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## STATE OF KANSAS

### **Testimony on HB2086 (Oral Proponent)**

Senate Committee on Federal and State Affairs  
Monday, March 20, 2023

Chairman Thompson and members of the Committee:

Thank you for the opportunity to provide comments in support of House Bill 2086. Our office introduced this legislation as part of our ongoing commitment to modernize, improve, and secure our elections without causing voter confusion. HB2086 was passed unanimously by the House of Representatives in a vote of 122 to 0.

Over the past several years, our office has reviewed lessons learned from past elections, best practices from other states, and areas for improvement in our current election statutes. Our office coordinated with elected officials; county and city government; county election officials; political parties; and various civil rights and election integrity groups to draft this legislation. As a result, HB2086 contains over 90 statute changes to solve contradictory or vague statutes. These provisions make no material changes to the substance or structure of Kansas election law or to the voter experience.

HB2086 will increase voter confidence in Kansas' elections, especially for those who are confused by obsolete or contradictory provisions.

HB2086 consists of the following provisions:

- 32 provisions improve the administration of elections to make them more efficient and achievable for county election officers and their staff
- 21 provisions remove obsolete statutes or requirements in statute
- 15 provisions clarify vague or outdated terms
- 14 provisions address conflicting or inconsistent election laws, especially timing provisions
- 9 provisions improve transparency by mandating that any election notice required to be posted in a newspaper must also be posted on the county website
- 4 provisions strengthening security by enhancing password protection and physical security of voting equipment

Further, HB2086 includes several provisions to improve election administration by:

- Addressing the recount process, which currently requires the recount request to be filed before there is a vote count available
- Enlarging the available qualified applicants from which to select election commissioners and fill vacancies for county clerks and sheriffs
- Reaffirming that Kansas does not permit the mass mailing of advance by mail ballots to voters without an individual verified voter request
- Making contact information for precinct committee leaders available and addressing perennial issues regarding the election of precinct leaders

Please see the attached document describing each provision and its purpose. We respectfully request the committee's consideration and approval passage of HB2086.

Respectfully submitted,

Clay Barker  
Deputy Assistant Secretary of State  
General Counsel

Attachment

Bill Section	Statute	Subject	Why Change Needed
Sec. 01	NEW	Administration	<b>Process Improvement:</b> Clarifies and restates the roles of Secretary of State and County Election Officers. This <u>changes nothing</u> in current law and practice regarding the respective roles of state and county officials.
Sec. 02	NEW	Security: qualifications of County Election Officer	<b>Process Improvement:</b> Prohibits anyone from being a County Election Officer if convicted of an election crime
Sec. 03	NEW	Security: voting machines	<b>Security:</b> 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 which allowed Russia/China/North Korea/Iran to get access to the data.
Sec. 04	10-0120	Timing: bond election	<b>Conflicting Laws:</b> Adjust call for bond elections to be more than 60 days before election to make consistent with state military ballot laws. Many other election laws reference KSA 10-120 for timing.
Sec. 04	10-0120	Transparency: also post on website	<b>Transparency:</b> Mandate posting on website when posting in newspaper is required for bond elections and elections using bond elections procedures
Sec. 05	15-0809	Timing: third class city selling utility	<b>Conflicting Laws:</b> Adjust call for election on selling utility to be more than 60 days before election to make consistent with state military ballot laws. Issue occurred in 2020.
Sec. 05	15-0809	Transparency: also post on website	<b>Transparency:</b> Mandate posting on website when posting in newspaper is required for third class city election for selling an utility
Sec. 06	19-0303	Vacancy: county clerk	<b>Process Improvement:</b> Eliminate county residency requirement to fill vacancy. County clerk is the only position where the clerk election candidate does not need to be a county resident, but a person must be a county resident to be elected by precinct leaders to fill a vacancy. This allows rural counties to reach outside boundaries for qualified candidates.
Sec. 07	19-0804	Vacancy: sheriff	<b>Process Improvement:</b> 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 leaders. Help rural counties get best candidate.
Sec. 08	19-3419	County Election Commissioner	<b>Process Improvement:</b> Add provision about how to count population, i.e., use federal census

