

Approved 3-5-90
Date

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS

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

1:30 ~~xxx~~/p.m. on February 27, 1990 in room 526-S of the Capitol.

All members were present ~~except~~

Committee staff present:

Pat Mah, Legislative Research Department
Ardan Ensley, Revisor of Statutes Office
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Senator Lana Oleen
Clifford E. White
A. J. Kotich, Director, Administration and Legal Services, Department
of Human Resources
Secretary Ray D. Siehndel, Department of Human Resources
Written testimony by Mark Edwards
Written testimony by Tim Hansen
Information by League of Women Voters of Kansas
Others attending: See attached list

Chairman Don Sallee called the meeting to order at 1:30 p.m.

Senator Lana Oleen appeared before the committee stating that SB-734 was prompted by constituent, Clifford E. White, and deals with The Employment Security Act. Currently the law states that a person who works in employment security law cannot run for any type of office whether it be partisan or nonpartisan. This prevents participation in township or school board elections. The present statute prevents the secretary or any hiring agent from the state from employing anyone in employment security law if they hold an elective nonpartisan position.

Clifford E. White appeared before the committee stating he was interested in the possibility of serving on his local school board or possibly a township position. He noted he was interested in local office and issues because he felt he could make a difference by presenting ideas of change. This is presently prohibited by law as he is employed in a position which comes under the employment security law. (Attachment 1)

A. J. Kotich, Director, Administration and Legal Services, Department of Human Resources, appeared before the committee noting his organization was funded by federal money and must be in conformity with federal law. Mr. Kotich stated the Hatch Act has been amended and has become more liberal in recent years and states if you are dealing with employment security, you may participate in nonpartisan elections. (Attachment 2)

Discussion followed centering around whether the Hatch Act addresses the soliciting of funds. It was noted the act prohibits partisan activities on behalf of public employees but would permit running in nonpartisan elections.

Secretary Ray D. Siehndel, Department of Human Resources, told the committee his department could accept the restrictive language in the bill contained language on page 2, lines 17 through 33 which makes an exception for nonpartisan elective office. It was further noted there were other federal statutes governing their ethics.

Senator Bond made a conceptual motion to amend SB-734 to permit employees under the employment security law be permitted to run for nonpartisan office and to solicit and receive nonpartisan funds for those campaigns for nonpartisan office. Senator Yost seconded the motion.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS

room 529-S, Statehouse, at 1:30 ~~xxx~~ p.m. on February 27, 1990

Discussion noted federal law now permits federal employees to run for nonpartisan office but appears to prohibit the raising of funds to achieve that goal and it was felt that Kansas did not need to limit a citizen's ability to serve in nonpartisan positions.

The motion carried.

Senator Bond moved to report SB-734 as amended favorable for passage. Senator Lee seconded the motion and the motion carried.

Senator Reilly, with a second by Senator Bond moved approval of the minutes for February 19 and 20 . The motion carried.

Written testimony by Mark Edwards in support of SB-734 was provided to committee members. (Attachment 3)

Written testimony from Tim Hansen in support of SB-734 was presented to committee members. (Attachment 4)

Committee members were presented with material concerning Presidential Elections Process in Kansas by the League of Women Voters of Kansas. (Attachment 5)

The meeting adjourned at 2:05 p.m.

GUEST LIST

SENATE ELECTIONS COMMITTEE

DATE February 27, 1990

(PLEASE PRINT)

NAME AND ADDRESS

ORGANIZATION

Michael Wolf Topeka

Common Cause

Clifford White Milford

Dept. Human Resources

Kelly Kuetala - intern

Sen. Winter's office

Rebecca Bossemeyer TOPEKA

SOSS

Ron Thornburger "

"

February 27, 1990

Senator Donald Sellee, Chairperson
Elections Committee- Kansas Senate
Kansas State House
Topeka, KS 66612

Re: Testimony to Senate Bill 734

Dear Mr. Chairperson:

I asked Senator Oleen if she could explore the possibility of making a change to K.S.A. 44-714 (c) (2) so that those State employees who administer or enforce the Employment Security Laws of the State of Kansas can become involved in issues of local importance to them. This change is only asking that we be allowed to run for non-partisan positions at local levels, which the law as currently written, prohibits.

