

HOUSE BILL No. 2683

AN ACT concerning elections; pertaining to vacancy in the office of United States representative; pertaining to vacancy in the position of United States senator; pertaining to the presidential primary; amending K.S.A. 25-101b, 25-318, 25-3501, 25-4502 and 25-4503 and K.S.A. 2007 Supp. 25-4501 and repealing the existing sections.

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

Section 1. K.S.A. 25-3501 is hereby amended to read as follows: 25-3501. (a) *Except as provided in subsection (b)*, whenever any vacancy shall occur in the office of United States representative to congress from any congressional district of this state, leaving an unexpired term, an election shall be held as provided by article 1, section 2, clause 4 of the United States constitution and in accordance with this act. Not later than five ~~(5)~~ days after any such vacancy occurs, the governor shall proclaim the date of such election in accordance with the provisions of this act.

(b) (1) *Whenever the vacancy in the office of United States representative to congress occurs as a result of extraordinary circumstances, an election shall be held in accordance with the provisions of subsection (b) of 2 U.S.C. 8.*

(2) *For the purposes of this section, "extraordinary circumstances" occur when the speaker of the United States house of representatives announces that vacancies in the representation from the states in the United States exceed 100.*

New Sec. 2. Whenever any vacancy shall occur in the office of United States senator from this state, leaving an unexpired term, an election shall be held in accordance with this act. Not later than five days after any such vacancy occurs, the governor shall proclaim the date of such election in accordance with the provisions of this act.

New Sec. 3. Except as is otherwise provided in this act, the governor shall proclaim the date of any election held under this act to be a day not less than 45 days nor more than 60 days after such proclamation is issued. Such proclamation shall be made in writing, signed by the governor and delivered to the secretary of state. Thereupon the secretary of state shall promptly cause such proclamation to be published in the Kansas register, and a copy thereof shall be transmitted by the secretary to the chairperson of all state political parties authorized to hold statewide conventions under the provisions of section 4 and amendments thereto.

New Sec. 4. (a) In the event that any vacancy occurs to which this act applies, and such occurrence is not more than 90 days and not less than 30 days before any primary election of state officers, the election provided for in this act shall be held on the same date as the primary election of state officers.

(b) In the event that any vacancy occurs to which this act applies, and such occurrence is not more than 90 days and not less than 30 days before any regular primary or general election of city and school officers occurring in an odd-numbered year, the election provided for in this act shall be held within such 90 days and on the same date as such primary or general election.

New Sec. 5. Whenever a vacancy has occurred in the office of United States senator and is to be filled, a statewide convention of each political party whose candidate for governor received not less than 5% of the votes cast at the next preceding election of the governor shall be called by the state chairperson of the party, or if there is no state chairperson, by the party's candidate for governor at the next preceding general election. Such convention shall be called for a date not less than 25 days after the proclamation of election is issued by the governor in the cases to which section 3, and amendments thereto, does not apply, and within 15 days in cases to which subsection (a) or (b) of section 3, and amendments thereto, apply. In accordance with the rules of the statewide party and the provisions of this act, each such statewide convention shall nominate a candidate to fill the vacancy which has occurred and shall file a certificate of the nomination so made with the secretary of state immediately. Every such certificate shall be signed by the presiding officer and secretary of the convention making such nomination. Independent candidates may be nominated by petition of registered voters of the state equal in number to 4% of the number of qualified voters of the state or 5,000 whichever is less. Any such petition shall be filed with the secretary of state not later than the time for state party convention certificates to be

filed. No candidate shall be nominated to fill such vacancy by any means other than provided by this section.

New Sec. 6. The secretary of state shall furnish to each county election officer, the form for the ballot to be used at the election. The ballot shall contain the names of the candidates and their political parties or designations, and these shall appear upon the ballot in substantially the same form as is provided by K.S.A. 25-616, and amendments thereto, and the provisions of such statute shall apply to ballots used at such election to the extent that the same are consistent with the provisions of this act. The ballot shall indicate that the vote is for the unexpired term.

New Sec. 7. Elections held under the provisions of this act shall be conducted by county election officers. Laws relating to registration of voters shall apply to such election.

New Sec. 8. In all other cases to which this act applies, intermediate canvass of the election shall be made by the county boards of canvassers at 10 a.m. on the second day following the election, unless such day is a Sunday or holiday, in which case such canvass shall be on the next following day which is not a Sunday or holiday. County election officers shall dispatch the abstract of the intermediate canvass to the secretary of state immediately upon completion of the canvass by the board of county canvassers. The state board of canvassers shall meet in the office of the secretary of state on the fourth day following the election, unless such day is a Sunday or holiday, in which case such canvass shall be on the next following day which is not a Sunday or holiday. The state board of canvassers shall make the final canvass, and the certificate of election of the candidate receiving the highest number of votes shall be issued in the same manner as is provided for regular elections of national officers.

New Sec. 9. Election laws of the state not inconsistent with the provisions of this act shall apply to elections held under this act.

New Sec. 10. Sections 2 through 10, and amendments thereto, shall be known and may be cited as the vacancy in the United States senate act for Kansas.

