

**As Amended by House Committee**

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**As Amended by Senate Committee**

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Session of 2023

**SENATE BILL No. 221**

By Committee on Federal and State Affairs

2-8

1 AN ACT concerning elections; relating to write-in candidates; requiring  
2 affidavits of write-in candidacy for certain locally elected offices;  
3 providing requirements for counting write-in votes on ballots;  
4 amending K.S.A. 25-305, ~~25-2116~~, 25-2903 and 25-3002 and repealing  
5 the existing sections; also repealing K.S.A. 25-305b.  
6

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

8 Section 1. K.S.A. 25-305 is hereby amended to read as follows: 25-  
9 305. (a) Certificates of nomination by convention or caucus for the  
10 nomination of candidates for national, state, county and township offices  
11 shall be filed with the secretary of state, or the county election officer, not  
12 later than 12:00 noon, on the day fixed for the deadline for filing petitions  
13 for nomination and declarations of intent to become candidates in  
14 accordance with K.S.A. 25-205, and amendments thereto, preceding the  
15 national, state, county and township general election, except when such  
16 date falls on Saturday, Sunday or a holiday, and then not later than 12:00  
17 noon the following day that is not a Saturday, Sunday or a holiday.

18 (b) Independent nomination petitions for the nomination of  
19 candidates for national, state, county and township offices shall be filed  
20 with the secretary of state or the county election officer no later than 12:00  
21 noon on the Monday preceding the date fixed for the holding of primary  
22 elections in accordance with K.S.A. 25-203, and amendments thereto,  
23 preceding a national, state, county or township general election.

24 (c) An affidavit of write-in candidacy for the offices of governor and  
25 lieutenant governor shall be filed with the secretary of state ~~no~~ not later  
26 than 12:00 noon on the ~~2<sup>nd</sup>~~ **fourth** Monday preceding the general election  
27 for those offices.

28 (d) An affidavit of write-in candidacy for the offices of president and  
29 vice-president shall be filed with the secretary of state ~~no~~ not later than  
30 12:00 noon on the ~~2<sup>nd</sup>~~ **fourth** Monday preceding the general election for  
31 those offices.

32 (e) An affidavit of write-in candidacy for state offices elected on a  
33 statewide basis other than offices subject to subsection (c) shall be filed  
34 with the secretary of state ~~no~~ not later than 12:00 noon on the ~~second~~

1 **fourth** Monday preceding the election at which the write-in candidate  
2 seeks nomination or election.

3 (f) *An affidavit of write-in candidacy for members of the state house*  
4 *of representatives, state senate or members of the state board of education*  
5 *shall be filed with the secretary of state not later than 12:00 noon on the*  
6 *second Monday preceding ~~earlier than 30 days prior to and not later than~~*  
7 ***21 days prior to** later than 12:00 noon on the fourth Monday preceding*  
8 *the election at which the write-in candidate seeks nomination or election.*

9 (g) *An affidavit of write-in candidacy for district judges, district*  
10 *magistrate judges, district attorneys, any county officer or any city officer*  
11 *of a city of the first class shall be filed with the appropriate county*  
12 *election office not ~~earlier than 30 days prior to and not later than 21 days~~*  
13 ***prior to** later than 12:00 noon on the fourth Monday preceding the*  
14 *election at which the write-in candidate seeks nomination or election.*

15 ~~Sec. 2. K.S.A. 25-2116 is hereby amended to read as follows: 25-~~  
16 ~~2116. (a) No blank lines for write-in candidates shall appear on primary~~  
17 ~~city election ballots, except that blank lines for write-in candidates shall~~  
18 ~~be printed as provided in subsection (b) on primary city election ballots~~  
19 ~~for cities of the first class.~~

20 (b) ~~On the ballots in general city elections, blank lines for the name of~~  
21 ~~write-in candidates shall be printed at the end of the list of candidates for~~  
22 ~~each different office equal to the number to be elected thereto. The purpose~~  
23 ~~of such blank lines shall be to permit the voter to insert the name of any~~  
24 ~~person not printed on the ballot for whom he desires to vote for such~~  
25 ~~office.~~

