

Approved: 3/7/96  
Date

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS, CONGRESSIONAL & LEGISLATIVE  
APPORTIONMENT AND GOVERNMENTAL STANDARDS.

The meeting was called to order by Chairperson Janice Hardenburger at 1:40 p.m. on February 14, 1996 in Room 529-S of the Capitol.

All members were present except: Senator Brady - excused  
Senator Wisdom - excused  
Senator Martin - excused

Committee staff present: Dennis Hodgins, Legislative Research Department  
Gordon Self, Revisor of Statutes  
Bonnie Fritts, Committee Secretary

Conferees appearing before the committee: Tom Sloan, State Representative, 45th District  
Carol Williams, County Elections Commissioner

Others attending: See attached list

**HB 2088** **relating to state officers and employees, concerning political activity  
by state officers and employees in the classified service**

Senator Hardenburger opened hearings on the bill.

Representative Sloan appeared before the committee as a proponent of the bill and submitted testimony explaining reasons, on the basis of fairness, why this bill should be passed (Attachment 1).

Senator Ranson shared a concern that some state personnel might take advantage of this privilege by campaigning and/or collecting money in their offices and asked if there were any safeguards in place to prevent such action.

Carol Williams stated that there are regulations in place that specify penalties for this type of action.

Senator Hardenburger closed the hearings on this bill.

The meeting adjourned at 1:50 p.m.

The next meeting is scheduled for February 15, 1996.

SENATE ELECTIONS, CONGRESSIONAL &  
 LEGISLATIVE APPORTIONMENT AND  
 GOVERNMENTAL STANDARDS COMMITTEE GUEST  
 LIST

DATE: 2/14/96

NAME	REPRESENTING
Cass Williams	KCGSC
Brad Bryant	Sec. of State
Marti Malcolm	SRS
Marion Hauver	Hauver's Circular Report
Amy Hendrickson	Dept. of Administration
Kathleen Connors	Irego County Clerk
Arlene Eueligh	Irego Co. Commissioner
Kelly Jennings	KAPE

TOM SLOAN  
 REPRESENTATIVE, 45TH DISTRICT  
 DOUGLAS COUNTY

STATE CAPITOL BUILDING  
 ROOM 446-N  
 TOPEKA, KANSAS 66612-1504  
 (913) 296-7677  
 1-800-432-3924  
 772 HWY 40  
 LAWRENCE, KANSAS 66049-4174  
 (913) 841-1526



TOPEKA

HOUSE OF  
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
 MEMBER: AGRICULTURE  
 LOCAL GOVERNMENT  
 ENERGY & NATURAL RESOURCES

## Testimony on HB 2088

### Permit Classified Employees To Seek Elective Office

Madam Chairman and Members of the Committee:

**HB 2088** will permit classified state employees to seek elective offices - local, state and national - without first resigning from their employment.

1. First, I believe this is a fairness issue. Currently, unclassified state employees and teachers may seek elective offices without resigning from their positions - either to run for office or to serve if elected. In 1992, three state employees from Lawrence sought election to the House of Representatives. - one had to resign her job before she could run, two did not. Both unclassified employees won and took leaves of absence to serve and then returned to their university positions. The third person not only lost the election, but had no job to which she could return. It is only fair that all state employees be treated the same.
2. Second, at a time when federal, state and local governments are making it easier for eligible citizens to register to vote and supporting programs like kids voting to increase the long-term number of potential voters, it is wrong to arbitrarily limit the number of persons eligible to seek elective offices.
3. There are more than 44,000 state employees, of which slightly more than 29,000 are classified employees. This is more than the population of 88 Kansas counties and more than such cities as Garden City, Junction City, Leawood and Prairie Village. If a law existed that persons living in 88 counties were excluded from the political process, the hue and cry from across our state would quickly result in a repeal. The fact that classified state employees live in all of our districts, rather than just in one community, should not mean they are prohibited from fully participating in the political process on which our nation was founded.
4. The state does not discriminate against candidates on the basis of gender, age, skin pigmentation, or physical condition. It is wrong to discriminate against a class of people because their employer is the people of Kansas.

Please remember, making classified state employees eligible to seek elective office does not mean any or all will do so. This bill is non-partisan, as the current prohibition affects Republicans, Democrats, Libertarians and Independents. Finally, should a classified state employee be elected, he or she will necessarily take a leave of absence from their employment, just as many of us do while we serve the people of Kansas.