Personally I am interested in looking at the possibilities of serving on our local school board and/or a township position. I am very interested in the local office and our local issues because I feel that I can make a difference by presenting ideas of change. There are no politics involved in the election of school board members or officers of local townships. They are or should be strictly issue oriented.

Presently I feel that the law is too prohibitive and takes one of the basic rights afforded us and that is the right to be involved and to stress our ideas and opinions. I have asked the Attorney General for an opinion on the present law and his response was that the law in its present form would prohibit any running for any office. The current law was written with good intentions, but did not take into consideration the local non-partisan positions. I can in no way see how, in the position I currently hold as a state employee, I can affect any decisions on a local level.

I am concerned with the education of our children and want to do something to see that we move in the right direction in educating them. I think that we need to spend more time in giving our children the tools they need to succeed in the world of the future. As to the township position, I am basically interested in the upgrading of our fire protection system and other improvements to the township. I presently have no interests in any political office and if I should decide to seek such an office, I would then do what would have to be done to obtain such a position.

I hope the Committee will see this as an attempt to become involved at the local level and nothing more and I ask that you consider recommending the change to K.S.A. 44-714 (c) (2) to the full Senate. Thank you for your consideration.

Clifford E. White
Route #1, Box 85 W
Milford, KS 66514

Senate Elections
2-28-90
Attachment 1

February 6, 1990

Senator Lana Oleen
22nd District
Room 143N
State Capitol Building
Topeka, Kansas 66612

RE: Correspondence of Clifford E. White

Dear Senator Oleen:

Mr. White's letter to you as well as the one to the Attorney General have been reviewed, together with 5 USC §1501-1508 (Hatch Act); 5 CFR 151.101-151.122 (Code of Federal Regulations); K.S.A. 75-2593 and 75-2974; K.S.A. 44-714(c)(1) and (2). Copies of all of the above-cited materials are attached.

The Hatch Act at §1502(a)(3) specifically prohibits a person from being a candidate for public office, unless it is a nonpartisan election (§1503).

The Hatch Act applies to all State or local agencies and State or local officers or employees when such person or agency is funded in whole or in part by loans or grants made by the United States or a Federal agency [§1501(1) and (4)]. The Employment Security Division, of which Mr. White is a full time employee, receives Federal money for its operations. Therefore, Mr. White is covered by the Hatch Act, and under it he cannot seek office in a partisan election.

If it is felt that legislation would be appropriate to amend K.S.A. 44-714(c)(1), it would appear the statute could be amended only to the extent of changing the word "an" to "a" and inserting the word "non-partisan" immediately preceding the word "elective".

In §1502(a)(1) the Hatch Act prohibits persons from using official authority or influence for the purpose of interfering with or affecting the result of an election or nomination. §1502(a)(2) prohibits direct or indirect coercion, or attempted coercion, commanding or advising a state or local officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency, or person for political pur-

Senate Elections
2-28-90
Attachment 2

Letter to Senator Lana Oleen
Re: Clifford E. White
February 6, 1990
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poses. §1502(b) states that a State or local officer or employee retains the right to vote as he chooses and to express his opinions on political subjects and candidates. Of course, these two sections are generally analogous to K.S.A. 75-2953.

"Turning to (a)(2) of K.S.A. 44-714, the statute provides 'No employee engaged in the administration of the employment security law shall directly or indirectly solicit or receive or be in any manner concerned with soliciting or receiving any assistance, subscription or contribution for any political party or political purpose. Nor shall any employee engaged in the administration of the employment security law participate in any formal political activity, nor shall any employee champion the cause of any political party or the candidacy of any person. Any employee engaged in the administration of the employment security law who violates these provisions shall be immediately discharged. No person shall solicit or receive any contribution for any political purpose from any employee engaged in the administration of the employment security law and any such action shall be a misdemeanor, shall be punishable by a fine of not less than \$100 and not more than \$1000 or by imprisonment in the county jail for not less than 30 days and no more than 6 months or both."

The first portion of (a)(2) prohibits an employee engaged in the administration of the employment security law from directly or indirectly soliciting or receiving or being concerned with soliciting or receiving money for any political party or political purpose.

I think this provision of the law should remain intact. I believe tax collectors should not be in the position of soliciting funds from the public. The perception to the public should be the taxing authorities are not to be considered part of the partisan political system. The person from whom such a contribution is solicited or received might possibly think that he or she will be given favorable tax treatment because of a contribution and would be receiving unfavorable consideration if the person failed to contribute.

