

MINUTES OF THE ETHICS AND ELECTIONS COMMITTEE:

The meeting was called to order by Chairperson Representative Tony Powell at 3:30 p.m. on March 19, 2001 in Room 521-S of the Capitol.

All members were present except: Representative Mayans, Excused
Representative Hermes, Excused
Representative Ray, Excused

Committee staff present: Theresa Kiernan, Office of the Revisor of Statutes
Dennis Hodgins, Kansas Legislative Research Department
Shirley Weideman, Committee Secretary

Conferees appearing before the committee:

SB 128 - Proponent: Ron Thornburgh, Secretary of State

Others attending: See attached list.

Chairman Powell asked for corrections on minutes for the January 31, February 5, 12, 14, 19, and 22, March 1, 5, 7, 12 and 14 meetings that committee members had received. There being none, minutes were approved without objection.

Chairman Powell opened the hearing on **SB 128 - Election crimes.**

Secretary of State Ron Thornburgh appeared before the committee in support of **SB 128**. He said that in recent years there have been four types of election problems and he urges the committee to restore the vote trading provision which was removed by the Senate. Secretary Thornburgh outlined the four provisions: 1)Section 1 creates a new crime of voter registration suppression; 2)new Section 2 of the original bill creates the crime of vote trading; 3)Section 2 (originally Section 3) expands the definition of voter intimidation to include dissemination of false information with the intent to keep voters from voting (the penalty for voter intimidation would be changed from a misdemeanor to a felony) and 4)Section 3 (originally Section 4) expands the electioneering statute to cover the advance voting period (prohibits large signs outside of advance-voting places, but allows bumper stickers). He answered questions asked by committee members. (attachment #1)

There being no further discussion, Chair Powell closed the hearing on **SB 128**.

SB 128 - Election Crimes.

Representative Morrison moved an amendment to **SB 128** to restore new Section 2 and change the penalty to a level 10 in all sections. Representative Huff seconded the motion. Motion passed.

Representative Wilson moved to amend **SB 128** to allow 2 days for delivery of applications for advanced ballots to the county election office after the application is signed by the voter. The motion was seconded by Representative Alldritt. Motion carried.

Representative Wilson moved and the motion was seconded by Representative Huff to move **SB 128** as **amended** favorably out of committee. Motion passed.

SB 218 - Elections; counting of provisional ballots

Representative Wilson moved **the balloon for SB 218** allowing any valid provisional ballot to be opened and numbered by the county election officer to correspond to the number on the envelope and the number of the provisional voter's name in the registration or poll book, and then sealed and stored with other ballots. The motion was seconded by Representative Morrison. Motion carried.

CONTINUATION SHEET

Minutes of the March 19, 2001 meeting of the Ethics and Elections Committee.

Representative Wilson moved and the motion was seconded by Representative Gilbert to pass **SB 128** favorably out of committee. Motion passed.

SB 171 - State aircraft travel by the governor.

Representative Alldritt moved to amend **Substitute for SB 171** to allow the secretary of administration to adopt rules and regulations, fix charges and collect fees for authorized travel for the Governor or his family which are consistent with FAA requirements and change the first paragraph of Section 2 to: The superintendent or the superintendent's designee shall designate the mode of transportation deemed necessary for the purpose of providing security for the Governor and the Governor's family. The motion was seconded by Representative Huff. Motion carried.

Representative Alldritt moved that **Substitute for SB 171 as amended** be passed favorably out of the committee. The motion was seconded by Representative Huff. Motion passed.

The committee discussed **SB 192**, which had passed favorably out of the committee, and decided to move forward with the bill.

The meeting was adjourned at 4:30 p.m.

RON THORNBURGH
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STATE OF KANSAS

House Committee on Ethics and Elections

Testimony on Senate Bill 128

Ron Thornburgh, Secretary of State

March 19, 2001

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before the committee in support of SB 128, which I proposed as an election crimes bill. In its original form, the bill addressed four types of election problems encountered in recent years: voter registration suppression, vote trading, voter intimidation and electioneering. The vote trading provision was removed by the Senate, and I urge this committee to reinstate that language during its consideration of the bill.

1. New Section 1 creates a new crime of voter registration suppression. It requires individuals and groups involved in voter registration to deliver completed applications to the county election officer. It is intended to prevent people from destroying or failing to deliver the applications. This provision of SB 128 addresses a trend that has arisen since the enactment of the National Voter Registration Act. Before NVRA, voter registration was conducted by or under the direction of the county election officer. Registrars were usually deputized and trained by the election officer. Under NVRA, anyone may conduct voter registration drives, but not everyone is careful or diligent in returning the completed applications to the election office. If the applications are not received, the applicants are not registered to vote. As a result, some people go to the polls on election day thinking they are registered and learn they are not. Some of these potential voters remember where they completed their applications, and after inquiring it becomes evident that someone did not deliver the applications, and the voters are disenfranchised. In some cases it is alleged that applications were destroyed purposely.

2. New Section 2 of the original bill would have created the crime of vote trading. It was proposed as a response to a new phenomenon that occurred in the 2000 election, most notably with groups called Nader's Traders and voteswap.com. Voters in one state would contract via the Internet with voters in other states, creating agreements to change the way they voted for President in exchange for the other voters changing their votes.

I opposed this type of transaction when it became public, as did other Secretaries of State. However, research indicated that no existing Kansas law specifically prohibited vote trading.

The act of voting is the very basis of representative democratic government, and elections are designed to ascertain the will of the voters. Vote trading obscures the will of the voters and skews the results of the election, and it should be illegal.

During debate on the Senate floor, this vote trading prohibition was removed from SB 128. One of the concerns was whether there had been any instances of vote trading in Kansas; if not, there was little interest in fixing a problem that did not exist. I can tell you that there were indeed Kansas voters who traded their votes. They openly participated in vote trading with the knowledge that Kansas laws were inadequate to stop them. I urge you to strengthen the laws to prevent this type of activity. I urge you to restore the original New Section 2 to SB 128.

3. Section 2 of SB 128 (originally Section 3) expands the definition of voter intimidation to include dissemination of false information with the intent to keep voters from voting. This is proposed in response to incidents in the 2000 election when voters received messages falsely informing them that they would not be allowed to vote if they did not take a voter identification card with them to the polling place. This was false information that may have discouraged voter turnout in some localities.

My office and some county election offices received reports from voters and candidates who were angered by these attempts to keep certain groups of voters from exercising their right to vote. We agreed with them, but found that current laws were inadequate to pursue criminal charges. Section 2 of SB 128 seeks to address that inadequacy.

The bill also increases the penalty for voter intimidation from a misdemeanor to a felony to reflect the severity of this crime.

4. Section 3 of the amended bill (originally Section 4) expands the electioneering statute to cover the advance voting period. Current law prohibits attempts to influence voters at the polling place on election day. We receive occasional reports of these activities occurring at the courthouse during the advance voting period before the election, and they should be just as illegal then as they are on election day.

The Senate amended this section to allow bumper stickers on vehicles while they are parked at the polling place. My office does not oppose this amendment; it will make administration of the law easier and less confusing.

I encourage the committee to strengthen and enhance Kansas election crime statutes by amending SB 128 to restore the vote trading prohibition and then reporting the amended bill favorably.

Thank you for your consideration.