

MINUTES OF THE HOUSE ETHICS AND ELECTIONS COMMITTEE

The meeting was called to order by Chairman Don Myers at 3:30 p.m. on February 4, 2004 in Room 526-S of the Capitol.

All members were present.

Committee staff present:

Martha Dorsey, Legislative Research Department
Dennis Hodgins Legislative Research Department
Ken Wilke, Office of Revisor of Statutes
Shirley Weideman, Committee Secretary

Conferees appearing before the committee:

HB 2619 Proponents: Brad Bryant, Deputy Assistant Secretary of State
Elizabeth Ensley, Shawnee County Election Commissioner

Opponents: Michael Byington, Kansas Association for the Blind and Visually Impaired
Michael Connelly, Kansas Advocacy and Protective Services
Kevin Siek, Topeka Independent Living Resource Center

Others attending: See Attached List.

Committee Chairman Myers asked the committee if there were requests for bills. There were none.

The hearing on **HB 2589 - Campaign finance act; electronic filing of reports** was continued by Chairman Myers.

Chairman Myers asked Representative Sawyer to explain his intent for **HB 2589**. Representative Sawyer replied that his only intent was to file the campaign reports electronically. There were questions asked of Brad Bryant of the Secretary of State's office whether their office was capable of handling these reports securely and if there were any cost estimates for computer software involved in filing these reports. He answered that their office is unable to receive these reports electronically at this time and there are no cost estimates for such a program, but it is something that the Secretary of State's Office and the Governmental Ethics Commission have been discussing.

Members of the committee wanted to amend the bill with a balloon removing the Governmental Ethics Commission as the entity receiving the electronic report, according to the rules and regulations adopted by the GED, and instead designating the Secretary of State's Office or the county election officer as the destination for the electronic report. Chairman Myers decided to continue the hearing on **HB 2589** at the next committee meeting and postpone a vote until then.

The hearing on **HB 2619 - Elections; advance voting-procedural changes on signature verification and need for assistance** was opened by Chairman Myers.

Ken Wilke, Revisor of Statutes was asked by Chairman Myers to explain the bill. Ken explained that current law requires a person who is disabled, illiterate or sick and wants to have assistance in voting, to have a paper signed by the person who renders that assistance. He said that this bill would change that statement to an affidavit. He also indicated that the person signing the affidavit would need to state why that person needs assistance. Ken told the committee that Section 2. is similar to the first, except that it concerns the advanced voting ballot. The envelope must be signed and the signature needs to match the registration records or there is a possibility that the vote will not be counted.

Chairman Myers recognized Brad Bryant, Deputy Assistant Secretary of State as a proponent of **HB 2619**. Mr. Bryant said this bill has two provisions to increase the security of advanced voting. The first is to clarify that the statement filed by a person assisting another voter is an affidavit and to require a reason why the assistance was provided. The second provision would require that signatures on all advanced ballots received through the mail be checked against the signatures in the voter registration file. He

CONTINUATION SHEET

MINUTES OF THE HOUSE ETHICS AND ELECTIONS COMMITTEE at 3:30 p.m. on February 4, 2004 in Room 526-S of the Capitol.

explained that there is a category for people with permanent disabilities and they can be put on the permanent advanced voter list. Mr. Bryant also said that the signature check is done by most county election officers now, but it is not specifically required by law. (Attachment 1) Mr. Bryant responded to questions asked by committee members.

Also appearing before the committee as a proponent for **HB 2619** was Elizabeth Ensley, Shawnee County Election Commissioner. She said that advanced voting is very popular with the public. Ms. Ensley expressed concern over the growing number of accusations regarding the return of mailed ballots. Her office has received calls from citizens saying that someone had knocked on their door the night before and said they were authorized by the Election Officer to pick up the ballot, and, indeed, the ballots did arrive at her office the next day. She also told the committee that groups of people do visit homes for the purpose of collecting ballots, even though Shawnee County pays the return postage on all advanced ballots. Ms. Ensley said that she believes it is good policy to check signatures on all advanced ballot envelopes and when ballots are not returned by the voter or through the mail, she favors legislation which makes a public record of how and by whom ballots are returned to the Election Office. (Attachment 2) Ms. Ensley answered questions asked by committee members regarding the number of signatures on advanced voting envelopes that do not match the voting card and the prevalence of assisted voting, indicating that the percentages are small in both instances.

