

MINUTES OF THE HOUSE ETHICS AND ELECTIONS COMMITTEE

The meeting was called to order by Chairman Don Myers at 3:30 p.m. on March 8, 2004 in Room 526-S of the Capitol.

All members were present except:

Representative Joe McLeland- excused

Committee staff present:

Ken Wilke, Revisor of Statutes

Martha Dorsey, Legislative Research Department

Shirley Weideman, Committee Secretary

Conferees appearing before the committee:

Ron Thornburgh, Secretary of State

Brad Bryant, Deputy Assistant Secretary of State

Troy Findley, Governor's Liaison (written only)

Kerrie Bacon, Kansas Commission on Disability Concerns (written only)

Kevin Siek, Topeka Independent Living Resource Center

Michael Donnelly, Kansas Advocacy & Protective Services, Inc.

Shannon Jones for Larry Burnett, Hutchinson

Others attending: See Attached List.

Representative Toelkes moved to approve the minutes of the February 16, 18 and 23 meetings of the Ethics and Elections Committee and Representative Yonally seconded the motion. The motion carried.

Chairman Myers opened the hearing on **SB 479 - Elections; changes to comply with the Help America Vote Act of 2002.**

The Chairman welcomed Secretary of State Ron Thornburgh to the committee to give an overview of **SB 479**. Secretary Thornburgh said that the Help America Vote Act of 2002 is the federal government's response to the 2000 presidential election in Florida and this bill would bring Kansas in compliance with the federal law. He also said that there are three main components of this bill: the first is accessibility, not only of the voting mechanisms, but also the polling places. He told the committee that the accessibility of the polling places has always been determined by the American Disabilities Act and Kansas and was up to 95% in compliance with their standards. The HAVA bill requires that "any person, with any disability, shall have the opportunity to cast an independent secret ballot". Secretary Thornburgh also said that an important part of this bill is the training of board workers and voters and that this bill would require 8 hours of training for the county election officers per year. He indicated that there will be instruction for voters at the polling place with posters as well as verbal instruction. Secretary Thornburgh also told the committee that the second component of the bill is the requirement for having a central voter registration data base. With 105 counties with 105 data bases, the Secretary of State's Office currently is working on a RFP program to combine these programs into one. With some comparisons to last year's bill, he said that his office and the governor's office compromised from identifying all voters to only identifying first-time voters. He understood that they would show identification either with the county election officer or designee when they register to vote, or at the time that they vote. Secretary Thornburgh said the last component of this bill deals with the administrative complaint procedure. He indicated that if someone has an issue to resolve when a HAVA violation has happened, is happening or is about to happen, there is an official procedure to file that complaint. Secretary Thornburgh also commented on the survey of polling places in Kansas for their accessibility to the disabled. There are some rural counties where it may be more economically feasible to consolidate rather than update the facilities, but he said they will work with the counties to up-date as much as possible.

Deputy Assistant Secretary of State Brad Bryant appeared before the committee in support of **SB 479**. He reviewed the nine concepts in this bill. He said the first deals with the affirmation by regular voters and provisional voters that they are qualified to vote in the election and, if they have voted a provisional ballot, the voter will be given information on how to find out if their provisional ballot is counted. Mr Bryant said the second concept concerns the extension of polling hours by court order and provides that

## CONTINUATION SHEET

MINUTES OF THE HOUSE ETHICS AND ELECTIONS COMMITTEE at 3:30 p.m. on March 8, 2004 in Room 526-S of the Capitol.

votes cast after regular hours will be provisional ballots, separated from other provisional ballots. He told the committee that the third concept is requiring persons voting for the first time in the county, either by advanced ballot or at the polling place, to show identification and the definition of that identification is provided by this bill. Mr. Bryant said the next concept allows federal services absentee voters to submit one ballot application for all elections from the date of the application through the second succeeding federal general election. He told the committee that concept five would designate the Secretary of State as the agency for dissemination of federal services voting information. The sixth concept, according to Mr. Bryant, would add to the requirements of the voter registration application form and also require county election officers to notify applicants of incomplete forms. The seventh requirement would mandate that a sample ballot, the polling hours and the date of the election be posted at each polling place on election day, Mr. Bryant said. He indicated that the last two concepts require training for county election officers and election board workers and outlines the administrative complaint procedure. (Attachment 1)

Secretary Thornburgh and Mr. Bryant answered questions asked by committee members. There was some concern expressed by the committee whether Kansas had lost any money by not passing this bill last year because of the governor's veto. The committee was told that there was not any monetary loss as the new Elections Assistance Commission is just now up and running. Some members wanted to know the costs for Kansas to comply with this bill. It is estimated to be \$1.3 million; the state has received \$5 million from the federal government to date. One member said the bill did not seem clear as to whether first-time voters needed to show ID once or twice. There were questions on whether the requirements for first-time voters might discourage them from voting and by requiring handwritten signatures, there is a possibility that the disabled could be disqualified. On the question of the accessibility of the polling places and the possibility of closing some that are inaccessible, Secretary Thornburgh replied that counties have been asked to be in compliance with the ADA requirements in 2004 and with the HAVA requirements by 2006. A question was asked if a voter is considered new if they have only moved from one county to another, and the answer was 'yes'. There was a suggestion that the wording in the bill: "sick, physically disabled or illiterate" voters is not politically correct and could be offensive. There was also a question whether sufficient training of election workers would be provided.

Chairman Myers brought the committee's attention to the written testimony of the Governor's Liaison, Troy Findley (Attachment 2) and Kerrie Bacon of the Kansas Commission on Disability Concerns, Kansas Department of Human Resources. (Attachment 3) Kerrie Bacon requested an amendment to include alternate languages and alternative formats of communication of the posted information at the poles, and training of the election officials in the same, in her written testimony.

Appearing before the committee in opposition to **SB 479** was Michael Donnelly, Kansas Advocacy & Protective Services, Inc. He proposed amending the bill to use disability-friendly language, define 'signature' and 'disability', to use HAVA's definition of 'first-time voter', and rather than close inaccessible polling places, make sure that all are accessible. (Attachment 4)

Also in opposition to **SB 479**, Shannon Jones appeared before the committee to present the testimony of Larry Burnett, who was unable to attend. She told the committee that Larry said that he cannot vote if he cannot get into his polling place, or if he must use a signature according to this bill, he would need assistance in voting. She said he would support the amendments offered by KAPS. (Attachment 5)

Kevin Siek, Topeka Independent Living Resource Center came before the committee in opposition to **SB 479**. He said that he supports the people-first language, an alternative to a handwritten signature, free access to the polling places and only the requirements of HAVA in this bill. Mr. Sief said he would like a free access system available to check on their vote, for those voting a provisional ballot (Attachment 6)

Michael Donnelly, Shannon Jones and Kevin Siek answered questions asked by committee members.

Chairman Myers closed the hearing on **SB 479**, and said he would work the bill Wednesday.

The meeting was adjourned at 5:05 p.m. The next scheduled meeting is Wednesday, March 10.

