

MINUTES OF THE SENATE ETHICS AND ELECTIONS COMMITTEE

The meeting was called to order by Chairman Vicki Schmidt at 9:30 a.m. on January 28, 2010, in Room 144-S of the Capitol.

All members were present except:

Senator Susan Wagle- excused

Committee staff present:

Mike Heim, Office of the Revisor of Statutes
Martha Dorsey, Kansas Legislative Research Department
Reed Holwegner, Kansas Legislative Research Department
Carolyn Long, Committee Assistant

Conferees appearing before the Committee:

Brad Bryant, Deputy Assistant Secretary of State for Elections and Legislative Matters
Sherri Ribel, Allen County Clerk
Don Pyle, Crawford County Clerk
Don Merriman, Saline County Clerk
Jim Edwards, Kansas Association of School Boards
Sandy Jacquot, League of Kansas Municipalities

Others attending:

See attached list.

The chair opened the meeting by introducing her pages Laura Dicus and Paige Cunningham.

The chair then opened the hearing on **SB 422 - Elections; certain local units of government; primary elections**. Staff clarification of the bill stated that in 2008 legislation **SB 562** was enacted by the legislature. Part of that law was to reduce primaries in school districts, cities and college districts and replaced it with what is currently in the law. Last year **SB 103** was introduced which would have eliminated the language of 2008 and replaced it with what was there in 2007. That bill passed the Senate and currently sits in the House Elections Committee. What it basically says is that if there are more than three candidates for a position a primary is held.. **SB 103** sought to clarify current law.

Brad Bryant, Deputy Assistant Secretary of State for Elections and Legislative Matters, speaking in support of this bill, indicated it was proposed by the county clerks and that the Secretary of States office was in favor of this legislation. It was felt that it would resolve the contradictory language that is in the law passed in 2008 and it maintains the intent of the 2008 law by reducing the number of spring primaries. If passed a primary would only be required in districts in which a fourth candidate filed for office (Attachment 1).

Sherri Ribel, Allen County Clerk, felt passage of this legislation would save monies not only for cities, colleges, and schools but for counties as well (Attachment 2).

Don Pyle, Crawford County Clerk and Election Officer, expressed support saying that any time you are able to save resources it would be prudent and reasonable to do so (Attachment 3).

Donald Merriman, Saline County Clerk and Election Officer, felt that this legislation would allow districts to be fiscally responsible (Attachment 4).

Written testimony in support of **SB 422** was submitted by:

Linda M. Buttron, Jefferson County Clerk (Attachment 5).

Speaking as an opponent of the bill, Jim Edwards, Assistant Executive Director of the Kansas Association of School Boards, believes the language of **SB 103** would be preferable to that suggested in **SB 422** to help ensure the winning candidate receives over 50% of votes cast (Attachment 6).

Sandy Jacquot, General Counsel for the League of Kansas Municipalities, also spoke in opposition. It is the League's opinion that this current effort should not be passed because of the confusion yet one more bill

CONTINUATION SHEET

Minutes of the Senate Ethics and Elections Committee at 9:30 a.m. on January 28, 2010, in Room 144-S of the Capitol.

altering city primary elections would have on cities and their citizens (Attachment 7).

The Chair thanked all those that appeared. and closed the hearing on **SB 422**.

SB 421 - Election crimes; increase in penalty for voting when voter unqualified was opened for final action. Senator Brungardt moved to recommend SB 421 favorably for passage. Seconded by Senator Reitz. Motion carried.

Senator Schmidt called for final action on **SB 426 - Concerning ballots by uniformed and overseas citizens and federal services voters.** Senator Brungardt moved to recommend SB 426 favorably for passage. Seconded by Senator Faust-Goudeau. Motion carried.

The next meeting is scheduled for February 3, 2010.

The meeting was adjourned at 10:10 a.m.

RON THORNBURGH
Secretary of State



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

STATE OF KANSAS
Senate Committee on Ethics and Elections

Testimony on Senate Bill 422

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

January 28, 2010

Madam Chair and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 422, which was proposed by the Kansas County Clerks and Election Officials Association (KCCEOA). This bill deals with the rules that govern primaries for city offices, local school boards and community college boards of trustees. These elections are held in the spring of odd-numbered years. Traditionally, primaries are held for these positions only if the number of candidate filings triggers a primary. Legislation in 2008 sought to reduce the number of primaries by increasing the number of candidate filings required to trigger a primary. However, that language created an inconsistency in the law that Senate Bill 422 will resolve.