Michael Byington, representing the Kansas Association for the Blind and Visually Impaired, Inc. appeared before the committee in opposition to **HB 2619**. Mr. Byington said that his first concern was that this bill invades the privacy of the voter who can't get to the polling place by having to disclose to a third party the reason for their disability. Mr. Byington mentioned macular degeneration, stroke, severe arthritis, spinal cord injury, and injury to the hands, or conditions which cause palsy or tremors, as possible reasons for a changed signature. He also indicated that it could discriminate against voters whose disabilities are of a deteriorating nature or who have had their signature altered by a disability acquired since signing their voter registration card. Mr. Byington told the committee that these individuals may not need the assistance of a third party in order to vote, but may still need the option of advanced voting. His greatest concern is that the matching of signatures as the ultimate test of voter legitimacy would disenfranchise many honest, qualified voters, while probably catching very few who commit voter fraud. (Attachment 3) Mr. Byington answered a committee member's question regarding how to make the bill acceptable.

Appearing before the committee as an opponent of **HB 2619** was Michael Donnelly, Policy and Outreach Director, Kansas Advocacy and Protective Services. His objection to the bill centered around the terms "sick, physically disabled and illiterate". He says that the terms are not defined and are offensive to the disability community. Mr. Donnelly indicated that a strict reading of the bill would say that those persons who have a disability other than a 'physical disability' are prohibited from using assistance while casting their advanced ballot. Also, he said that having the assistant state the reason the voter needed assistance is an invasion of privacy. Mr. Donnelly expressed his concern over the signature check on the advanced voting ballot envelope. He said that this bill would challenge any ballot because of a signature change, which may simply be a change in disability. He also told the committee that he would like all voters to be treated equally. (Attachment 4) Mr. Donnelly responded to questions asked by committee members.

Kevin Siek appeared before the committee in opposition to **HB 2619**. He indicated that he believes that all voters should be treated equally. He requests that three changes be made to improve the bill: 1) Take the phrase "sick, physically disabled or illiterate" from the law and do not require the stating of the reason why the voter needs assistance; 2) Eliminate the requirement for the written statement or affidavit for the person assisting the voter; and 3) Eliminate the requirement for a signature on the advanced voting ballot envelope. (Attachment 5)

The hearing on **HB 2619** was closed by Chairman Myers and he said the committee would work the bill.

Representative Sawyer moved that **HB 2619** be tabled. Representative Wilson seconded the motion. The motion carried.

The meeting was adjourned at 5 p.m. The next scheduled meeting is February 9.

HOUSE ETHICS AND ELECTIONS COMMITTEE

GUEST LIST DATE: February 4, 2004

Your Name	Representing
Elizabeth Eusley	Shawnee County Elections
Michael Byington	Ms. Ann. #1 Blind + Visually Impaired
Kenie Bacon	KCDC
Sharon Joseph	myself
Kevin Siek	Topeka Independent Living Resource Center
BRYAN A CASICOY	SECRETARY OF STATE
Melissa Wangemann	Sec of State
R. Peters-Klein	Secretary of State

RON THORNBURGH
Secretary of State



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STATE OF KANSAS
House Committee on Ethics and Elections

Testimony on House Bill 2619

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

February 4, 2004

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify in support of House Bill 2619. This bill was requested by the Secretary of State to increase the security of advance voting. There are two provisions in the bill.

1. Providing a reason for assistance in voting an advance ballot—

The bill would amend KSA 25-1124 to clarify that the statement filed by a person assisting another voter is an affidavit and to require a reason why the assistance was provided. Current Kansas law allows a person who is sick, disabled or illiterate to receive assistance from another person in casting an advance ballot. The person assisting the voter must first sign a statement, traditionally referred to as an affidavit of assistance, so there is a written record of who assisted whom. However, the form of the statement does not require the person giving assistance to cite the reason the assistance was needed. People should not be allowed to offer assistance indiscriminately to able-bodied voters who do not need it. Requiring a reason why the voter needed assistance would require the person providing the assistance to consider each voter's individual needs before signing an affidavit. Adoption of this proposal will provide more security in the votes cast by a specific category of voters for whom the law already has made an exception, and it will increase the likelihood that their votes are lawfully cast.

A copy of the current version of the affidavit of assistance is provided with the written testimony.

