Date: 3/20/2023 Bill: HB2086

**Disposition: Opponent, Written and Oral** 

Name: Benee Hudson

Chairman Thompson and Members of the Committee.

My name is Benee Hudson. I am a resident of Johnson County and am an OPPONENT of the following changes being proposed in this bill. I am highlighting just a few and including an attachment of objections and possible changes for the others.

New Section 1. (a) The secretary of state shall oversee the conduct of statewide elections in this state as the chief election officer and shall be responsible for assisting and advising county election officers in conducting elections in compliance with federal and state laws and rules and regulations.

Part (b) of this section illustrates the local control of elections. Part (a) leaves too much open for interpretation of responsibilities. The Legislature should remain constitutionally responsible for elections and the office of the Secretary of State should not be granted further jurisdiction. This change will threaten a division of governmental power.

New Section. 3. No county election office or any employee or agent thereof shall create, or permit any other person to create, or disclose to any person an image of the hard drive of any electronic or electromechanical voting system, optical scanning equipment or any other voting system that contains a hard drive component without the written consent of the secretary of state.

By prohibiting backups, which is standard practice for electronic equipment, it denies the public future opportunity to audit for foreign or domestic interference. This is in direct conflict with the objective of transparency in our government.

New Section 51 (b) (1) The audit shall be performed manually and shall review all paper ballots or the corresponding ballot images selected pursuant to subsection (a). The audit shall be performed by a sworn election board consisting of bipartisan trained board members. The county election officer shall determine the members of the sworn election board who will conduct the audit.

This section includes the phrase "corresponding ballot images". With the technological advances made in the past 10 years, images are something that cannot always be trusted and verified to be authentic. I know this has already been implemented via KAR 7-47-1, which is not law. Regulations, in my opinion, are being pushed in this bill to clean up past transgressions and usurping powers held by legislators. Using ballot images exposes our elections to

unnecessary vulnerability and unintended errors. Review of supporting evidence and email correspondence behind this procedure change should be scrutinized.

Sec. 62. 64. K.S.A. 25-4612 is hereby amended to read as follows: 25-4612. (a) Optical scanning equipment fraud is: (a)(1) Being in unlawful or unauthorized possession of ballots, optical scanning equipment, computer programs, operating systems, firmware or software; (2) accessing without authorization or facilitating the unauthorized access to optical scanning equipment; (3) knowingly publishing or causing to be published any password or other confidential information relating to optical scanning equipment

While I agree this section is necessary, the citizens need to know procedure for gaining authorization and assurance the Secretary of State does not block a valid need for an audit before this is considered.

Sec. 64 66 (c) After reviewing a complaint and giving all inferences to the complainant, the secretary of state may dismiss the complaint without a hearing if the complaint fails to allege facts that assert a violation of title III.

This section provides the Secretary of State the authority to dismiss ANY complaint without a hearing. If we have a bad SoS, this could be, at best, violating HAVA, something it is professing to protect. At worst it could ensure the public/public servant be prevented from initiating an investigation of election fraud at the whim of the SoS.

What I find most breathtaking about this bill is that we had a vote in the House 122-0. Not one legislative representative had an objection. I don't know if it was due to a lack of reading this bill because of its length, the misrepresentation that the bill was "just cleanup and election integrity" or coercion.

I implore you to not advance this bill. It needs a lot of work and debate. I know this is a busy time and it's difficult to get all the bills read. We may need to rethink strategy and not abdicate responsibility of reading bills to staff or lobbyists, especially when it pertains to elections.

Thank you for considering my testimony.