Sec. 11. K.S.A. 25-318 is hereby amended to read as follows: 25-318. When a vacancy shall occur in the office of United States senator from this state, ~~the governor shall make a temporary appointment to fill such vacancy until the next election of representatives in congress, at which time such vacancy shall be filled by election, and the senator so elected shall take office as soon thereafter as he shall receive his certificate of election there shall be an election to fill such vacancy. The election shall be held in accordance with the vacancy in the United States senate act for Kansas.~~

Sec. 12. From and after January 1, 2010, K.S.A. 2007 Supp. 25-4501 is hereby amended to read as follows: 25-4501. (a) Subject to the provisions of this section, there shall be held a presidential preference primary election in the year 2012, *on the first Saturday in February*, and every fourth year thereafter.

~~(b) On or before November 1, 2011, and on or before November 1 every fourth year thereafter, the secretary of state shall certify to the governor, to the chief clerk of the house of representatives and to the secretary of the senate a common date in the next succeeding year on which at least five other states will hold a presidential preference primary election, a delegate or mass convention or a caucus of qualified voters at which delegates to a national convention are selected. On or before each such date, if the secretary of state determines that there is no common date on which at least five states are conducting such a selection process in the next succeeding year, the secretary of state shall certify to the governor, the chief clerk of the house of representatives and the secretary of the senate on a date, which shall be on or before the first Tuesday in April of the next following year, on which the presidential preference primary election shall be held.~~

~~(c) The date certified by the secretary of state pursuant to subsection (b) shall be the date on which the presidential preference primary election authorized by subsection (a) shall be held in the state of Kansas.~~

Sec. 13. From and after January 1, 2010, K.S.A. 25-4502 is hereby amended to read as follows: 25-4502. (a) Every registered elector who has declared such elector's party affiliation with a political party eligible

to participate in a state primary election shall have the opportunity to vote one vote at a presidential preference primary election for such elector's preference for one person to be the candidate for nomination by such candidate's party for president of the United States or for "none of the names shown." Any registered elector who has not declared such candidate's party affiliation prior to the election may make such a declaration at the polling place, and thereupon shall be permitted likewise the opportunity to vote one vote at the presidential preference primary. A vote for "none of the names shown" shall express the preference for an uncommitted delegation from Kansas to the national convention of that elector's party. Preference shall be indicated by marking with a cross or check mark inside a voting square on the ballot at the left of the voter's choice, or by voting by using a voting machine.

(b) The name of any candidate for a political party nomination for president of the United States shall be printed on the ballots only if, not later than twelve o'clock noon, ~~February 12 prior to~~ *on the date which precedes by seven weeks the date of the presidential preference primary* or, if such date falls on Saturday, Sunday or a holiday, not later than twelve o'clock noon the following day that is not a Saturday, Sunday or holiday:

(1) The candidate files with the secretary of state a declaration of intent to become a candidate accompanied by a fee of \$100; or

(2) there is filed in the office of secretary of state a petition in the form prescribed by K.S.A. 25-205, and amendments thereto, signed by not less than 1,000 registered electors, who are affiliated with the political party of such candidate as shown by the party affiliation list. The secretary of state shall determine the sufficiency of each such petition, and such determination shall be final.

Sec. 14. From and after January 1, 2010, K.S.A. 25-4503 is hereby amended to read as follows: 25-4503. (a) The names of the candidates for nomination for president of the United States by a political party eligible to participate in a state primary election shall be printed on the official ballots for the presidential preference primary elections of their respective parties along with the choice of "none of the names shown." The ballots shall be marked, returned and canvassed in the same manner and under the same conditions, so far as the same are applicable, as in the case of the primary election of candidates for nomination for state offices.

(b) The official presidential preference primary election ballots shall be printed in a single column and shall have the following heading:

**OFFICIAL PRESIDENTIAL PREFERENCE PRIMARY  
ELECTION BALLOT**

\_\_\_\_\_Party

To vote for a person whose name is printed on the ballot make a cross or check mark in the square to the left of the name of the person for whom you desire to vote. To vote for "none of the names shown" make a cross or check mark in the square to the left of such words.

This shall be followed by the names of the candidates for president of the United States of such party in the manner and order certified by the secretary of state.

~~(c) As soon as possible after February 12, secretary of state shall certify to each county election officer the name of each person who is a candidate for nomination to be president of the United States of each party authorized to participate in the presidential preference primary election. The secretary of state shall publish, not less than 21 days prior to the presidential preference primary, a notice in one newspaper in each county of the state where a newspaper is published, that the official list of candidates and the date of the election can be acquired in the office of the secretary of state or the office of the county election officer.~~

~~(d) When a party participating in the presidential preference primary election has more than one candidate, the secretary of state shall determine by lot the order in which the candidates' names will appear on the ballot. The order of names, as established by the secretary of state, shall be uniform in each county throughout the state.~~

Sec. 15. K.S.A. 25-101b, 25-318 and 25-3501 are hereby repealed.

Sec. 16. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

\_\_\_\_\_

HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*