

Approved: 2/1/96
Date

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS, CONGRESSIONAL & LEGISLATIVE
APPORTIONMENT AND GOVERNMENTAL STANDARDS.

The meeting was called to order by Chairperson Janice Hardenburger at 1:40 p.m. on January 25, 1996 in Room 529-S of the Capitol.

All members were present except: Senator Wisdom, excused
Senator Martin, excused
Senator Parkinson, excused

Committee staff present: Dennis Hodgins, Legislative Research Department
Gordon Self, Revisor of Statutes
Bonnie Fritts, Committee Secretary

Conferees appearing before the committee: Brad Bryant, Deputy Assistant Secretary of State
Elizabeth Endsley, Assistant County Clerk

Others attending: See attached list

SB 397 **an act relating to elections; concerning certain changes in a voter's name or residence**

Senator Hardenburger requested **SB 397** be amended due to its confusing language.

Brad Bryant appeared representing the Office of Secretary of State, opposing **SB 397** declaring the bill unnecessary and provided testimony stating recommendations for amendment (Attachment 1). Discussion followed.

Senator Bond moved to accept the proposed amendments. Senator Ranson seconded the motion. The motion passed.

Senator Bond made a motion to pass **SB 397** as amended. Senator Sallee seconded the motion. The motion passed.

SB 398 **an act concerning elections; relating to certain ballots**

Senator Hardenburger opened hearings on **SB 398**, re: Proposal No. 22. Brad Bryant offered suggestions regarding challenge procedures amending this bill (Attachment 2). Discussion followed. Senator Hardenburger stated that the hearings on **SB 398** would remain open.

Senator Bond moved to approve the minutes of January 23. Senator Clark seconded the motion. The motion carried.

Senator Hardenburger asked to introduce three bills regarding contested elections, ethics reform, and campaign reform.

Senator Bond moved to introduce bills. Senator Sallee seconded the motion. The motion passed.

Senator Bond made a motion to introduce a bill to remove requirements for city designation from local elections. Senator Sallee seconded the motion. The motion passed.

The meeting adjourned at 2:30 p.m.

The next meeting is scheduled for January 29, 1996.

SENATE ELECTIONS, CONGRESSIONAL &
LEGISLATIVE APPORTIONMENT AND
GOVERNMENTAL STANDARDS COMMITTEE GUEST
LIST

DATE: 1/25/96

NAME	REPRESENTING
Brad Bryant	Sec. of State
Elizabeth Enckley	Co. Clerk Assoc.
Colleen Kruger	Senator Kane
Jenny Lawson	Senator Wisdom
Charlie Smithson	RCGSC
Carl E. Wilbur	LCBS

Ron Thornburgh
Secretary of State



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STATE OF KANSAS

Senate Committee on Elections, Congressional and Legislative Apportionment and Governmental Standards

Testimony on SB 397

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

January 25, 1996

Madam Chair and Members of the Committee:

The Secretary of State's office supports accountability in the voting process, which would include an affidavit or registration card as proof of a voter's qualifications if such qualifications are in doubt. However, we oppose this bill as unnecessary. If the committee decides to pass the bill, we wish to provide some information and suggestions.

The bill would allow a voter who had changed his/her name or address to complete an affidavit at the polling place on election day before voting, but the bill goes on to say that failure to complete the affidavit would not invalidate the voter's ballot. We think this provision could cause a problem. The affidavit serves two purposes: (1) it allows the election board judge to determine whether the person is qualified to vote in that precinct, and (2) it allows the county election officer to update the registration records in preparation for the next election. If no affidavit is given, neither of these functions can be performed.

We offer the following recommendations:

1. (a) Restore the following language in lines 33 through 37 on page 1:

"registers at such time by completing a registration card, making an oath in the form prescribed by the secretary of state and providing proof of residence in accordance with rules and regulations adopted by the secretary of state therefore. Such registration card shall authorize"

- (b) Delete the new language in lines 37 and 38.

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(c) Also, we recommend amending subsection (a) the same way, providing for the use of the registration card instead of a separate affidavit. These changes are consistent with other areas of registration and voting in that the registration card, which contains an affidavit and signature, is used to keep track of voters' changes of name and address.

(d) Restore the language in lines 41 through 43 on page 1, and delete the words "voter giving such affidavit" in line 43.

2. Replace the last (italicized) sentence in both subsection (a) and subsection (b) with:

The election judges may challenge the ballot of any voter who refuses or fails to complete a registration card as provided by this subsection.

This change would allow the county election officer to follow up with these voters and obtain the information needed to update the registration records. If no affidavit is given and the county election officer later discovers the voter is unqualified, there is no way under this legislation to retrieve the ballot unless it was challenged. A challenge does not automatically invalidate a ballot; it merely raises a question and provides the information necessary to resolve it.

Thank you for your consideration.