2. Checking signatures on mailed advance ballots—

The bill would amend KSA 25-1136 to require the signatures on all advance ballots received through the mail to be checked against the signatures in the voter registration file. During the twenty-day advance voting period this could be done by the county election office, and during the original canvass on election day it could be done by the special advance voting board. Signatures that do not match would be challenged and referred to the county board of canvassers for resolution.

The reason for this proposal is to increase the certainty that each vote is being cast by the actual voter, not someone else. This is required by law, and the signature on the envelope is a statement that the person did cast his/her own ballot.

Another type of voting by mail in use in Kansas is the all-mail ballot election, where each voter in the affected jurisdiction is automatically mailed a ballot. The county election officer is already required to check the signatures of all returned mail ballots. It would be more consistent to also require signature checking on mailed advance ballots.

Many county election officers already check signatures on mailed advance ballots even though it is not specifically required by law. They have cited examples of people voting for other voters, which in some cases might be an honest mistake but in others constitutes fraud. Many of these illegal votes could be prevented by checking the signatures.

A photocopy made from an advance voting envelope is included with the written testimony.

This legislation represents positive steps toward increased security of the advance voting process by providing the administrative means to enforce the rules already in place. We urge the committee to report HB 2619 favorably for passage.

Thank you for your consideration.

Affidavit of Assistance AV5

Note: This form must be completed by a person who assists a sick, physically disabled or illiterate voter in applying for or marking an advance voting ballot. Any such person who knowingly and willfully fails to sign and submit the statement on this form or who exercises undue influence on the voting decision of the voter shall be guilty of a severity level 9 nonperson felony. K.S.A. 25-1124(e)

Person Providing Assistance:

Name _____
Residence _____
City/State/Zip _____

Advance Voter Information:

Name _____
Residence _____
City/State/Zip _____

I hereby declare under penalty of perjury that I have rendered assistance in marking and/or transmitting the enclosed ballot of the above named voter. I further declare that I have not exercised undue influence and have marked the ballot as instructed by the sick, physically disabled or illiterate voter to whom the ballot was issued.

Signature **X** _____

For office use:

Date Affidavit Received _____

K.S.A. 25-1124(c) Rev 10/28/99 bac

Prescribed by the Office of Secretary of State Ron Thornburgh, 1st Floor, Memorial Hall, Topeka, KS 66612-1594

FOR YOUR INFORMATION

VOTER INFORMATION AS SHOWN ON THE RECORDS
IN THE SHAWNEE COUNTY ELECTION OFFICE

**Postman: Do not deliver to
this address. See other side.**

YOUR WARD & PCT OR TWP IS:



WARD 09 PCT 10 TWP
AADALEN DAVID K 5 501-3
3517 SW OAK PKY 000000001
TOPEKA KS 66614-3220

AFFIDAVIT OF ASSISTANCE

Note: This form must be completed by any person who assists a sick, physically disabled or illiterate voter in applying for or marking an advance voting ballot. Any such person who knowingly and willfully fails to sign and submit the statement on this form or who exercises undue influence on the voting decision of the voter shall be guilty of a severity level 9 nonperson felony. K.S.A. 25-1124(e)

"I hereby declare under penalty of perjury that I have rendered assistance in marking and/or transmitting the enclosed ballot of the above named voter. I further declare that I have not exercised undue influence and have marked the ballot as instructed by the sick, physically disabled or illiterate voter to whom the ballot was issued."

Person Providing Assistance:

Printed name _____

Address _____

Signature X _____

DECLARATION OF ADVANCE VOTER

Place the completed ballot in this envelope. Seal it securely, and complete in full the statement below.

Shawnee County. Advance Voter Ballot , Request No. _____

This declaration must be completed and signed.

I, _____
PRINTED NAME

do hereby declare that I marked the enclosed ballot and that such ballot was enclosed and sealed in this envelope by me. My legal residence is:

Ward/Pct/Township _____

Street Address _____

City, County _____

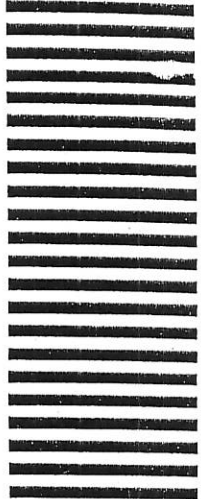
Signature of Voter X _____

NOTICE TO VOTER: Your advance voting ballot will be separated from the signed advance voting ballot envelope in order to guarantee the confidentiality of your vote. K.S.A. 25-1120.