SENATE ELECTIONS  
 2-14-96  
 ATTACHMENT 1

HOUSE BILL No. 2088

By Representatives Sloan, Ballard, Bradley, Findley, Flora, Glasscock, Grant, Helgerson, Hochhauser, Hutchins, Kirk, Mays, McKechnie, R. Nichols, Packer, Sawyer, Tanner and Toelkes

1-17

11 AN ACT relating to state officers and employees; concerning political  
12 activity by state officers and employees in the classified service; amend-  
13 ing K.S.A. 1994 Supp. 75-2953 and repealing the existing section.  
14

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

16 Section 1. K.S.A. 1994 Supp. 75-2953 is hereby amended to read as  
17 follows: 75-2953. (a) No officer, agent, clerk or employee of this state  
18 shall directly or indirectly use their authority or official influence to com-  
19 pel any officer or employee in the unclassified and the classified services  
20 to apply for membership in or become a member of any organization, or  
21 to pay or promise to pay any assessment, subscription or contribution, or  
22 to take part in any political activity. Any person who violates any provisions  
23 of this section shall be guilty of a class C misdemeanor, and, upon con-  
24 viction, shall be punished accordingly. If any officer or employee in the  
25 classified service is found guilty of violating any provision of this section,  
26 such officer or employee shall be automatically separated from the serv-  
27 ice.

28 (b) Any officer or employee in the state classified service shall resign  
29 from the service upon filing as a candidate for an elective office, unless  
30 the elective office filed for is a township elective office, a county elective  
31 office, an elective office in the judicial branch of government or is elected  
32 on a nonpartisan basis. "Elective office" shall not mean or include the  
33 office of precinct committeeman or precinct committeewoman.

34 Sec. 2. K.S.A. 1994 Supp. 75-2953 is hereby repealed.

35 Sec. 3. This act shall take effect and be in force from and after its  
36 publication in the statute book

(b) Any officer or employee in the state clas-  
sified service shall resign from the service upon  
filing as a candidate for an elective office, unless  
the elective office filed for is a township elective  
office, a county elective office, an elective office  
in the judicial branch of government or is elected  
on a nonpartisan basis. "Elective office" shall not  
mean or include the office of precinct commit-  
teeman or precinct committeewoman.

History: L. 1941, ch. 35S, § 29 L. 1969, ch.

, whose office or  
employment is subject to  
the limitations and  
prohibitions of section  
1501 et seq., of article  
5 of the United States  
Code,

2-1

**STATE CLASSIFIED EMPLOYEES NOT SUBJECT TO THE FEDERAL HATCH ACT\***

State Agency of Kansas	Number of Classified Employees Not Subject to Hatch Act
Adjutant General	0.0
Department on Aging	2.0
Kansas Arts Commission	0.0
Department of Commerce and Housing	95.0
Kansas Corporation Commission	152.5
Department of Corrections	339.0
Emporia State University	309.0
Fort Hays State University	312.0
Kansas Highway Patrol	778.0
Department of Human Resources	131.0
Department of Administration	843.0
Department of Agriculture	235.0
Attorney General	0.0
Kansas Conservation Commission	7.0
Corporation for Change	0.0
Kansas State Board of Education	179.0
State Fire Marshal	35.0
Department of Health and Environment	281.0
Kansas State Historical Society	187.0
Kansas Human Rights Commission	0.0
Kansas Bureau of Investigation	184.0
Kansas State University -- Salina, College of Technology	36.0
Kansas State Library	0.0
Kansas Neurological Institute	0.0
Department of Revenue	1,259.0
Department of Social and Rehabilitation Services	0.0
Youth Center at Atchison	127.0
Youth Center at Beloit	102.0
Youth Center at Larned	115.0
Youth Center at Topeka	219.0
Winfield State Hospital and Training Center	0.0
Parsons State Hospital and Training Center	0.0
Larned State Hospital	0.0
Osawatomie State Hospital	0.0
Rainbow Mental Health Facility	0.0
Topeka State Hospital	0.0
Kansas Department of Transportation	0.0
University of Kansas	1,742.0
University of Kansas Medical Center	2,029.0
Council on Vocational Education	0.0
Department of Wildlife and Parks	278.5
Kansas Board of Regents	6.0
Kansas State University	1,987.0
Pittsburg State University	389.0
Wichita State University	675.9
Kansas Sentencing Commission	0.0
Kansas Technology Enterprise Corporation	0.0
Kansas, Inc.	0.0
Kansas Commission on Veterans' Affairs and Soldiers' Home	0.0
<b>TOTAL</b>	<b>13,034.9</b>

\* State Agencies, Corporations, and Commissions Receiving Federal Funding



## Guidelines For Federal Employees Covered Under the New Hatch Act Amendments

The following list contains examples of both permissible and prohibited activities for covered employees<sup>1</sup>. The Office of Special Counsel is responsible for investigating reports or complaints concerning Hatch Act violations. The new amendments took effect February 3, 1994.

