SENATE BILL No. 221
By Committee on Federal and State Affairs
2-8

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

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

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

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

(c) An affidavit of write-in candidacy for the offices of governor and lieutenant governor shall be filed with the secretary of state no not later than 12:00 noon on the 2nd Monday preceding the general election for those offices.

(d) An affidavit of write-in candidacy for the offices of president and vice-president shall be filed with the secretary of state no not later than 12:00 noon on the 2nd Monday preceding the general election for those offices.

(e) An affidavit of write-in candidacy for state offices elected on a statewide basis other than offices subject to subsection (c) shall be filed with the secretary of state no not later than 12:00 noon on the second Monday preceding the election at which the write-in candidate seeks nomination or election.
(f) An affidavit of write-in candidacy for members of the state house of representatives, state senate or members of the state board of education shall be filed with the secretary of state not later than 12:00 noon on the second Monday preceding the election at which the write-in candidate seeks nomination or election.

(g) An affidavit of write-in candidacy for district judges, district magistrate judges, district attorneys, any county officer or any city officer of a city of the first class shall be filed with the appropriate county election office not earlier than 30 days prior to and not later than 21 days prior to the election at which the write-in candidate seeks nomination or election.

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

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

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

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

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

(b) The following shall be rules for canvassers:

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

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

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

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

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

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

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

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

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

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

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

(6) A write-in vote for candidates for state offices elected on a
statewide basis other than offices subject to paragraph (4), the state house
of representatives, state senate, state board of education, district judges,
district magistrate judges, district attorneys, any county officer or any city
officer of a city of the first class shall not be counted unless the candidate
has filed an affidavit of candidacy pursuant to K.S.A. 25-305, and
amendments thereto.

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

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

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

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