

Approved: 2-19-93
Date

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION AND ELECTIONS.

The meeting was called to order by Chairperson Marvin Smith at 9:00 a.m. on February 18, 1993 in Room 521-S of the Capitol.

All members were present except: Representative Delbert Gross (Excused)

Committee staff present: Carolyn Rampey, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Arden Ensley, Revisor of Statutes
Nancy Kippes, Committee Secretary

Conferees appearing before the committee:

Gary Reser, Governor's Legislative Liaison
Sam Alvey, Director, State Community Correction Board
Jeff Usher, Kansas Community Corrections Association

Others attending: See attached list

Hearing on:

HB 2145 - community correction's board of repeal of statutes.

Gary Reser, Governor's Legislative Liaison, testified in support of HB 2145, stating the recommendation to abolish the State Community Corrections Board is based primarily upon the provisions in the Sentencing Guidelines Act which consolidates community corrections programs, court services and parole services (Attachment 1).

Sam Alvey, Director, State Community Correction Board, appeared in opposition to HB 2145. (Attachment 2). Upon questions from the committee, Mr. Alvey advised the Board's present duty is to hear appeals from programs that have been awarded grants they feel are insufficient.

Jeff Usher, Kansas Community Corrections Association, gave testimony in opposition to HB 2145, stating this is a partnership with the State to provide a means of appeal and this is a model program for other states (Attachment 3). He suggested additional duties for the Board and additional members.

Action on:

HB 2187 - elections; requiring distribution of sample ballots.

Representative Hendrix moved to amend HB 2187 with the balloon handed out (Attachment 4). Representative Cox seconded. This will clarify type of ballot to be distributed and the areas in which to distribute, and the cost is set forth as not to exceed the cost to the county. Upon show of hands, motion carried.

Representative Hendrix moved for favorable passage of HB 2187 with the amendment. Representative O'Connor seconded. Motion was defeated.

Representative McKechnie moved to table HB 2187. Representative Macy seconded. Upon show of hands, motion failed.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION AND ELECTIONS, Room 521-S Statehouse, at 9:00 a.m. on February 18, 1993.

Representative Macy made substitute motion that page 2, line 25 would change the word "shall" to "may". Representative Haulmark seconded. Upon show of hands, motion carried.

Representative Benlon made a motion to strike lines 24-36 on page 2 as amended, and put back into the bill lines 7-12 on page 2 with the exception of line 11 the words kindergarten through grade 12 school so it would then read "for educational purposes". Representative Bowden seconded. Upon show of hands, motion carried.

Representative McKechnie moved to further amend HB 2187 on line 8 after the word ballot by inserting "or list of candidates or questions to be voted upon" and line 10 to add "and other materials" after ballot. Representative Benlon seconded. Motion carried.

Representative Bradley moved to table HB 2187. Representative Hendrix seconded. Motion failed.

Representative Haulmark made a motion to amend into HB 2187 "The county election officer may make a charge for all ballots, lists and materials distributed in an amount not to exceed the actual cost of the materials, printing and the distribution thereof." Representative Hendrix seconded. Motion carried.

Motion was made and seconded to move the bill out of committee. Motion carried.

HB 2158 - elections; elimination of rotation of name on ballots.

Representative Haulmark made a motion to move HB 2158 out of committee. Representative O'Connor seconded.

Representative McKechnie made a substitute motion to amend HB 2158 for non-rotation only for non-partisan elections. Representative Macy seconded. A balloon on HB 2158 was handed out (Attachment 5).

Representative Macy made a substitute motion to table HB 2158. Representative Bowden seconded. Motion carried.

The meeting was adjourned at 10:30 a.m. The next meeting is scheduled for February 19, 1993.

GUEST LIST

COMMITTEE: House Governmental Organization
+ Elections

DATE: 2-18-19

[illegible]

STATE OF KANSAS



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House Governmental Organization and Elections Committee

Testimony By

Gary Reser

Governor's Legislative Liaison

February 18, 1993

Chairman Smith and members of the committee thank you for the opportunity to appear today in support of H.B. 2145.

H.B. 2145 would abolish the State Community Corrections Board. The five member State Community Corrections Board was established by 1989's Sub. for S.B. 49. Its main function is to resolve disputes over grant awards between the Department of Corrections and community corrections programs.

The FY 1994 Governor's Budget Report provides \$68,948 from the State General Fund for FY 1993 to fund the activities of the Board and provide salaries and other operating expenditures for 2.0 FTE positions. H.B. 2145 would require no adjustments to the FY 1994 Governor's Budget Report, as this document currently provides no funding for the State Community Corrections Board in FY 1994.

This bill is necessary to carry out the Governor's recommendation to abolish the State Community Corrections Board. The recommendation is based primarily upon the provisions in the Sentencing Guidelines Act which consolidates community corrections programs, court services, and parole services. Even if consolidation is not accomplished, there is a question about the need for the Board to continue to function.