We support Senate Bill 422 because (1) it resolves the contradictory language that is in the law passed in 2008, and (2) it maintains the intent of the 2008 law by reducing the number of spring primaries.

In 2007 and before, the law stated that a primary was required in spring elections only if more than two candidates filed for a position. The primary would eliminate one or more candidates, so the goal of the primary was to narrow the field of candidates to two in the general election, held on the first Tuesday of April.

In 2008, the KCCEOA proposed legislation to reduce the number of these expensive primaries by increasing by one the number of candidates that would trigger a primary. Thus, if three candidates filed there would not be a primary; a primary would be required if four or more candidates filed. But the 2008 law was unclear as to how many candidates would be carried forward from the primary to the general election ballot. The contradiction in the language of the 2008 law created confusion that needs to be clarified.

If the Legislature passes Senate Bill 422, the policy regarding spring primaries will be that a primary will be required only in those districts in which a fourth candidate files for office. If three or fewer candidates file, there is no primary and all the candidates' names are printed on the general election ballot in April. If four or more candidates file, there will be a primary to

reduce the field to two for the general election.

We have included a chart to help explain the rules for holding primary elections under the 2007 law, the current (2008) law and Senate Bill 422.

We urge the committee to pass Senate Bill 422.

Thank you for your consideration.

CITY / SCHOOL / COMMUNITY COLLEGE PRIMARY ELECTION CHART

2007 LAW

NUMBER OF POSITIONS	CANDIDATES FILED - NO PRIMARY	CANDIDATES FILED CREATING PRIMARY	IF PRIMARY IS HELD NUMBER OF CANDIDATES ADVANCING TO GENERAL
1	0-2	3 OR MORE	2
2 (at large)	0-4	5 OR MORE	4
3 (at large)	0-6	7 OR MORE	6
4 (at large)	0-8	9 OR MORE	8

2008 LAW

NUMBER OF POSITIONS	CANDIDATES FILED - NO PRIMARY	CANDIDATES FILED CREATING PRIMARY	IF PRIMARY IS HELD NUMBER OF CANDIDATES ADVANCING TO GENERAL
1	0-3	4 OR MORE	3
2 (at large)	0-6	7 OR MORE	6
3 (at large)	0-9	10 OR MORE	9
4 (at large)	0-12	13 OR MORE	12

2010 SENATE BILL 422

NUMBER OF POSITIONS	CANDIDATES FILED - NO PRIMARY	CANDIDATES FILED CREATING PRIMARY	IF PRIMARY IS HELD NUMBER OF CANDIDATES ADVANCING TO GENERAL
1	0-3	4 OR MORE	2
2 (at large)	0-6	7 OR MORE	4
3 (at large)	0-9	10 OR MORE	6
4 (at large)	0-12	13 OR MORE	8

ALLEN COUNTY COURTHOUSE

Sherrie L. Riebel
COUNTY CLERK

1 N. Washington
Iola, KS 66749

620-365-1407
Fax: 365-1441
Email: coclerk@allencounty.org

January 28, 2010

To: Senate Ethics and Elections Committee

Re: Testimony on Senate Bill 422

From: Sherrie L. Riebel, Allen County Clerk/Election Official
and Kansas County Clerk's & Election Officials Election Committee Chair

Honorable Chair and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 422. Kansas County Clerk's and Election Officials Association supports this legislation.

One, this legislation would save monies not only for cities, colleges and schools but the county as well. Hard economic times require anything that will save taxing entities money should be highly considered. Publication, board workers, HAVA machinery and supplies are all requirements for each election that costs the taxpayer. These costs continue to raise not decline. Cities have the authority to do home rule; colleges and schools do not.

Two, the turn out is so low for most city/school primary elections. Allen County had a 21% turnout for a City Primary last March. I was able to forgo two elections due to the current K.S.A. 2008 Supplement 25-2021, which saved the county money in time spent and the City of Moran and USD #257 in budget.

Third, if SB 422 were to pass it would clarify any confusion of the current K.S.A. 2008 Supplement 25-2021. SB422 states "The names of the two candidates for such unexpired term receiving the greatest number of votes shall appear on the ballots in the general election."

