

Approved: 7-4-98  
Date

## MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Janice Hardenburger at 1:30 p.m. on February 18, 1998 in Room 529-S of the Capitol.

All members were present except: Senator Lawrence

Committee staff present: Dennis Hodgins, Legislative Research Department  
Mike Heim, Legislative Research Department  
Theresa Kiernan, Revisor of Statutes  
Graceanna Wood, Committee Secretary

Conferee appearing before the committee: Senator Steineger  
Elizabeth Ensley, Kansas County Clerks Assn. (Written  
Testimony)  
Wendy McFarland, ACLU

Others attending: See attached list

Chairman Hardenburger opened the meeting by asking the Committee to take action on SB 556, concerning legal publications.

David Furnas, Executive Director of the Kansas Press Association, explained to the Committee why the amendments were requested in the balloon. (Attachment #1)

Chairman Hardenburger asked for a motion to consider amendments in a balloon and with Subsection (d) of the bill reinserted.

Senator Becker made motion to pass the amendments, seconded by Senator Huelskamp, motion carried.

Senator Becker moved that the bill be passed favorably as amended, seconded by Senator Praeger, motion carried.

Chairman Hardenburger continued the hearing on SB 567, relating to political advertising and introduced Wendy McFarland, ACLU, who continued her testimony from February 18. (See Attachment from February 17, 1998)

The Committee discussed what would be the recourse relating to false political advertisement.

Chairman Hardenburger closed the hearing on SB 567 and opened the hearing on SB 585, concerning the creation of a blanket primary election. Written testimony from Elizabeth Ensley, Kansas County Clerks Association was submitted with concerns from the Association on SB 585. (Attachment #2)

Senator Steinger sponsor of SB 585 explained the bill to the Committee. He said the bill would allow voters to vote in the primary election without disclosing their political preferences.

The Committee discussed the pros and cons of having the political parties on the ballot.

Chairman Hardenburger closed the hearing on SB 585.

Meeting was adjourned at 2:30 p.m.

Next meeting will be at 1:30 p.m. February 19, 1998.





# Kansas Press Association, Inc.

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Testimony on SB 556  
Senate Elections and Local Government Committee  
Feb. 12, 1998  
by Kansas Press Association

Mr. Chairman and members of the committee, I am Rhonda Humble, editor and publisher of the Gardner News. Today I am representing the Kansas Press Association, the trade association of the state's 250 weekly and daily newspapers. I want to thank the committee for this opportunity to testify on Senate Bill 556, concerning the designation of legal publications.

As public policy for an informed electorate and to provide due process, the State of Kansas has provided for the designation of legal publication by cities and counties in order to provide legal notice.

For the most part, the criteria for determining a legal publication are included in KSA 64-101. There are additional provisions in KSA 12-1651. There has been no specific requirement for designating a legal publication for schools boards, although schools often must publish a legal notice in a newspaper of general circulation.

The requirements are inconsistent and as was discovered recently had an oversight that would allow legal notices to be published not just outside the jurisdiction of the governmental entity, but could be published outside the state.

Senators Lee and Umbarger, working with their local newspaper publishers and with the help of the Revisor's staff, have developed a bill that will clarify and provide uniformity to the state's legal publication laws.

Newspaper publishers throughout the state have identified this bill as one of the most critical for the industry.

For example, the bill updates our laws to recognize that the requirement to be entered at the post office as "second" class mailing material should now be "periodical" class mail, which is the term now used by the United States Postal Service.

Most importantly, the bill would require the governing body to designate a publication that serves that community, generally in the county or in the county where a city is located or in the school district.

**Elec. & Local Gov.**

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**Attachment:** #1

While every county in Kansas does have a newspaper, some schools boards do not. Provisions are made in the bill, that when a newspaper is not located in a specific jurisdiction, the governing body may select another publication which has a general circulation in the district. However, the newspaper must be published in Kansas.

I have provided as an attachment to my testimony, a mark-up of the bill with a few suggested amendments.

- We are recommending in section (a) that second and third class cities be included in this bill to make the laws uniform. This amendment may require the repeal of 12-1651.