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House Govt Org + Elections
Attachment 1

It is my understanding that the rationale for the introduction of HB2145 were:

- (1) The current Sentencing Guidelines Act mandates consolidation of Parole, Court Services, and Community Corrections on 1/1/94;
- (2) When consolidation of field services occurs, there may no longer be any grants for counties to appeal to such a board;
- (3) The board was not included in the Governor's budget because of that pending field services consolidation;
- (4) Since the board was not included in the Governor's budget, HB2145 affects the board's dissolution based on the presumption that field services will consolidate.

Since the Senate has passed legislation (SB21) which effectively discards field services consolidation, then there is an ongoing need for a state community corrections board to address the appealable decisions delineated within the community corrections act.

KANSAS STATE COMMUNITY CORRECTIONS BOARD

Sam L. Alvey, Director

INTRODUCTION:

The Kansas State Community Corrections Board was initially proposed within a conference committee on 1989 Senate Bill 49. As a result of that bill, several statutes were added to, or amended within, the Kansas Community Corrections Act. K.S.A. 75-52,114 and 72-5296 established the State Community Corrections Board, defined its membership, and set out the board's duties.

1990 House Bill 3091 amended K.S.A. 75-52,114 by providing that the board's decisions would be final and binding on the Secretary of Corrections, and on the county or group of counties subject to such appeals.

MEMBERSHIP:

The State Community Corrections Board consists of five members: Three are appointed by the Governor, and represent (1) the Department of Corrections, (2) the Department of Social and Rehabilitation Services with specialty in juvenile matters, and (3) one who is actively involved with community correctional services programs. Two members are appointed by the Chief Justice of the Kansas Supreme Court, and may be chosen from justices of the supreme court, or judges of the court of appeals or of any district court. The statute further provides that the Governor shall appoint a chairperson.

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House Gov't Org + Elections
Attachment 2

MEMBERSHIP (Continued):

The current board members are:

Governor's Appointments

Richard Koerner, chairperson
Representing the Department of Corrections

Thelma Hunter-Gordon
Representing the Department of Social and Rehabilitation Services.

Bruce Kouba
Representing Community Correctional Services Programs

Chief Justice's Appointments

Honorable Robert Gernon
Judge, Kansas Court of Appeals

Honorable Michael Malone
District Judge, Seventh Judicial District of Kansas

OPERATIONS:

The state board's offices are located in Room 501, Jayhawk Towers,
700 SW Jackson, Topeka, Kansas. In order to lessen expenses,
the board shares an office suite with the Kansas Sentencing
Commission.

The board has two full-time staff, who are in the unclassified
civil service: Sam Alvey, Director

Jill Dugan, Secretary

BOARD POWERS & DUTIES:

The board's powers and duties arise from K.S.A. 75-52,114 as amended and K.S.A. 75-5296 as amended, and are:

- (A) To hear appeals on decisions of the secretary of corrections regarding grants for expenses of a corrections advisory board which does not have a comprehensive plan approved by the secretary as provided in K.S.A. 75-5293 and amendments thereto.
- (B) To hear appeals on decisions of the secretary of corrections regarding the determination of grant amounts for community correctional services programs as provided in K.S.A. 75-52,111 and amendments thereto, and the determination of quarterly grant payment amounts as provided in K.S.A. 75-52,105 and amendments thereto.
- (C) To hear appeals on decisions of the secretary of corrections regarding the organization of new community correctional services programs and their plans for services.
- (D) To review minimum operating standards and performance evaluation standards established by the secretary of corrections for community correctional service programs.
- (E) To review decisions of the secretary of corrections regarding findings that a county or group of cooperating counties are not in substantial compliance with minimum operating standards, or that satisfactory progress was not being made toward compliance with those standards adopted pursuant to the act. Such review would occur following a department of corrections hearing held in accordance with the Kansas Administrative Procedure Act, and upon receipt of an appeal from the affected county or group of cooperating counties.

APPEAL PROCEDURES:

In order to accomplish their duties in an orderly and organized manner, the board has adopted procedures - copies of which have been distributed to you this morning.

APPEAL PROCESS:

1. The department of corrections issues a decision, which a county may appeal.
2. The county commission of the involved county program formally appeals the secretary's decision within thirty days of notification from the department.
3. The board director reviews the appeal materials for completeness, and if needed requests additional information from the county.
4. The board director requests the department of corrections' written response to the county appeal.
5. The board director notifies the chairperson of receipt of the appeal, and asks that a board meeting be scheduled.
6. The chairperson calls a meeting of the board. Note that three members constitute a quorum, and that every effort is made to schedule the hearing within 45 days of receipt of the appeal.
7. The board director distributes copies of the appeal materials to all five state board members, and notifies each of the date, time, and place of the appeal hearing.
8. The board director distributes a copy of the department response to the involved county, and notifies that county commission, chairperson of the county community corrections advisory board, and the local community corrections director of the date, time, and place of the appeal hearing.
9. Upon convening, the board director presents a short synopsis of the decision being appealed and the county's position.
10. The county is then allowed 15 minutes to present the appeal, and the department of corrections is also allowed 15 minutes to state its side. The board may vote to extend the duration of the presentations.
11. The board may ask questions of the appellant and department of corrections' representatives.
12. The board may then decide the appeal by a majority vote of members present. If the state board believes that additional information is needed, it may direct the state board director to further investigate both positions and report back to the board at a subsequent hearing date. All appeals shall be decided no later than the conclusion of the second hearing.

