; city of residence; name on ballot more than once, when. Except as otherwise provided in this section, the name of each candidate shall be printed on the ballot only once and no name that is printed on the ballot shall be written elsewhere on the ballot. If a person is a candidate for the unexpired term for an office such person's name may be printed on the same ballot as a candidate of the same political party for the next regular term for such office. Also, a person may be an independent candidate for the unexpired term for an office and an independent candidate for the next regular term for such office, and the person's name may be printed for both candidacies on the same official general ballot. To the name of each candidate for a state office shall be added the name of the city in which the candidate resides. To the names of pairs of candidates running for governor and lieutenant governor shall be added the name of the city in which or near which each resides. To the name of each candidate for any national, state, county or township offices shall be added the person's political party or political designation in accordance with the nomination papers of the person.