Benee Hudson

No change should be made to original statute. Remove changes from bill.			Objection
Process Improvement: Eliminate county residency requirement to fill vacancy. County clerk is the only position where the clerk-elect does not need to be a county resident, but a person must be a county resident to fill a vacancy. This allows rural counties to reach outside boundaries for qualified candidates.	Vacancy: county clerk	19-0303	
	Transparency: also post on website	15-0809	Sec. US
Conflicting Laws: Adjust call for election to be more than 60 days to make consistent with state military ballot laws. Issue occurred in 2020.	Timing: third class city selling utility		
Transparency: Mandate posting on website when posting in newspaper is required for bond elections and elections using bond elections procedures	Transparency: also post on website	15 0800	
Conflicting Laws: Adjust call for election to be more than 60 days to make consistent with state military ballot laws. Many other election laws reference KSA 10-120 for timing.	Timing: bond election	10-0120	Sec.04
In order to preserve and protect the integrity of the elections, a back-up (digital image) of all electronic equipment (optical scanner/poll book data/voting machines) should be completed before and after any system patch or upgrade and each general election. These backups are to be stored in a secured (from theft and fire) location. These backups must be kept for a term 22 months.			Objection and Substitution
Security: Creates crime of unauthorized copy or distribution of election-related equipment hard drives. In several states individuals copied hard drives and either sold or provided them to third parties.	Security: voting machines	NEW	Sec. 03
n Officer Process Improvement: Prohibits anyone from being a County Election Officer if convicted of an election crime	Security: qualifications of County Election Officer	NEW	Sec.02
The Legislature has constitutional power over elections, not the Secretary of State. As allowed by statute, the SOS has the power to create Rules and Regulations based on current statutes. This appears to be a power grab by the Secretary of State and we do not believe that is necessary, especially considering New Section 1.(b).			Objection
Process Improvement: Clarifies the roles of Secretary of State and County Election Officers	Administration	NEW	OL: 1
Why Change Needed	Subject	Statute	Bill Section

Obsolate/Dalate Dalate in the case of the	Obsolete	25-0203(b)	Sec. 13
Transparency: Mandate posting on website when posting in newspaper is required	Transparency: also post on website		12
<b>Conflicting Laws:</b> Adjust public notice time to 30 days before the election - currently the notice of election is transmitted after the start of advance voting	Timing: notice of elections		
Conflicting Laws: Adjust notice time to send names to nominated people 50 days before the election so they can verify	1 iming: notice of elections	23-0103	Sec. 12
Conflicting Laws: Change the fixed population number (140,000 to 220,000) to 'county with commissioner'	County Election Commissioner		Sec. 12
<b>Transparency:</b> Mandate posting on website when posting in newspaper is required notice of candidates and elections	Transparency: also post on website	(a)(z)	Sec. 11
Vague: Drop reference to "nominating paper," use 'nominating petitions.'	Administration: standardize terms	19-3424(a)(l), (3)	Sec. 10
If this is allowed, then we agree on the number, however the preference is to have all 105 counties be elected.			Objection
Conflicting Laws: Make K.S.A. 19-3419 and 19-3422 the same population cutoff to require an election commissioner: 130,000 - currently one has 100,000 the other has 130,000	County Election Commissioner	19-3422	Sec. 09
With a population of almost 3,000,000 people, I would think a qualified person could be found from the residents of the state of Kansas. Keep lines 25-27. Strike new line staring on 31-33,			Substitution
Process Improvement: Eliminate residency requirement for election commissioner so Secretary of State has broader pool of candidates for what is becoming a technically specialized management position.	County Election Commissioner	19-3419	Sec. 08
No change should be made to original statute. Remove changes from bill. We do not want to change how and when a county qualifies for the appointment of an election officer. Now, there is one opportunity a decade after completion of the census. The preference would be that all 105 election commissioners be elected. There are only 4 that are appointed.			Objection
Process Improvement: Add provision about how to count population, i.e., use census	County Election Commissioner	19-3419	Sec. 08
No change should be made to original statute. Remove changes from bill.			Objection
Process Improvement: Adjust to require new sheriff filing a vacancy to be county resident beginning only when sworn in. Allows for electing a qualified candidate residing and working outside the county but who will move into the county if selected by precinct convention.	Vacancy: sheriff	19-0804	Sec. U/

