

Approved 3-13-89 Date _____

MINUTES OF THE Senate COMMITTEE ON Elections

The meeting was called to order by Senator Don Sallee at _____
Chairperson

1:30 ~~XX~~/p.m. on March 6, 1989, 19__ in room 529-S of the Capitol.

All members were present except:

Senator Michael Johnston
Senator Eric Yost

Committee staff present:

Myrta Anderson, Research Department
Fred Carman, Revisor of Statutes' Office
Elizabeth Handke, Committee Secretary

Conferees appearing before the committee:

Eric Rucker, Chairman Shawnee County Commissioners
Myrna Floray, President of School Board USD 469
Dr. Alan Snell, School Board Member USD 469
David Self, Assistant Superintendent USD 469
Don Simmons, Superintendent USD 449
Bill Curtis, Kansas Association of School Boards
Steve McClure, USD 464
David Reece, USD 458
Larry Scheller, Leavenworth County Clerk

Others attending: see attached list (attachment 1)

The meeting was called to order by Chairman Sallee at 12:38 P.M.

Eric Rucker, Chairman of Shawnee County Commissioners, appeared before the Senators as a proponent of S.B. 260. He stated that the bill requires first class mayoral candidates and candidates for county office to file under certain circumstances. He also said a question had been raised as to how many first class cities there were in Kansas. There are 24 first class cities and five of those cities are in one county - Johnson - so 19 counties are left that would be affected by the bill. Senator Sallee stated he felt it was the feeling of the committee that they needed to look at the bill a little longer and perhaps no longer than when the House Bill comes to the committee.

Myrna Floray, President of School Board USD 469, appeared before the committee as a proponent of S.B. 308 (attachment 2). She told the committee the school board must bear the cost of a bond election. We are willing to pay the increased cost for a mail ballot. We believe that voter participation would be increased; statistics indicate that has been the case in other districts in Kansas where mail ballots have been allowed.

Dr. Alan Snell, School Board Member, USD 469, appeared before the committee as a proponent of S.B. 308 (attachment 3). He told the committee the intent of the law was to allow a high voter turnout. If the higher turnout will help the districts in Leavenworth and other counties to continue to provide the best education possible, we must fight for the passage of this bill. I do not feel we should have even an outside chance that one man can circumvent the intent of the legislatures and the desires of the local district simply because he doesn't like the mail-in ballot. Senator Martin asked if any court action has been taken to force a mail ballot and Dr. Snell replied no.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Elections
room 529-S, Statehouse, at 1:30 ~~a.m.~~^{XX}/p.m. on March 6, 1989, 19

David Self, Assistant Superintendent USD 469 presented testimony for Dr. Mike Slusher, Superintendent of Leavenworth, USD 453, in support of S.B. 308 (attachment 4). The testimony said the basis for their support of S.B. 308 is:

1. We have been denied the right to conduct a mail ballot election.

2. We feel democracy is best served when large numbers of voter participate in elections.

3. The Board feels that as elected officials, answerable to the voters, they will be as prudent as the County Attorney in the use of their authority to conduct mail ballot elections.

4. Since the Board of Education is responsible for all expenses of conduction special elections, they should have the right to determine the method of election.

5. We feel that mail ballot elections will make voting possible for some persons who find it physically difficult to get to the polls because of age, handicap, transportation, weather conditions, or frequent out-of-town travel. Senator Kerr asked that if this is not a problem in other counties why this couldn't be worked out. Mr. Self replied he wasn't sure they were the only county that has has this problem and he thought the board of education made a fine presentation to the county clerk to ask for consideration to work this out and received none.

Don Simmons, Superintendent USD 449 also appeared in support of S.B. 308 (attachment 5). He stated that currently the local county election officer determines whether elections by mail can be conducted. To date, the Leavenworth County Election Officer has denied all such requests. I believe that it is not in the best interest of the State or voter to have one person responsible for making this decision.