- We are recommending in paragraph (1) that the required time to be published be changed from five to one year, again to make the laws consistent. This was a policy change the Legislature made in 1994 for cities of the second and third class.

- We are recommending throughout that the provisions requiring "printing" in Kansas be deleted. The operative requirement should be "published" in Kansas.

- We are recommending that the requirement for 50% of the circulation be sold to subscribers be deleted. By virtue of the United States Postal Service's "periodical" class mail, the 50% requirement is met.

- We are also offering the deletion of the language dealing with World War II.

I would be happy to answer any questions, or refer your questions about specific details to our executive director of the Kansas Press Association.

SENATE BILL No. 556

By Senators Lee and Umbarger

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9 AN ACT concerning legal publications: amending K.S.A. 64-101 and re-  
10 pealing the existing section.

11  
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 64-101 is hereby amended to read as follows: 64-  
14 101. (a) The governing body of each city of the first ~~class~~ *SECOND and third* shall designate  
15 by resolution a newspaper to be the official city newspaper. Once desig-  
16 nated, the newspaper shall be the official city newspaper until such time  
17 as the governing body designates a different newspaper.

18 No legal notice, advertisement or publication of any kind required or  
19 provided by any of the laws of the state of Kansas, to be published in a  
20 newspaper shall have any force or effect ~~as such~~ *delete* unless the same is pub-  
21 lished in a newspaper having the following qualifications which :

22 (1) It ~~must be~~ *is* published at least weekly 50 times a year and ~~have~~ *ONE*  
23 ~~has~~ *has* been so published for at least ~~five years~~ prior to the publication of  
24 any official city publication:

25 (2) it ~~must be~~ *is* entered at the post office of publication as ~~second~~ *delete*  
26 ~~periodical~~ class mail matter:

27 (3) it ~~shall have~~ *has* general paid circulation on a daily, weekly,  
28 monthly or yearly basis in the county *in which the city is located* and ~~shall~~  
29 ~~is~~ not be a trade, religious or fraternal publication: and

30 (4) it ~~must be~~ *is* printed in the state of Kansas and ~~published in the~~ *delete*  
31 county *in which the city publishing the official publication or is located.*  
32 If there is no newspaper published in the county, ~~(it starts) on in a~~ *published*  
33 ~~shall be printed~~ in Kansas and ~~having~~ *shall have* general paid circulation  
34 in the county.

35 (b) The board of county commissioners of each county shall designate  
36 by resolution a newspaper to be the official county newspaper. Once  
37 designated the newspaper shall be the official county newspaper until  
38 such time as the board designates a different newspaper. The newspaper  
39 selected for the official publications of a county shall be ~~one which has~~  
40 ~~the following qualifications a newspaper which :~~

41 (1) It ~~must be~~ *is* published at least weekly 50 times each year and  
42 ~~have~~ *has* been so published for at least one year prior to the publication  
43 of any official county publication:

SB 556

1 (2) it ~~must be~~ *is* entered at the post office of publication as second class  
2 ~~mail matter~~ *is entered at the post office in the county of publication as*  
3 ~~periodical class mail matter, which county shall be located in Kansas :~~

4 ~~(3) it has more than 50% of the circulation must be sold to the sub~~

5 ~~scribers either on a daily, weekly, monthly or yearly basis; and~~ delete

6 (3) ~~(4)~~ it shall have ~~has~~ general paid circulation on a daily, weekly,  
7 monthly or yearly basis in the county and ~~shall is~~ not be a trade, religious  
8 or fraternal publication; and

9 (4) ~~(3)~~ is printed in the state of Kansas and published in the county pub- delete  
10 lishing the official publication. If there is no newspaper published in the  
11 county, the newspaper shall be printed in Kansas and have general paid  
12 circulation in the county.