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Obsolete/Delete: Duplicates 25-305	Write-in candidates: affidavit of write-in candidacy - president and vice president	25-0305b W	Sec. 19 2
STRIKE PER ABOVE SECTION. Per page 54 of HB2086 as amended, Sec 25-305 and 25-305(b) are repealed. Why then do those sections not have a strike through on page 13 lines 32-43 and page 14 lines 1-4?			
Process Improvement: Set certificate of write-in candidate fee same as for filing declaration of intent under K.S.A. 25-206	Write-in candidates: affidavit of write-in candidacy - national and state offices	25-0305 W	Sec. 19 2
This is voter suppression, violation of free speech. Strike.			On.
Process Improvement: Move the date back to file write-in petition from second Monday before general election to fomih Monday for all federal and state offices. Make applicable to all national and state offices. Goal: Limit the number of write-in candidates we need to track - saves time for counties	Write-in candidates: affidavit of write-in candidacy - national and state offices	25-0305 n	
Strike new section 25-0303(i) [new]. Language is not clear and SoS needs to provide more information as to why this change needs to occur.			Objection
Process Improvement: Set state canvass as deadline to certify signatures in petition. Complaint from Sen. Pyle who confused party candidate petition with independent candidate petition	Administration: independent candidate nominations	25-0303(i) [new]	
Obsolete: Update 'April election' reference	Obsolete	25-0303(a)	Sec. 18
<b>Process Improvement:</b> No write-in precinct leader candidate who is not a resident, qualified elector, and affiliated with the party. Sometimes an unqualified individual wins the write-in vote and there is no mechanism to object	Precinct leaders	25-0213(d)	Sec. 17
In spirit of fairness to all candidates running for office, these changes should not be made to this section. This provides special privilege and oversight for a SoS over his/her own election. Guidance should be made on how to accomplish this.			Oujection
Not Possible: No clear guidance on how to rotate ballot names where a contest has more candidates than precincts or when large counties have too high a proportion of voters	Administration: name rotation - primary election	25-0212	Sec. 16
Conflicting Laws: Time frame incompatible with advance voting. Change the deadline to send candidate list to candidates and political parties to 50 days before Election Day. Currently it is 2 weeks, which is after advance voting begins. Goal is to find errors in time to fix ballot	Timing: pre-election ballot inspection	25-0211	Sec. 15
<b>Process Improvement:</b> County elections must verify precinct leader candidate eligibility: multiple counties had precinct leader candidates who were not eligible for the office, but there is no provision to object to their candidacy	Precinct leaders	25-0208a	Sec. 14

Strike section added on lines 16-17. Mandating a group, not collecting dues/donations congregating and discussing political beliefs to register with the SoS.			STRIKE Incorrect Note from SoS Office
Obsolete/Delete: Eliminate line about state party certified audited reporting. It is outdated confusing, and contradicts other pails of the statute. Law is not under Kansas Governmental Ethics Commission jurisdiction	Obsolete	25-0901	Sec. 26
In spirit of fairness to all candidates running for office, these changes should not be made to this section. This provides special privilege and oversight for a SoS over his/her own election. Guid should be made on how to accomplish this.			OI MAXE
imary election  Not Possible: No clear guidance on how to rotate ballot names - large counties have too high a proportion of votes	Administration: name rotation - primary election	0190-67	STITUTE CT38
primary election regardless of the process.			from SoS Office this deals with ballots as well
Obsolete/Delete: Remove reference to the presidential preference primary	Cosulcic		Incorrect Note
Per page 17 of HB2086 as amended, Sec 23. line 32-36, state "The elector may return the marked ballot to the county election officer by United States mail, if it is received by the county election officer by the date of the election," As stated in this statute, what is the need for SB209 regarding the deadline for the receipt of mail-in ballots? Is there a discrepancy in the statutes? If so, which statute takes precedence?		25 050000	Continet
Inconsistent: Make the signature verification procedures for all mail ballot elections the same as for advance by mail ballots (K.S.A. 25-1 124(b) and (h))	Security: all mail ballot elections	25-0433(e)	Sec.23
Obsolete/Delete: remove (f)(7) and (f)(13): the sections internally referenced in the all mail ballot election statute have been repealed	Obsolete	25-0432	Sec.22
Obsolete/Delete: drop "after" - incorrect word	Obsolete	25-0321	Sec.21
State statute designates 4 statewide elected officials to sit on the state objections board. It is inappropriate to codify such an important responsibility to a staffer.			
	Administration: State Objections Board	25-0308(c)	Sec.20 Objection
STRIKE PER ABOVE SECTION. Per page 54 of HB2086 as amended, Sec 25-305 and 25-305(b) are repealed. Why then do those sections not have a strike through on page 13 lines 32-43 and page 14 lines 1-4?			SIRIKE