13. Following the board's decision on an appeal, the state board director drafts a written decision for the board.
14. Following the board's approval of the written decision, it is signed by the state board chairperson and is distributed to each state board member, the county community corrections advisory board chairperson, the local community corrections program director, the county commission, the department of corrections community corrections administrator, and the secretary of corrections.
15. Decisions of the state board are binding on the secretary of corrections and on the county or group of counties initiating the appeal.

OTHER STAFF DUTIES:

In addition to duties related to appeal hearings, the board's staff participate in the following:

1. Develop, implement, and maintain a grant accounting system utilizing Lotus 1-2-3, and train field staff and KDOC central office staff in its use.
2. Develop, implement, and maintain an offender-based database system utilizing a custom program, and train field staff and KDOC central office staff in its use.
3. Support the study efforts of several Kansas Sentencing Commission task forces.

**State Community Corrections Board
Administrative Procedures**

DEFINITIONS:

- (a) The term "secretary" means the secretary of corrections.
- (b) The term "department" means the Kansas Department of Corrections.
- (c) The term "state board" means the state community corrections board.
- (d) The term "local board" means a community corrections advisory board appointed per K.S.A. 75-5297.
- (e) The term "county commission" means a board of county commissioners; or in the case of multi-county community corrections programs, the boards of county commissioners or an administrative body appointed by the boards of county commissioners and delegated the authority for administering a community corrections program.
- (f) The term "appellant" means a board, or boards of county commissioners, who have filed an appeal of a decision of the secretary, and who may be represented at an appeal hearing by the person of their choice.
- (g) The term "appeal" means a formal request by a county commission that the state board review a decision of the secretary.

(h) The term "local director" means an administrative or executive position which serves a local board and is responsible for the local administration of community corrections grants to one or more counties.

(i) The term "state director" means an administrative or executive position which serves the state board, and is responsible for carrying out the state board's directives.

(j) The term "plan" means a comprehensive plan for the provision of local community correctional services, and which includes a request for grants authorized per the Kansas Community Corrections Act.

(k) The term "cooperative agreements" means agreements among or between counties per the Interlocal Cooperation Act as set out in K.S.A. 12-2901 through 12-2907.

(l) The term "contract" means a formal agreement, entered through county commission resolutions, which provides for one or more counties to purchase community correctional services from one or more other counties.

(m) The term "grant" means the amount of department grant funds approved for local programs for community correctional services.

(n) The term "operating standards" means minimum operating standards adopted by the department, and which are the basis of

department compliance reviews.
St. Comm. Corr. Bd.
Procedures - Page Three

PROCEDURES:

A county commission may appeal decisions of the secretary involving grants to a county, or regarding the county's plan for provision of community correctional services. Appeals shall be filed with the state board within 30 days of notification of the secretary's decision, and shall be summarized on a form adopted by the state board. Each appeal shall be accompanied by 7 copies of the secretary's decision which is being appealed, as well as 7 copies of any information which the appellant deems germane to the issue. Copies of each appeal shall be distributed by the appellant as follows:

- 7 copies to the state board
- 1 copy to the local board chair
- 1 copy to the local director

Upon receipt of an appeal, the state board director shall forward one copy to the department and request the department's written response. Upon receipt of the department's response, the state director will confer with the state board chairperson to schedule the appeal hearing.

The state director will distribute copies of the appeal materials to each state board member, forward the department's written response to the appellant, and will notify the appellant, local board chair, local director, and department

community corrections administrator of the scheduled hearing.

The state board will use its best efforts to hear every properly filed appeal within 45 days of its receipt.

Upon the state board convening with a quorum of at least three members, the state director will present a synopsis of the appellant's position, the department's position, and any additional information which the director has developed during further investigation.

The state board will hear concise oral presentations by the appellant (represented by a person who is not a member of the state board) and by a department representative (who is not a member of the state board). Oral presentations shall not exceed 15 minutes each. However, upon a majority vote of the quorum, the duration of the presentations may be extended.

At the conclusion of the oral presentations, the state board may ask questions of the appellant and the department representative.

The state board shall decide the appeal following oral presentations, questions, and discussion. The appeal shall be decided by a simple majority of the members present.