Sec. 08	19-3419	County Election Commissioner	<b>Process Improvement:</b> Eliminate residency requirement for election commissioner so Secretary of State has broader pool of qualified & experienced candidates for what is becoming a technically specialized management position
Sec. 09	19-3422	County Election Commissioner	<b>Conflicting Laws:</b> 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
Sec. 10	19-3424(a)(1), (3)	Administration: standardize terms	<b>Vague:</b> Drop reference to "nominating paper," use 'nominating petitions'
Sec. 10	19-3424(a)(2)	Transparency: also post on website	<b>Transparency:</b> Mandate posting on website when posting in newspaper is required for notice of candidates and elections
Sec. 11	19-3439	County Election Commissioner	<b>Conflicting Laws:</b> Change the fixed population number "140,000 to 220,000" to 'county with commissioner'
Sec. 11	19-3439	County Election Commissioner	<b>Conflicting Laws:</b> Clarify that cities set ward boundaries, county elections sets precinct boundaries
Sec. 12	25-0105	Timing: notice of elections	<b>Conflicting Laws:</b> Adjust notice time to send names to nominated people 50 days before the election so they can verify
Sec. 12	25-0105	Timing: notice of elections	<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
Sec. 12	25-0105	Transparency: also post on website	<b>Transparency:</b> Mandate posting on website when posting in newspaper is required
Sec. 13	25-0203(b)	Obsolete	<b>Obsolete/Delete:</b> Delete subsection (b) it only deals with 1992
Sec. 14	25-0208a	Precinct leaders	<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 in law to object to their candidacy
Sec. 15	25-0211	Timing: pre-election ballot inspection	<b>Conflicting Laws:</b> 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
Sec. 16	25-0212	Administration: name rotation - primary election	<b>Not Possible:</b> 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

Sec. 17	25-0213(d)	Precinct leaders	<b>Process Improvement:</b> No write-in precinct leader votes for someone 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
Sec. 18	25-0303(a)	Obsolete	<b>Obsolete:</b> Update 'April election' reference
Sec. 18	25-0303(i) [new]	Administration: independent candidate nominations	<b>Process Improvement:</b> Set day of state canvass as deadline to certify signatures on petition for independent candidates. Currently there is no set deadline
Sec. 19	25-0305	Write-in candidates: affidavit of write-in candidacy - national and state offices	<b>Process Improvement:</b> Expand affidavit requirement to include all national and state offices
Sec. 19	25-0305	Write-in candidates: affidavit of write-in candidacy - national and state offices	<b>Process Improvement:</b> Move the date back to file write-in petition from second Monday before general election to fourth Monday for all federal and state offices. Goal: write-in candidate files before the mail ballots are sent out
Sec. 19	25-0305	Write-in candidates: affidavit of write-in candidacy - national and state offices	<b>Process Improvement:</b> Set certificate of write-in candidate fee same as for filing declaration of intent under K.S.A. 25-206
Sec. 20	25-0308(c)	Administration: State Objections Board	<b>Process Improvement:</b> Clarify that each member may appoint a designee to serve on the objections board. This is the current practice. This clarification has been requested by the last three Governors.
Sec. 20	25-308(f)	Administration: State Objections Board	<b>Process Improvement:</b> Require mandamus/injunction action regarding candidate on ballot to be filed 60 days before primary election so if there is a dispute, names on ballots can be determined before military ballots go out.
Sec. 21	25-0321	Obsolete	<b>Obsolete/Delete:</b> drop "after" - incorrect word
Sec. 22	25-0432	Obsolete	<b>Obsolete/Delete:</b> remove (f)(7) and (f)(13): the sections internally referenced in the all mail ballot election statute have been repealed
Sec. 23	25-0433(e)	Security: all mail ballot elections	<b>Inconsistent:</b> Make the signature verification procedures for all mail ballot elections the same as for advance by mail ballots (K.S.A. 25-1124(b) and (h))
Sec. 24	25-0604(b)	Obsolete	<b>Obsolete/Delete:</b> Remove reference to the presidential preference primary
Sec. 25	25-0610	Administration: name rotation - primary election	<b>Not Possible:</b> No clear guidance on how to rotate ballot names - large counties have too high a proportion of votes for statutory approach to
Sec. 26	25-0901	Obsolete	<b>Obsolete/Delete:</b> Eliminate line about state party certified audited reporting. It is outdated, confusing, and contradicts other parts of the statute. Law is not under Kansas Governmental Ethics Commission jurisdiction

