

Approved: 3/22/07
Date

MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Tim Huelskamp at 1:30 P.M. on February 14, 2007 in Room 423-S of the Capitol.

All members were present.

Committee staff present:

Martha Dorsey, Kansas Legislative Research Department
Matt Spurgin, Kansas Legislative Research Department
Ken Wilke, Revisor of Statutes
Zoie Kern, Committee Secretary

Conferees appearing before the committee:

Senator Journey
Senator Haley testimony in
Brad Bryant, Secretary of States Office

Others attending:

See attached list.

Ken Wilke gave summary of **SB 84, Elections; presidential primary, date of.**

Senator Journey gave testimony in support of **SB 84 (Attachment 1).**

Senator Haley gave testimony in support of on SB 84, stating we want Kansas in the running. That the flexibility of date is crucial. Said he believed **SB 310 (elections; presidential preference primary)** yielded to the wisdom of the secretary of states office.

Brad Bryant from Secretary of States Office gave testimony in support of **SB 84 (Attachment 2).**

Discussion.

Hearing closed.

Brad Bryant gave neutral testimony on **SB 310 (Attachment 3).**

Senator Haley gave testimony on behalf of **SB 310** stating bill affirms a strong signal to assure a date for presidential primary.

Discussion.

Hearing closed.

Brad Bryant gave testimony in support of **SB 320 (Elections; presidential primary procedure) (Attachment 4).**

Discussion.

Hearing closed.

Ken Wilke handed out amendments to **SB 195 (Concerning automated telephone call for political purposes, Attachment 5)**

Discussion.

Senator Reitz motioned to move out **SB 195** as amended. Motion seconded by Senator Lynn.

Senator Betts voted against motion.

Motion carried.

Meeting adjourned.

Respectfully Submitted,

Zoie C. Kern, Committee Secretary

SENATOR PHILLIP B. JOURNEY

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TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

VICECHAIR: SPECIAL CLAIMS AGAINST THE STATE
(JOINT), VICECHAIR
MEMBER: HEALTH CARE STRATEGIES
JUDICIARY
PUBLIC HEALTH AND WELFARE
TRANSPORTATION

CORRECTIONS AND JUVENILE JUSTICE
OVERSIGHT (JOINT)

**Testimony Before the Kansas Senate Elections and Local Government Committee
Presented on Wednesday, February 14th, 2007
in Support of Senate Bill 84**

Mr. Chairman, members of the Committee thank you for your attention and the opportunity to present this information to you before a hearing looking into three pieces of legislation intended to modify the current statutory process for presidential preference primary. I stand here in support of Senate Bill 84, which not only amends K.S.A. 25-4502 and 4503 as Senate Bill 320 does, but also amends K.S.A. 25-4501.

Senate Bill 320 is identical word for word to Senate Bill 84 and its Section two of the bill. The distinct difference between Senate Bill 84 and Senate Bill 320, is that Senate Bill 84 goes further in Section one of that bill amending K.S.A. 25-4501 and changing the default date of the Kansas Presidential Preference Primary which is currently set under our statutory law to be the first Tuesday in April of 2008. Senate Bill 84 moves that date up eight weeks to the earliest possible date as allowed under party committee rules, that being February 5th, 2008.

I am aware of the testimony presented by the Kansas Secretary of State last week before this Committee regarding other states potentially moving their dates up to the date currently set out in Senate Bill 84. Those states are New Jersey, Florida, Michigan, and California. Last Friday, on February 9th, I heard former DNC fund raiser and Party Chairman, Terry McAuliffe state that he believes that by this time next year, the Democratic party will have chosen its nominee.