Bill Curtis, Kansas Association of School Boards appeared before the committee in support of S.B. 308 (attachment 6). His testimony stated it seems to us that the critical issue in this bill is the arbitrary denial of school districts access to a method of election approved by the Kansas Legislature. All school districts ought to have an opportunity to hold mail ballot elections. Admittedly, most county election officers have been cooperative with school districts.

Steve McClure, USD 464, appeared before the committee as a proponent of S.B. 308. He stated that if the school board is willing to pay for the expense of a mail ballot they should be able to. Senator Reilly asked if there is a restriction in the frequency of the number of mail ballot. Larry Scheller, Leavenworth County Clerk, replied there is a restriction to the number of mail ballot elections that can be held.

David Reece, USD 458, appeared and stated he supports the concept of S.B. 308.

Larry Scheller, Leavenworth County Clerk appeared before the committee as an opponent of S.B. 308. He stated that he had two more reasons for not letting Leavenworth have a mail ballot election. Voter influence can be a factor in mail in elections and he seriously doubts about the quality of a mail in elections versus quantity. He also stated that if the Senator's amend the bill to let school boards have mail ballot elections then everyone should be included such as cities and townships. Senator Lee asked Mr. Scheller what gave him the right as an individual to deny the election and Mr. Scheller replied the county election officer had the final authority as to whether to hold one or not. Mr. Scheller gave the Senators a copy of an editorial from the Prairie Press (attachment 7) which stated why not mail all ballots.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Elections
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Ron Thornburgh, Secretary of State's office was unable to be at the meeting but written testimony was given to the Senator's. The testimony was in opposition to S.B. 308 and stated a school district does not know the time constraints of an election, and they do not know the condition of the county's voter registration records. In addition, nothing in current law prevents the school district from conducting an election, it only gives the County Election Officer the option to deny an election by mail. Attachment 8

Senator Bond moved to approve the minutes of February 27 and 28. Senator Reilly seconded the motion. The motion carried.

The meeting was adjourned at 1:14 P.M.

March 6, 1989

Senator Sallee and Committee Members

Thank you for the opportunity to come and speak to you about the issue before us today. It is an issue which we feel very strongly about.

I am the president of the school board for Lansing, Kansas, USD # 469. Our district is growing each year. For the past several years our schools have increased in population, the last two years by approximately 100 students each year. In 1986 the school board held a bond election to build a new high school, which passed with approximately thirty percent of the registered voters participating. Our superintendent at the time of that bond election had asked the County Clerk, Mr. Larry Scheller, for permission to hold a mail ballot and was turned down without any reasons given to the board. Fortunately we were successful and now have a beautiful new high school facility.

Lansing finds itself again having to put a bond issue before the voters, this time for an upper elementary school plus additions to existing facilities. On January 9 of this year, our school board asked Mr. Scheller to come to our regular board meeting so that we could personally request a mail ballot for the bond election we are planning for this spring. Mr. Scheller gave us several reasons why he again intended to refuse our request. The one I would like to address specifically is his opinion that "...if the voting public wants the item or

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Attachment 2

question to pass, it will do so regardless of how the election is held." I quote from his letter to the Leavenworth Board of Education dated January 12, 1988, in which he also denied their request to use a mail ballot.

Mr. Scheller's other reasons for refusing the request included, in his opinion, the increased possibility for voter fraud, the problem of comparing signatures, and the possibility of undue influence being placed on voters where there is more than one registered voter in the household.

Our board and the other boards of education in Leavenworth County disagree strongly with Mr. Scheller. We believe that increased voter participation will work to our advantage. Voter turnout for special elections, especially bond elections, is traditionally low; the voters most likely to turn out are those opposed to the issue. The position that "...if the voting public wants the item or question to pass, it will do so regardless of how the election is held," is indefensible. When a small, determined minority votes, the results could indeed be contrary to what the feeling of the majority actually is.

The school board must bear the cost of a bond election. We are willing to pay the increased cost for a mail ballot. We believe that voter participation would be increased; statistics indicate that has been the case in other districts in Kansas where mail ballots have been allowed.