The law goes on to state the employee should not participate in any form of political activity nor should the employee champion the cause of any political party or candidacy of any person. I believe the words "participate in any form of political activity" would be unduly restrictive. However, it would not appear to be proper for tax administrators or collectors to champion the cause

Letter to Senator Lana Oleen
Re: Clifford E. White
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of a political party or the candidacy of any person. The perceptions previously noted would apply with equal force here.

Furthermore, it would appear the provision prohibiting solicitation or receiving a contribution from any employee engaged in the administration of the employment security law is a protection for the employee. As we know, the lists of political contributors are public knowledge. Whether or not the tax collector gave voluntarily or not does not appear on the list.

The tax collector should not be in the position of being perceived as being active in partisan political matters. I realize that individuals do wish to make political contributions to candidates, but on the whole, there are other ways in which the employee can participate as a citizen without giving the impression that he is a "political animal" rather than a "public servant". The perception is often more important than the actual fact situation.

If it is thought that (c)(1) and (2) should be amended, please feel free to contact us so that we may be able to assist you in the matter.

Although Mr. White desires to participate in the political process, it must be remembered that the Hatch Act controls insofar as his attempting to seek a partisan political office is concerned. He may seek any nonpartisan office he so desires.

I trust this has been of assistance to you.

Very Truly Yours,



A. J. Kotich, Director
Administration and Legal Services

AJK:HDC:rda

Enc.

LAW OFFICES OF
HOOVER, SCHERMERHORN, EDWARDS, PINAIRE & ROMBOLD, CHARTERED

811 N. WASHINGTON
JUNCTION CITY, KANSAS 66441

913 238-3126

FAX 913 238-1717

MARK EDWARDS
RICHARD A. PINAIRE
PETER C. ROMBOLD

February 26, 1990

C. L. HOOVER (1909-1983)
R. A. SCHERMERHORN (1911-1975)

Senator Donald Sallee
Chairman
Elections Committee
State Capitol
Topeka, Kansas

Dear Senator Sallee:

Re: Senate Bill 734

Please be advised that I have the good fortune of serving on USD 475's Board of Education. It has recently been brought to my attention that KSA 44-714(c)(2) prohibits employees of the Employment Security Division from holding non-partisan elective office.

After reflecting on this situation, I cannot imagine why a citizen should be prohibited from holding non-partisan elective office by virtue of his/her employment with this agency. With seven board members on every Board of Education, if a conflict should ever arise, there are an adequate number of remaining board members to make an intelligent decision. As you know, conflicts do arise with all elected board members no matter what their position and it is sometimes necessary to abstain.

I would certainly appreciate your support of Senate Bill 734 so that this entire class of individuals would not be prohibited from seeking non-partisan elective office. Thank you for your consideration.

Best regards,

MARK EDWARDS

ME:c

Senate Elections
2-28-90
Attachment 3

R.R. 1, Box 57H
Milford, KS. 66514
February 26, 1990

SENATOR DON SELLEE,
Chairperson
Senate Elections Committee
Kansas Senate
Topeka, Ks.

RE: Senate Bill 734

Senator Sallee:

It is my understanding the Kansas Senate is holding hearings reference a bill that would allow employees of the State of Kansas to hold nonpartisan office.

I would urge passage of this bill. As a employee of a school district who is allowed to run for such an office...I see no conflict or problem with giving state employees the same right to hold public office.

Currently I am township treasurer. Running for this office on a nonpartisan ballot caused no conflict with my job as a teacher. Nor does being a teacher conflict with being treasurer.

Please give my support to SB 734. It is a shame that people who may have great leadership abilities and expertise can not use these skills to help local governmental agencies.

Yours truly,


Tim Hansen

Senate Elections
2-28-90
Attachment 4

**Presidential Elections
Process in Kansas**

A Citizen Survey
Conducted Fall 1989

by the
League of Women Voters of Kansas

in cooperation with the
Urban Information Center
University of Kansas Regents Center
9900 Mission Road
Overland Park, KS 66206

Senate Elections
2-28-90
Attachment 5

5

League of Women Voters of Kansas

Educational Fund Project

Fall 1989

The League of Women Voters of Kansas in cooperation with the Urban Information Center at the University of Kansas Regents Center conducted a state-wide study of citizen opinions concerning voting issues.