KCC&EOA urge the committee to report Senate Bill 422 favorably for passage. Thank you for your consideration.

Sincerely,
Sherrie L. Riebel
Allen County Clerk/Election Official
& KCC&EOA Election Committee Chair

Senate Ethics and Elections Cmte
Date 1-28-2010
Attachment 2

Donald P. Pyle
PO Box 249
111 E. Forest St.
Girard, Kansas 66743



620-724-6115
Fax 620-724-6007
www.crawfordcountykansas.com
countyclerk@ckt.net

Office of the Crawford County Clerk

January 28, 2010

Honorable Kansas State Senator Vicki Schmidt
Chairman, Senate Ethics and Elections Committee
and Distinguished Members of the Committee

Re: Senate Bill Number 422, to reduce the number of City & School Primary Elections

Chairman Schmidt and Distinguished Committee Members,

In my capacity as Crawford County Election Officer, I am very supportive of Senate Bill 422. Changing the number of candidate filings needed to trigger a primary election from 2 to 3 for each open position in City and School District Elections will eliminate many unnecessary primary elections. This will save local governments and school districts from spending these funds on elections when their resources are needed elsewhere.

In 2007 our primary elections for the Pittsburg City Commission, USD 246 School Board and USD 248 School Board would have been eliminated with this legislation. The City of Pittsburg paid \$13,941, USD 246 paid \$8,161 and USD 248 paid \$9,077 to hold these primary elections for a total of \$31,179 in costs to the taxpayers. I am sure that the candidates would have spent less on only one election. With an average voter turnout of only 11% it does not appear that these primaries were really needed. In my review of these elections the same candidate would have been elected in all four of the school board seat races in the primary. The Pittsburg City Commission election was for 3 at-large city commission positions. There was one change in the three candidates capturing the most votes between the primary and general elections. Overall, that means that only one elected candidate would have changed if the primary election had been eliminated and that could be due to voter turnout nearly doubling for the general election.

My office works very hard to be fiscally conservative while ensuring that our elections are secure and fair. In these times of budget reductions, all public entities should be given the opportunity to save resources when it is prudent and reasonable. I believe this is one of those opportunities. Thank you for your time and support in this matter.

Sincerely,

A handwritten signature in black ink that reads "Donald P. Pyle".

Donald P. Pyle
Crawford County Clerk and Election Officer
countyclerk@ckt.net

Senate Ethics and Elections Cmte
Date 1-28-2010
Attachment 3



Saline County Clerk

Donald R. Merriman - County Clerk
Phone: (785) 309-5820
FAX: (785) 309-5826
E-mail: don.merriman@saline.org
www.saline.org

P.O. Box 5040
300 West Ash
Salina, Kansas 67402-5040

January 28, 2010

Honorable Senator Vicki Schmidt
Chairman – Senate Ethics and Elections Committee
and Committee Members

Re: S.B. 422 – Reduce the Number of City/School Primaries
by Committee on Ethics and Elections

Chairman Schmidt and Committee Members:

As Saline County Election Officer and County Clerk, I am supportive of S.B. 422, to change the candidate filing numbers from 2 to 3 for each open position in City/School/College District Elections.

In 2009 we had 9 filings for 3 open positions on the City of Salina Commission. By the previous change in statutes no Primary was needed, and the City of Salina and/or Saline County U.S.D.s saved approximately \$21,000 in election costs for 2009.

The following are election turnouts and expenses for Saline County/City of Salina/USD 305/USD 306/City of Gypsum:

- February 27, 2001 – City of Salina Commission and USD 305 School Board**
2,725 votes cast (9% voter turnout) - \$14,473.00 overall cost (\$5.31/vote)
- February 25, 2003 – City of Salina Commission**
4,250 votes cast (14% voter turnout) - \$15,104.00 overall cost (\$3.55/vote)
- March 1, 2005 – City of Salina Commission**
4,496 votes cast (14% voter turnout) - \$17,080.00 overall cost (\$3.80/vote)
- March 1, 2005 – City of Gypsum Mayor**
119 votes cast (46% voter turnout) - \$370.00 overall cost (\$3.10/vote)
- February 27, 2007 – City of Salina Commission**
4,133 votes cast (14% voter turnout) - \$18,429.00 overall cost (\$4.46/vote)

As an Election Officer, I strive to be as fiscally responsible as possible in conducting elections. This is especially important in this time of reduced revenues for cities, counties, and school districts.

