

MINUTES OF THE HOUSE ETHICS AND ELECTIONS COMMITTEE.

The meeting was called to order by Chairperson Representative Don Myers at 3:30 p.m. on March 12, 2003 in Room 521-S of the Capitol.

All members were present except: Representative Jim Yonally, Excused
Representative Stephanie Sharp, Excused

Committee staff present: Ken Wilke, Revisor
Dennis Hodgins, Research
Shirley Weideman, Secretary

Conferees appearing before the committee: None

Others attending: See attached list.

Chairman Myers opened the hearing on **SB 166 - Vacancy in office; clarifying party convention definition.**

Chair Myers requested that Revisor of Statutes, Ken Wilke, explain **SB 166**. Ken said that some of the history of this bill relates to a county election, where a sheriff changed parties after being elected and, then resigned from office shortly thereafter. The statute covering vacancies in office does not define which party will have a political convention to provide a name for the governor's choice for replacement. He told the committee that **SB 166** was amended in the Senate committee with Section 1 and the current Section 1 became Section 2. Ken also said that Sections 2 and 3 became Sections 3 and 4 respectively. The other amendment by the committee was in Section 2 (b) It added "*The officer's or candidate's political party shall be determined as of the date when such officer or candidate is elected.*". Ken also indicated that the bill was amended in the Senate Committee of the Whole to add in Section 1 "*The prior United States senator's political party shall be determined as of the date when such United States senator is elected or appointed.*", and to add in Sections 2 (b) "*or appointed*" after 'elected' on lines 41 and 42.

There were no proponents for or opponents against **SB 166**, and after discussion by the committee, Chairman Myers closed the hearing.

Chairman Myers said that the committee would work **SB 95 - Elections; names of political parties.**

Represented McCreary submitted an amendment to **SB 95**. He suggests striking on page 1, line 11 ";also repealing K.S.A. 25-116 and 25-117" and striking on page 2, line 41 "25-116, 25-117 and". Lines 9-11 would read "*AN ACT concerning elections: relating to names of political parties; amending K.S.A. 25-304 and K.S.A. 2002 Supp. 25-302a and repealing the existing sections.*" (Attachment 1)

The committee discussed whether K.S.A. 25-116 and K.S.A. 25-117 could be enforced if left on the statutes. Committee guests Brad Bryant, Deputy Assistant Secretary of State, and Melissa Wangemann, Legal Counsel with the Secretary of State, answered that these two statutes are unconstitutional as decided by the Supreme Court decision in 1974. The committee members also discussed the freedom of a political party or organization to advocate, teach, justify, aid or abet a program of sabotage, force and violence, sedition or treason against the government of the United States or this state, as stated in 25-116 and 25-117.

Representative Huff moved to **amend SB 95** by inserting in the title "*relating to the presidential primary;*" and "*25-4501, 25-4505*" after 25-304. The title would then read "*AN ACT concerning elections: relating to names of political parties; relating to the presidential primary; amending K.S.A. 25-304 K.S.A. 25-4501, K.S.A. 25-4505 and K.S.A. 2002 Supp. 25-302a and repealing existing sections*". The second part of the amendment would insert a balloon to insert Sections 1 and 2 of **SB 101** as Sections 3 and 4 into **SB 95**. Representative Huebert seconded the motion. The motion passed. (Attachment 2)

Representative McCreary moved and Representative Miller seconded the motion to amend SB 95 by striking K.S.A. 25-116 and 25-117 from the bill which deals with barring certain political parties and affidavits filed by newly organized parties. Representative McCreary's motion deletes "25-116 and 25-

CONTINUATION SHEET

MINUTES OF THE HOUSE ETHICS AND ELECTIONS COMMITTEE at on March 12, 2003 in Room 521-S of the Capitol.

117" from page 2, line 8 in the repealer section and deletes the language "also repealing K.S.A. 25-116 and 25-117" from page 1, line 13 in the title of the bill. The motion passed by a 7-6 margin.
Representative Svaty is recorded as a "no" vote.

Representative Huebert moved that **SB 95 as amended** be moved favorably from committee. Representative Huff seconded the motion. Motion passed.

Chairman Myers said that the committee would hear **SB 103** on Monday.