HOUSE ETHICS AND ELECTIONS COMMITTEE

GUEST LIST DATE: March 8, 2004

Your Name	Representing
Brad Bryant	Sec. of state
Garrett Schmidt	Rep. Powell
Kevin Sielk	TILRC
Sharon Joseph	KS ADAPT
Paul Reynolds	Chubel <del>Row</del> PEOPLE FIRST
Shannon Jones	SILCK
Kirk W. Lowrey	KAPS

RON THORNBURGH  
Secretary of State



Memorial Hall, 1st Floor  
120 S.W. 10th Avenue  
Topeka, KS 66612-1594  
(785) 296-4564

STATE OF KANSAS  
House Committee on Ethics and Elections

Testimony on SB 479

Ron Thornburgh, Secretary of State  
Brad Bryant, Deputy Assistant Secretary of State

March 8, 2004

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify in support of SB 479. We request this bill to put Kansas laws into compliance with the Help America Vote Act of 2002 (HAVA). The bill contains nine HAVA-related concepts, as outlined below in the order they first appear in the bill.

**1. Require regular voters and provisional voters to sign an affirmation that they are qualified to vote in the election, and provide information to provisional voters on how to ascertain whether their provisional ballots counted.**

Section 1	Amends KSA 25-216
Section 2	Amends KSA 25-409
Section 10	Amends KSA 25-2507

Section 1 specifies the affirmation to be signed by provisional voters in a partisan primary election.

Section 2 specifies the affirmation to be signed by provisional voters in general elections or nonpartisan primaries.

Section 10 specifies the declaration on the poll book signed by all voters.

If an individual claims to be eligible to vote but his/her name is not on the registration list, the person must be permitted to cast a provisional ballot.

This is required by HAVA, Section 302:

Subsection 302(a)(1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election. (2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is (A) a registered voter in the jurisdiction in which the individual desires to vote; and (B) eligible to vote in that election.

Subsection 302 (a)(5)(a) At the time that an individual casts a provisional ballot, the appropriate State or local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain ... whether the vote was counted,

and, if the vote was not counted, the reason that the vote was not counted.

**2. Require that when polling hours are extended by court order, votes cast after regular hours are provisional ballots and separated from other provisional ballots.**

Section 3                      Amends KSA 25-414  
Section 15                     Amends KSA 25-3008

Section 3 states that ballots cast after normal polling hours must be provisional.  
Section 15 states that these provisional ballots must be separated from other ballots.

These sections are required by HAVA, Section 302(c):

Any individual who votes in an election for Federal office as a result of a Federal or State court order or any other order extending the time established for closing the polls by a State law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot under subsection (a). Any such ballot cast under the preceding sentence shall be separated and held apart from other provisional ballots cast by those not affected by the order.

**3. Require persons voting for the first time in the county to show identification when voting.**

Section 4                      Amends KSA 25-1122  
Section 5                      Amends KSA 25-1122d  
Section 6                      Amends KSA 25-1123  
Section 13                     Amends KSA 25-2908  
Section 14                     Amends KSA 25-3002

Section 4 details the voter identification requirements for first-time voters who are voting advance ballots, either in person or by mail.

Section 5 specifies the form of the ballot applications submitted by advance voters, both in person and by mail.

Section 6 requires the county election officer to compare the voter identification information provided by first-time voters to the voter registration list verified by the Division of Motor Vehicles.

Section 13 specifies the voter identification requirements for first-time voters voting at the polling place on election day.

Section 14 clarifies for county boards of canvassers that ballots are not counted if cast by first-time voters who failed to provide proper identification.

The voter identification procedures are proposed in response to HAVA, Section 303(b)(2), which states in subsection (A):

- (A) In General—An individual meets the requirements of this paragraph if the individual—
  - (i) in the case of an individual who votes in person—
    - (I) presents to the appropriate State or local election official a current and valid photo identification; or
    - (II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or
  - (ii) in the case of an individual who votes by mail, submits with the ballot—
    - (I) a copy of a current and valid photo identification; or

(II) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

**4. Allow federal services absentee voters to submit one ballot application for all elections from the date of the application through the second succeeding federal general election.**

Section 7 Amends KSA 25-1216(a)

Section 7 specifies that an application submitted by a federal services voter is valid for all elections at which the voter is eligible to vote from the date of the application through the second succeeding November general election.

This section is required by HAVA, Section 704:

Section 104(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1) ... is amended by striking “during that year,” and all that follows and inserting the following: “through the next 2 regularly scheduled general elections for Federal office ... the State shall provide an absentee ballot to the voter for each such subsequent election.”

**5. Designate the Secretary of State as the agency for dissemination of federal services voting information.**

Section 8 Amends KSA 25-1223

Section 8 designates the Secretary of State, Kansas’ chief state election official, as the officer responsible for disseminating federal services voting information and collecting ballot applications.

This section is required by HAVA, Section 702:

Each State shall designate a single office which shall be responsible for providing information regarding voter registration procedures and absentee ballot procedures to be used by absent uniformed services voters and overseas voters with respect to elections for Federal office ... to all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.

**6. Add to the requirements of the voter registration application form and require county election officers to notify applicants of incomplete forms.**

Section 9 Amends KSA 25-2309

Section 9 revises the Kansas voter registration application form to:

- allow the applicant the option of providing either his/her driver’s license number or the last 4 digits of his/her Social Security number
- add a question and check-box regarding the applicant’s citizenship
- add a question and check-box regarding the applicant’s age
- instruct the applicant not to complete the form if the answer to either the citizenship or the age question is “No”
- inform the applicant that he/she may be required to provide identification when voting if identification is not provided with the registration
- require the county election officer to notify applicants if their applications are incomplete

This section is required by HAVA, Section 303(a)(5):

An application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes—(I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or (II) in the case of any other applicant ... the last 4 digits of the applicant's social security number.

and Section 303(b)(4):

The mail voter registration form ... shall include the following:

- (i) The question "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.
- (ii) The question "Will you be 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day.
- (iii) The statement "If you checked 'no' in response to either of these questions, do not complete this form."
- (iv) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time.

and Section 303(b)(4)(B):

INCOMPLETE FORMS.—If an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(i), the registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for Federal office (subject to State law).

## **7. Require the following to be posted at each polling place on election day: a sample ballot, the date of the election, and polling hours.**

Section 11                      Amends KSA 25-2706

This section is required by HAVA, Section 302(B):

- (1) PUBLIC POSTING ON ELECTION DAY.—The appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office.
- (2) VOTING INFORMATION DEFINED.—In this section, the term "voting information" means—
  - (A) a sample version of the ballot that will be used for that election;
  - (B) information regarding the date of the election and the hours during which polling places will be open;
  - (C) instructions on how to vote, including how to cast a vote and how to cast a provisional ballot;
  - (D) instructions for mail-in registrants and first-time voters;
  - (E) general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and
  - (G) general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation.