Sec. 27	25-1115	Scheduling of Elections	<b>Process Improvement:</b> Define "special election" and provide that it cannot occur within 60 days of a primary or general election to prevent violation of the federal 30-day maximum voter registration freeze period. This would prevent the Atchison issue from 2022 primary.
Sec. 28	25-1122(g)	Administration: in-person advance voting	<b>Process Improvement:</b> 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
Sec. 28	25-1122(j)	Permanent advance voting list	<b>Process Improvement:</b> Change language to 'four general elections' - clarifies meaning
Sec. 28	25-1122(m) [new]	Security: advance voting	<b>Security:</b> Prohibit mass ballot mailings to voters without a request unless under (1) Mail Ballot Act, KSA 25-431, et seq, or (2) Permanent Advance Voting. It is not currently authorized, now it would be expressly prohibited
Sec. 29	25-1214(a)	Administration: statute reference	<b>Vague:</b> Outdated citation to UOCAVA: change 42 U.S.C. § 1973ff to 52 U.S.C. § 20301
Sec. 30	25-1903	Timing: State Board of Education candidate filing	<b>Inconsistent:</b> Move filing deadline for SBOE from June 10 to June 1 to make consistent with all other elections. Litigation has occurred over different deadlines
Sec. 31	25-2005(b)	Obsolete	<b>Obsolete/Delete:</b> School district, delete definition - not used anywhere in Chap 25, Art 20. Only used in Chap 72, Art 10 - School Board Elections
Sec. 32	25-2008(b)	Obsolete	<b>Obsolete/Delete:</b> Strike reference to State Superintendent - position abolished in 1968
Sec. 33	25-2018	Transparency: also post on website	<b>Transparency:</b> Mandate posting on website when posting in newspaper is required for school district elections
Sec. 34	25-2021	Write in: school district primary election	<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
Sec. 35	25-21a02(a)	Obsolete	<b>Obsolete/Delete:</b> Directive to publicize change from spring to fall for local elections is no longer necessary
Sec. 36	25-2310	Transparency: also post on website	<b>Transparency:</b> Mandate posting of registration times and places on website when posting in newspaper is required
Sec. 37	25-2502	Scheduling of Elections	<b>Process Improvement:</b> Define "special election" and provide that it cannot occur within 60 days of a primary or general election to prevent violation of the federal 30-day maximum voter registration freeze period. This would prevent the Atchison issue from 2022 primary.

Sec. 38	25-2507(e) [new]	Administration: definitions	<b>Vague:</b> Defines an election "abstract" (was subject to litigation)
Sec. 39	25-26a03	Administration: precinct boundaries	<b>Process Improvement:</b> Excessive freeze period when precinct boundaries cannot be modified. Gives county election officers greater ability to modify precinct boundaries as needed to improve election administration
Sec. 40	25-2702	Transparency: also post on website	<b>Transparency:</b> Mandate posting on website when posting in newspaper is required for dividing townships into precincts
Sec. 41	25-2703	Security: polling place control	<b>Process Improvement:</b> Clarifies that supervising Election Judge at polling place always had the authority to expand the exclusion zone around equipment and pollbooks beyond three feet, when necessary. This has been an inherent power of an election judge since 1861 and is necessary to ensure a smoothly running voting process at each polling place
Sec. 42	25-2704	Administration: all hand count system	<b>Vague:</b> Clarify these procedures are used only if there are no tabulators, i.e., all hand count
Sec. 43	25-2705	Administration: all hand count system	<b>Vague:</b> Clarify these procedures are used only if there are no tabulators, i.e., all hand count
Sec. 44	25-2706	Transparency: also post on website	<b>Transparency:</b> Furnish and post instruction, books, and materials online
Sec. 45	25-2805	Obsolete	<b>Obsolete/Delete:</b> Delete provision allowing voters to pick poll workers if none show up
Sec. 46	25-2812(d)	Obsolete	<b>Obsolete/Delete:</b> Strike provision allowing DRE machines to be used in nursing homes. DREs are no longer allowed in Kansas
Sec. 47	25-2905	Administration: all hand count system	<b>Vague:</b> Clarify these procedures are used only if there are no tabulators, i.e., all hand count
Sec. 48	25-3002	Administration: canvassing	<b>Process Improvement:</b> Allow counting partial provisional ballot if unaffiliated voter mistakenly casts a partisan ballot
Sec. 49	25-3005	Administration: poll agents	<b>Process Improvement:</b> Clarifies that poll agents can observe recounts and audits
Sec. 50	25-3005a	Security: poll agents	<b>Process Improvement:</b> Cap the maximum number of authorized precinct leader poll agents allowed at a single polling place. No change to candidate or party authorized poll agents. Precinct leaders can still serve as poll agents, but as the number of polling places substantially decreased across KS, there were instances where too many poll agents tried to cram into a single polling place.
Sec. 51	25-3009	Post-Election Audit: constitutional amendment	<b>Process Improvement:</b> Clarifies constitutional amendment votes are audited.