If the state board does not arrive at a decision on the appeal at its first hearing on it, it shall set a subsequent hearing within 30 days of the initial hearing. All appeals shall be decided no

later than at the conclusion of the second hearing.
St. Comm. Corr. Bd.
Procedures - Page Five

The state board shall render final and binding decisions on subjects prescribed in K.S.A. 75-52,111 as amended and K.S.A. 75-52,114 as amended. The state director shall draft a written decision for the state board chair's signature. The state director shall cause a copy of each signed decision to be delivered to:

- each state board member
- the local board chair
- the local director
- the department community corrections administrator
- the secretary
- the appellant

The state board shall review department regulations, operating standards, and performance evaluation standards in the same manner as appeals of the secretary. Such reviews shall center on the department's application of approved rules, regulations, and standards.

The board chairperson is appointed by the Governor. The board vice-chairperson shall be elected by the board. The vice-chairperson may conduct board meetings when the chairperson is unavailable.

February 17, 1993

Mr. Sam Alvey, Director
State Community Corrections Board
Jayhawk Tower
Topeka, KS

Dear Mr. Alvey:

The Kansas Community Corrections Association appreciates the opportunity to provide input to the State Community Corrections Board regarding the functions of the Board.

At its regular meeting on February 12, 1993 the Kansas Community Corrections Association voted to indicate its support for the continuation of the State Community Corrections Board. The Association members believe that the Board has performed valuable functions in the past and provides the only source available to community corrections programs for the appeal of decisions made by the State Department of Corrections. The Association believes that the State Community Corrections Board should be continued and thus opposes House Bill 2145 that would abolish this agency.

By vote at our February 12 meeting, the Association indicated that it believed the functions of the State Community Corrections Board should be expanded to include advising the Secretary of Corrections regarding priorities to be established for community corrections programs, regulations being developed for governance of these programs and the process of making applications for funding.

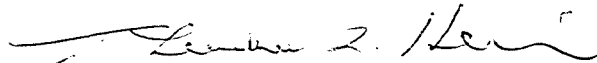
The Association also recommends expansion of membership on the Board from five to seven members to include the following:

- A. A district or county attorney or full-time law enforcement officer appointed by the Attorney General.
- B. Two judges appointed by the Chief Justice of the State Supreme Court.
- C. Four appointees by the Governor, including:

1. A person associated with Community Corrections Act programs in the State.
2. A person associated with the State Department of Corrections.
3. A person associated with the State Department of Rehabilitation Services and
4. A County Commissioner.

The Kansas Community Corrections Association further submits the following recommendation regarding legislation authorizing the State Community Corrections Advisory Board: "The State Community Corrections Board through its Director should have timely access to the data collected by the Kansas Department of Correction in regard to specific program and fiscal reports relating to Community Corrections Act programs of the State of Kansas>"

Sincerely,



Theodore L. Heim, President
Kansas Community Corrections Association

FY-1991**APPEALED****AWARDED**

Reno county to restore budget to full grant requested	311,727.60	-0-
Douglas county to restore budget to full grant requested	113,882.53	-0-
Johnson county to restore budget to full grant requested	836,354.00	-0-
FY-1991 TOTAL	1,261,964.13	-0-

Note that all three appeals were denied because there were no remaining funds to distribute - without removing funds previously approved budgets.

FY-1992**APPEALED****AWARDED**

Johnson County	Administration	37,340	-0-
	Adult ISP	87,038	-0-
	Juv. Residential	24,775	24,775
	Elec. Monitoring	32,405	4,330
	Adult Residential	55,800	60,350
	TOTAL	237,358	89,455
Burbon/Linn/Miami	Work Release	30,000	21,600
	Day Reporting	15,060	15,060
	TOTAL	45,060	36,660
Saline county	Admin. Computers	7,000	7,000
9th Jud. District	Administration	10,893.24	
	Adult ISP	70,682.47	
	TOTAL	81,575.71	54,588 Negotiated
Sedgwick county	Administration	43,150	34,250
	Adult ISP	16,120	6,520
	Juv. ISP	5,000	2,750
	TOTAL	64,270	43,520 Negotiated
Saline county	Administration	9,822.68	Withdrawn
	Adult ISP	3,732.40	Withdrawn
	Victim/Witness	36,262.90	6,584
	Diversion	19,911.50	1,567
	TOTAL	69,729.48	8,152 Negotiated
FY-1992 TOTAL		504,993.19	239,375.00

FY-1993**APPEALED****AWARDED**

Burbon/Linn/Miami	Adult ISP	4,500	-0-
9th Judicial Dist.	Vehicle	13,900	Withdrawn
FY-1993 TO DATE:		18,400	-0-



KANSAS COMMUNITY CORRECTIONS ASSOCIATION

TESTIMONY ON HOUSE BILL 2145

Mr. Chairperson and Committee members, I want to thank you for the opportunity to provide testimony regarding HB 2145. As you know this bill eliminates the State Community Corrections Board and deletes language which allows appeals of Department of Corrections decisions that effect local Community Corrections programs. The Kansas Community Corrections Association is opposed to this legislation.