**8. Require county election officer and election board worker training.**

Section 12                      Amends KSA 25-2806

Section 16                      New law

These sections of the bill are included in response to HAVA, Section 101(b)(1)(d), which states that efforts should be made, and federal funding may be expended, for “training election officials, poll workers, and election volunteers.”

Section 12 requires training of precinct election board workers and Section 16 requires training of county election officers.

**9. Administrative complaint procedure.**

Sections 17 through 32                      New law

This section represents a new addition to Kansas law that would establish a formal administrative complaint procedure. This is required by HAVA, Section 402, which states in subsection (a)(1):

If a State receives any payment under a program under this Act, the State shall be required to establish and maintain State-based administrative complaint procedures...”

We urge the committee to report this legislation favorably for passage. Thank you for your consideration.





# K A N S A S

OFFICE OF THE GOVERNOR

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on S.B. 479  
Help America Vote Act  
House Ethics & Elections Committee  
March 8, 2004**

Chairman Myers and members of the House Ethics & Elections Committee:

I am Troy Findley, Legislative Liaison for Governor Kathleen Sebelius, and I want to thank you very much for the opportunity to provide written testimony on behalf of the Governor's office regarding SB 479, which proposes to change Kansas election law to comply with the federal help America vote act of 2002. Specifically, I offer support of the language contained in SB 479, which relates to voter identification.

As committee members know, Governor Sebelius vetoed last session's HAVA bill, 2003 HB 2288, due to concerns over the provision of that bill requiring all voters to show identification at the polls. The minimum federal requirement of HAVA regarding voter identification applies only to "first time voters who register by mail." It was the Governor's desire to adhere as closely as possible to that federal minimum requirement. Therefore, she vetoed HB 2288 containing the universal voter identification language.

During the interim period between legislative sessions, the Governor's office worked with the Secretary of State's office to find a middle ground between the federal minimum requirement and the universal identification requirements included in HB 2288.

The Governor believes the language regarding voter identification in SB 479, which would require all first time voters to show identification in the process, strikes an appropriate balance, and is language she does endorse.

Additionally, I would like to also acknowledge another concern that was mentioned by a number of legislators and others regarding last session's bill relating to voter identification and advance voting. Those concerns centered on how the process might make the advance voting process too cumbersome by requiring actual copies of identification being provided with the application.

Language in Section 4 of SB 479 that will allow a first time voter to simply provide their Kansas drivers license number, nondrivers identification card number, or last 4 digits of their social security number, rather than a full photocopy of one of those pieces of identification, should go a long way to alleviating those concerns and is also supported by the Governor.

I would like to thank Secretary of State Ron Thornburgh and his staff for their willingness to work with the Governor and her office on finding a common ground solution on the voter

identification and advance ballot issues. We look forward to working with the Secretary of State and legislators on these and the remaining issues in the bill as it moves through the legislative process.

Thank you again for the opportunity to provide testimony on SB 479.



# KANSAS

DEPARTMENT OF HUMAN RESOURCES  
Jim Garner, Secretary

KATHLEEN SEBELIUS, Governor

## Testimony

Before the House Ethics and Elections Committee  
Monday, March 8, 2004  
Hearing on Senate Bill 479

Respectfully submitted by:  
Kerrie J. Bacon, Legislative Liaison  
Kansas Commission on Disability Concerns  
Kansas Department of Human Resources

Thank you, Chairperson Myers, and members of the Committee. I appreciate the opportunity to testify today regarding S.B. 479. The Kansas Commission on Disability Concerns (KCDC) is charged with providing information to the Governor, the Legislature, and to State agencies about issues of concern to Kansans with disabilities (K.S.A. 74-6706). The purpose of the changes in this bill is mainly to support the independence of people with disabilities in regard to voting. We are in support of making changes to our current law to make voting, which is the right of every U.S. citizen, accessible to every citizen.

There are two changes to S.B. 479 that we would recommend in order to clarify responsibilities in terms of communication and training.

1. On page 14, lines 13 and 18, we would recommend clarifying the format of the information being posted to include alternate languages (as stated in KSA 25-2706 c) and "alternative formats of communication such as large print, disk, cassette tape, or Braille."
2. On page 14, line 31, we would recommend training for election board judges and clerks include "special situations including, but not limited to, alternative languages, alternative formats of communication, accessibility, awareness and sensitivity."

These changes would promote *all* voters having access to information and rights in regard to voting in Kansas. It would also ensure that poll workers would have information and training on making the voting process work well for voters with a disability.

Thank you again for this opportunity to testify. I will be happy to answer any questions.

1 election officers may adopt such rules and regulations for elections as may  
 2 be needed and not in conflict with state law or rules and regulations. Such  
 3 rules and regulations shall be submitted to the secretary of state for approval.

4 (b) The county election officer shall furnish printed instructions to  
 5 election boards, defining their duties and the law governing elections.

6 (c) (1) The county election officer shall furnish:

7 (A) Printed instructions to voters and;

8 (B) a list of voters' rights and responsibilities;

9 (C) a sample ballot;

10 (D) notification of the date of the election; and

11 (E) the polling place hours. which

12 (2) Each of the items in paragraph (1) shall be posted in every voting  
 13 place at every election **in alternate formats of communication such as**  
 14 **large print, disk, cassette tape, or Braille** and

15 (3) Wherever the secretary of state deems it advisable, ~~the instructions~~  
 16 ~~and a list of voters' rights and responsibilities~~ *all items listed in*  
 17 *subsection (c)* shall be printed in English and in a language or languages  
 18 other than English, **and in alternate formats of communication such as large print,**  
 19 **disk, cassette tape, or Braille.**

20 (d) The secretary of state shall specify the form and contents of instructions  
 21 to voters, list of voters' rights and responsibilities and instructions  
 22 to election boards. Such specifications shall be transmitted to county  
 23 election officers and may be changed from time to time by the secretary  
 24 of state.

25 Sec. 12. K.S.A. 25-2806 is hereby amended to read as follows: 25-  
 26 2806. The county election officer ~~may hold a school of~~ *shall provide* instruction  
 27 for election board judges *and clerks* before each election. The  
 28 instruction in such school shall relate to all matters which in the opinion  
 29 of the county election officer require additional knowledge, explanation  
 30 to, or training **of such judges** relating to elections generally, voting machines,  
 31 ballots, **special situations including but not limited to, alternative formats of**  
 32 **communication, accessibility, awareness and sensitivity,** or duties in connection  
 33 with any of the foregoing.

**Comment:** A cassette tape recording instructions, voters' rights and responsibilities, etc. ensure all voters have access to information about the voting process.

**Comment:** Either delete "of such judges" or add "and clerks"

**Comment:** The people who work directly with the public should have accessibility and sensitivity training.



**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](http://www.ksadv.org)  
e-mail: [info@ksadv.org](mailto: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. With me today is one of KAPS Litigation Director Kirk Lowry. 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 to SB 479. SB 479 gives us the opportunity to ensure that the voice and vote of all Kansans are valued and able to be counted as we elect our leaders, make community decisions and set policies for our state through the voting process. My testimony today will address the voting rights of persons with disabilities as provided in our amended version of SB 479 and other issues that pertain to friendly and usable access to the Kansas voting system.