Ron Thornburgh
Secretary of State



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STATE OF KANSAS

Senate Committee on Elections, Congressional and Legislative Apportionment and Governmental Standards

Testimony on SB 398

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

January 25, 1996

Madam Chair and Members of the Committee:

The Secretary of State's office does not oppose this bill, but we wish to offer some information and suggestions.

The bill requires that when a person's qualifications to vote are challenged at the poll on election day, a number is written on the ballot and the challenged ballot envelope. The Secretary of State is directed by this legislation to adopt rules and regulations specifying a procedure whereby this numbering system would preserve the voter's privacy unless a court orders a review of the ballot in the event of an election contest.

We offer the following suggestions:

1. We suggest the committee consider writing the procedure into statute instead of rules and regulations. Most of the voting procedure is spelled out specifically in statute, and doing so in this case would be consistent. Precinct election board workers must be trained when procedures change, and county election officers have told us that making the changes in statute increases the likelihood that the procedure would be implemented consistently and correctly.

We therefore recommend deleting all of subsection (c), lines 39 through 43 on page 1.

2. If this bill passes, it will be important to number the challenged ballots and envelopes in such a way that the precinct is identified as well as

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the voter, because a given voter identification number would recur in various precincts throughout a county. We suggest the committee consider numbering the ballots at the time of the county canvass rather than at the precinct on election day, again to increase the likelihood that the procedure is implemented consistently and correctly. This would mean amending K.S.A. 25-3002 in addition to K.S.A. 25-409. If the county board of canvassers decides to open a sealed challenged ballot envelope to count the ballot, the voter's poll book number and the precinct number or name, which were already written on the envelope by the poll worker, could be written on the ballot. After the canvass the ballot and envelope would be sealed and stored with the others until a court ordered them to be unsealed for review during an election contest.

(a) We recommend deleting "challenged ballot and" from line 30 on page 1. Amend that sentence to read:

"The envelope shall be numbered with the number of the voter's name in the poll book and shall indicate the precinct at which the ballot is cast, and the word "challenged" shall be written following the voter's name in the poll book."

(b) The following language should be amended into K.S.A. 25-3002(b):

"(3) If a county board of canvassers reviews a challenged ballot and determines the vote on the ballot should be accepted, the canvassers shall cause the voter's number and precinct designation applied to the ballot envelope to be applied to the ballot."

Some challenged ballot envelopes are never opened because the county canvassers decide not to count the ballots. Numbering the ballots at the canvass would mean only the opened ballots would be numbered, and it would thus limit the procedure to only those ballots that need to be numbered.

Thank you for your consideration.

Article 30.—ORIGINAL CANVASS OF
ELECTIONS

25-3001. Reading, counting and recording votes; entries and totals on tally sheets. Election boards shall make the original canvass according to the following procedure:

(a) A ballot box shall be opened and a judge designated by the supervising judge shall take the ballots out of the box either one at a time or in limited quantities as authorized by the supervising judge.

(b) A judge shall read and announce the vote on the ballot for each candidate. In reading and announcing the vote on ballots, the judge shall so place the ballot that another member of the election board may view the ballot as the vote is announced. The clerks shall make a tally mark opposite the name of each candidate receiving a vote as announced by the judge. Such tally marks shall be made upon tally sheets provided by the county election officer. The supervising judge may direct a judge to perform the functions of a clerk for limited periods during the canvass and thereby temporarily relieve one or both clerks.

(c) After one judge announces the votes upon a ballot, he shall hand the same to a second judge, who shall examine it and dispose of it as provided in this act.

(d) Void and blank ballots shall be announced by the judge, and the clerks shall make one tally mark for each such ballot, opposite the proper designation on the tally sheet.

(e) From time to time during the canvass the clerks shall compare tally sheets and reconcile any differences to the satisfaction of a majority of the election board. When the canvass is completed, the number of votes received by each candidate shall be written in the indicated place on the tally sheet.

History: L. 1968, ch. 406, § 30; April 30.

Research and Practice Aids:

Elections ⇨ 241 et seq.

C.J.S. Elections § 224.

Attorney General's Opinions:

Mail ballot election act. 86-49.

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) The occurrences listed in this subpart (2) shall not invalidate the whole ballot but shall invalidate that portion, and that portion only, in which the occurrence appears. The votes on such portion of the ballot shall not be counted for any candidate listed or written in such portion, but the remainder of the votes in other portions of the ballot shall be counted. The occurrences to which this subpart (2) shall apply are:

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

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

(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 amendments thereto, 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.

(d) A write-in vote for those candidates for the offices of president and vice-president shall not be counted unless the pair of candidates have filed an affidavit of candidacy pursuant to K.S.A. 25-305 and amendments thereto, and:

(1) Both candidates' names are written on the ballot; or

(2) only the name of the candidate for president is written on the ballot.

(e) A write-in vote for candidates for state offices elected on a statewide basis other than offices subject to subsection (c) shall not be counted unless the candidate has filed an affidavit of candidacy pursuant to K.S.A. 25-305, and amendments thereto.

(f) Any absentee or mail ballot whose envelope containing the voter's written declara-