Community Corrections has demonstrated it's effectiveness in the supervision of prison bound felony offenders through a partnership between local and state government. This partnership has allowed local Advisory Boards to participate in the planning of correctional services designed to meet local needs. The local program planning has secured a continuum of supervision options that is necessary to insure public safety. It allows for more local control of offenders residing in the community, offenders who would otherwise be in prison. When local advisory boards apply for funds for services that meet specific and many times unique correctional needs in the community and DOC denies these funds, the local programs currently have the right to appeal these decisions to the State Community Corrections Board. This allows for an objective body to review decisions by the State. This bill threatens this partnership by allowing the Department of Corrections to determine funding of local community corrections programming, conceivably without local input.

The criminal justice system in the State of Kansas is going through dramatic changes. The sentencing guidelines scheduled to go into effect on July 1, 1993 will significantly change the number of offenders being supervised in the community. It is poor timing to disrupt the way we deliver community supervision services. Resources in the communities will need to be increased and the input of local advisory boards on how to deal with these offenders will remain absolutely essential. If the ability to appeal decisions by the Department of Corrections is not available, the local authority to control offenders will be reduced thereby diminishing the purpose of the local advisory boards. This will reduce some local Advisory Boards' desire to provide input, and destroy the essential partnership needed for community based correctional services. There are currently many advisory board members across the State who feel that the ability to effect local correctional needs is already diminished because of budgetary constraints and DOC's funding priorities (which may be at odds with local priorities). The State of Kansas needs to find ways to encourage local input...not discourage it.

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House Gov't Org. & Elec.
Attachment 3

The Association supports the continuance of the State Community Corrections Board and would recommend that the role of the board be expanded to advise the Secretary of Corrections in the development of program priorities and administrative regulations as well as to continue to hear appeals and review operating standards. Additionally, the Association would recommend that the State Community Corrections Board expand the membership from five (5) to seven (7) members through the following appointments:

1. Attorney General of the State of Kansas would appoint either a District or County Attorney or a full-time Law Enforcement Officer.
2. The Chief Justice of the Supreme Court of the State of Kansas would appoint two Judges.
3. The Governor of the State of Kansas would appoint:
 - a. A representative of Community Corrections Act programs.
 - b. A representative of the Kansas Department of Corrections.
 - c. A representative of the Kansas Department of Social and Rehabilitation Services.
 - d. A County Commissioner.

In closing I would like to quote Margot C. Lindsay, chairman of the National Center for Citizen Participation in the Administration of Justice:

One of the great strengths of community corrections lies in its inclusiveness. To be successful, community corrections demands a close working relationship between elected officials, members of the public, and collective concerns, needs and hopes. Correctional policy and programs could not have better sponsorship (County News, November 9, 1992).

Respectfully submitted,

Jeff A. Usher
President-Elect
February 18, 1993

HOUSE BILL No. 2187

By Representatives O'Connor, Adkins, Bradley, Carmody, Cornfield,
Cox, Crowell, Graeber, Haulmark, Phill Kline, Mayans, Robinett,
Snowbarger, Toplikar and Vickrey

2-2

AN ACT relating to elections; concerning sample ballots; amending
K.S.A. 1992 Supp. 25-604 and repealing the existing section.

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

Section 1. K.S.A. 1992 Supp. 25-604 is hereby amended to read
as follows: 25-604. (a) Except as otherwise provided in subsection
(b), the county election officers shall have charge of the printing of
the ballots for all elections, primary, special and general. The county
election officer shall let the contract for the printing of any such
ballots to some newspaper printed in Kansas and published with the
original entry of such newspaper in the mail in the county or to any
printer within the county, or if there be no such newspaper or
printer, then to some newspaper printed in Kansas of general cir-
culation in the county at rates established by the secretary of state
by rules and regulations. The director of printing and the director
of accounts and reports shall advise and assist the secretary of state
in preparation of the above establishment of rates. The rates shall
reflect prevailing economic conditions in the printing and publishing
industries in Kansas for similar work of this type and scope. The
rates shall consider, but not be limited to, labor costs, printing costs,
paper costs, printing quantities, changes per ballot, size and scope
of election ballots, costs per additional orders, regional cost variances
and other relevant factors.

(b) The secretary of state may provide for the printing of all or
any portion of the ballots for a presidential preference primary elec-
tion. The secretary of state shall determine, with the advice of the
director of printing, the most efficient manner in which to print
ballots for a presidential preference primary election for any county
in the state of Kansas.

(c) Nothing in this subsection shall apply to the printing of ballot
labels for use on voting machines.