1-4



NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES



BUSINESS REPLY MAIL

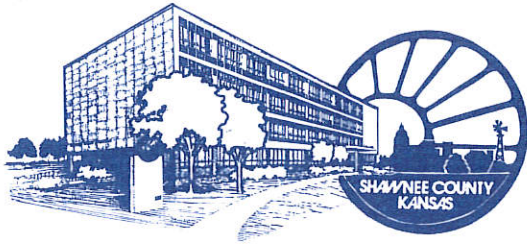
FIRST-CLASS MAIL PERMIT NO. 3266 TOPEKA KS

POSTAGE WILL BE PAID BY ADDRESSEE

COMMISSIONER OF ELECTIONS
911 SW 37TH ST
TOPEKA KS 66611-9919

15





Shawnee County Commissioner of Elections

Elizabeth Ensley
Election Commissioner
Norine Staab
Asst. Election Commissioner

911 S.W. 37th, Suite A
Topeka, Kansas 66611-2378
(785) 266-0285
FAX (785) 266-0299

M E M O R A N D U M

DATE: February 4, 2004

TO: Representative Don Myers, Chairman
Committee on Ethics & Elections

FROM: Elizabeth Ensley *EE*
Shawnee County Election Commissioner

RE: HB 2619

Thank you for allowing me to appear in favor of HB 2619 which addresses issues in Advanced Voting.

Advanced Voting is very popular with the public. Anyone who works with voters when they call or come into the office knows how much voters appreciate the freedom that Advance Voting provides.

However, I am very concerned with the growing number of accusations regarding the return of mailed ballots. Groups of people do visit homes for the purpose of collecting voted ballots, even though Shawnee County pays the return postage on all Advanced ballots. I have received calls from citizens saying that someone had knocked on their door the night before and said that they were authorized by the Election Office to pick up the ballot. I told them that I do not send out people to collect ballots. However, in each case so far, the ballot in question was in deed delivered to my office.

Shawnee County has been checking signatures on Advanced Ballot envelopes for a long time. I believe that it is a good policy for all mailed ballots. When ballots are not returned by the voter or through the mail, I am in favor of legislation which makes a public record of how and by whom ballots are returned to the Election Office. I believe that it would help protect the voter, those who assist the sick and disabled and perhaps help to prosecute those who would take advantage of voters. This can also protect candidates from unfair accusations.

Thank you for your time and consideration.

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Attachment 2

KABVI



Kansas Association for the Blind and Visually Impaired, Inc.

**OUR NEW CONTACT INFORMATION: 603 S. W. Topeka Blvd.
Suite 303
Topeka, Kansas 66603
(785) 235-8990
(800) 799-1499
kabvi@earthlink.net
www.kabvi.org**

February 4, 2004

TO: House Committee on Ethics and Elections
FROM: Michael Byington, Lobbyist and President 
SUBJECT: House Bill 2619 – opposition

Some of us old geezers who have been around the Capitol for a few years develop certain issues that we end up working on even though we may not hold exactly the same lobbying authorities each year. In my case, election access for people who are disabled is one of those issues which keeps falling into my lap. I am here representing the Kansas Association for the Blind and Visually Impaired (KABVI), and that is the authority I have held for the longest time, and the most frequently over the years.

There is a little of House Bill 2619 which KABVI likes, and a whole lot which we do not. The part we like, or at least do not object to, is a small enough percent of the bill, that if you do away with the parts we do not like, you may not feel the bill is worth bothering with at all. Therefore we have asked to testify in opposition to the bill. Nonetheless, I will start with the part of the Bill which is not of concern to us and then I will discuss the two provisions which are of major concern.

Replacing the words "a written statement," or "statement," with the word "affidavit," as the bill does in line 41, page one, and in lines one and 11 of page two, may be a good idea. I would point out that if the bill is to be consistently written, the word "statement" in line 33 of page one should probably also be changed to "affidavit." KABVI has always supported the idea that a person rendering assistance to a sick, physically disabled, or illiterate voter should be held to a very high standard in terms of not exercising undue influence on the voting decision. In fact, we would be comfortable with the removal of the word "undue" as well, as this word weakens the statute. Changing the required statement to an affidavit places a little more legal standing behind the gravity of the document. This may be appropriate.