We offer our amendments to SB 479 to ensure access to the voting process for Kansans with disabilities, and believe that by implementing SB 479 as we suggest all Kansans will find the voting process more friendly and accessible. We have suggested some practical revisions to SB 479 as proposed by this Committee including;

- Using disability friendly language
- Defining “signature” as used in election laws
- Using the HAVA definition of “first time voter”

At the same time we are offering a few cleanup amendments to existing Kansas election laws that will further bring us into compliance with existing federal statutes related to accessibility and the voting process.

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 SB 479 does not ensure that opportunity for Kansas voters with disabilities and we are offering amendments that we believe will provide those necessary assurances.

Representatives of the Kansas Secretary of State have stated on several occasions that they do not know what impact the KAPS proposed amendments to SB 479 would have on the Kansas voting system, on voters without disabilities and the location, saturation and access to polling places. KAPS would remind the Committee that federal and state statutes requiring access to government facilities, programs and services have been in place in Kansas since 1957. The most sweeping reform requiring non-discrimination for persons with disabilities was in 1973 with Section 504 of the rehabilitation Act of 1973. Kansas has had more than 30 years to comply with the physical and program access requirements of 504 and yet we have polling places, procedures, attitudes and processes that are not accessible and usable by voters with disabilities. By not having addressed the issues of full access for voters with disabilities Kansas has chosen to violate federal and state law. Whether we admit it or not, there IS a problem.

As stated above, 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).

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, discriminatory practices and the lack of accessible voting 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.

SB 479 as introduced does not eliminate the many barriers that voters with disabilities must cross in order to exercise their most basic of rights, the right to vote. KAPS requests that the Kansas Legislature to take this opportunity to correct the many deficiencies in Kansas election laws that impact Kansas voters with disabilities. For example, the terminology used throughout SB 479 referencing persons with disabilities is both archaic and offensive. We have suggested current terminology referencing voters with disabilities, persons who are experiencing limitations due to temporary illnesses, and using current law's terminology for persons who can not read, "person / voter who lacks proficiency in reading the English language." We have suggested amendments that make these terms the words of choice and consistent throughout the bill.

Secondly, we have suggested amendments to other elections related statutes that will also bring Kansas laws into compliance with federal disability laws. For example, **K.S.A. 25-2710 Standards of Accessibility for Voting Places** needs to be updated to require accessibility for all polling places as required under the Americans With Disabilities Act of 1990, Section 504 of the Rehabilitation Act of 1973 as amended, and others. This technical cleanup simply brings Kansas into compliance with our existing obligations. The Kansas Secretary of State directed each County to survey each current polling site for compliance with access guidelines provided by the Kansas Commission on Disability Concerns that were due back to the Secretary's office last week. We recommend that the Committee receive a report on compliance from The secretary's office prior to any action on SB 479.

KAPS also recommends revisions to **K.S.A. 25-2990 Voting by Persons Requiring Assistance** to make it more clear how and when a voter with a disability can, and may choose to use assistance in casting their ballot.

In addition to the above recommendations KAPS has provided language that would define a "signature" as required under the law. Persons with disabilities utilize numerous methods of signing documents and we suggest that it be clear to all persons involved in the process of elections that those various methods are both normal and acceptable. We also provide guidance on topics to be addressed in the proposed training and education of election officials and various election workers.

Our final comment relates to the definition and requirements that SB 479 puts on "first-time" voters. KAPS strongly opposes the current proposed definition of first time voter because we believe that it does create an disparate impact on persons with disabilities, low income voters and women. Secondly, HAVA requires that a first time voter who "has registered by mail" must provide identification (as described in SB 479) the day they cast their first vote. However, SB 479 goes beyond the federal statute by providing a definition of first time voter that captures a very large percentage of voters, and requires those meeting the definition to show ID when they vote too. KAPS opposes the proposed definition of "first time voter" and recommends that a



first time voter be defined as it is in HAVA, “an individual who is registered to vote in a jurisdiction by mail and the individual has not previously voted in an election for federal office in the state; or, the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in the state that does not have a computerized list that complies with the requirements of . . .” HAVA.

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 U.S. Department of Justice recently distributed its access guide for polling places and in his announcement of the guide, Assistant Attorney General for Civil Rights, R. Alexander Acosta said “The right to vote stands at the core of a properly functioning democracy. No one should be denied the franchise simply because they cannot physically access their polling place.” Kansas needs to adopt this same policy.

As I stated earlier we have offered several practical amendments to SB 479 as proposed and suggested revisions to the two other Kansas election laws that specifically related to voting and persons with disabilities.

We are happy to work with this committee to produce legislation that brings Kansas into compliance with the Help America Vote Act and that will ensure access to the election and voting process for all Kansans while ensuring equal access and opportunity to voters with disabilities.

We are all 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 register, use voting options other than going to the polls, and simply put, putting up more barriers to voting discourages voting. We believe that if SB 479, as we have amended it, is enacted, it will empower people with disabilities to use every tool available to participate in our democracy, and to have their vote count.

**NEW SECTION:**

As used in this act "Signature" means a voter's name, mark, initials, or symbol written by the voter and intended to be a signature, or made by another person at the voter's direction. A signature may be handwritten, typed, printed, stamped, or made in any other manner.

**KANSAS ADVOCACY AND PROTECTIVE SERVICES RECOMMENDS THAT THE COMMITTEE TAKE THIS OPPORTUNITY TO COMPLETE A FEW OTHER VOTING LAW TECHNICAL CLEAN-UPS. THE KAPS RECOMMENDATIONS ARE AS FOLLOWS.**

1. **Sec. 12 K.S.A. 25-2710. Standards of accessibility for voting places; exceptions.**

(a) Except as hereinafter provided, each voting place provided by the county election officer, in which is to be held national, state, county, township, city and school primary and general elections and question submitted elections, shall be accessible to and usable by elderly persons and by physically handicapped persons by complying when necessary with the following standards of accessibility:

(1) Doors, entrances and exits used to gain access to or egress from the voting place shall have a minimum width of thirty (30) inches;

(2) any curb adjacent to the main entrance to the voting place shall have curb cuts or temporary ramps;

(3) any stairs necessarily used to enter the voting place shall have a temporary handrail and ramp; and

(4) at the voting place, no barrier shall impede the path of the physically handicapped to the voting booth.

(b) The county election officer may select a voting place not meeting the standards of accessibility prescribed in subsection (a) if:

(1) No acceptable and accessible voting place is available within the precinct or other designated voting area; or

(2) it is anticipated that the voting place will be brought into compliance with such standards in the foreseeable future or the voting place will be temporarily made to comply with the standards for the time during which the polls are open.

(c) Any county election officer who selects a voting place which does not meet the standards prescribed in subsection (a) shall report such selection to the board of county commissioners.

