

Approved: 3-22-07  
Date

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Tim Huelskamp at 1:30 P.M. on January 24, 2007 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Martha Dorsey, Kansas Legislative Research Department  
Matt Spurgin, Kansas Legislative Research Department  
Ken Wilke, Revisor of Statutes  
Zoie Kern, Committee Secretary

Conferees appearing before the committee:

Bryan Caskey - Secretary of States Office

Others attending:

See attached list.

Ken Wilke - Revisor of Statues Office gave summary **of SB 99 Recall petitions; requiring court actions to be filed within 30 days of decision .**

Bryan Caskey from the Secretary of States Office gave favorable testimony on **SB 99 (Attachment 1 and 2).**

There where no opponents present for **SB 99.**

Closed hearing on **SB 99.**

Discussion.

**Motion made by Senator Francisco and second by Senator Reitz to report SB 99 favorably.**

**Motion carried.**

Discussion on **SB 100 Concerning election; repealing existing sections.**

Brad Bryant of Secretary of States office clarified changes in **SB 100.**

**Senator Petersen made motion to accept changes and move out SB 100 favorable. Senator Pyle second.**

**Motion carried.**

Hearing on **SB 101 Concern Kansas Sports hall of fame; funding.**

Discussion.

No opponents on **SB101.**

**Senator Reitz moved to send out SB 101 favorably. Second by Senator Wilson.**

**Motion carried.**

Meeting adjourned.

Respectfully submitted,

Zoie C. Kern, Committee Secretary

# Senate Elections and Local Government Committee

January 24, 2007

9:00 A.M.

NAME	REPRESENTING
BRYAN CASKEY	KS SOS
Carol Williams	G-EC
Brad Bryant	Sec. of state
Matt Bryant	Carter Group
Karl Wagoner	Kearney & Associates
Mandy Miller	Sen. Schmidt

**RON THORNBURGH**  
Secretary of State



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**STATE OF KANSAS**  
**Senate Committee on Elections and Local Government**

**Testimony on SB 99**

Bryan A. Caskey, Administrative Assistant  
Elections and Legislative Matters  
Office of the Secretary of State

January 24, 2007

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 99. This bill does two things. First, it clarifies the time frame when mandamus or injunction proceedings to compel or restrain a recall election must begin. This bill changes the words "not less than" to "within." The recall statutes are designed to promote an orderly and efficient process leading up to an election. There are statutes that give the county attorney five days to review the petition and the county election officer 30 days to review the petition. By changing these words, we believe the recall process will move to a speedier resolution. The current language was adopted in a 2003 bill that tightened the language surrounding the authority of the county attorney when reviewing the petition for sufficiency. I have included a copy of the conference committee report brief prepared by the Kansas Legislative Research Department on this bill. The committee report on 2003 Senate Bill 103, in describing this section, uses the phrase "not later than" which has an opposite meaning from "not less than".

Second, the bill requires the officer sought to be recalled in a local recall effort to be notified by the county or district attorney of his / her determination of validity of the petition form. Current law requires in local recall elections that the county or district attorney must make a determination of the validity of the grounds of a petition submitted before it is circulated for signatures. The attorney notifies the recall committee and the county election office but not the person who is the subject of the recall.

This makes it impossible to determine when the 30-day period should begin for mandamus actions by the person subject of the recall. K.S.A. 25-4331 requires that any person aggrieved by the county attorney's decision may bring an action to have the determination reviewed by the district court of that county. The recall committee is informed of that decision, while the person who is the subject of the recall is not.

This bill, with identical language, was passed by the Senate during the 2006 legislative session.

Thank you and I stand for questions.

SESSION OF 2003

**CONFERENCE COMMITTEE REPORT BRIEF  
SENATE BILL NO. 103**

As Agreed to March 31, 2003

**Brief \***

SB 103 amends the law dealing with recall elections and the ouster procedure. The bill clarifies which election results are used to calculate the percentage of electors needed to sign recall petition, alters statutes dealing with grounds for recall and for ouster, and deletes the requirement that statements of persons subject to recall petitions must be posted at polling places and provide instead that these statements shall be maintained in the county election office.

Under the bill, the Secretary of State or the county or district attorney's decision to approve the recall petition would be based on determining if the facts support the grounds for recall. In addition, other statutory requirements regarding the validity of petitions are listed for both state and local official recall proceedings. In addition, all mandamus proceedings to compel a recall and all injunction proceedings to restrain a recall would have to be commenced not later than 30 days after the decision at the state or local level.

The bill clarifies that the percentage of signatures required on a recall petition is calculated using the votes cast for all candidates for the office of the state or local officer sought to be recalled. Such percentage would be based upon the last general election for the current term of office of the officer being recalled.

The bill removes incompetence as one of the grounds for recall and defines misconduct in office as a violation of law by the officer that impacts the officer's ability to perform the official duties of the office. The bill also adds to the ouster statute the additional grounds for forfeiture of office to include any person who demonstrates mental

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. The conference committee summary report may be accessed on the Internet at <http://www.kslegislature.org/kldr>

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impairment such that the person lacks the capacity to manage the office held.

The bill authorizes the county election officer to maintain a 200-word statement by the officer being recalled in defense of such officer's conduct in the county election office for public inspection instead of posting it at each polling place as required by current law.

### **Background**

A representative of the Secretary of State's Office, the League of Kansas Municipalities, and the Kansas Association of School Boards testified in support of SB 103. All three representatives proposed amendments to the bill.

The Senate Committee of the Whole amended the bill by deleting the provisions which created a temporary recall board.

The House Committee on Ethics and Elections added language requested by the Secretary of State's Office which clarified that the percentage required for a recall petition would apply to "the votes cast for all candidates for the office of the state (or local ) officer sought to be recalled." In addition, the local officer recall could not happen if the officer is within 180 days of the termination of the term of office. The bill as drafted had 200 days.

The Conference Committee agreed upon the House Committee's amendments to the bill and made clarifying amendments.

The Division of the Budget's fiscal note indicates that potential costs to the Secretary of State's Office and to counties to organize recall boards would be negligible. The fiscal note also states that there is anticipated a small amount of savings to the county election officers in photocopying and printing costs because they would not be required to make copies of recall statements for each of the 3,300 precincts in Kansas. The note states that the Attorney General's Office would not be fiscally impacted by the passage of the bill.