Thank you for allowing me the opportunity to speak to you today. We appreciate your time and urge you to vote for the passage of this bill out of committee and into the hands of the Kansas Legislature for consideration.

Myrna W. Floray
Myrna W. Floray

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Senator Sallee:

Members of the Committee:

I am Dr. Alan H. Snell. I thank you for the opportunity to participate in the discussion of Senate Bill #308. This bill is a particular concern to the residents of Leavenworth County, but could concern any local government in the state if their present or future county clerk or election official were to adopt the position that Mr. Scheller has expressed in Leavenworth County.

He has stated his objections to mail-in elections as follows:

- 1) It is his personal opinion that if the voting public wants the item to pass, it will do so regardless of how the election is held.
- 2) It would be impossible to deny a mail-in election once one had been conducted.
- 3) The problems of comparing signatures with those on file.
- 4) The increased time it would take for the optical scanner to read the folded ballots.
- 5) The increased possibility of fraud.
- 6) Most of the mail ballot elections have been held in counties which have an election commissioner whose only responsibility is to conduct elections.

These arguments are more like excuses than true arguments. It would appear he doesn't want the added work it may cause. The expense of the election is the responsibility of the governmental agency holding the election. This, in reality, takes care of the majority of his objections. The possibility of fraud is present in every election. The legislator has set guidelines and it would be the election officials responsibility to uphold them. What remains is that our elected county clerk doesn't like mail-in elections because, and I quote, "They undermine the quality of an election". This is a position that could be taken in any county. Let me try to explain why it has the Leavenworth County School Boards so upset.

I have been on the Lansing board for 8 years. In this time the Lansing School District has grown 32%. In fact, the growth over the past 3 years has been about 7% per year. Growth rates in other parts of the county are almost as fast.

This puts a strain on facilities of the district, we must do all we can to keep up. This of course means we must build new schools. I was president of the board at our last bond election. We laid the ground work well. We worked hard and we passed it on the first try. Other county districts were not so lucky. The availability of mail-in bond elections have been denied to Lansing, Leavenworth, Easton and Tonganoxie school districts by the county clerk. The past few years

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Attachment 3

several bond issues have been voted on in Leavenworth County. Some failed. With the reappraisal issue still causing fear and uncertainty in many voters minds, we need all of the help we can get to keep up. Several county districts are contemplating bond issues again. We understand that the mail-in ballot is not a guarantee of the passage of an issue, but in special elections, the voter turnout is often low and the ones who do vote are often the ones with an ax to grind. The mail-in ballot has been proven to give a higher voter turnout and thus a better representation of the true feelings of the patrons of the district. Since we need new schools so badly and since a higher voter turnout may help the passage of a bond issue, I feel we must work for this bill.

The intent of the law was to allow a high voter turnout. If the higher turnout will help the districts in Leavenworth and other counties to continue to provide the best education possible, we must fight for the passage of this bill. I do not feel we should have even an outside chance that one man can circumvent the intent of the legislatures and the desires of the local district simply because he doesn't like the mail-in ballot.

Again, I thank you for your consideration of our plight. I also thank the legislator of Leavenworth County for their concern and for sponsoring this bill in both Houses.

Thank you.

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Remarks in Support of S.B. 308
Mail Ballot Election

Presented
By
Dr. Michael Slusher
Superintendent
For
Leavenworth USD 453
Board of Education
Leavenworth, Kansas

Mr. Chairman and Members of the Committee:

My remarks are made on behalf of the Board of Education of USD 453. Our Board members would be here personally to testify in support of S.B. 308, but they are holding a special Board of Education meeting at this very moment.

We support S.B. 308 because our school district has been denied the opportunity to conduct a mail ballot election.

In October, 1987 our school district conducted an election for permission to sell school bonds to finance construction to our high school. Prior to this election our County Clerk indicated he would not grant the Board permission to conduct a mail ballot election. Our October 1987 election was unsuccessful so in January, 1988 the Board formally requested a mail ballot election (see attachment A). Our County Clerk again denied our request (see attachment B). The Board did decide to hold another election, this time to coincide with the Presidential Election in November, to guarantee maximum voter turnout.