26 ~~Sec. 3. 2. K.S.A. 25-2903 is hereby amended to read as follows: 25-~~  
27 ~~2903. Except as otherwise provided by law, if a voter desires to vote for a~~  
28 ~~person whose name is not on the ballot, the voter shall write the name of~~  
29 ~~such person in the blank space, if any is provided, under the appropriate~~  
30 ~~title of the office. Failure to make a cross or check mark in the square to~~  
31 ~~the left of such name shall not invalidate that portion of the ballot unless it~~  
32 ~~is impossible to determine the voter's intention. If no blank space is~~  
33 ~~provided for writing in the name of a person whose name is not on the~~  
34 ~~ballot, voters may not vote for any person whose name is not on the ballot.~~

35 ~~Sec. 4. 3. K.S.A. 25-3002 is hereby amended to read as follows: 25-~~  
36 ~~3002. (a) The rules prescribed in this section shall apply to:~~

- 37 (1) ~~The original canvass by election boards.~~
- 38 (2) ~~Intermediate and final canvasses by county boards of canvassers.~~
- 39 (3) ~~Final canvass by the state board of canvassers.~~
- 40 (4) ~~All election contests.~~
- 41 (5) ~~All other officers canvassing or having a part in the canvass of~~  
42 ~~any election.~~

43 (b) *The following shall be rules for canvassers:*

1 (1) No ballot, or any portion thereof, shall be invalidated by any  
2 technical error unless it is impossible to determine the voter's intention.  
3 Determination of the voter's intention shall rest in the discretion of the  
4 board canvassing in the case of a canvass and in the election court in the  
5 case of an election contest.

6 (2) The occurrences listed in this ~~subpart (2)~~ *paragraph* shall not  
7 invalidate the whole ballot but shall invalidate that portion, and that  
8 portion only, in which the occurrence appears. The votes on such portion  
9 of the ballot shall not be counted for any candidate listed or written in such  
10 portion, but the remainder of the votes in other portions of the ballot shall  
11 be counted. The occurrences to which this ~~subpart (2)~~ *paragraph* shall  
12 apply are:

13 (A) Whenever a voting mark shall be made in the square at the left of  
14 the name of more than one candidate for the same office, except when the  
15 ballot instructs that more than one candidate is to be voted; *and*

16 (B) whenever a voting mark is placed in the square at the left of a  
17 space where no candidate is listed.

18 (3) When a registered voter has cast a provisional ballot intended for  
19 a precinct other than the precinct in which the voter resides but located  
20 within the same county, the canvassers shall count the votes for those  
21 offices or issues ~~which~~ *that* are identical in both precincts. The canvassers  
22 shall not count the votes for those offices or issues which differ from the  
23 offices or issues appearing on the ballot used in the precinct in which the  
24 voter resides.

25 (4) A write-in vote for those candidates for the offices of governor  
26 and lieutenant governor shall not be counted unless the pair of candidates  
27 have filed an affidavit of candidacy pursuant to K.S.A. 25-305, and  
28 amendments thereto, and:

29 (A) Both candidates' names are written on the ballot; or

30 (B) only the name of the candidate for governor is written on the  
31 ballot.

32 (5) A write-in vote for those candidates for the offices of president  
33 and vice-president shall not be counted unless the pair of candidates have  
34 filed an affidavit of candidacy pursuant to K.S.A. 25-305, and amendments  
35 thereto, and:

36 (A) Both candidates' names are written on the ballot; or

37 (B) only the name of the candidate for president is written on the  
38 ballot.

39 (6) A write-in vote for candidates for state offices elected on a  
40 statewide basis other than offices subject to paragraph (4), *the state house*  
41 *of representatives, state senate, state board of education, district judges,*  
42 *district magistrate judges, district attorneys, any county officer or any city*  
43 *officer of a city of the first class* shall not be counted unless the candidate

1 has filed an affidavit of candidacy pursuant to K.S.A. 25-305, and  
2 amendments thereto.

3 (7) Any advance voting or mail ballot whose envelope containing the  
4 voter's written declaration is unsigned, shall be wholly void and no vote  
5 thereon shall be counted.

6 (8) No ballot cast shall be counted if the voter fails to provide valid  
7 identification as defined by K.S.A. 25-2908, and amendments thereto.

8 ~~Sec. 5. 4.~~ K.S.A. 25-305, 25-305b, ~~25-2116~~, 25-2903 and 25-3002 are  
9 hereby repealed.

10 ~~Sec. 6. 5.~~ This act shall take effect and be in force from and after its  
11 publication in the statute book.