13 ~~Nothing in this subsection shall apply to counties in which no news- delete  
14 paper has been published the requisite length of time.~~

15 (c) Whenever the board of education of a school district is required  
16 to publish a legal notice, advertisement or other publication in a news-  
17 paper having general circulation in the school district, such newspaper  
18 shall be one which:

19 (1) Is published at least weekly 50 times each year and has been so  
20 published for at least one year prior to the publication of any school  
21 district publication:

22 (2) is entered at the post office in the school district of publication as  
23 periodical class mail matter:

24 (3) ~~has more than 50% of the circulation sold to the subscribers either delete  
25 on a daily, weekly, monthly or yearly basis.~~

26 (3) ~~(4)~~ has general paid circulation on a daily, weekly, monthly or yearly  
27 basis in the school district and is not a trade, religious or fraternal pub-  
28 lication; and

29 (4) ~~(3)~~ is printed in the state of Kansas and published in the school district delete  
30 publishing the official publication. If there is no newspaper published in  
31 the school district, the newspaper shall be ~~printed in Kansas and shall~~ published  
32 have general paid circulation in the school district.

33 (e) ~~(d)~~ Nothing contained in this section shall invalidate the publi- delete  
34 cation in a newspaper which has resumed publication after having sus-  
35 pended publication all or part of the time that the United States has been  
36 engaged in war with any foreign nation and six months next following the  
37 cessation of hostilities if such newspaper resumes publication in good faith  
38 under the same ownership as it had when it suspended publication. Noth-  
39 ing in this section shall invalidate the publication in a newspaper which  
40 has simply changed its name or moved its place of publication from one  
41 part of the county to another part, or suspended publication on account  
42 of fire, flood, strikes, shortages of materials or other unavoidable accidents  
43 for not to exceed 10 weeks within the year last preceding the first pub-

SB 556

1 lication of the legal notice, advertisement or publication. All legal  
2 publications heretofore made which otherwise would be valid, that have  
3 been made in a newspaper which, on account of flood, fire, strikes, short-  
4 ages of materials or other unavoidable accident, has suspended publica-  
5 tion for a period of not exceeding 10 weeks, are hereby legalized.

6 Sec. 2. K.S.A. 64-101 is hereby repealed.

7 Sec. 3. This act shall take effect and be in force from and after its  
8 publication in the statute book.  
9

# ANSAS COUNTY CLERK'S ASSOCIATION

PRESIDENT  
VICE-PRESIDENT  
SECRETARY  
TREASURER

LINDA SCHEER  
DONALD PROFFITT  
JOLEEN WALKER  
MARY GILMORE

LEAVENWORTH COUNTY  
LINN COUNTY  
MITCHELL COUNTY  
MORTON COUNTY

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DATE: FEBRUARY 17, 1998  
FROM: LIBBY ENSLEY, KCCA REGISTERED LOBBYIST  
RE: SENATE BILL 585

The policy decision on the type of primary election in our state is an important legislative function. The County Clerks' only purpose in this testimony is to aid the legislature in determining a fair and efficient means of administrating elections. Most counties have invested large sums of money on electronic ballot counting devices. Therefore the following are our concerns for SB 585:

**BALLOT LAYOUT RISKS** -. SB 585 requires separate columns for each party, this allows for several possible layouts. I have attached an example of one such ballot. Other alternatives would be to have one party on the front and the other on the back, or to provide the same amount of space for each office regardless of the number of candidates which would require a second bipartisan ballot. Many counties have equipment which only accepts ballots which are 14" long with three columns. These possibilities create the following concerns:

1. Candidates might perceive the ballot layout as unfair.
2. A second bipartisan ballot would frequently be necessary when there are more candidates or questions, such as in when county offices are on the ballot or in counties where judges are elected.

**VOTER CONFUSION** - For many years, the voters have become accustomed to voting only on their party's candidates in the primary election. In fact, voting machine counties have had both parties shown on the face of the machine, but the voter could not cast a vote for the "other" party.

1. Voters might find the ballot layout confusing.
2. Overvotes would be more common.
3. Board workers could be confused and not give adequate instructions.

**TIME FRAME** -This bill goes into effect for this election year. Yet it would require reprogramming electronic systems in many counties prior to the June 10th filing deadline, when the ballot layout is fixed.