In October, 1987, 2,736 persons voted in our election, while in the November election of 1988, 8,661 persons voted. This represents an increase of over 300% in voter turnout from the first election to the second. We feel that democracy is best served when the greatest number of persons participate in the election process. We were fortunate that we could "piggyback" on a Presidential Election to get a large voter turnout. Mail ballot elections have resulted in a much larger voter turnout in almost all cases we are aware of. Therefore, our Board of Education feels very strongly that the law should be changed to give Boards of Education the authority to determine if a mail ballot election should be conducted. The basis for our support of S.B. 308 is:

1. We have been denied the right to conduct a mail ballot election.
2. We feel democracy is best served when large numbers of voters participate in elections.
3. The Board feels that as elected officials, answerable to the voters, they will be as prudent as the County Attorney in the use

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Attachment 4

of their authority to conduct mail ballot elections.

4. Since the Board of Education is responsible for all expenses of conducting special elections, they should have the right to determine the method of election.
5. We feel that mail ballot elections will make voting possible for some persons who may find it physically difficult to get to the polls because of age, handicap, transportation, weather conditions, or frequent out-of-town travel.

In conclusion, we do not believe that mail ballot elections are a panacea in terms of always resulting in approval of bond referendums. We do feel, however, that they are an option that most parts of this state have been able to exercise, but the Leavenworth Public Schools have not because of the current law which allows the County Clerk absolute authority in this matter.

Thank you

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U.S.D. LEAVENWORTH PUBLIC SCHOOLS

453

ADMINISTRATIVE OFFICE, UNIFIED SCHOOL DISTRICT 453

4TH & SENECA, LEAVENWORTH, KANSAS 66048, (913) 682-5932

Attachment A

January 7, 1988

Mr. Larry Scheller
County Clerk
Leavenworth County Courthouse
Leavenworth, Kansas 66048

Dear Larry:


This letter will serve as a follow-up to our conversation today concerning a mail ballot election by Leavenworth USD 453.

The Board of Education of USD 453 is requesting that you conduct such an election for them, probably late this spring. Since our last conversations the district has retained the services of a financial consultant from the Wichita area, who is experienced with mail ballot referendums. He has indicated to us that as part of his services to the district he would work with you and file the necessary papers and plan with the Secretary of State's office for a mail ballot election.

I appreciate your position on this issue and understand your reasons for denying our request previously. However, the board is still interested in conducting a mail ballot election and is therefore requesting that you reconsider your earlier position. If your position is unchanged the board would appreciate your response in writing outlining your reasons for denial.

I appreciate your cooperation and assistance in previous elections and would look forward to working with you on a mail ballot election.

Sincerely,


Michael Slusher
Superintendent of Schools

cc: Board of Education ✓
Alan Schuler

MS/bsm



Excellence through Education

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3-6-89
4-2

COUNTY OF LEAVENWORTH

COURTHOUSE
4TH & WALNUT
LEAVENWORTH, KANSAS 66048
AREA CODE 913-682-~~2270~~ 7611

LARRY E. SCHELLER
County Clerk



Attachment B

January 12, 1988

Mr. Michael Slusher
Superintendent, U.S.D. 453
Administrative Office, 4th & Seneca
Leavenworth, Kansas 66048

Dear Mr. Slusher:

In response to your letter dated January 7, 1988, my position has not changed in regards to a mail ballot election and I shall outline my reasons for such denial.

Many County Election Officers through the State of Kansas have taken the same stance on this subject as I have, although I am probably one of the few who has actually said "NO". Many County Clerk's have not been asked yet.