*Persons with disabilities in compliance with the accessibility guidelines mandated pursuant to Title II of the Americans with Disabilities Act, as amended (42 U.S.C. § 12131 et seq.).*

2. **Sec. 15 K.S.A. 25-2909. Voting by persons requiring assistance.** (a) Any voter unable to mark such person's ballot by reason of physical temporary illness, disability, visual

~~handicap or lack of proficiency in reading the English language or any voter 65 or more years of age may request assistance in voting.~~

(b) Upon request as provided in subsection (a), the voter shall be accompanied to the voting booth by a person chosen by the voter or, if no person is chosen, by two members of the election board of different political parties, who shall mark the ballot as such voter directs.

(c) If a voter requests assistance but is challenged, such voter shall be permitted to vote as provided by law for provisional voters.

~~(d) If a voting place is inaccessible to a disabled voter by reason of stairs or steps, such voter may request that such person's ballot be brought to the entrance to such voting place, for the purpose of allowing such voter to vote. Two members of the election board of different political parties shall take a ballot to the voter so requesting and shall remain with such voter while such person votes. In voting places where paper ballots are used, such board members shall deposit such voter's ballot in the ballot box. In voting places where voting machines are used, such voter shall vote on an advance voting ballot, and, if the county election officer so directs, the two board members, upon returning to the voting place, shall cast the voter's votes, exactly in the manner shown on such voter's ballot, on a voting machine. If the voter's votes are cast on a voting machine, the advance voting ballots used in this subsection shall be marked "VOID" with a notation indicating that the votes thereon have been tabulated on a voting machine. Any such ballot, together with objected to and provisional ballots, shall be packaged in accordance with K.S.A. 25-3008, and amendments thereto. All polling places shall have parking, paths of travel, entrances, exits and voting areas that are accessible to individuals with disabilities, and otherwise provide accessibility which is in accordance with the accessibility guidelines mandated pursuant to Title II of the Americans with Disabilities Act, as amended (42 U.S.C. § 12131 et seq.).~~

~~(e) Intoxication shall not be regarded as a physical disability. "Disability" means, with respect to an individual:~~

- ~~(1) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;~~
- ~~(2) a record of such an impairment; or~~
- ~~(3) being regarded as having such an impairment.~~

[alternative (e)] *"Disability" has the meaning provided by K.S.A. § 44-1002, as amended.*

1. office, applications for advance voting ballots transmitted to the voter in
2. person in the office of the county election officer shall be filed on the
3. Tuesday next preceding the election and on each subsequent business
4. day until no later than 12:00 noon on the day preceding such election. If
5. the county election officer so provides, applications for advance voting
6. ballots transmitted to the voter in person in the office of the county election
7. officer also may be filed on the Saturday preceding the election.
8. Upon receipt of any such properly executed application, the county election
9. officer shall deliver to the voter such ballots and instructions as are
10. provided for in this act.

~~11.~~ An application for an advance voting ballot filed by a ~~sick, physically~~  
~~12:11.~~ ~~disabled or illiterate voter~~ *voter who has a temporarily illness, a voter who has disabilities, a voter*  
*who is not proficient in reading the English language* or by a person rendering assistance to such  
~~13:12.~~ voter may be filed during the regular advance ballot application periods  
~~14:13.~~ until the close of the polls on election day.  
~~15:14.~~ In any county having a population exceeding 250,000, the county election  
~~16:15.~~ officer may designate places other than the central county election  
~~17:16.~~ office as satellite advance voting sites. At any satellite advance voting site,  
~~18:17.~~ a registered voter may obtain an application for advance voting ballots,  
~~19:18.~~ such ballots and instructions shall be delivered to the voter in the same  
~~20:19.~~ manner and subject to the same limitations as otherwise provided by this  
~~21:20.~~ subsection.  
~~22:21.~~ ~~-(d)~~ (g) Any person having a permanent ~~physical~~ disability or an illness  
~~23:22.~~ which has been diagnosed as a permanent illness is hereby authorized to  
~~24:23.~~ make an application for permanent advance voting status. Applications  
~~25:24.~~ for permanent advance voting status shall be in the form and contain such  
~~26:25.~~ information as is required for application for advance voting ballots and  
~~27:26.~~ also shall contain information which establishes the voter's right to permanent  
~~28:27.~~ advance voting status.  
~~29:28.~~ ~~-(e)~~ (h) On receipt of any application filed under the provisions of this  
~~30:29.~~ section, the county election officer shall prepare and maintain in such  
~~31:30.~~ officer's office a list of the names of all persons who have filed such  
~~32:31.~~ applications, together with their correct post office address and the precinct,  
~~33:32.~~ ward, township or voting area in which such persons claim to be  
~~34:33.~~ registered voters or to be authorized by law to vote as former precinct  
~~35:34.~~ residents and the present resident address of each applicant. Such names  
~~36:35.~~ and addresses shall remain so listed until the day of such election. The  
~~37:36.~~ county election officer shall maintain a separate listing of the names and  
~~38:37.~~ addresses of persons qualifying for permanent advance voting status. All  
~~39:38.~~ such lists shall be available for inspection upon request in compliance  
~~40:39.~~ with this subsection by any registered voter during regular business hours.  
~~41:40.~~ The county election officer upon receipt of such applications shall enter  
~~42:41.~~ upon a record kept by such officer the name and address of each applicant,  
~~43:42.~~ which record shall conform to the list above required. Before in

1. spection of any advance voting ballot application list, the person desiring
2. to make such inspection shall provide to the county election officer identification
3. in the form of driver's license or other reliable identification and
4. shall sign a log book or application form maintained by such officer stating
5. such person's name and address and showing the date and time of inspection.
6. All records made by the county election officer shall be subject
7. to public inspection, except that *the voter identification information required*
8. *by subsections (b) and (c) and the identifying number on ballots*
9. and ballot envelopes and records of such number *numbers* shall not be
10. made public.
11. ~~(f)~~ (i) If a person on the permanent advance voting list fails to vote
12. in two consecutive general elections held on the Tuesday succeeding the
13. first Monday in November of each even-numbered year, the county election
14. officer may mail a notice to such voter. Such notice shall inform the
15. voter that the voter's name will be removed from the permanent advance
16. voting list unless the voter renews the application for permanent advance
17. voting status within 30 days after the notice is mailed. If the voter fails to
18. renew such application, the county election officer shall remove the
19. voter's name from the permanent advance voting list. Failure to renew
20. the application for permanent advance voting status shall not result in
21. removal of the voter's name from the voter registration list.