The ballots shall be printed on paper of sufficient strength as not
to be punctured by ordinary pencil marking. Ballots shall be put in
the possession of the county election officer at least five days before

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House Bill 2187 + Elec.
Attachment 4

the election, accompanied by sufficient number, not to exceed 50 for each precinct or area, of exact copies of such ballots, printed on paper of any color, except white, as authorized by rules and regulations adopted by the secretary of state, for the inspection of candidates and their agents and for distribution through each of the party organizations. If any mistakes are discovered they shall be corrected without delay. County election officers may also obtain and distribute ballots on paper of any color authorized by rules and regulations adopted by the secretary of state stamped "SAMPLE BALLOT" in large letters, and these ballots shall be used for kindergarten through grade 12 school educational purposes and the distribution shall be for such purpose. The county election officers shall cause to be delivered to the supervising judges, not less than 12 hours before the time fixed by law for the opening of the polls, a number of properly printed ballots fully sufficient to meet the demands and needs of all the voters. Such ballots shall be put in separate sealed packages of 25, 50 or 100 ballots each, with marks on the outside clearly designating the voting place for which they are intended and the number of ballots enclosed. The county election officer shall retain at the county election office an additional supply of ballots to meet any emergency need for such ballots that might arise from loss or destruction of ballots, enlarged vote or any other legitimate cause.

(d) Upon receipt of the certified list of the names of candidates from the secretary of state, the county election officer shall obtain and distribute such number of "sample ballots" as the county election officer shall determine necessary for distribution to electors requesting the same, for posting in public places within the voting district and for the distribution to schools for educational purposes. The secretary of state shall adopt rules and regulations prescribing the color of the paper or ink to be utilized, the style or format for the printing of such ballots and the method of clearly identifying such ballots as "sample ballots" or void for official election purposes. ~~Sample ballots shall be printed upon paper of a color and in a style or format different from that utilized in the printing of official ballots.~~

Sec. 2. K.S.A. 1992 Supp. 25-604 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

or list of candidates and other questions
to be voted upon

area

The county election officer may make a charge for all sample ballots, lists and materials distributed in an amount not to exceed the actual cost of the materials, printing and the distribution thereof.

4-2

HOUSE BILL No. 2158

By Committee on Governmental Organization and Elections

1-29

8 AN ACT relating to elections; concerning the order of names of
9 candidates upon ballots; amending K.S.A. 25-212, 25-614, 25-
10 1318, 25-2014, 25-2115 and 25-4409 and K.S.A. 1992 Supp. 25-
11 610 and 25-612 and repealing the existing sections.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. The secretary of state shall, on the first business
15 day of each new calendar year, determine the order ~~of candidacy~~
16 ~~for any election~~ conducted by the county election officer during that
17 calendar year. To determine the order in which candidate names
18 shall appear on the ballot, the secretary of state shall place each
19 letter of the alphabet in a container. The secretary of state shall then
20 draw a letter from the container. Any candidate whose last name
21 begins with the first letter drawn from the container shall be placed
22 first on the ballot. Any candidate whose last name begins with the
23 second letter drawn shall appear second on ballot placement. The
24 secretary of state shall continue to draw letters from the container
25 until all 26 letters of the alphabet have been drawn. If the last names
26 of more than one candidate for an office begin with the same letter,
27 ballot placement of those candidates whose last names begin with
28 the same letter shall be determined by alphabetical order. If the
29 last names of more than one candidate for an office are identical,
30 ballot placement of those candidates whose last names are identical
31 shall be determined by alphabetical order of the first name. If both
32 the first and last names of more than one candidate for an office are
33 identical, ballot placement of those candidates shall be determined
34 by alphabetical order of the middle name.

35 ~~Sec. 2. K.S.A. 25-212 is hereby amended to read as follows: 25-~~
36 ~~212. In case there are nomination petitions or declarations of inten-~~
37 ~~tion to become a candidate on file for more than one candidate or~~
38 ~~for more than one pair of candidates for governor and lieutenant~~
39 ~~governor, of the same party for any national or state office, the~~
40 ~~secretary of state shall divide the state or appropriate part~~
41 ~~thereof, into as many divisions as there are names to go on~~
42 ~~such party ballot for that office. Such divisions shall be as~~
43 ~~nearly equal in number of members of such party as is con-~~

4-3
in which candidates names shall appear on
ballots for city, school district and
community college elections

venient without dividing any one county. In making such division the secretary of state shall take the alphabetical list of counties in regular order until the secretary of state gets the required proportion of party members of such party based upon the party affiliation lists as shown by the certificates of the respective county election officers, and so on through the list of counties until the secretary of state gets the proper proportion of party members in each division. The secretary of state shall also take the alphabetical list of candidates or pairs of candidates in regular order and in certifying to the county election officer the list of names for whom nomination petitions or declarations of intent to become a candidate have been filed, shall place one name or pair of candidates at the head of the list in the first division of counties, another in the second division, and so on with all the candidates for any particular office, so that every candidate or pair of candidates for any office shall be at the head of the list in one division of the state and second in another division thereof, and so forth. When, in the case of candidates for the office of congressman, district judge, district magistrate judge, state senator, state representative or state board of education member, the secretary of state finds that the secretary of state cannot get a fair proportion of party members to give each candidate for congressman, district judge, district magistrate judge, state senator, state representative or state board of education member in any given district an equitable or fair opportunity to have the candidate's name first on the ballot in the respective counties of the district, the secretary of state shall order the county election officers in the various counties of the district to rotate the names of the candidates for such district offices according to precinct. If voting machines are used the arrangement of names of candidates or pair of candidates for all offices on the voting machines shall be rotated, as near as may be, according to precinct order in which names of candidates will appear on the ballot shall be determined in the manner prescribed by section 1, and amendments thereto, and certified to all county election officers.