Sec. 51	25-3009	Post-Election Audit: ballot images	<b>Process Improvement:</b> Makes clear that electronic ballot images recorded by some tabulators can be used by counties for post-election audits. This was the original intent of the audit law, in regulation, and consistent current practice. Without using images larger counties would need 3-4 additional days to conduct the post-election audit with significantly higher costs. This does not affect recount procedures.
Sec. 52	25-3104	Transparency: also post on website	<b>Transparency:</b> Mandate posting on website when posting in newspaper is required for county canvass
Sec. 53	25-3107(b)	Recount:	<b>Vague:</b> Use "last meeting" of county canvass as trigger for recount to take into account multi-day canvasses
Sec. 53	25-3107(c)(1)	Recount: includes constitutional amendment	<b>Vague:</b> Clarify that recount provisions apply to constitutional amendments
Sec. 53	25-3107(c)(2)	Recount: timing of request	<b>Conflicting Laws:</b> 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
Sec. 53	25-3107(d)(2)	Recount	<b>Vague:</b> Clarify that if state pays for a recount, no bond is needed
Sec. 54	25-3201	Administration: State Board of Canvassers	<b>Vague:</b> Clarify that each member of the state board of canvassers may appoint a designee to serve on the board. This is the current practice.
Sec. 55	25-3301	Administration: party affiliation	<b>Constitutional Issue:</b> Address constitutionality by asking political parties if they want an open or closed primary election to formulate guidance to counties based on party preference
Sec. 56	25-3303	Administration: standardize terms	<b>Vague:</b> replace word "purge" regarding party membership list
Sec. 57	25-3304	Administration: standardize terms	<b>Vague:</b> replace word "purge" regarding party membership list
Sec. 58	25-3801	Precinct leaders	<b>Process Improvement:</b> Requires county election officer to obtain contact information for precinct committee persons
Sec. 58	25-3801	Precinct leaders	<b>Process Improvement:</b> Allows party chair to object to precinct committee person candidacy. Precinct leader takes office effective day after election, no oath required
Sec. 59	25-4004	Administration: standardize terms	<b>Vague:</b> Drop reference to "nominating paper," use 'nominating petitions' for Gov/LG petitions
Sec. 60	25-4005	Administration: standardize terms	<b>Vague:</b> Drop reference to "nominating paper," use 'nominating petitions' for Gov/LG petitions

Sec. 61	25-4148d(c)	Administration: campaign finance filings	<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.
Sec. 62	25-4322(b)	Administration: recall petition	<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
Sec. 63	25-4414	Security: passwords and access	<b>Security:</b> Adds specific prohibitions about unauthorized sharing or possession of passwords and unauthorized access to voting equipment
Sec. 64	25-4612	Security: passwords and access	<b>Security:</b> Adds specific prohibitions about unauthorized sharing or possession of passwords and unauthorized access to voting equipment
Sec. 65	25-4703(d)	HAVA complaints	<b>Vague:</b> Change statutory reference “at 42 United States code §§15481 - 15485” to "at 52 United States code §§ 21081- 21102
Sec. 66	25-4709(c) [new]	HAVA complaints	<b>Process Improvement:</b> Allow Secretary of State to dismiss complaint for failure to state a claim without the need for an expensive hearing. Most claims do not come close to stating a HAVA Art III election issue and instead allege non-election issues like notary complaints or that an election trainer wore perfume.
Sec. 67	71-1415	Write-in candidates: community college	<b>Process Improvement:</b> Write-in name must be qualified elector resident of district
Sec. 68	25-0222	Obsolete	<b>Obsolete/Delete:</b> From the original 1908 law bringing primary elections to Kansas. The "Act" it references no longer exists
Sec. 68	25-0305b	Write-in candidates: affidavit of write-in candidacy - president	<b>Obsolete/Delete:</b> Duplicates 25-305
Sec. 68	25-1709	Obsolete	<b>Obsolete/Delete:</b> 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.
Sec. 68	25-1710	Obsolete	<b>Obsolete/Delete:</b> 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.
Sec. 68	25-2601	Obsolete	<b>Obsolete/Delete:</b> No longer relevant - updated application reference



Sec. 68	25-4502	Obsolete: Presidential Preference Primary	<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.
Sec. 68	25-4503	Obsolete: Presidential Preference Primary	<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.
Sec. 68	25-4505	Obsolete: Presidential Preference Primary	<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.
Sec. 68	25-4506	Obsolete: Presidential Preference Primary	<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.
Sec. 68	25-4507	Obsolete: Presidential Preference Primary	<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.