Thank you for your time and consideration of this election matter.

Sincerely,

Donald R. Merriman
Saline County Clerk and Election Officer
(Vice-President of the Kansas County Clerks' and Election Officials' Association)

DRM:ll

Senate Ethics and Elections Cmte

Date 1-28-2010

Attachment 4

Jefferson County, Kansas

Linda M. Buttron, COUNTY CLERK

P.O. Box 321 • Oskaloosa, Kansas 66066

Phone: 785-863-2272 • Fax: 785-863-3135 • email: lbuttron@jfcountyks.com

COUNTY OFFICES

Commissioners
863-2272

Clerk
863-2272

Attorney
863-2251

Sheriff
863-2765

Register of Deeds
863-2243

Treasurer
863-2691

Clerk of the
District Court
863-2461

Road & Bridge
863-2211

Appraiser
863-2080

Auxiliary Services
863-2581

Emergency
Services
863-2278

Extension
863-2212

Planning & Zoning
863-2241

Health
Department
863-2447

GIS/IT
863-2173

911 Dispatch
863-2247

January 25, 2010

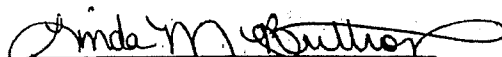
Honorable Vicki L. Schmidt
Chairperson-Ethics and Elections Committee

RE: Senate Bill 422-Written testimony only

Chairperson Schmidt,

I am Linda M. Buttron, Jefferson County Clerk. I am one of those folks who implements and carries out the laws that are passed down from the legislature. I am testifying in support of the passage of Senate Bill 422 because it clarifies the intent of the revision to the law a couple years ago. In putting the revised primary election law into practice we found that while we knew the intent of the law the language made it confusing. This bill will clarify that language and accomplish the purpose intended by the original law decreasing the number of primary elections necessary in city/school elections. A primary election in Jefferson County for one city costs around \$1500. The League of Municipalities will argue that changing this law is not necessary as the cities have the authority to charter the provisions of the law and that the law should be returned to its original wording. I believe it is important not to leave an unclear law on the books when a chance to clarify the law through a better selection of wording has been presented for consideration. Not all cities have chartered the primary election law and must deal with the statute with its current confusing wording. Schools are unable to charter the election law and also are forced to deal with a statute with unclear wording. In this time when we are looking to save everywhere we can in both the State, County and School budgets and you are offered an opportunity to save money, albeit at the local level, I believe is important to pass laws that allow local officials to do so. The eight third class cities in my County could make better use of \$1500 for snow and ice removal than to spend it to eliminate one candidate from the ballot for the Spring General Election. Thank you for your consideration of my testimony.

Sincerely,

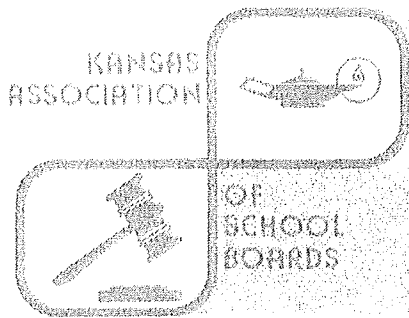


Linda M. Buttron
Jefferson County Clerk

Senate Ethics and Elections Cmte

Date 1-28-2010

Attachment 5



1420 SW Arrowhead Road • Topeka, Kansas 66604-4024
785-273-3600

Testimony on **SB 422**
before the
Senate Ethics and Election Committee

by

Jim Edwards, Assistant Executive Director/Leadership Development
Kansas Association of School Boards

January 27, 2010

Madame Chair, Members of the Committee:

Thank you for the opportunity to testify on **SB 422**. We appear today as opponents.

For many years, state law required a primary election be held if more than two candidates filed for a single seat on a school board or other local election held in the spring; or if more than twice the number of candidates filed for multiple at-large positions on the ballot. The 2008 Legislature changed this law so primaries would only be held if three times the number of candidates filed. KASB did not testify on the change. This change was advocated by local election officials to save the cost of primary elections. School board elections were held under the new law in 2009.