We do not like the language at all which the Bill adds in lines 25 through 27 of page two or in lines 29 through 31 of page two. This language could result in discrimination

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against voters whose disabilities are of a deteriorative nature, or whose signature has been altered by their having acquired a disability subsequent to their most recent voter registration. We do not ever think it is acceptable, in the name of voter security, to disenfranchise voters because of conditions resulting from their disabilities, and beyond their control. I will provide examples of how House Bill 2619 would potentially do so.

The leading cause of legal blindness among older adults in Kansas, and throughout the United States, is macular degeneration. The dry type of macular degeneration, which comprises about 90% of all cases, usually does not rob its victims of absolutely all of their vision, but does usually rob them of about 90% of their visual acuity. A person who has lost 90% of their visual acuity may well be able, with specialized visual aids, the best of which are electronic and may not be portable, to read and mark an advance voting ballot themselves. They may not need the assistance of another individual, but losing that much vision usually changes their signature significantly. This bill would run the risk of disenfranchising such individuals. If their new severely visually impaired signature does not look much like their old 20/20 signature, then their vote could go uncounted.

Stroke or severe arthritis can cause similar disruptions in the appearance of a signature, and yet the person who has experienced one of these conditions often can continue to handle independent and private voting using the advance voting option. They may not need the assistance of a third party. The same may be true for people who have experienced spinal cord injury, an injury to the hands, or conditions which cause palsy or trimmers.

Yet all of the people I have noted here may choose the option of advance voting. They may not be able to drive anymore, and may not have readily available transportation to go to their local voting place.

KABVI worked with election reform at the national level. The adoption at the federal level of the Help America Vote Act (HAVA) was a culmination of a great deal of work and planning on the part of disability rights advocates to insure that disabled individuals who go to their local polling place will be able to vote privately, independently, and verifiably. Senator Sam Brownback was very helpful to us in drafting this federal legislation and getting it to the President's desk. Subsequent to its adoption, KABVI has been working with Secretary of State Ron Thornburgh to get HAVA smoothly implemented in Kansas. Secretary of State Thornburgh is also doing a wonderful job with HAVA implementation. HAVA, however, largely deals with the accessibility of voting at the polls in order to insure that those people with disabilities who can get to their polling place can vote privately, independently, and verifiably. HAVA does not deal as specifically with how the person using absentee, or advanced, voting will be able to keep their vote private, and will be able to vote it as independently as possible. These are important issues for many disabled and elderly voters because, despite the availability of accessible voting machines at the polling places, as is mentioned above, elderly and/or disabled citizens may not have transportation to be able to vote at their polling place.

KABVI certainly acknowledges as laudable efforts to alleviate potential for voter fraud. Using the matching of signatures as the ultimate test of voter legitimacy, however, would disenfranchise many honest, qualified voters, while probably catching very few committers of voter fraud.

If this Bill is adopted over KABVI's objection, then I might suggest an honest and straight forward way to promote it. Some acts have a provision giving them a memorable name which can be used in commonly sighting them. If this Bill passes, I might suggest that a provision be added to call this act "The Lets Discredit All Those elderly and Disabled Kansans Using Advance Voting Act."



KANSAS ADVOCACY & PROTECTIVE SERVICES, INC.

3745 SW Wanamaker Road
Topeka KS 66610
(785) 273-9661
(785) 273-9414 Fax
(877) 776-1541 TDD/Voice
Web site: www.ksadv.org
e-mail: info@ksadv.org

Testimony to the House Ethics and Elections Committee

Chairman Myers and members of the committee, my name is Michael Donnelly. I am Director of Policy and Outreach for Kansas Advocacy and Protective Services. KAPS (Kansas Advocacy & Protective Services, Inc.) is a public interest legal advocacy agency, part of a national network of federally mandated and funded organizations legally empowered to advocate for Kansans with disabilities. As such, KAPS is the officially designated protection and advocacy organization for Kansans with disabilities. KAPS is a private, 501(c)(3) nonprofit corporation, independent of both state government and disability service providers.

Thank you for the opportunity to speak in opposition to HB 2619. My testimony today will address the advance voting rights of persons with disabilities as outlined in HB 2619 and not the issues associated with permanent advance voting status.

Democracy works when all citizens are encouraged to participate in the selection of its leaders, participate in the process of making its laws, and when all are invited to participate in the development of the states' policies regarding the treatment of its people. It is our position that HB 2619 does exactly the opposite.

Numerous federal laws prohibit discrimination against people with disabilities in voting. The 1965 Voting Rights Act allowed people with disabilities to be given assistance if needed. The Rehabilitation Act of 1973 prohibits discrimination in any program that receives federal financial assistance. The 1984 Voting Accessibility for the Elderly and Handicapped Act requires all polling places to be accessible, as does the Americans with Disabilities Act of 1990.

