

STATE OF KANSAS

**OLETHA FAUST-GOUDEAU**

SENATOR, 29TH DISTRICT  
PO BOX 20335  
WICHITA, KANSAS 67208  
316-652-9067

Office: STATE CAPITOL BUILDING—135-E  
TOPEKA, KANSAS 66612  
(785) 296-7387  
HOTLINE 1-800-432-3924  
email: Oletha.Faust-Goudeau@senate.ks.gov  
Oletha29th@aol.com



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

RANKING MEMBER: FEDERAL AND STATE AFFAIRS  
ETHICS, ELECTIONS &  
LOCAL GOVERNMENT  
MEMBER: COMMERCE  
JOINT COMMITTEES  
MEMBER: RULES AND REGULATIONS  
FOR STATE AGENCIES  
CORRECTIONS AND JUVENILE  
JUSTICE OVERSIGHT

January 18, 2018

Testimony in Support of SB264

**Senate Ethics and Elections Committee**

**Honorable Chair – Senator Elaine Bowers**

**Vice Chair – Senator Steve Fitzgerald**

**Ranking Minority – Senator Oletha Faust-Goudeau**

**Honorable Committee Members**

Good morning Madam Chair and other esteemed members of the Committee.

Thank you for the opportunity to speak in support of Senate Bill number 264. After the November 7th election in Wichita for the city council and school board members, a number of disabled Kansas voters in conjunction with the Cerebral Palsy Foundation and The Timbers have brought to my attention a series of obstacles within existing voting laws, that inhibit the ability of our disabled citizens to cast their ballots. These complications were illustrated in a Wichita Eagle article published on November 13, 2017. In this article, Rocky Nichols, the executive director of the Kansas Disability Rights Center, said “it defies common sense to require a person who is physically incapable of filling out a ballot to try to sign it.” These statements and more, compelled me to advocate for changes to ensure that all people of Kansas can participate in our democratic institution without the presence of unreasonable handicaps.

Finally, Madam Chair, I understand there are ways to tackle this issue through the Secretary of State’s office. However, it is my belief that voting is vital to the fabric of our institution and that it is the duty of the legislature to fix and improve this fundamental component to the continuation of democracy. With that said, I strongly urge my fellow legislators to support Senate Bill 264.

Thank you for your time and consideration.

Senator Oletha Faust-Goudeau

# Signature requirement disqualifies disabled, elderly voters

By Dion Lefler [dlefler@wichitaeagle.com](mailto:dlefler@wichitaeagle.com)  
10-12 minutes

November 13, 2017 06:33 PM

Updated November 13, 2017 06:56 PM

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The ballots of 23 Sedgwick County voters were tossed out Monday under a state law that requires disabled voters to sign their own mail-in ballot envelopes.

County commissioners, acting as the canvassing board for last week's election, reluctantly signed off on the decision to toss out the ballots. They said they think the law is wrong, but they had no choice.

"We're checking that for the next election, because it's a stupid rule," said commission Chairman Dave Unruh.

Rocky Nichols, executive director of the Kansas Disability Rights Center, said it defies common sense to require a person who is physically incapable of filling out a ballot to try to sign it.

"Some people with disabilities can't use their arms," he said. "It sounds like nobody's disputing that these ballots were filled out (properly). It's just technicality. ... It doesn't seem right and it's not right."

The issue revolves around two affidavits that appear on the outside of voters' mail ballot envelopes.

For the ballot to be counted, the voter is required to sign a statement on the envelope that he or she personally marked, enclosed and sealed the ballot.

But that instruction appears to conflict with the other affidavit on the envelope, where an assistant can sign to attest that he or she marked a ballot as instructed by the disabled voter.

County Counselor Eric Yost said he doesn't see any way the voter can comply with the signature requirement without lying under oath.

"It's worse than confusing," Yost said. "It's impossible to do it right. It makes me mad."

Yost said he tried to contact the legal department at the secretary of state's office to discuss the apparent contradictions, but didn't get a return call on Monday.

The state law that mandates the signed envelope has been on the books since at least the 1990s, said Bryan Caskey, elections director in the secretary of state's office.

The relevant section reads: "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," Caskey said.

"The county election office doesn't have any discretion," Caskey said. "Any ballot that doesn't have a signature must be challenged."

Caskey was noncommittal on whether the commissioners have discretion to count the votes when they do the canvass for the election.

"I'm not going to say they can override a state law," Caskey said. "I'm saying their job is to certify the election and they can act on the advice of their legal counsel, which is not the secretary of state."

Voters with disabilities can vote at a polling place without physically signing their signature, Caskey said.

But to even get a mail ballot, a disabled person must have signed at some point to request it, he said.

He did acknowledge that many people who are disabled, elderly or bedfast are on a permanent list to receive mail ballots without having to request them each election.

Nichols said the state law requiring a disabled person to sign a ballot envelope could conflict with federal law.

"The Americans With Disabilities Act says you're supposed to make reasonable accommodations for a person with a disability, for any public program, and voting is included in that," he said.

Commissioners appeared to agree that the county should take a leading role in trying to get the law changed for future elections.

Commissioner Jim Howell, a former state lawmaker, called it a Catch 22 in the state law that he wasn't aware until it came up this election.

"I know our intent (as legislators) was not to disenfranchise people with disabilities," he said.