Transparency: Mandate posting of registration times and places on website when posting in newspaper is required  Vague: Defines an election "abstract" (was subject to litigation)	Transparency: also post on website  Administration: definitions	25-2310 7 25-2507(e) [new] 7	Sec. 36 2
Obsolete/Delete: Directive to publicize change from spring to fall for local elections is no longer necessary	Obsolete	2(a)	
<b>Process Improvement:</b> Write-in name must be qualified elector resident of district. Individuals have won as a write-in who were not district residents	Write in: school district primary election		
<b>Transparency:</b> Mandate posting on website when posting in newspaper is required for school district elections	Transparency: also post on website		
Obsolete/Delete: Strike reference to State Superintendent - position abolished in 1968	Obsolete	(b)	
This definition was stricken			
(b) "Plan of change" means a specific proposal to change the voting plan or the method of election, or both, in a school district.			Incorrect Note from SoS
		12.00	Actually Section 31
Obsolete/Delete: school district, delete definition - not used anywhere in Chap 25, Art 20. Only used in Chap 72, A11 10 - School Board Elections	Obsolete	25-2005(b)	Sec. 30
Tiling Inconsistent: Move filing deadline for SBOE from June 10 to June 1 to make consistent with other elections. Litigation has occurred with separate deadlines	Timing: State Board of Education candidate filing	25-1903	Sec.29
Vague: wrong citation to UOCAVA: change 42 U.S.C. § 1973ffto 52 U.S.C. § 20301	Administration: statute reference	25-1214(a)	Sec.28
Security: Prohibit mass ballot mailings to voters without a request unless under Mail Ballot Act, KSA 25-431, et seq, or Permanent Advance Voting. It is not authorized, now it would be expressly prohibited	Security: advance voting	) [new]	
as it is 2.			Incorrect Note from SoS Office
Process Improvement: Reduce from four years to two years the period in which non-voting could trigger sending a notice to ensure the voter still wants to be on the permanent list at that address.  Does not affect voter registration status. Will save counties money	Security: permanent advance voting list	25-1 122(i)	Sec.27
Process Improvement: Monday before election, in person voting still mandatory until noon but no longer mandatory for in-person voting to be held at county election office - interferes with Election Day preparation for larger counties	Administration: in-person advance voting	25-l 122(g)	Sec.27

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Objection	p39 7 & 39, 1-2	Sec.47							Sec. 40	Colection	<u>ئ</u> 4	Sec. 38	Sec. 37
	25-3005a	25-3005	25-3002	23-2905	23-2812(d)	25-2805	25-2706	25-2705	25-2704			25-2703	25-26a03
	Security: poll agents	Administration: poll agents	Administration: canvassing	unt system		Obsolete	Transparency: also post on website	Administration: all hand count system	Administration: all hand count system		occurry, pointig place control	Transparency: also post on website	Administration: precinct boundaries
This amendment is not capping the number of authorized precinct leader poll agents, it is removing them from the process completely. First they are being removed as poll agents and secondly they are being removed as authorized to appoint poll agents. As elected (or appointed) officials of the precinct, precinct committeemen or committeewomen should be authorized poll agents for their precinct. Who better to represent the precinct? I don't take issue with limiting the precinct committeemen or women to being poll agents in their precincts only or to limiting the number at a polling location to one each in polling location at a time. But eliminating them completely is not acceptable.	Process Improvement: Cap the maximum number of authorized precinct leader poll agents allowed at a single polling place. No change to candidate authorized poll agents	Process Improvement: Clarifies that poll agents can be at recounts and audits	<b>Process Improvement:</b> Allow counting partial provisional ballot if unaffiliated voter casts a partisan ballot	Vague: Clarify these procedures are used only if there are no tabulators, i.e., all hand count	Obsolete/Delete: Strike provision allowing DRE machines to be used in nursing homes. DREs are no longer allowed in Kansas	Obsolete/Delete: Delete provision allowing voters to pick poll workers if none show up	Transparency: Furnish and post instruction, books, and materials online	Vague: Clarify these procedures are used only if there are no tabulators, i.e., all hand count	Vague: Clarify these procedures are used only if there are no tabulators, i.e., all hand count	Extending boundaries beyond 3' are likely to increase, rather than reduce, voter concerns regarding election integrity. People will ask what are "they" hiding? Having been a poll observer, I am aware that attempting to observe anything from 3' is difficult. One might be able to determine the basic process, but actually seeing what is being done is very unlikely from 3' away. Concern is also high as there is no limit to the expanded distance. Will people be moved from 3' to 50"?	Process Improvement: Clarifies that supervising Election Judge always had the authority to expand the exclusion zone around equipment and pollbooks beyond three feet	<b>Transparency:</b> Mandate posting on website when posting in newspaper is required for dividing townships into precincts	<b>Process Improvement:</b> Excessive freeze period when boundaries cannot be modified. Gives county election officers greater ability to modify precinct boundaries as needed to improve election administration