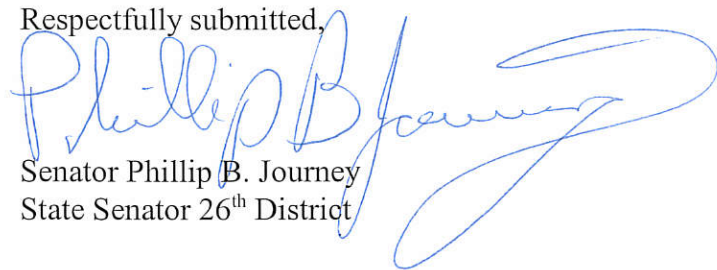
I believe that all involved who desire Kansas to have a say in this process, want Kansas to have a meaningful say. While some may look into the tea leaves and see the possibility of Kansas perhaps affecting the final outcome of this process, I would submit that that scenario is based far more on a perception of us getting lucky, rather than us being able to tell the exact date by which any major candidate will receive the number of delegates necessary to become the party's nominee for the office of president.

Mr. McAuliffe's words were, however, that he believes the primary will be decided on February 5th, the date contemplated in Senate Bill 84. The purpose of Senate Bill 84 is to help Kansas become relevant in the national selection process for party candidates for the office of presidency. The fact that Senate Bill 310 changes the date to one that most certainly will be after all the shouting is over and many of us will be buying our plane tickets hopefully to go to the national conventions. I hope members of the Committee agree with me that it would be nice to have presidential candidates come to Kansas on a regular basis, and the locations of Kansas City, Missouri, and campaigning and discussing their campaigns and campaigning for their elections.

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I would urge the Committee to recommend Senate Bill 84 as written favorably for passage.

Respectfully submitted,

A handwritten signature in blue ink, reading "Phillip B. Journey". The signature is written in a cursive style with a large, sweeping flourish at the end.

Senator Phillip B. Journey
State Senator 26th District

RON THORNBURGH
Secretary of State



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STATE OF KANSAS
Senate Committee on Elections and Local Government

Testimony on Senate Bill 84

Brad Bryant, Deputy Assistant Secretary of State
Elections and Legislative Matters

February 14, 2007

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 84. This is a presidential preference primary bill that would (1) move the default date for the primary from the first Tuesday in April to early February in the event the Secretary of State is unable to designate a date for the primary on a date when at least five other states are conducting primaries, and (2) move the filing deadline from February 12 to a date seven weeks prior to the primary.

The Secretary of State supports the policy of conducting a presidential preference primary in Kansas to increase the voice of Kansas voters in the presidential selection process. We support Senate Bill 84 in part because it preserves the Secretary of State's authority to maximize the impact of the Kansas primary by selecting a date which is most beneficial to our state. Further, we support Senate Bill 84 because it moves the candidate filing deadline from a fixed date on February 12 to a reasonable time before the primary. The filing deadline would float so it would always be seven weeks before the date of the election.

We support Senate Bill 84. There are other alternatives the Legislature may consider to improve the presidential preference primary process in Kansas, but this bill is one of the options that will work.

Thank you for your consideration.

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STATE OF KANSAS
Senate Committee on Elections and Local Government

Testimony on Senate Bill 310

Brad Bryant, Deputy Assistant Secretary of State
Elections and Legislative Matters

February 14, 2007

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 310. This bill would require the presidential preference primary to be held on the first Tuesday in April in 2008 and every four years thereafter.

The Secretary of State opposes passage of this bill because it reduces flexibility in determining the date of the presidential primary and it reduces the influence of Kansas voters in the presidential nominating process. The first Tuesday in April is too late in the primary season to be effective because the field of candidates will most likely be reduced to a very few successful candidates by then. It is possible that a candidate in one or both parties will have the national party's nomination secured before the Kansas primary is held.

Current law allows the Secretary of State to determine the date of the primary at a time when at least five other states are holding primaries. If he is unable to find such a date, the default date for the primary is the first Tuesday in April. Current law or the other bills being considered by the Legislature this year provide the flexibility needed to maximize the impact of the Kansas primary.

Thank you for your consideration.