~~22. (j) For the purposes of this section, "first-time voter" means a registered voter who has not previously voted in any election in the county in which the voter desires to vote. First-time voter includes a person whose name was removed from the county registration list in accordance with~~  
~~23. 24. 25. 26-22. K.S.A. 25-2316e, and amendments thereto, and who has re-registered. For the purposes of this section, "first time voter" means voter who has not voted in a federal election in that state or the voter has not previously voted in that jurisdiction and the state has not yet complied with the HAVA computerized voting list requirements the voter must comply with the identification requirements of Section 303 (b) (2) of the Help America Vote Act.~~

~~27-23. (k) The secretary of state may adopt rules and regulations defining~~  
~~28:24. valid forms of identification.~~

~~29:25. Sec. 5. K.S.A. 25-1122d is hereby amended to read as follows: 25-~~

~~30:26. 1122d. (a) The application for an advance voting ballot to be transmitted~~

~~31:27. by mail shall be accompanied by an affirmation in substance as follows:~~

~~32:28. Affirmation of an Elector of the County of \_\_\_\_\_ and State of Kansas Desiring~~  
~~33:29. to Vote an Advance Voting Ballot~~

~~34:30. State of \_\_\_\_\_, County of \_\_\_\_\_, ss:~~

~~35:31. I, \_\_\_\_\_,~~

~~36:32. (Please print name)~~

~~37:33. do solemnly affirm under penalty of perjury that I am a qualified elector of the \_\_\_\_\_~~

~~38:34. precinct of the \_\_\_\_\_ ward, residing at number \_\_\_\_\_ on \_\_\_\_\_~~

~~39:35. street, city of \_\_\_\_\_, or in the township of \_\_\_\_\_, county of \_\_\_\_\_,~~

~~40:36. and state of Kansas. My date of birth is \_\_\_\_\_ (month/day/year).~~

~~41:37. I understand that if I have not previously voted in any election in this county, I must~~

~~42:38. provide one of the following forms of identification with this application in order to receive~~

~~43:39. a ballot:~~

1. —(e) (d) Any application by a former precinct resident shall state both
2. the former and present residence, address, precinct and county of such
3. former precinct resident and the date of change of residence.
4. Sec. 6. K.S.A. 25-1123 is hereby amended to read as follows: 25-
5. 1123. (a) When an application for an advance voting ballot has been filed
6. in accordance with K.S.A. 25-1122, and amendments thereto, the county
7. election officer shall transmit to the voter applying therefore one each of
8. the appropriate ballots. Except as provided by subsection (b), the county
9. election officer shall transmit the advance voting ballots to the voter at
10. one of the following addresses as specified by the voter on such application:
11. The voter's residential address or mailing address as indicated
12. on the registration list; (2) the voter's temporary residential address; or
13. a medical care facility as defined in K.S.A. 65-425, and amendments
14. thereto, psychiatric hospital, hospice or adult care home where the voter
15. resides. No advance voting ballot shall be transmitted by the county election
16. officer by any means prior to the 20th day before the election for
17. which an application for an advance voting ballot has been received by
18. such county election officer. If the advance voting ballot is transmitted
19. by mail, such ballot shall be transmitted with printed instructions prescribed
20. by the secretary of state and a ballot envelope bearing upon the
21. outside a printed form as described in K.S.A. 25-1120, and amendments
22. thereto, and the same number as the number of the ballot. If the advance
23. voting ballot is transmitted to the applicant in person in the office of the
24. county election officer or at a satellite advance voting site, such advance
25. voting ballot and printed instructions shall be transmitted in an advance
26. voting ballot envelope bearing upon the outside a printed form as described
27. in K.S.A. 25-1120, and amendments thereto, and the same number
28. as the number of the ballot unless the voter elects to deposit the
29. advance voting ballot into a locked ballot box without an envelope. All
30. ballots shall be transmitted to the advance voting voter not more than 20
31. days before the election but within two business days of the receipt of
32. such voter's application by the election officer or the commencement of
33. such 20-day period. In primary elections required to be conducted on a
34. partisan basis, the election officer shall deliver to such voter the ballot of
35. the political party of the applicant.
36. (b) The restrictions in subsection (a) relating to where a county election
37. officer may transmit an advance voting ballot shall not apply to an
38. advance voting ballot requested pursuant to an application for an advance
39. voting ballot filed by a ~~sick, physically disabled or illiterate voter~~ *voter who has a temporarily illness, a*
40. *voter who has disabilities, or a voter who is not proficient in reading the English language.*
41. (c) *The county election officer shall compare the driver's license number,*
42. *nondriver's identification card number, social security number or*
43. *copy of other valid identification provided by a first-time voter to the*
44. *voter registration list verified by the division of motor vehicles in accord*

1. duty of such election officials and county officers to furnish the secretary
2. of state such services as he *the secretary of state* may require, and within
3. the time which the secretary of state shall prescribe.
4. Sec. 9. K.S.A. 2003 Supp. 25-2309 is hereby amended to read as
5. follows: 25-2309. (a) Any person may apply in person, by mail, through a
6. voter registration agency, or by other delivery to a county election officer
7. to be registered. Such application shall be made on: (1) A form approved
8. by the secretary of state, which shall be provided by a county election
9. officer or chief state election official upon request in person, by telephone
10. or in writing; or (2) the mail voter registration application prescribed by
11. the federal election commission. Such application shall be signed by the
12. applicant under penalty of perjury and shall contain the original signature (KAPS recommends defining signature – see attached definition proposal)
13. of the applicant or the computerized, electronic or digitized transmitted
14. signature of the applicant.
15. (b) Applications made under this section shall give voter eligibility
16. requirements and such information as is necessary to identify the applicant
17. and to determine the qualifications of the applicant as an elector and
18. the facts authorizing such person to be registered, including, but not
19. limited to, the following data:
20. (1) Name;
21. (2) place of residence, including specific address or location, and
22. mailing address if the residence address is not a permissible postal ad-
23. dress;
24. (3) date of birth;
25. (4) sex;
26. (5) the last four digits of the person's social security number *or the*
27. *person's full driver's license or nondriver's identification card number*;
28. (6) telephone number, if available;
29. (7) naturalization data (if applicable);
30. (8) if applicant has previously registered or voted elsewhere, residence
31. at time of last registration or voting;
32. (9) when present residence established;
33. (10) name under which applicant last registered or voted, if different
34. from present name;
35. (11) an attestation that the applicant meets each eligibility require
36. ment;
37. (12) a statement that the penalty for submission of a false voter registration
38. application is a maximum presumptive sentence of 17 months in
39. prison;
40. (13) a statement that, if an applicant declines to register to vote, the
41. fact that the applicant has declined to register will remain confidential
42. and will be used only for voter registration purposes;
43. (14) a statement that if an applicant does register to vote, the office

