

MINUTES OF THE Senate COMMITTEE ON Elections

The meeting was called to order by Senator Ronald R. Hein at  
Chairperson

1:30 ~~xxx~~ a.m./p.m. on March 13, 1984 in room 522-S of the Capitol.

All members were present except:

Senator Reilly

Committee staff present:

Myrta Anderson, Legislative Research Department  
Arden Ensley, Revisor of Statutes' Office  
Sharon Green, Committee Secretary

Conferees appearing before the committee:

Representative Bob Frey  
Mr. Brad Smoot, Attorney General's Office  
Mr. Eric Rucker, Secretary of State's Office

The Chairman called the meeting to order.

Representative Bob Frey testified in support of HB 3068, stating that this bill would amend current law to provide that any person having a permanent physical disability or illness can qualify for permanent absentee voter status. He stated that the voter could show a certificate from an M.D. verifying the disability.

Questions were asked and a general discussion was held.

Mr. Brad Smoot testified in support of HB 2580, stating that this bill amends K.S.A. 21-3901, to include candidate for public office. He also stated that there had been an incident in which the Attorney General's Office declined to prosecute, because of uncertainty over the bribery law's application. He stated that this bill was needed to clarify the law. (Attachment 1)

Questions were asked and a general discussion was held.

Mr. Eric Rucker testified on HB 3068, stating that the Secretary of State's Office has no position on this bill, but he wanted to assure that the local election commissioners had a way to verify residences.

Motion was made by Senator Meyers to amend HB 2700 by making the publication of notices conform with current general bond law; by deleting the comma in line 39; and by cleaning up the language in line 36. Senator Norvell seconded the motion. The motion was adopted.

Motion was made by Senator Norvell and seconded by Senator Meyers to report HB 2700 favorably as amended. The motion was adopted.

Motion was made by Senator Johnston and seconded by Senator Talkington to amend HB 2716 by including: K.S.A. 25-433(g) The names of voters whose mail ballot envelopes are returned to the county election officer as "undeliverable" shall be subject to removal from the voter registration book and party affiliation list in the manner provided in K.S.A. 25-2316c (d). The motion was adopted.

Motion was made by Senator Johnston and seconded by Senator Gannon to report HB 2716 favorably as amended. The motion was adopted.

Motion was made by Senator Roitz and seconded by Senator Norvell to report HB 2774 favorably. The motion was adopted.

Motion was made by Senator Talkington and seconded by Senator Norvell to report HB 3068 favorably. The motion was adopted.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Elections,  
room 522-S, Statehouse, at 1:30 ~~xxx~~ p.m. on March 13, 1984.

Motion was made by Senator Talkington and seconded by Senator Hayden to report HB 2580 favorably. The motion was adopted.

Motion was made by Senator Norvell and seconded by Senator Talkington to adopt the minutes of February 27 and February 28. The motion was adopted.

The Chairman adjourned the meeting.

ATTACHMENT 1



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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FOR IMMEDIATE RELEASE  
THURSDAY, APRIL 14, 1983

Contact: Neil A. Woerman  
Special Assistant

Attorney General Robert T. Stephan and Sedgwick County District Attorney Clark Owens said today they have completed their investigation and research into offers of campaign contributions to local candidates in exchange for official action.

Stephan and Owens said offers of the "conditional campaign contributions" are against public policy and would be unenforceable. They said the offers to incumbent officeholders also could be considered illegal bribes. They declined to prosecute, however, because of uncertainty over the bribery law's application.

Home Owners Trust, a Wichita antitax group, had offered campaign contributions -- in some cases \$250 -- to Wichita city commission and school board candidates in exchange for candidates signing contracts to approve budgets in the next year at least one percent lower than the preceding year. Otherwise, contracts called for return of the contributions.

The offers were made to incumbents seeking reelection, as well as candidates first seeking election. The offers were

*ALB. 1*

accepted by one candidate only, who was not an incumbent. She later returned the contribution.

Stephan and Owens said:

"We believe this type of conduct is wrong. We cannot tolerate the buying and selling of candidates for office.

"Kansas governmental ethics laws clearly make it a crime to offer this kind of 'conditional campaign contribution' to candidates for state office. It would be a crime for any public officer or employee to accept such a 'bribe.' There appears to be a gap in the law, however, in regard to local candidates.

"We don't believe we can prosecute HOT for offering its 'conditional contribution' to the Wichita city commission or school board candidates who were not incumbents. Nor do we believe we could prosecute the candidate who was not an incumbent who accepted and then returned the contribution.

"It could be possible to attempt prosecution of HOT under the state's general bribery statute for its offer to incumbent candidates. That statute provides that bribery, a class D felony, is:

Offering, giving or promising to give, directly or indirectly, to any public officer or public employee any benefit, reward or consideration to which he is not legally entitled with intent thereby to influence such officer or employee with respect to the performance of his powers or duties as such officer or employee...K.S.A. 21-3901(a)

"It is not clear, however, whether this criminal statute would be found applicable, because it was necessary for these incumbents to be reelected before they could take the required action. Criminal statutes are strictly construed against the

state, so in this situation we have decided not to prosecute HOT.

"We warn HOT and anyone else not to attempt such 'bribery' of candidates again, because a different factual situation could lead to a different conclusion. We would not have hesitated to prosecute under the bribery statute, for instance, if the incumbents could have taken the requested action immediately without the intervening need to be reelected.

"We have also discussed with Kansas House Federal and State Affairs Committee Chairman Neal Whitaker the introduction of legislation to make bribery of any candidate clearly a crime. We urge the legislature to take prompt action to plug this loophole."

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4/14/83/12

## ~~HOT~~ 'Deal' Was Out of Line

WEB 4-1-83

Home Owners Trust leaders attempt to buy the loyalty of some Wichita City Commission and school board candidates with contributions contingent on signed vote-our-way-or-give-back-the-money pledges is reprehensible. It's to the candidates' credit that all but one flatly refused to deal. Commission candidate Cheri Preston said it never occurred to her such an arrangement might be illegal.

Whether the ploy is indeed illegal under Kansas bribery laws is under investigation. But it certainly is in bad taste, destructive of HOT's image as an advocate of good government, and shortsighted. Many a sincere cham-

plion of lower taxes as a candidate — one is named Ronald Reagan — sometimes finds it necessary to adjust, however unwillingly, to hard budgetary realities as an elected public servant.

Critical and constructive examination of governmental operations is important, of course, and HOT's role in this regard many times has been helpful. But it has done its cause no good with this unabashed demand for IOUs from candidates who accept its support. Government economy cannot be bought in this manner.