There are a number of reasons why I feel this way:

1. It has always been my personal opinion if the voting public wants the item or question to pass, it will do so regardless of how the election is held.
2. It was my decision from the very beginning not to hold mail ballot elections because once you have held one, you can never say "no" again. I have also visited with many election officers who have stated to me that they wish they had never held one to begin with. They commented, "This was the worst experience I have ever been through."
3. In holding a mail ballot election, once all ballots are returned to the County Election Office, signatures on the ballots must be compared to signatures of voters that we have on file in our office. First of all, Leavenworth County has probably 25% of their voter registration records on file without signatures. Secondly, I don't feel I need to subject myself or my staff to being hand-writing experts, making decisions as to whose signature is valid and whose is not.

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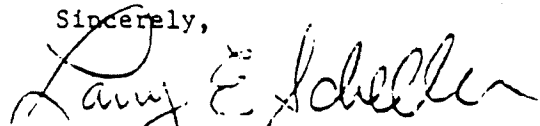
4. In 1985, Leavenworth County purchased the Optical Scanner Vote Counting Machine. This purchase was long overdue and has saved us money in hiring election workers to count ballots. The Optical Scanner is capable of counting 6,000 ballots per hour and allows myself and staff to go home on election night instead of 6:00 a.m. or later the following day. The scanner is able to read folded ballots, such as absentee, however, flat ballots run through the scanner three or four times faster. In mail ballot elections, every ballot would be folded. This would, more or less, defeat the purpose which the scanner was originally purchased for, that being to speed-up the election process.

5. The majority of the mail ballot elections that have been held in Kansas were held in the four largest counties, namely - Wyandotte, Shawnee, Johnson, and Sedgwick. These four counties each have a Election Commissioner who is appointed by the Secretary of State. The one and only responsibility of an Election Commissioner is to conduct elections. They handle no other form of county government work. They have their own staff that works only on elections.

6. The most recent problem that has surfaced with the mail ballot election was in Russell County, Kansas. Ballots were purchased by an individual, voted, and returned to the County Election Office. This was done by an individual who did not like the mail ballot election act and wanted to prove what could be done with some voters who don't really care if they vote on an issue or not. The man who purchased the ballots went to the local Russell newspaper with what he had done, and that's how everyone else found out about "buying ballots".

For all of the above reasons, I am denying your request for a mail ballot election but as always, would be more than willing to hold a regular election for you at any time. I think U.S.D. 449 is planning a special for the second Tuesday in April, which would save some money if you should decide on that day. Also, as I have already told Alan Schuler, you could hold the bond question on the August primary ballot, and the only cost to U.S.D. 453 would be the publication costs, thereby saving you \$8,000.00 - \$10,000.00.

Sincerely,



Larry E. Scheller
County Election Officer

LES/las

cc: Alan Schuler

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3-6-89
4-4

TO: Senate Hearing Committee

FROM: Donald Simmons, Superintendent of Schools, Easton, Ks. *DES*

SUBJECT: Senate Bill No. 308

DATE: March 6, 1989

I am sure that you are in possession of data concerning bond elections which have been conducted by mail. I am also sure that you have been briefed on the equipment needed in order to conduct an election by mail. I am not here today to expound on either of those topics. I will limit my presentation to two short paragraphs.

I am testifying today in support of Senate Bill No. 308 which would allow local board of education the option of having elections by mail to determine bond issues. The Easton Board of Education has gone on record supporting this measure along with all the other local boards in Leavenworth County.

Currently the local county election officer determines whether elections by mail can be conducted. To date, the Leavenworth County Election Officer has denied all such requests. I believe that it is not in the best interest of the State or voters to have one person responsible for making this decision.

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Attachment 5

KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS



5401 S. W. 7th Avenue Topeka, Kansas 66606
913-273-3600

Testimony before the
Senate Elections Committee
by
Bill Curtis, Assistant Executive Director
Kansas Association of School Boards

March 6, 1989

Mr. Chairman and members of the committee, we appreciate the opportunity to appear before you on behalf of the 301 member boards of education of the Kansas Association of School Boards. SB 308 permits the board of education of a school district to make the decision concerning a mail ballot election instead of the county election officer. KASB supports SB 308.

It seems to us that the critical issue in this bill is the arbitrary denial of school districts access to a method of election approved by the Kansas Legislature. All school districts ought to have an opportunity to hold mail ballot elections. Admittedly, most county election officers have been cooperative with school districts.