1. the registration book, to the registration book beside the voter's printed
2. name or to the poll book and the voter shall be allowed to vote. An
3. election board member shall provide the required signature at the request
4. of and on behalf of any voter who is unable to personally affix a handwritten
5. signature by reason of physical disability, visual handicap or lack
6. of proficiency in reading the English language or any voter 65 or more
7. years of age. The judges shall give the voter one and only one of each
8. ballot to be cast at the election, on the upper right hand corner of each
9. of which shall be written the number corresponding to the voter's number
10. in the registration book or poll books, and the voter's name shall be
11. marked in the registration books and the party affiliation list. If the voter
12. refuses to sign the registration book or poll book, the election board judge
13. shall challenge such person's vote pursuant to K.S.A. 25-414, and amendments
14. thereto: *A person desiring to vote shall provide to the election*
15. *board: (1) the voter's name; (2) if required, the voter's address; and (3)*
16. *the voter's signature on the registration or poll book.*
17. (c) *A member of the election board shall:*
18. (1) *Announce the voter's name in a loud and distinct tone of voice,*
19. *and, if the name is in the registration books, the member of the election*
20. *board having the registration record shall repeat the name;*
21. (2) *request the voter's signature on the registration or poll book;*
22. (3) *provide the required signature at the request of and on behalf of*
23. *any voter who is unable to personally affix a handwritten signature (NOTE: Many persons with disabilities*  
*do not use a "handwritten signature" or may sign in a manner not known by the general public. The law*  
*should recognize that and define signature as on the attached) by*
24. *reason of temporarily illness, disability.*
- ~~24-25.~~ *physical disability, visual handicap or lack of proficiency in*
- ~~25-26.~~ *reading the English language;*
- ~~26-27.~~ (4) *if the voter is a first-time voter as described in subsection (h) of*
- ~~27-28.~~ *this section, request valid identification from the voter;*
- ~~28-29.~~ (5) *give the voter one ballot, on the upper right-hand corner of which*
- ~~29-30.~~ *shall be written the number corresponding to the voter's number in the*
- ~~30-31.~~ *registration book or poll book; and*
- ~~31-32.~~ (6) *mark the voter's name in the registration book and party affiliation*
- ~~32-33.~~ *list.*
- ~~33-34.~~ (d) *A first-time voter shall provide to the election board a form of*
- ~~34-35.~~ *valid identification such as a current and valid Kansas driver's license,*
- ~~35-36.~~ *nondriver's identification card, utility bill, bank statement, paycheck, government*
- ~~36-37.~~ *check or other government document. The document provided*
- ~~37-38.~~ *in accordance with this section shall contain the voter's current name and*
- ~~38-39.~~ *address as indicated on the registration book or poll book.*
- ~~39-40.~~ (e) *If a first-time voter is unable or refuses to provide current and*
- ~~40-41.~~ *valid identification at the polling place, or if the name and address do not*
- ~~41-42.~~ *match the voter's name and address on the registration book or poll book,*
- ~~42-43.~~ *the voter may vote a provisional ballot according to K.S.A. 25-409, and*
- ~~43-44.~~ *amendments thereto. The voter shall provide a valid form of identification*



1. as defined in subsection (d) of this section to the county election officer
2. in person or provide a copy by mail or electronic means before the meeting
3. of the county board of canvassers. At the meeting of the county board of
4. canvassers the county election officer shall present copies of identification
5. received from provisional voters and the corresponding provisional ballots.
6. If the county board of canvassers determines that a voter's identification
7. is valid and the provisional ballot was properly cast, the ballot shall
8. be counted.
9. (f) If the name of any person desiring to vote at an election is not in
10. the registration books, an election board member shall print the name
11. and address of the person appearing to vote in the registration book or
12. poll book. The person appearing to vote shall add such person's signature
13. to the registration book or poll book beside such person's printed name,
14. as listed in the registration book or poll book, and the election board
15. judge shall challenge such person's vote pursuant to K.S.A. 25-414, and
16. amendments thereto. During the pendency of a challenge other voters
17. shall be given ballots and be permitted to vote.
18. (e) (g) A voter who has received an advance voting ballot may vote a
19. provisional ballot on election day at the precinct polling place where the
20. voter resides. If the voter returns the advance voting ballot to a judge or
21. clerk at the precinct polling place, the judge or clerk shall void such
22. advance voting ballot. Any such provisional ballot shall be counted only
23. if the county board of canvassers determines that the provisional ballot
24. was properly cast and the voter has not otherwise voted at such election.
25. (h) ~~For the purposes of this section, "first-time voter" means a registered~~
26. ~~voter who has not previously voted in any election in the county~~
27. ~~in which the voter desires to vote. First-time voter includes a person whose~~
28. ~~name was removed from the county registration list in accordance with~~
29. ~~25-25. K.S.A. 25-2316c, and amendments thereto, and has re-registered. For the purposes of this section,~~
30. ~~"first time voter" means a voter who has not voted in a federal election in that state or the voter has not~~
31. ~~previously voted in that jurisdiction and the state has not yet complied with the HAVA computerized voting list~~
32. ~~requirements the voter must comply with the identification requirements of Section 303 (b) (2) of the Help America~~
33. ~~Vote Act.~~
34. (i) The secretary of state may adopt rules and regulations defining
35. valid forms of identification.
36. Sec. 14. K.S.A. 2003 Supp. 25-3002 is hereby amended to read as
37. follows: 25-3002. (a) The rules prescribed in this section shall apply to:
38. (1) The original canvass by election boards.
39. (2) Intermediate and final canvasses by county boards of canvassers.
40. (3) Final canvass by the state board of canvassers.
41. (4) All election contests.
42. (5) All other officers canvassing or having a part in the canvass of any
43. election.
44. (b) Rules for canvassers:
45. (1) No ballot, or any portion thereof, shall be invalidated by any technical
46. error unless it is impossible to determine the voter's intention. De
47. termination of the voter's intention shall rest in the discretion of the board

1. *shall be counted if the voter fails to provide valid identification within timelines prescribed by Sec. 14 K.S.A. 2003 Supp. 25-2908.*
2. Sec. 15. K.S.A. 2003 Supp. 25-3008 is hereby amended to read as
3. follows: 25-3008. Before leaving the voting place the supervising judge
4. shall ascertain that the election supplies and ballots that are to be returned
5. have been packaged, packed and separated as provided in this section:
6. (a) All ballots both voted and unvoted, except void, objected to and
7. provisional ballots, shall be placed in bags or sacks. Such bags or sacks
8. shall be sealed and appropriately labeled. The method of sealing and
9. labeling shall be a method approved by the secretary of state and directed
10. by the county election officer.
11. (b) Ballots that are spoiled and returned by the voter shall be marked
12. "spoiled" on the back thereof and shall be placed in the bags or envelopes
13. specified in subsection (a) of this section.
14. (c) Provisional ballot envelopes containing ballots, with applications
15. for registration attached, shall be placed in an appropriately labeled envelope,
16. and shall be sealed as in subsection (a) of this section.
17. (d) *Provisional ballot envelopes containing ballots cast after the polling*
18. *place hours prescribed in K.S.A. 25-106, and amendments thereto,*
19. *pursuant to a court or other order shall be separated from the provisional*
20. *ballot envelopes described in subsection (c) of this section and packaged*
21. *and sealed as required by subsection (a) of this section.*
22. ~~(d)~~ (e) Objected to ballots shall be placed in an appropriately labeled
23. envelope, and shall be sealed as in subsection (a) of this section.
24. ~~(e)~~ (f) Ballots that are cast but not counted shall be marked "void"
25. on the back thereof and shall be placed in the same envelope that contains
26. objected to ballots.
27. ~~(f)~~ (g) Ballots specified in subsections (a) and (b) shall be separately
28. packaged from ballots specified in subsections (c), (d) and ~~(e)~~, (e) and (f).
29. ~~(g)~~ (h) Poll books, registration books, party affiliation lists, tally sheets,
30. abstracts and election supplies not listed in the preceding subsections of
31. this section shall be returned sealed but not packaged with the items
32. specified in subsections (a), (b), (c), (d), (e) and ~~(f)~~; (f) and (g).
33. ~~(h)~~ (i) (1) If upon receiving the sealed bags or sacks of ballots after
34. the original canvass, the county election officer discovers that the board
35. which conducted the original canvass failed to provide a tally sheet of
36. write-in votes, the county election officer may appoint a special write-in
37. board to unseal the ballots and count any write-in votes which appear on
38. the ballots. Such write-in votes shall be reported to the county election
39. officer, who shall include them with the official results of the election.
40. When the board completes its tally of write-in votes, the bags or sacks
41. shall be resealed.
42. (2) The special write-in board shall be appointed by the county election
43. officer from the election boards of the county or from a pool of