1-800-85-HATCH (854-2824)

- o May be candidates for public office in nonpartisan elections
- o May register and vote as they choose
- o May assist in voter registration drives
- o May express opinions about candidates and issues
- o May contribute money to political organizations
- o May attend political fundraising functions
- o May attend and be active at political rallies and meetings
- o May join and be an active member of a political party or club
- o May sign nominating petitions
- o May campaign for or against referendum questions, constitutional amendments, municipal ordinances
- o May campaign for or against candidates in partisan elections
- o May make campaign speeches for candidates in partisan elections
- o May distribute campaign literature in partisan elections
- o May hold office in political clubs or parties and be delegates to party conventions
- o May not use their official authority or influence to interfere with an election
- o May not solicit, accept or receive political contributions unless both individuals are members of the same federal labor organization or employee organization and the one solicited is not a subordinate employee
- o May not knowingly solicit or discourage the political activity of any person who has business before the agency
- o May not engage in political activity while on duty
- o May not engage in political activity in any government office
- o May not engage in political activity while wearing an official uniform
- o May not engage in political activity while using a government vehicle
- o May not be candidates for public office in partisan elections
- o May not wear political buttons on duty

<sup>1</sup> Employees of the following agencies or divisions within an agency continue to be covered under the old law: Federal Election Commission, Federal Bureau of Investigation, Secret Service, Central Intelligence Agency, National Security Council, National Security Agency, Defense Intelligence Agency, Merit Systems Protection Board, Office of Special Counsel, Office of Criminal Investigations of IRS, Office of Investigative Programs of BATF, Criminal Division of DOJ, career members of the senior executive service, Administrative Law Judges, and contract appeals board members. Contact OSC at the number above for further clarification.

# Title 5. United States Code

## 10 Chapter 15—Political Activity of Certain State and Local Employees

Sec.

- 1501. Definitions.
- 1502. Influencing elections; taking part in political campaigns; prohibitions; exceptions.
- 1503. Nonpartisan candidacies permitted.
- 1504. Investigations; notice of hearing.
- 1505. Hearings; adjudications; notice of determinations.
- 1506. Orders; withholding loans or grants; limitations.
- 1507. Subpenas and depositions.
- 1508. Judicial review.

### § 1501. Definitions

For the purpose of this chapter—

- (1) "State" means a State or territory or possession of the United States;
- (2) "State or local agency" means the executive branch of a State, municipality, or other political subdivision of a State, or an agency or department thereof;
- (3) "Federal agency" means an Executive agency or other agency of the United States, but does not include a member bank of the Federal Reserve System; and
- (4) "State or local officer or employee" means an individual employed by a State or local agency whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a Federal agency, but does not include—
  - (A) an individual who exercises no functions in connection with that activity; or
  - (B) an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by a State or political subdivision thereof, or by a recognized religious, philanthropic, or cultural organization.

### § 1502. Influencing elections; taking part in political campaigns; prohibitions; exceptions

- (a) A State or local officer or employee may not—
  - (1) use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;
  - (2) directly or indirectly coerce, attempt to coerce, command, or advise 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 purposes; or
  - (3) be a candidate for elective office.
- (b) 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.
- (c) Subsection (a)(3) of this section does not apply to—
  - (1) the Governor or Lieutenant Governor of a State or an individual authorized by law to act as Governor;
  - (2) the mayor of a city;
  - (3) a duly elected head of an executive department of a State or municipality who is not classified under a State or municipal merit or civil service system; or
  - (4) an individual holding elective office.

### § 1503. Nonpartisan candidacies permitted

Section 1502(a)(3) of this title does not prohibit any State or local officer or employee from being a candidate in any election if none of the candidates is to be nominated or elected at such election as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected.

### § 1504. Investigations; notice of hearing

When a Federal agency charged with the duty of making a loan or grant of funds of the United States for use in an activity by a State or local officer or employee has reason to believe that the officer or employee has violated section 1502 of this title, it shall report the matter to the Special Counsel. On receipt of the report or on receipt of other information which seems to the Special Counsel to warrant an investigation, the Special Counsel shall investigate the report and such other information and present his findings and any charges