In the 2009 session, the Senate passed a bill, **SB 103**, to return to the previous law. The Legislature agreed to delay further consideration of this issue until the 2010 session. KASB believes the language of **SB 103** is preferable to the amendments suggested in **SB 422** to help ensure the winning candidate receives a majority of votes cast. Under the new law, candidates can win with as little as 34 percent of the vote. As a result, the KASB Delegate Assembly in December amended its policy on the issue and now advocates for a return to the old law.

Thank you for your consideration and I would be pleased to stand for questions.

Senate Ethics and Elections Cmte
Date 1-28-2010
Attachment 6



TO: Senate Ethics and Elections Committee
 FROM: Sandy Jacquot, Director of Law/General Counsel
 DATE: January 28, 2010
 RE: Opposition to SB 422

Thank you for allowing the League of Kansas Municipalities to testify in opposition to SB 422, which tries to clarify a change in the law from two years ago regarding when cities and school districts are required to hold primary elections. There has certainly been much debate, both about the efficacy of the policy change and the actual language in the bill. In short, the language changed the rule regarding when a primary was necessary from having greater than two candidates file for an office, to having greater than three candidates.

Because of an opinion from the Secretary of State's office, some county election officials are interpreting the language such that the law also changed the number of candidates that go through to the general election when a primary is held. LKM believes that the law only changed when a primary is held, not the number of candidates advancing to the general election. Presumably, SB 422 attempts to clarify what we believe is already the law. In addition, however, the real problem is the policy change, not asked for by cities, that is now having an undesirable impact in cities that have not done charter ordinances to exempt themselves from the law. Having the potential for three candidates for any given office in a general election creates a possibility of having a candidate elected who did not receive a majority of the vote. This is a serious policy issue and one that many cities decided to exempt themselves from by the use charter ordinances, because of the nonuniformity of the city election laws. Some smaller cities have eliminated primary elections altogether and some have done charter ordinances to return to the previous primary law.

Because many cities have already chosen to exempt themselves from the operation of the current primary procedure, this bill will just serve to further muddy the waters without effecting any real change. LKM supports returning the law to the prior language where a primary is held whenever there are more than two candidates for a position. SB 103, currently in House Elections Committee, has language that makes that change and LKM continues to support that bill. In the alternative, because cities have the ability to adopt charter ordinances, LKM asks the committee to let this current effort, SB 422, die because of the confusion yet one more bill altering city primary elections will have on cities and our citizens.

Senate Ethics and Elections Cmte
Date 1-28-2010
Attachment 7

SENATE BILL No. 103

By Committee on Ethics and Elections

1-26

9 AN ACT concerning elections; relating to certain primary elections;
10 amending K.S.A. 2008 Supp. 25-2021, 25-2108a and 71-1415 and re-
11 pealing the existing sections.
12

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

14 Section 1. K.S.A. 2008 Supp. 25-2021 is hereby amended to read as
15 follows: 25-2021. (a) ~~A primary election shall be held if needed to re-~~
16 ~~duce the number of candidates for each office in the general election to~~
17 ~~no more than three candidates. No primary election of school district~~
18 ~~board members shall be held unless by holding such primary two or more~~
19 ~~persons will be eliminated as candidates for office. In the event there are~~
20 ~~not more than three times the number of candidates as there are board~~
21 ~~members to be elected, the names of the candidates for such office shall~~
22 ~~not appear on the primary election ballots, and there shall be no primary~~
23 ~~election for such office, but the names of such candidates shall be placed~~
24 ~~on the general school board election ballot. In school districts in which a~~
25 ~~member district method of election is in effect, if there are more than two~~
26 ~~qualified candidates for one member position in any member district, the~~
27 ~~county election officer shall call, and there shall be held, a primary election~~
28 ~~in each such member district and, if there are more than two qualified~~
29 ~~candidates for the at-large member position, the county election officer~~
30 ~~shall call, and there shall be held, a primary election in such school dis-~~
31 ~~trict. The names of the two candidates receiving the greatest number of~~
32 ~~votes for any member position at the primary election shall appear on the~~
33 ~~ballots in the general election.~~

34 (b) *In school districts having the election at large method, if there are*
35 *more than two times the number of candidates as there are board mem-*
36 *bers to be elected, the county election officer shall call, and there shall be*
37 *held, a primary election. The names of twice the number of candidates as*
38 *there are board members to be elected who received the greatest number*
39 *of votes at the primary election shall appear on the ballots in the general*
40 *election.*