**Testimony to House  
Ethics & Elections Committee**

**Presented by  
Larry Burnett**

**March 8, 2004**

Chairman Myers and members of the committee, my name is Larry Burnett. I was appointed by Governor Graves in 2001 to serve on the board of the Statewide Independent Living Council of Kansas (SILCK) to advocate for the civil and human rights of all people with disabilities.

I was diagnosed with a mild form of polio at the age of 5. Because I have always had a strong belief in a citizen's duty to serve his country, I did not reveal my disability when I enlisted in the United States Navy. I served in active duty from 1967 to 1969 in the Vietnam War. Upon my return I still remained active in the political process. In 1970 I was the vice chair of the Young Republicans in Wichita. And since that time I have been involved with many campaigns and worked on every single campaign for Bob Dole, including his run for President.

In 1973 I began to experience post polio syndrome. Over the years, my disability has limited my mobility and the use of my hands. It has NOT diminished my responsibility to be a good citizen and exercise my right to vote. However, I cannot vote if I cannot get into my polling place, I cannot vote if I need assistance with voting or I need accommodation with my signature.

SB 479 in its current form does not allow me to participate and exercise my basic fundamental right to vote. As a Vietnam veteran I have fought for this democracy and have upheld my duty of good citizenship.

I am here today to simply ask you to give me and others with disabilities the ability to access the voting process. I support the amendments offered by KAPS and urge you to do the same.



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 Ethics and Elections Committee on S479, an act concerning elections; related to conformity with the Help America Vote Act March 8, 2004

Chairman Myers and members of the committee 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.

Currently, Kansas is about a year behind on implementing the Help America Vote Act or HAVA. The legislation that was passed last legislative session to implement HAVA was vetoed by Governor Sebelius, and rightly so. That bill had identification requirements that far exceeded what HAVA mandates, which would have clearly created additional barriers to participation in the democratic process for people with disabilities. Although S479 is a compromise between the Governor and the Secretary of State, it still goes beyond the scope of HAVA in some areas, while not completely implementing HAVA in others.

The purpose of this legislation is to bring state election laws into agreement with the provisions of HAVA so that we can get our money from the federal government to implement this important piece of legislation. HAVA is tremendously important to voters with disabilities because it provides money to purchase voting equipment that is usable by all voters, including people with disabilities, for every polling site in the state.

We offer the following recommendations to S479:

- Use the HAVA definition of a "first-time voter" which only requires ID from first-time voters in the jurisdiction **who registered by mail** and wish to vote by advance ballot or at the polling place.

S479 goes far beyond HAVA by including anyone **who has not previously voted in any election** in the county where the voter desires to vote, including a person whose name was removed from the county registration list and who has re-registered.

- HAVA requires the establishment of a free access system (such as a toll-free telephone number or an Internet website) that any individual who casts a provisional ballot may access to see if the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted. I find nothing in S479 that addresses the need to develop and notify voters of such a system.
- There is nothing specific in the bill that shows how Kansas will insure a uniform system, and uniform poll worker training to determine the validity of provisional ballots as required by HAVA. S479 delegates the responsibility for reviewing provisional ballots to the county board of canvassers.

HAVA requires the state's Chief State Election Official to establish a centralized, statewide, computerized voter registration list that is uniform and nondiscriminatory. As such, the responsibility and authority for accepting, verifying, updating and purging voter registrations lies with the state alone. It would make better sense to review provisional ballots at a state level in order to insure uniformity and limit the possibility of discrimination in the vote verification process. It is also imperative that there is uniform poll worker training for applying the system on a consistent basis throughout the state.

- We recommend the use of "people first" language (see attached card) to replace the anachronistic language currently used in various Kansas election laws. For example, replacing "sick, physically disabled ... voter" with "voters with disabilities".
- S479 does not define what constitutes a valid signature. People who are visually impaired, using a signature stamp or whose signature may change over time according to the severity of their disability need this definition so they know what to expect. Because many voters with disabilities experience extreme variation in the appearance of their signature we recommend that the use of a person's signature for identification purposes should be as limited as possible.

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. I urge you to pass a bill that will allow us to start implementation of HAVA that will fully include Kansans with disabilities in the democratic process.

## People First Language

**Say** People with disabilities, **Instead of** Handicapped or the disabled

**Say** People with developmental disabilities, **Instead of** The mentally retarded or retarded

**Say** Has a congenital disability, **Instead of** Birth defect

**Say** Uses a wheelchair, **Instead of** Confined to a wheelchair

**Say** Visual disability, **Instead of** Sightless; blind

**Say** Physical disability, **Instead of** Crippled; lame

**Say** Short stature, **Instead of** Dwarf or midget

**Say** Is nonverbal, **Instead of** Mute or dumb

**Say** Person who has, **Instead of** Afflicted with, suffers from, victim of

**Say** Mental disability, **Instead of** Emotionally disturbed; crazy or insane

**Say** A person without a disability, **Instead of** Normal and/or healthy

**Say** Accessible parking, **Instead of** Handicapped parking



### How to Act, What to Say

- ⇒ Treat people with disabilities with respect, courtesy, and dignity
- ⇒ Don't assume people with disabilities are incapable of counting money, having a job, living in their own home, raising children or any other activity that most people are free to do.
- ⇒ Disability is not contagious, nor should it be referred to as a disease
- ⇒ Never patronize people with disabilities or give excessive praise or attention.
- ⇒ A disability is a functional limitation that interferes with a person's ability to walk, hear, talk, learn, etc. Handicap is used to describe a situation or barrier imposed by society or the environment
- ⇒ Always ask a person with a disability if they want assistance before assisting them.
- ⇒ Treat adults with disabilities, like you would any other adult.
- ⇒ Speak directly to the person with a disability, not a companion.
- ⇒ Be considerate of the extra time it may take for a person to get things said or done.

For more information: contact People First  
501 SW Jackson, Topeka, KS 66603 Ph: 233-6773