The arrangement of the names certified by the secretary of state shall govern the county election officer in arranging the primary election ballot, and if there is more than one candidate of the same party for any county office the county election officer in preparing the ballot for such officer's county shall follow the same arrangement as provided in this section for the secretary of state, for determine the order for the placement of the names of the candidates

1 nominated for county offices; ~~using the township and preeinets~~
2 ~~of the county in making the division in the order determined by~~
3 ~~the secretary of state pursuant to section 1 and amendments thereto.~~

4 Sec. 3. K.S.A. 1992 Supp. 25-610 is hereby amended to read as
5 follows: 25-610. The secretary of state shall furnish to each county
6 election officer forms for ballots in their respective counties. The
7 secretary of state shall prepare a rotation ~~determine the order of~~
8 ~~the names of the different candidates appearing on the official general~~
9 ~~ballot for the national and state offices for each such office in the~~
10 ~~manner prescribed by section 1 and amendments thereto.~~ Such ro-
11 ~~tation shall be developed and arranged so that each candidate~~
12 ~~shall have an equal opportunity as near as practicable for the~~
13 ~~respective offices to which they are nominated.~~ In case there
14 ~~is more than one candidate for any national or state office, the~~
15 ~~secretary of state shall divide the state or part thereof, into as~~
16 ~~many divisions as there are names to go on the ballot for each~~
17 ~~particular office. In making such division the secretary of state~~
18 ~~shall divide, in regular order, the alphabetical list of counties~~
19 ~~into the required number of divisions, in such a manner that~~
20 ~~all divisions are as nearly equal as convenient in the number~~
21 ~~of registered voters in such division as compiled by the office~~
22 ~~of the secretary of state. The secretary of state, in certifying~~
23 ~~the list of names of candidates to the county election officers,~~
24 ~~shall assign, in regular order from the alphabetical list of can-~~
25 ~~didates for each office, the ballot position for each candidate~~
26 ~~in such a manner that every candidate for any office shall~~
27 ~~occupy a different ballot position in each division. When, in~~
28 ~~the case of candidates for national or state offices elected on~~
29 ~~less than a statewide basis, the secretary of state finds it im-~~
30 ~~possible to make a division which allows each such candidate~~
31 ~~in any given district an equitable or fair opportunity to have~~
32 ~~such candidate's name first on the ballot in the respective coun-~~
33 ~~ties of the district, the secretary of state shall order the county~~
34 ~~election officers in the various counties of the district to rotate~~
35 ~~the names of the candidates for such district offices according~~
36 ~~to preeinct to obtain an equitable division.~~ The names of can-
37 ~~didates for the same office but for different terms of service therein~~
38 ~~shall be arranged in groups according to the length of their respective~~
39 ~~terms.~~

40 In the case of the governor and lieutenant governor running to-
41 gether, when the word "candidate" is used in this section, it shall
42 mean pair of candidates.

43 Sec. 4. K.S.A. 1992 Supp. 25-612 is hereby amended to read as

1 follows: 25-612. The arrangement of the names certified under K.S.A.
2 25-610, and amendments thereto, by the secretary of state shall
3 govern the county election officer in arranging the ballot, and the
4 county election officer in preparing the ballot for the county shall
5 follow the same arrangements as provided in K.S.A. 25-610 and 25-
6 611, and amendments thereto, for the secretary of state, for the
7 candidates nominated for county offices; ~~using the township and~~
8 ~~precincts of the county in making his division.~~

9 Blank spaces shall be left at the end of the list of candidates for
10 each different office equal to the number to be elected thereto, in
11 which the voter may insert the name of any person not printed on
12 the ballot for whom the voter desires to vote for such office.

13 Sec. 5. K.S.A. 25-614 is hereby amended to read as follows: 25-
14 614. Ballots shall be so printed as to give each voter an opportunity
15 to designate by a cross or check mark in the square at the ~~right~~
16 ~~left~~ of the name and designation of each candidate the voter's choice
17 of candidates. Ballots shall be so printed, in the case of governor
18 and lieutenant governor, as to give each voter an equal opportunity
19 to designate by a cross or check mark in the square at the ~~right~~
20 ~~left~~ of the names and designation of each pair of such candidates
21 the voter's choice of pairs of candidates. Upon the ballots may be
22 printed such directions as will aid the voter.