The Party has not requested this change. Should always remain a closed primary. What constitutionality.			Concentration
Constitutional Issue: Address constitutionality by asking political parties who they want to vote in their primary and formulate guidance to counties based on party preference (open or closed primary)	Administration: party affiliation	25-3301	
State statute designates 3 statewide elected officials to sit on the state board of canvassers. It is inappropriate to codify such an important responsibility to a staffer.			Colociton
Vague: Clarify that each member of the state board of canvassers may appoint a designee to serve on the board. This is the current practice.	Administration: State Board of Canvassers	25-3201	
Vague: Clarify that if state pays for a recount, no bond is needed	Recount	(d)(2)	
Conflicting Laws: Reconcile K.S.A. 25-3104 canvas 13 days after election with K.S.A. 25-3107 recount must be requested 10 days after election, i.e. must ask for a recount before there is a count. Change request deadline to 5PM on day after last canvas and post bond with recount request	Recount: timing of request		
Vague: Clarify that recount provisions apply to constitutional amendments	Recount: includes constitutional amendment	(1)(3)/010-62	S- 51
Vague: Use "last meeting" of county canvass as trigger for recount to take into account multi-day canvasses	Recount:		Sec. 51
<b>Transparency:</b> Mandate posting on website when posting in newspaper is required for county canvass	Transparency: also post on website	25-3107(1)	Sec. 51
the original paper ballots as marked by the voter should be allowed in an audit. A reliable audit can not be conducted if ballot images are used in the audit and most voters vote on a machine still but many are changing to paper only. ES&S voting Systems testified to the Secretary of State in Louisiana that all computerized (electronic) voting machines are hackable. Professor J. Alex Halderman testified in a North Georgia County court case that listed Kansas as one of 16 states that have very vulnerable voting systems. The DS200 tabulator was mentioned. In very recent testimony on 2-13-2023 in the AZ Senate Election Hearing Session Clinton Curtis who wrote the first code to switch votes in a voting machine in Florida in 2000 said all machines in an electronic voting system are hackable and without the source code (which no one is allowed to see) no one would ever know. So, the ballot images may have been changed and the voter nor any election official would ever know. The voter never sees how their vote was registered at the Secretary of States office.			images should NEVER be used
was the original intent and current practice.			Objection -
Process Improvement: Makes also that hall at the same and	Post-Election Audit: ballot images	25-3009	Sec.49
Process Improvement: Clarifies constitutional amendment votes are audited	Post-Election Audit: constitutional amendment	25-3009	Sec.49