The original plan was to obtain information from 3,000 persons; actual data were obtained from 4,317 persons (almost 50% more than the original goal). One-third of the participants were men and two-thirds were women.

Registered to Vote

A large majority (86%) of the responding citizens are registered to vote; 14% are not registered. Citizens who are not registered to vote were asked for the one major reason why they were not registered. Approximately one-half (49%) indicated that they were either a new resident or had a recent address change. The other three major reasons for not being registered were "too busy" (21%), "not interested/do not care" (16%), and "inconvenient registration hours" (7%). Other reasons mentioned were lack of transportation, name change, and vote doesn't matter.

Some observations include the following:

- The higher the educational level, the more likely a person is to be registered to vote; 94% of those with at least four years of college and 78% of those with a high school education are registered to vote.
- The higher the household income, the more likely a person is to be registered to vote; 95% of those with household incomes at least \$60,000 and 71% of those with household incomes under \$10,000 are registered to vote.

Voting Participation

Most (88%) of the citizens voted in at least one election during 1988 or 1989; 12% did not vote in any election. Close to half (43%) voted in the 1988 Primary election, the 1988 Presidential election and their most recent local elections.

- 83% voted in the 1988 Presidential election
- 63% voted in the 1988 Primary election
- 56% voted in their most recent local elections.

The three major reasons for not voting in the 1988 Presidential Election were "didn't like either candidate" (27%), "too busy or forgot about it" (26%) and "vote does not make a difference" (23%). Other major reasons were: "out-of-town or sick" (14%), "under age 18 at time" (7%), and "lack of transportation" (2%).

Some observations related to educational level include the following:

- The higher the educational level, the more likely a person was to have voted in the 1988 Presidential election, the 1988 Primary election, and the most recent local election.
- The percentages of citizens who did not vote in any election during 1988 and 1989 were 19% for persons with a high school education, 13% for those with 1-3 years of college, and 4% for those with at least four years of college.
- For persons with at least four years of college, 93% voted in the 1988 Presidential election, 73% voted in the 1988 Primary election, and 68% voted in their most recent local elections.
- For persons with 1-3 years of college, 82% voted in the 1988 Presidential election, 59% voted in the 1988 Primary election, and 53% voted in their most recent local elections.
- For persons with a high school education, 75% voted in the 1988 Presidential election, 55% voted in the 1988 Primary election, and 45% voted in their most recent local elections.

Some observations related to household income include the following:

- The higher the household income level, the more likely a person was to have voted in the 1988 Presidential election, the 1988 Primary election, and the most recent local election.
- The percentages of citizens who did not vote in any elections during 1988 and 1989 were 28% for persons with household incomes under \$10,000 and 4% for persons with household incomes of at least \$60,000.
- For persons with household incomes under \$10,000, 63% voted in the 1988 Presidential election, 39% voted in the 1988 Primary election, and 29% in their most recent local elections.
- For persons with household incomes of at least \$60,000, 95% voted in the 1988 Presidential election, 77% voted in the 1988 Primary election, and 74% voted in their most recent local elections.

Presidential Campaign Costs and Length

Most (90%) indicated they felt that the amount of money spent for presidential campaigns should be limited to an amount less than the \$46 million spent by Democrat Michael Dukakis and Republican George Bush during the 1988 Presidential Campaign.

Two-thirds (67%) of the citizens indicated they thought the length of the presidential campaign should be shortened; 28% thought it should be shortened to one year, while 39% thought it should be shortened to six months. One-fourth (24%) thought the length of the campaign was "just about right" while 9% think the campaign was too long, but should not be shortened.

Some observations include the following:

- Persons with at least four years of college tended to be more apt to think the presidential campaign should be shortened. The percentages who think the campaign should be shortened were 74% for those with at least 4 years of college, 65% for those with 1-3 years of college, and 62% for those with a high school education.
- 93% of the females and 85% of the males thought that the presidential campaign expenditures should be limited.
- 70% of the females and 63% of the males thought that the length of the presidential campaign should be shortened.
- The higher the household income, the more likely a person was to feel that the presidential campaign should be shortened; 73% of those with household incomes of at least \$60,000 and 53% of those with household incomes under \$10,000 indicated they thought the campaign should be shortened.