The meeting was adjourned at 4:35 p.m. The next scheduled meeting is Monday, March 17 at 3:30 p.m.

SENATE BILL No. 95

By Committee on Elections and Local Government

1-29

9 AN ACT concerning elections; relating to names of political parties;
10 amending K.S.A. 25-304 and K.S.A. 2002 Supp. 25-302a and repealing
11 the existing sections; ~~also repealing K.S.A. 25-116 and 25-117.~~
12

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

14 Section 1. K.S.A. 2002 Supp. 25-302a is hereby amended to read as
15 follows: 25-302a. Any political party seeking official recognition in this
16 state after the effective date of this act shall file in its behalf, not later
17 than 12:00 noon, June 1, prior to the primary election held on the first
18 Tuesday of August in even-numbered years, or if such date falls on a
19 Saturday, Sunday or a holiday, then before 12:00 noon of the next follow-
20 ing day that is not a Saturday, Sunday or a holiday petitions signed by
21 qualified electors equal in number to at least 2% of the total vote cast for
22 all candidates for the office of governor in the state in the last preceding
23 general election. Such petitions shall declare support for the official rec-
24 ognition of a political party, the name of which shall be stated in the
25 declaration. No political party seeking official recognition shall assume a
26 name or designation which is similar, in the opinion of the secretary of
27 state, is unreasonably lengthy or so similar to that the name or designation
28 of an existing political party as to confuse or mislead the voters at an
29 election.

30 Petitions seeking official recognition of a political party shall be sub-
31 stantially in the following form:

32 PETITION SEEKING THE OFFICIAL RECOGNITION OF
33 THE _____ PARTY IN THE STATE OF KANSAS

34 I, the undersigned, hereby declare my support for the official recognition of the
35 _____ Party.

36 I have personally signed this petition; I am a registered elector of the state of Kansas and
37 the County of _____, and my residence address is correctly written after my name.

38 NAME OF SIGNER ADDRESS AS REGISTERED CITY DATE OF SIGNING

39 Appended to each petition page or set of pages shall be an affidavit by
40 the circulator of the petition affirming that such circulator is a resident
41 of the state of Kansas and has the qualifications of an elector in Kansas
42 and that the circulator personally witnessed the signing of the petition by
43 each person whose name appears thereon. The affidavit shall be executed

Representative McCreary

1 before a person authorized to administer oaths and include the address
2 of the circulator.

3 Each page of such petition shall bear the names of registered voters of
4 a single county. All petitions shall be grouped according to the county in
5 which each was circulated before being filed with the secretary of state.
6 All such petitions shall be filed at one time. Any related petitions pre-
7 sented thereafter will be deemed to be separate and not a part of earlier
8 filings. County election officers shall cooperate with the secretary of state
9 in verifying the sufficiency of these petitions as required by law.

10 The secretary of state shall transmit such petitions to the county elec-
11 tion officer of each county for which petitions were presented to be ex-
12 amined for sufficiency pursuant to the provisions of K.S.A. 25-3601 *et*
13 *seq.* and amendments thereto and applicable regulations. Not more than
14 20 days following receipt of such petitions from the secretary of state, the
15 county election officer shall return these documents to the secretary of
16 state certifying the number of sufficient signatures thereon. The secretary
17 of state shall gather all petitions and determine whether a sufficient num-
18 ber of signatures was submitted. The secretary of state shall forthwith
19 notify the person who submitted the declaration of intent to circulate
20 such petitions of the sufficiency or insufficiency of the number of signa-
21 tures.

22 Sec. 2. K.S.A. 25-304 is hereby amended to read as follows: 25-304.
23 All certificates of nomination shall be in writing, shall contain the name
24 of each person nominated, with such person's residence and the office
25 for which nominated. Party certificates of nomination shall designate ~~in~~
26 ~~not more than two words of which the word "party" shall be one,~~ the
27 political party which the convention, primary election or caucus making
28 the nominations represented, ~~as, for instance, "republican party," "dem-~~
29 ~~ocratic party," "people's party," "populist party," or "prohibition party";~~
30 ~~but a compound or hyphenated word shall not be used to designate the~~
31 ~~name of a political party within the meaning of this act.~~ When electors
32 for president and vice-president of the United States are nominated, the
33 names of the candidates for president and vice-president may also be
34 shown on the certificates. Independent nomination petitions for presi-
35 dential electors shall contain the names of each elector and the names of
36 the candidates for president and vice-president of the United States, to-
37 gether with the residence of each elector and candidate. The provisions
38 of this section shall not apply to city or school elections, nor to the election
39 of officers for which it is provided by law to be elected at the time of city
40 and school elections.