Mail ballot elections have two distinct advantages. The first is that it permits greater flexibility in timing. The second is that mail ballot elections historically get a much better participation rate. While increased voters do not mean a greater chance of success, it does insure that the board of education has a better feeling for the will of the electorate. During the past two years, mail ballot elections have been used for school construction issues only. During that time, 37 issues were put before the voters, 30 by regular elections and 7 by mail ballot. The regular elections had a success rate of 50%, 15 in number, and the mail ballots 71%, 5 in number.

Thank you for listening to our concerns. We would urge your favorable consideration of SB 308.

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Attachment 6

2-March 1, 1989

Editorials

Why not mail all ballots?

Legislation was introduced this past week which will, if approved, allow school districts to decide if elections for bond issues will be conducted by mail ballot elections. The decision has rested in the hands of the local election officer.

Several local school boards approached the Leavenworth County Clerk about holding mail ballot elections for school bond issues. The requests were denied on the basis that there was too much chance for fraud, the staff of the clerk's office was not trained to properly identify every registered voters signature and the added amount of time it would take to verify signatures and count the ballots.

The boards decided they wanted the chance to say what type of election they wished to have.

Board members approached local legislators stating they felt if the mail ballots were used it would mean higher voter turnouts. Higher voter turnouts to some mean an easier sell of a particular issue.

The question which comes to mind, however, is if the legislators will say yes to mail ballot elections for voters to say "yes" or "no" on a bond issue and if the mail ballots will mean more people will cast their ballots why not allow mail ballots to be used in all elections.

Why not let residents cast their vote for candidates and return the ballot by U.S. Mail? Why not let mail ballots be used for city, county, state and national elections?

It raises a lot of questions as to why political leaders will work to

pass a bill to allow voters to mark and yes or no box and return the ballot by mail but not to mark a name and return it the same way. What are they scared of? Is there an underlying fear of fraud which the candidates might fear if a mail ballot were used when their names appeared? Is there a fear what a higher voter turnout might do to the outcome of a particular race? Why have mail ballots for one type election and not the other?

If the reason for using mail ballots is to gather higher voter turnout and to create a manner of ease for voters to cast their ballot, shouldn't it be done for all elections? What makes it easier for a yes or no vote to be cast than for a name to be voted? Perhaps it is time for answers to some questions.

Bill Graves
Secretary of State



2nd Floor, State Capitol
Topeka, KS 66612-1594
(913) 296-2236

STATE OF KANSAS

Testimony of Ron Thornburgh
Senate Elections Committee
March 6, 1989

SB 308

Thank you Mr. Chairman and members of the committee.

Kansas has provided mail ballot elections for all non-partisan, non-candidate special question elections since 1983. In that time, over 1/2 million Kansans have had the opportunity to cast a ballot in 65 mail ballot elections. The results of those elections have been stunning with voter turnout averaging 74%. Turnout in a traditional single question election normally ranges from 18-25%.

This increased turnout produces two secondary benefits: more definitive election results and an election that cost less per vote than a conventional election. "When an issue fails with 18 percent voter turnout, a jurisdiction is tempted to keep trying over and over, hoping that the next time the issue will pass. When 70 percent vote, however, whether the issue passes or fails, the jurisdiction knows the will of the majority," said a study by Kansas City Consensus, a Missouri citizens' organization that studies public-policy issues.

Occasionally, a critic will argue that voting by mail is wrong because someone who doesn't bother to go to the polls doesn't deserve to vote. But as Kansas City Consensus said in its study, "The point of an election is not to test the fortitude and determination of voters, but to discern the will of the majority."

The office of the Secretary of State is an ardent supporter of mail ballot elections. However, we cannot support SB 308. A school district does not know the time constraints of an election, and they do not know the condition of the county's voter registration records. In addition, nothing in current law prevents the school district from conducting an election, it only gives the County Election Officer the option to deny an election by mail.

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Attachment 8