Give SoS the right to dismiss complaints without due process			STRIKE
Process Improvement: Allow Secretary of State to dismiss complaint for failure to state a claim without the need for a hearing. Most claims do not come close to stating a HAVA Art III issue.	HAVA complaints	25-4709(c) [new]	Sec.64
Vague: Change statutory reference "at 42 United States code §§15481 - 15485" to "at 52 United States code §§ 21081- 21102	HAVA complaints	25-4703(d)	Sec.63
Security: Adds specific prohibitions about unauthorized sharing or possession of passwords and unauthorized access to voting equipment	Security: passwords and access	25-4612	Sec. 62
Security: Adds specific prohibitions about unauthorized sharing or possession of passwords and unauthorized access to voting equipment	Security: passwords and access	25-4414	Sec.61
<b>Process Improvement:</b> Clarify that 5 days means 5 business days: county staff do not need to be forced to work weekends if speed is not important	Administration: recall petition	25-4322(b)	Sec. 60
<b>Process Improvement:</b> Do not require Secretary of State office to be staffed on weekends when last minute campaign finance reports filed. No one has ever filed on a weekend.	Administration: campaign finance filings	25-4 l 48d(c)	Sec.59
Vague: Drop reference to "nominating paper," use 'nominating petitions.' for Gov/LG petitions	Administration: standardize terms	25-4005	Sec. 58
Vague: Drop reference to "nominating paper," use 'nominating petitions.' for Gov/LG petitions	Administration: standardize terms	25-4004	Sec.57
This is picking winners and losers not based on voter preference. Any valid elector registered with their party is allowed to run.			Reference Sec 17 - Objection
Process Improvement: Allows party chair to object to precinct committee person candidacy Precinct leader takes office effective day after election, no oath required	Precinct leaders	25-3801	Sec. 56
Vague: replace word "purge" regarding party membership list	Administration: standardize terms	25-3304	Sec.55
Vague: replace word "purge" regarding party membership list	Administration: standardize terms	25-3303	Sec.54

Sec	Sec	Sec	Sec	Sec	Sei	Se	Se	Se	Se	Se
Sec. 66	Sec. 66	Sec.66	Sec.66	Sec. 66	Sec. 66	Sec.66	Sec.66	Sec.66	Sec.66	Sec. 65
25-4508	25-4507	25-4506	25-4505	25-4503	25-4502	25-2601	25-1710	25-1709	25-0222	71-1415
Obsolete: Presidential Preference Primary	Obsolete: Presidential Preference Primary	Obsolete: Presidential Preference Primary	Obsolete: Presidential Preference Primary	Obsolete: Presidential Preference Primary	Obsolete: Presidential Preference Primary	Obsolete	Obsolete	Obsolete	Obsolete	Write-in candidates: community college
<b>Obsolete/Delete:</b> After a 2015 statutory change, the Presidential Preference Primmy, adopted in 1978, is no longer used in Kansas. Between 1980 and 2015 it was used only twice: 1980, I 992. This repeals the leftover obsolete implementation statutes.	<b>Obsolete/Delete:</b> After a 2015 statutory change, the Presidential Preference Primmy, adopted in 1978, is no longer used in Kansas. Between 1980 and 2015 it was used only twice: 1980, 1992. This repeals the leftover obsolete implementation	<b>Obsolete/Delete:</b> After a 2015 statutory change, the Presidential Preference Primary, adopted in 1978, is no longer used in Kansas. Between 1980 and 2015 it was used only twice: 1980, 1992. This repeals the leftover obsolete implementation	<b>Obsolete/Delete:</b> After a 2015 statutory change, the Presidential Preference Primary, adopted in 1978, is no longer used in Kansas. Between 1980 and 2015 it was used only twice: 1980, 1992. This repeals the leftover obsolete implementation	<b>Obsolete/Delete:</b> After a 2015 statutory change, the Presidential Preference Primary, adopted in 1978, is no longer used in Kansas. Between 1980 and 2015 it was used only twice: 1980, 1992. This repeals the leftover obsolete implementation statutes.	Obsolete/Delete: After a 2015 statutory change, the Presidential Preference Primary, adopted in I 978, is no longer used in Kansas. Between 1980 and 2015 it was used only twice: 1980, 1992. This repeals the leftover obsolete implementation	Obsolete/Delete: No longer relevant - updated application reference	Obsolete/Delete: This is a leftover provision from the original 1908 campaign finance act last amended in the 1980s before being superseded by the current campaign finance act. It is obsolete, serves no purpose, confuses corporate donors, and is not under Governmental Ethics' jurisdiction.	Obsolete/Delete: This is a leftover provision from the original 1908 campaign finance act last amended in the 1980s before being superseded by the current campaign finance act. It is obsolete, serves no purpose, confuses corporate donors, and is not under Governmental Ethics' jurisdiction.	Obsolete/Delete: From the original 1908 law bringing primary elections to Kansas. The "Act" it references no longer exists	Process Improvement: Write-in name must be qualified elector resident of district