23 ~~If voting machines are used the arrangement of names on~~
24 ~~voting machines shall be rotated according to precinct, as near~~
25 ~~as may be.~~

26 Sec. 6. K.S.A. 25-1318 is hereby amended to read as follows:
27 25-1318. All ballot labels shall be printed in black on clear white
28 material, of such size as will fit the ballot frame, and in as plain,
29 clear type as the space will reasonably permit. The offices to be
30 filled, the names of the candidates and the names of the parties of
31 the candidates shall be arranged on the face of the machine in as
32 nearly the same manner as on a regular ballot as possible, or if that
33 be not possible in such manner as shall be convenient for the voter,
34 and the names of candidates shall be rotated insofar as possible
35 according to the general election laws: *Provided, That where*
36 *the number of machines used at an election is insufficient to*
37 *permit entire rotation of candidates for any office, When the*
38 *number of candidates for any office require, the order of names*
39 *shall be determined by lot in the manner prescribed by section 1,*
40 *and amendments thereto, by the officer charged with the preparation*
41 *of the ballots.*

42 When it is impossible at a state primary election to put all the
43 names of candidates upon the voting machine separate paper ballots

for township officers and precinct committeemen and committee-women, and if need be, propositions and questions, shall be prepared, furnished and voted as in elections where voting machines are not used.

Where primary election laws do not authorize blank lines on regular ballots nor permit "write-in" votes for offices where there are candidates no "write-in" vote for such office shall be counted by the election board.

Where at primary elections there are unopposed candidates and no names can lawfully be written in, or where no candidate for nomination to any office will be eliminated, the names of such candidates for nomination shall be placed upon the ballot in the same manner as opposed candidates.

Sec. 7. K.S.A. 25-2014 is hereby amended to read as follows:
25-2014. *When the number of candidates for any office require,* names of candidates appearing on the ballots in primary and general school elections shall be listed in the various possible orders in rotation order prescribed by section 1, and amendments thereto.

Sec. 8. K.S.A. 25-2115 is hereby amended to read as follows:
25-2115. *When the number of candidates for any office require,* names of candidates appearing on the ballots in primary and general city elections in cities of the first and second class shall be listed in the various possible orders in rotation order prescribed by section 1, and amendments thereto.

Sec. 9. K.S.A. 25-4409 is hereby amended to read as follows:
25-4409. (a) In any voting area where electronic or electromechanical voting systems are used, the county election officer shall provide an adequate number of units of the systems to allow all voters expected by the county election officer to vote at such voting place.

(b) The ballot information, whether placed on the ballot or on the marking device, shall, as far as practicable, be in the order of arrangement provided for paper ballots except that such information may be in vertical or horizontal rows, or in a number of separate pages. Ballots for all questions must be provided in the same manner and where ballots are placed in a marking device, they must be arranged on or in the marking device in the places provided for such purpose. Voting squares may be before or after the names of candidates and statements of questions, and shall be of such size as is compatible with the type of system used. Ballots and ballot labels shall be printed in as plain clear type and size as the ballot spaces will reasonably permit. Tear-off stubs shall be of a size suitable for the ballots or ballot cards used and for the requirements of the marking device. Where candidate rotation is used, each type of

1 ~~ballot within a voting area shall be of the same rotation series.~~
2 The ballots or ballot cards may contain special printed marks and
3 holes as required for proper positioning and reading of the ballots
4 by the automatic tabulating equipment.

5 (c) A separate write-in ballot, which may be in the form of a
6 paper ballot, card or envelope in which the elector places his or
7 her *such elector's* ballot card after voting, shall be provided where
8 necessary to permit electors to write in the names of persons whose
9 names are not on the ballot.

10 (d) The county election officer shall cause the marking devices
11 to be put in order, set, adjusted and made ready for voting when
12 delivered to the election precincts. Before the opening of the polls
13 the election judges shall compare the ballots or ballot labels with
14 the sample ballots furnished, and see that the names, numbers and
15 letters thereon agree and shall certify thereto on forms provided for
16 this purpose. ~~The certification shall be filed with the election returns.~~

17 Sec. 10. K.S.A. 25-212, 25-614, 25-1318, 25-2014, 25-2115 and
18 25-4409 and K.S.A. 1992 Supp. 25-610 and 25-612 are hereby
19 repealed.

20 Sec. 11. This act shall take effect and be in force from and after
21 its publication in the statute book.

4-8

71-1417. Ballots and rotation of names.
Names of candidates appearing on the ballots
in primary and general elections of members
shall be listed in the ~~various possible orders~~
~~in rotation~~. Ballots to be used in member elec-
tions shall be acquired by the election officer
in such form and quantity as he shall
determine.

History: L. 1967, ch. 407, § 14; Feb. 17.

the order prescribed
in section 1