**COSTS** - It is not uncommon to have a non-partisan question only ballot at the August Primary, however, usually only the minimum (25 ballots per precinct) are ordered for the few unaffiliated voters who do not declare a party. The same number of party ballots for the precinct committee officials ballots would still be needed, but enough bipartisan ballots will have to be ordered for each voter (hundreds per precinct).

1. The cost of ballots is high. When a second bipartisan ballot is needed then that cost is doubled.
2. Costs to candidates would also be high since they would now have to mail to all voters, not just the ones in their party.
3. An extensive advertising campaign during the first several primaries would be needed.
4. Electronic equipment would have to be reprogrammed.

Since the costs of this election would place a large burden on local government, the County Clerks request that the state reimburse the county for any costs incurred in the primary election each year.

Thank you for your time and consideration.

**Elec. & Local Gov.**

**Date:** 2-18-98

**Attachment:** # 2

# OFFICIAL PRIMARY ELECTION BALLOT

August 2, 1994

**NOTICE**

If you tear, deface or make a mistake and wrongfully mark any ballot, you must return it to the election board and receive a new ballot or set of ballots.

**TO VOTE, DARKEN THE OVAL TO THE LEFT OF YOUR CHOICE, LIKE THIS:**

To vote for persons for governor and lieutenant governor whose names are printed on the ballot darken the oval to the left of the names of the persons running together for such offices.

To vote for a person (except governor and lieutenant governor) whose name is printed on the ballot darken the oval to the left of the name of the person for whom you desire to vote. To vote for a person whose name is not printed on the ballot, write such person's name in the blank space provided for the purpose and darken the oval to the left.

DEMOCRATIC PARTY	REPUBLICAN PARTY	DEMOCRATIC PARTY
<b>NATIONAL OFFICES</b>	<b>NATIONAL OFFICES</b>	<b>STATE OFFICES</b>
<b>FOR UNITED STATES REPRESENTATIVE 2ND DISTRICT</b> Vote for One	<b>FOR UNITED STATES REPRESENTATIVE 2ND DISTRICT</b> Vote for One	<b>FOR ATTORNEY GENERAL</b> Vote for One
<input type="radio"/> John Carlin Topeka	<input type="radio"/> Bob Bennie Manhattan <input type="radio"/> Sam Brownback Topeka <input type="radio"/> Joe Hume Topeka	<input type="radio"/> Marvin Wm. Barkis Louisburg <input type="radio"/> Richard Schodorf Wichita <input type="radio"/> Jerry Shelor Topeka
<b>STATE OFFICES</b>	<b>STATE OFFICES</b>	<b>FOR STATE TREASURER</b> Vote for One
<b>FOR GOVERNOR AND LIEUTENANT GOVERNOR</b> Vote for One Pair	<b>FOR GOVERNOR AND LIEUTENANT GOVERNOR</b> Vote for One Pair	<input type="radio"/> Sally Thompson Topeka
<input type="radio"/> James L. Francisco Mulvane Bill Wisdom Kansas City  <input type="radio"/> Leslie Kitchenmaster Lost Springs Diana Dierks Lost Springs  <input type="radio"/> Fred Phelps Topeka Velma Randall Olathe  <input type="radio"/> Jim Slattery Topeka Carol H. Sader Prairie Village  <input type="radio"/> Joan Wagnon Topeka Doug Walker Osawatomic	<input type="radio"/> Rich Becker Lenexa Dick Oswalt Hutchinson  <input type="radio"/> Gene Bicknell Pittsburg Barbara Lawrence Wichita  <input type="radio"/> Bill Graves Salina Sheila Frahm Colby  <input type="radio"/> Fred Kerr Pratt Connie Hubbell Topeka  <input type="radio"/> Kirt R. Poovey Hutchinson Ruth B. Poovey Hutchinson  <input type="radio"/> Owen Sully Osawatomic Chuck Hale Topeka	<b>FOR COMMISSIONER OF INSURANCE</b> Vote for One
<b>FOR SECRETARY OF STATE</b> Vote for One		<input type="radio"/> Phyllis Hageman Lopez Topeka <input type="radio"/> Kathleen Sebelius Topeka
<input type="radio"/> Paula Jasso-Wedel Topeka <input type="radio"/> Fran Lee Topeka		<b>FOR STATE REPRESENTATIVE 53RD DISTRICT</b> Vote for One
		<input type="radio"/> Dixie E. Toelkes Topeka
		<b>COUNTY OFFICES</b>
		<b>FOR COUNTY COMMISSIONER DISTRICT 1</b> Vote for One
		<input type="radio"/> Vince Cook Topeka

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August 2, 1994

**NOTICE**

If you tear, deface or make a mistake and wrongfully mark any ballot, you must return it to the election board and receive a new ballot or set of ballots.