41 Sec. 3. K.S.A. ~~[25-116, 25-117 and]~~ 25-304 and K.S.A. 2002 Supp. 25-
42 302a are hereby repealed.

SENATE BILL No. 95

By Committee on Elections and Local Government

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relating to the presidential primary

, 25-4501, 25-4505

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23 general election. Such petitions shall declare support for the official rec-
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Representative Huff
House Ethics and Elections
3-12-03
Attachment 2

1 before a person authorized to administer oaths and include the address
2 of the circulator.

3 Each page of such petition shall bear the names of registered voters of
4 a single county. All petitions shall be grouped according to the county in
5 which each was circulated before being filed with the secretary of state.
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37 gether with the residence of each elector and candidate. The provisions
38 of this section shall not apply to city or school elections, nor to the election
39 of officers for which it is provided by law to be elected at the time of city
40 and school elections.

5 42 Sec. 3. K.S.A. 25-116, 25-117 [and 25-304] and K.S.A. 2002 Supp. 25-
302a are hereby repealed.

, 25-304, 25-4501,
25-4505

3 20 Section 1. K.S.A. 25-4501 is hereby amended to read as follows: 25-
21 4501. (a) Subject to the provisions of this section, there shall be held a
22 presidential preference primary election in the year ~~2004~~ 2008, and every
23 fourth year thereafter.

24 (b) On or before November ~~3, 2003~~ 1, 2007, and on or before No-
25 vember 1 every fourth year thereafter, the secretary of state shall certify
26 to the governor, to the chief clerk of the house of representatives and to
27 the secretary of the senate a common date in the next succeeding year
28 on which at least five other states will hold a presidential preference
29 primary election, a delegate or mass convention or a caucus of qualified
30 voters at which delegates to a national convention are selected. On or
31 before each such date, if the secretary of state determines that there is
32 no common date on which at least five states are conducting such a se-
33 lection process in the next succeeding year, the secretary of state shall
34 certify to the governor, the chief clerk of the house of representatives and
35 the secretary of the senate on a date, which shall be on or before the first
36 Tuesday in April of the next following year, on which the presidential
37 preference primary election shall be held.

38 (c) The date certified by the secretary of state pursuant to subsection
39 (b) shall be the date on which the presidential preference primary election
40 authorized by subsection (a) shall be held in the state of Kansas.
41 4 2 Sec. 2 K.S.A. 25-4505 is hereby amended to read as follows: 25-
42 ~~4505.~~ The county board of canvassers of each county shall meet at the
43 office of the county election officer unless another place is agreed upon

1 and announced as provided in K.S.A. 25-3105, *and amendments thereto*,
2 at any time between 8:00 and 10:00 o'clock a.m. on the Friday following
3 the day a presidential preference primary election is held and canvass the
4 vote of such preference primary. *The county election officer may move*
5 *the canvass to the Monday next following the election if notice of such*
6 *change is published prior to the canvass in a newspaper of general cir-*
7 *culation within the county.* Upon completion of such canvass, the county
8 election officer of each county shall prepare an abstract of the vote of the
9 presidential preference primary election in his or her county as such vote
10 is determined by the county board of canvassers and shall promptly trans-
11 mit the same to the secretary of state no later than the tenth day after
12 the day of the election. Each county election officer shall also post a copy
13 of such abstract in a public place in the courthouse of his or her county.
14 Every such transmittal shall be made by first class mail or by a mes-
15 senger. If the secretary of state fails to receive the abstract of the canvass
16 from any county within ~~fourteen (14)~~ 14 days next after the election, he
17 or she shall dispatch a special messenger to obtain a copy of the same,
18 and the county election officer shall immediately, on demand of such
19 messenger, make out and deliver to such messenger the copy required.
20 Thereupon, the messenger shall deliver such copy to the secretary of
21 state, and the secretary of state shall be reimbursed for the expenses of
22 such messenger by such county.

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