41 (c) *If a member is to be elected to fill an unexpired term the rules in*
42 *this section shall be modified consistent with the provisions of this sub-*
43 *section. If there are more than two candidates for such unexpired term,*

1 *the county election officer shall call, and there shall be held, a primary*
2 *election. The names of the two candidates for such unexpired term re-*
3 *ceiving the greatest number of votes shall appear on the ballots in the*
4 *general election.*

5 *(d) No ballot in a primary school election shall have either names or*
6 *write-in blanks for any board member position unless more than two*
7 *candidates have filed for such position.*

8 ~~(b)~~ *(e) On the ballots in general school elections, blank lines for the*
9 *name of write-in candidates shall be printed at the end of the list of*
10 *candidates for each different office equal to the number to be elected*
11 *thereto. The purpose of such blank lines shall be to permit the voter to*
12 *insert the name of any person not printed on the ballot for whom such*
13 *voter desires to vote for such office. No lines for write-in candidates shall*
14 *appear on primary school election ballots.*

15 Sec. 2. K.S.A. 2008 Supp. 25-2108a is hereby amended to read as
16 follows: 25-2108a. (a) There shall be a primary election of city officers on
17 the Tuesday preceding by five weeks the first Tuesday in April of every
18 year that such city has a city election, except as otherwise provided in
19 subsection (b) of this section.

20 ~~(b) A primary election shall be held if needed to reduce the number~~
21 ~~of candidates for each office in the general election to no more than three~~
22 ~~candidates. No primary election of city officers shall be held unless by~~
23 ~~holding such primary two or more persons will be eliminated as candi-~~
24 ~~dates for office. In the event there are not more than three times the~~
25 ~~number of candidates as there are officers to be elected, the names of~~
26 ~~the candidates for such office shall not appear on the primary election~~
27 ~~ballots, and there shall be no primary election for such office, but the~~
28 ~~names of such candidates shall be placed on the general city election~~
29 ~~ballot.~~

30 *(b) No primary election of city officers shall be held unless by holding*
31 *such primary one or more persons will be eliminated as candidates for*
32 *office. In the event there are not more than two candidates for any one*
33 *office, the names of the candidates for such office shall not appear on the*
34 *primary election ballots, and there shall be no primary election for such*
35 *office, but the names of such candidates shall be placed on the general*
36 *city election ballot.*

37 Sec. 3. K.S.A. 2008 Supp. 71-1415 is hereby amended to read as
38 follows: 71-1415. (a) ~~A primary election shall be held if needed to reduce~~
39 ~~the number of candidates for each office in the general election to no~~
40 ~~more than three candidates. No primary election of trustees shall be held~~
41 ~~unless by holding such primary two or more persons will be eliminated~~
42 ~~as candidates for office. In the event there are not more than three times~~
43 ~~the number of candidates as there are trustees to be elected, the names~~

1 ~~of the candidates for such office shall not appear on the primary election~~
2 ~~ballots, and there shall be no primary election for such office, but the~~
3 ~~names of such candidates shall be placed on the general election ballot~~
4 ~~for the board of trustees. In any college district having a district method~~
5 ~~and in which there are more than two candidates for a member position,~~
6 ~~the election officer shall call, and there shall be held, a primary election.~~
7 ~~The names of the two candidates receiving the greatest number of votes~~
8 ~~for any member position shall appear on the ballots in the general election.~~

9 (b) *In any college district having the election-at-large method and in*
10 *which there are more than two times the number of candidates as there*
11 *are trustees to be elected, the election officer shall call, and there shall be*
12 *held, a primary election. The names of twice the number of candidates as*
13 *there are trustees to be elected who receive the greatest number of votes*
14 *in the primary shall appear on the ballots in the general election.*

15 (c) In the general election, there shall appear on the ballots a line
16 appropriate for write-in candidates. No lines for write-in candidates shall
17 appear on the primary election ballots.

18 Sec. 4. K.S.A. 2008 Supp. 25-2021, 25-2108a and 71-1415 are hereby
19 repealed.

20 Sec. 5. This act shall take effect and be in force from and after its
21 publication in the statute book.