Nevertheless, in October 2001, the General Accounting Office evaluated 496 polling locations in 100 counties in 33 states nationwide during the 2000 Election. Using the Americans with

Disabilities Act Accessibility Guidelines (ADAAG) as the standard, the GAO found that 67% of all polling places in the 2000 election had some major form of impediment to voters with disabilities and that only 16% had no barriers whatsoever. GAO-02-107. *See also*, Hollister Bundy, *Election Reform, Polling Place Accessibility, and the Voting Rights of the Disabled*, 2 *Election Law Journal*, 217 (2003); Kingshuk K. Roy, *Sleeping Watchdogs of Personal Liberty: State Laws Disenfranchising the Elderly*, 11 *Elder Law Journal* 109 (2003); Jacob Katz Cogan, *The Look Within: Property, Capacity, and Suffrage In Nineteenth-Century America*, 107 *Yale L. J.* 473 (November 1997); Kay Schriener, *Democratic Dilemmas: Notes on the ADA and Voting Rights of People with Cognitive and Emotional Impairments*, 21 *Berkeley J. Emp. & Lab. L.* 437 (2000); and, Thomas H. Earle and Kristi M Bushner, *Effective Participation or Exclusion: The Voting Rights of People with Disabilities*, 11 *Temple Political and Civil Rights Law Review* 327 (Spring 2002).

Only 41% of people with disabilities voted in the November 2000 elections, far below the national average of 52%. The 2000 Census estimated that 15% of the population, 56 million citizens, were people with disabilities, including 35 million of voting age. A reasonable inference from these statistics is that if people with disabilities voted at the same rate as the national average, 52%, 4 million more voters with disabilities would participate in democracy. Inaccessible voting places and machines is a substantial factor in this failure.

Kansas is no different from the national average. Failure to provide access to polling places, access to a ballot, and failure to provide reasonable accommodations are substantial barriers to Kansans with disabilities exercising the fundamental constitutional right to vote.

HB 2619 creates barriers that “sick, physically disabled and illiterate” voters must cross in order to exercise their most basic of rights, the right to vote. HB 2619 contains numerous flawed provisions.

1. The terms “sick, physically disabled and illiterate” are not defined and are offensive to the disability community. KAPS is opposed to any language that empowers one population within the disability community and not others. For example, it is not clear in the current version of HB 2619 whether or not persons who are blind or visually impaired, persons with cognitive disabilities, persons who experience mental illness, or others are empowered to use advance balloting. In fact a strict reading would say that those persons who have a disability other than a “physical disability” are prohibited from using assistance while casting their advance ballot. Everyone who needs assistance in exercising their right to vote should be accommodated.
2. Section 1 (d) requires that the person rendering assistance to the “sick, physically disabled or illiterate” voter to “state the reason the sick, physically disabled or illiterate voter required assistance.” This is an incredible breach of a voter’s privacy. KSA 25-1122 sets out requirements for advance voting applications. Subsection (a) provides that any registered voter may file with the county election official for an advance voting ballot. A written application as set out in KSA 25-1122d is required. The form does not require any disclosure of why the person wants to vote by advance ballot, nor does it require disclosure of disability. Lots of voters use advance balloting and for all sorts of reasons. Persons with disabilities must be given that same opportunity and without having someone write an affidavit about why they choose to exercise this option. Equal right, equal treatment!

3. HB 2619 states “*An advance voting ballot envelope shall not be opened, and no vote on the ballot therein shall be counted if the envelope has not been signed or if the signature on the envelope does not match the voter’s signature on the voter registration records.* Such envelope or ballot shall be challenged in the same manner in which other votes are challenged. *The county election officer shall verify the signature of the advance voting voter on each envelope with the voter’s signature on the voter’s registration records.*” Many of us registered to vote when we turned 18, or a least many years ago. We may have re-registered when we moved to a new home. How many of our signatures look like they did when we last registered? Mine doesn’t. The signature of persons who experience changes in ability due to changes in their disability will look different too. If they do not “re-register” each time their signature gets shakier, they begin using a signature stamp, begin using their opposite hand to write, etc., their ballot is open to challenge. That is unacceptable! The Kansas Legislature should not make a policy that the ballots of voters with disabilities are able to be challenged through a provisional ballot or any other process simply because my disability changes frequently. That kind of policy will have a very chilling effect on the voting rights of all Kansans, especially Kansans with disabilities. My vote should count regardless of my ability to write the same way each day.