TO VOTE, DARKEN THE OVAL TO THE LEFT OF YOUR CHOICE, LIKE THIS:

<b>REPUBLICAN PARTY</b>	<b>DEMOCRATIC PARTY</b>	<b>REPUBLICAN PARTY</b>
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**STATE OFFICES**

**FOR SECRETARY OF STATE**

Vote for One

Macie Houston  
Topeka

Lana Oleen  
Manhattan

Ron Thornburgh  
Topeka

**TOWNSHIP OFFICES**

**FOR SOLDIER CLERK**

Vote for One

Kenneth L. Cole  
Topeka

**TOWNSHIP OFFICES**

**FOR SOLDIER CLERK**

Vote for One

\_\_\_\_\_

**FOR ATTORNEY GENERAL**

Vote for One

Mike Harris  
Wichita

Carla J. Stovall  
Topeka

Wint Winter, Jr.  
Lawrence

**QUESTIONS SUBMITTED**

To vote in favor of any question submitted upon this ballot, darken the oval to the left of the word "YES"; to vote against it, darken the oval to the left of the word "NO".

**FOR STATE TREASURER**

Vote for One

Randy Duncan  
Salina

**SHAWNEE COUNTY QUESTION NUMBER 1**

SHALL THE FOLLOWING BE ADOPTED?  
Shall Shawnee County, Kansas, issue and sell its General Obligation Bonds in a principal amount not exceeding \$7,000,000 to pay the cost of construction, improving, reconstructing, and equipping certain additions to the Shawnee County Jail together with all things necessary and incidental thereto, under the authority of K.S.A. 19-14,114 *et seq.*, and Article 1, Chapter 10, of the Kansas Statutes Annotated, all as amended?

YES  
 NO

**FOR COMMISSIONER OF INSURANCE**

Vote for One

Walker A. Hendrix  
Ottawa

Dan A. Martinez  
Wichita

Doug Norman  
Topeka

Ronald L. (Ron) Todd  
Lawrence

**SHAWNEE COUNTY QUESTION NUMBER 2**

SHALL THE FOLLOWING BE ADOPTED?  
Shall Shawnee County, Kansas, issue and sell its General Obligation Bonds in a principal amount not exceeding \$8,000,000 to pay the cost of constructing, improving, reconstructing, and equipping a Shawnee County Youth Detention Facility together with all things necessary and incidental thereto, under the authority of K.S.A. 19-154,114 *et seq.*, and Article 1, Chapter 10, of the Kansas Statutes Annotated, all as amended?

YES  
 NO

**FOR STATE REPRESENTATIVE 53RD DISTRICT**

Vote for One

Beck I. Hutch  
Berryton

**UNIFIED SCHOOL DISTRICT NO. 345**

SHALL THE FOLLOWING BE ADOPTED?  
Shall Unified School District No. 345, Shawnee County, Kansas (the "District"), sell and issue its General Obligation Bonds in an amount not to exceed \$16,900,000.00 for the purpose of providing funds to pay the costs to construct, equip, furnish, repair, remodel and make additions to buildings and sites used for District purposes, together with all other things necessary and incidental thereto, at a total estimated cost of \$16,900,000.00; all under the authority of K.S.A. 72-6761 and Article 1 of Chapter 10 of the Kansas Statutes Annotated?

YES  
 NO

**COUNTY OFFICES**

**FOR COUNTY COMMISSIONER DISTRICT 1**

Vote for One

Winifred "Winnie" Kingman  
Topeka

2-3