Media Coverage

Citizens were asked whether they were "very satisfied," "somewhat satisfied," or "dissatisfied" with the television, radio, and newspaper coverage of the 1988 presidential campaign.

Citizens were the most dissatisfied with television coverage with almost one-third indicating dissatisfaction. Approximately one-fifth were dissatisfied with radio and newspaper coverage.

Some observations include the following:

- Persons with at least four years of college expressed more dissatisfaction with the media coverage than did persons with a high school education.
- Persons with higher household incomes tended to be less satisfied with television and radio coverage. Household income was not significantly related to satisfaction with newspaper coverage.

Satisfaction with Media Coverage 1988 Presidential Campaign

	<u>Television</u>	<u>Radio</u>	<u>Newspaper</u>
<u>All Respondents</u>			
Very satisfied	20	19	27
Somewhat satisfied	48	59	54
Dissatisfied	32	22	19
<u>High school education</u>			
Very satisfied	23	23	29
Somewhat satisfied	50	57	53
Dissatisfied	27	20	18
<u>1-3 years college</u>			
Very satisfied	21	19	30
Somewhat satisfied	48	60	51
Dissatisfied	31	21	19
<u>Four years college or more</u>			
Very satisfied	16	16	22
Somewhat satisfied	47	60	57
Dissatisfied	37	24	21

Selection of Presidential Candidates

Close to three-fourths (72%) of the citizens would prefer to select their presidential candidates by a Presidential primary; 28% prefer the current caucus system.

5-57

Ages of Survey Participants

Citizens who participated in this study represented all age groups. The distribution is shown in the table below.

Age Representation of Citizen Respondents

<u>Age Group</u>	<u>Percent</u>
18-24	9
25-34	21
35-44	25
45-54	16
55-64	14
65+	15

Education of Survey Participants

Citizens who participated in this study represented all education levels. The distribution is shown in the table below.

Education of Citizen Respondents

<u>Education</u>	<u>Percent</u>
Some high school	4
High school graduate	28
1-3 years college	32
4 year college graduate	15
Some graduate school	22

The educational level was somewhat higher for male participants than for female participants; 41% of the males and 34% of the females had at least four years of college.

Household Income of Participants

Citizens who participated in this study represented all household income levels. The distribution is shown in the table below.

Household Incomes of Citizen Respondents

<u>Household Income</u>	<u>Percent</u>
Under \$10,000	10
\$10,000—\$14,999	10
\$15,000—\$19,999	9
\$20,000—\$29,999	20
\$30,000—\$44,999	26
\$45,000—\$59,999	13
\$60,000 +	12

Some observations include the following:

- There was a relationship between household income and educational level. In general, the higher the educational level, the higher the household income.
- Persons with household incomes under \$10,000 tended to be primarily persons under the age of 35 or at least age 65. In contrast, persons with household incomes at least \$60,000 tended to be primarily persons, ages 35—64.

(continued on next page)

Geographic Representation

Responses were obtained from persons throughout the state. Members of the League of Women Voters personally requested citizens to complete the surveys at selected sites in their area.

Geographic Representation of Citizen Respondents

<u>Location</u>	<u>Percent</u>
Wichita	18
Emporia	10
Topeka	10
Johnson County	8
Concordia	8
Lawrence	8
Salina	8
Newton	7
Wyandotte County/Leavenworth	7
Manhattan/Riley County	6
Great Bend	6
Garden City	2
Hays	2
Pittsburg	<1

Credits

The Advocacy Project Committee of the League of Women Voters of Kansas (LWVK) developed the the idea for this survey and coordinated the distribution and administration of the surveys throughout the State of Kansas. Beverly Komarek is President of the Kansas League of Women Voters. Ellen Laner and Ann Heberger serve as co-chairs for the Project, which was funded by the LWVK Education Fund monies. Special appreciation goes to the Wal-Mart and Dillon's Stores for making their store sites available, students at Fort Hays State University who helped in the survey, local League members, members at-large, and all the people who participated in the study.

The University of Kansas Regents Center contributed toward the printing of the questionnaires and to the development of this report. Dr. Elaine L. Tatham, University of Kansas Regents Center, worked with the Committee to develop the questionnaire, analyze the data, and prepare this report.

For further information, contact the League of Women Voters of Kansas, 919 1/2 S. Kansas Avenue, Topeka, Kansas 66612.