In their October 2001 report “Voters With Disabilities, Access To Polling Places And Alternative Voting Methods” the Government Accounting Office encourages “less restrictive absentee voting” as an accommodation to persons with disabilities. Excerpts from the GAO report state the following.

Less-restrictive absentee voting:

Allow less-restrictive use of absentee ballots, such as not requiring a reason to use temporary absentee ballots or allowing permanent absentee ballots.

Advantages:

- Voters have the convenience of being able to vote from home and greater flexibility in choosing when to vote.

Disadvantages:

- Some voters with disabilities may find that requirements in some states for using permanent absentee voting (for example, providing doctor's certification) discourage use of this option.
- Some voters with disabilities may prefer that the traditional polling places used on Election Day be fully accessible.

Advance (absentee as used in the Help America Vote Act) voting can be made simple for all users, and a balance can be struck between its simplicity and concerns about potential fraud. Making people with disabilities jump through additional hoops does not strike that balance.

Secretary of State Ron Thornburg stated in testimony recently that Kansas has between 300 and 400 hundred inaccessible polling places. It continues to be difficult for persons with disabilities to get to, get in and access a voting booth. His intent is to close the inaccessible locations by 2006 and apparently does not have a plan to relocate them to accessible places. The Kansas Legislature heard testimony from other conferees that closing inaccessible places would create a barrier to voting for others in the respective communities by forcing people to drive further, as well as causing other impediments to the ability of voters to exercise their most basic

constitutional right – casting their ballot. In that testimony, the Legislature was told that access standards that support voters with disabilities are to blame.

We should all be looking for ways to encourage people to get out and vote. Closing polling places rather than developing accessible locations discourages voting. Making it more difficult to use advance voting options discourages voting. HB 2619 if enacted as proposed will discourage people with significant disabilities from using a very tool that empowers them to participate in our democracy, their vote as exercised through the option of advance voting.



Offices located in
the Historic Crawford Building

Topeka Independent Living Resource Center

785-233-4572 v/TTY • FAX 785-233-1561 • TOLL FREE 1-800-443-2207
501 SW Jackson Street • Suite 100 • Topeka, KS 66603-3300

Testimony before the House Committee on Ethics and Elections February 4, 2004

Thank you for the opportunity to appear before you today. My name is Kevin Siek and I am a disability rights advocate for the Topeka Independent Living Resource Center. Our agency is a civil and human rights organization, with a mission to advocate for justice, equality and essential services for all people with disabilities.

We oppose HB 2619 because it places additional requirements on advance voters with disabilities that do not apply to most registered voters. We believe that all voters should be treated equally and recommend the following changes to the advance voting statute:

- Strike the phrase “sick, physically disabled or illiterate” from the law. This language is unnecessary. Instead refer to advance voters or simply voters. In particular the new language that requires “*stating the reason the sick, physically disabled or illiterate voter required assistance*” should not be included. Why a voter may wish to have someone assist them in completing their ballot is their own business and no one else’s. Voters with disabilities have just as much right to their privacy as any other voter.
- Eliminate the requirement for a written statement or affidavit for a person who renders assistance to an advance voter in applying for or marking an advance ballot. This requirement creates

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another barrier to participation in the democratic process for advance voters with disabilities and is discriminatory in that it singles out a particular group to whom these additional voting requirements apply.

It appears that this provision of the law was put into place to prevent undue influence on the voting decisions of voters with disabilities. I have not seen any evidence that would indicate that voters with disabilities are any more susceptible to undue influence than other Kansas voters. Additionally, people who are unscrupulous enough to unduly influence a person's vote probably would have little problem with fraudulently signing the affidavit, which means this is not much of a deterrent to those who would abuse the voting process.

- Eliminate the requirement for a signature on the advance voting ballot envelope. Kansans are required to provide proof of identification when they register to vote. Once a person has received their voter registration card there should be no more identification requirements. This should apply to all registered voters in Kansas.

People with disabilities have been fighting for decades for the ability to cast a secret ballot, something most voters take for granted. With the passage of the Help America Vote Act this dream may finally become a reality, however, some of us may still require some assistance in casting a ballot. Please do not make the process anymore difficult for Kansas with disabilities.