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STATE OF KANSAS
Senate Committee on Elections and Local Government

Testimony on Senate Bill 320

Brad Bryant, Deputy Assistant Secretary of State
Elections and Legislative Matters

February 14, 2007

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 320. This is a presidential preference primary bill that would make needed changes to current law to provide an adequate candidate filing season before the presidential primary is held. Current law allows the Secretary of State to set the date of the primary on a date when five or more other states are conducting primaries. If he is unable to find such a date, the default date for the primary is the first Tuesday in April. Current law sets the candidate filing deadline on February 12, which is workable if the primary is held in April but unworkable if the primary is held earlier, which is the Secretary of State's intention in order to maximize the influence of Kansas voters in the presidential nomination process.

We support Senate Bill 320 in part because it preserves the Secretary of State's authority to maximize the impact of the Kansas primary by selecting a date which is most beneficial to our state. Further, we support Senate Bill 320 because it moves the candidate filing deadline from a fixed date on February 12 to a reasonable time before the primary. The filing deadline would float so it would always be seven weeks before the date of the election.

We support Senate Bill 320. There are other alternatives the Legislature may consider to improve the presidential preference primary process in Kansas, but this bill is one of the options that will work.

Thank you for your consideration.

SENATE BILL No. 195

By Committee on Elections and Local Government

1-25

9 AN ACT concerning certain automated telephone calls; pertaining to the
10 use of automated telephone calls for political purposes; amending
11 K.S.A. 25-4156 [and 50-670] and repealing the existing [sections];

sections

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 25-4156 is hereby amended to read as follows: 25-
15 4156. (a) (1) Whenever any person sells space in any newspaper, magazine
16 or other periodical to a candidate or to a candidate committee, party
17 committee or political committee, the charge made for the use of such
18 space shall not exceed the charges made for comparable use of such space
19 for other purposes.

20 (2) Intentionally charging an excessive amount for political advertis-
21 ing is a class A misdemeanor.

22 (b) (1) Corrupt political advertising of a state or local office is:

23 (A) Publishing or causing to be published in a newspaper or other
24 periodical any paid matter which expressly advocates the nomination,
25 election or defeat of a clearly identified candidate for a state or local
26 office, unless such matter is followed by the word "advertisement" or the
27 abbreviation "adv." in a separate line together with the name of the chair-
28 person or treasurer of the political or other organization sponsoring the
29 same or the name of the individual who is responsible therefor;

30 (B) broadcasting or causing to be broadcast by any radio or television
31 station any paid matter which expressly advocates the nomination, elec-
32 tion or defeat of a clearly identified candidate for a state or local office,
33 unless such matter is followed by a statement which states: "Paid for" or
34 "Sponsored by" followed by the name of the sponsoring organization and
35 the name of the chairperson or treasurer of the political or other organ-
36 ization sponsoring the same or the name of the individual who is respon-
37 sible therefor; or

38 (C) telephoning or causing to be contacted by any telephonic means
39 including, but not limited to, any device using a voice over internet pro-
40 tocol or wireless telephone, any paid matter which expressly advocates
41 the nomination, election or defeat of a clearly identified candidate for a
42 state or local office, unless such matter is [preceded] by a statement which
states: "Paid for" or "Sponsored by" followed by the name of the spon-

followed

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soring organization and the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor; or

(D) publishing or causing to be published any brochure, flier or other political fact sheet which expressly advocates the nomination, election or defeat of a clearly identified candidate for a state or local office, unless such matter is followed by the name of the chairperson or treasurer of the political or other organization sponsoring the same or the name of the individual who is responsible therefor.

The provisions of this subsection (C) (D) requiring the disclosure of the name of an individual shall not apply to individuals making expenditures in an aggregate amount of less than \$2,500 within a calendar year.

(2) Corrupt political advertising of a state or local office is a class C misdemeanor.

(c) If any provision of this section or application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of this section which can be given effect without the invalid application or provision, and to this end the provisions of this section are declared to be severable.

~~[Sec. 2. K.S.A. 50-670 is hereby amended to read as follows: 50-670.~~

(a) As used in this section and K.S.A. 50-670a, and amendments thereto:

(1) "Consumer telephone call" means a call made by a telephone solicitor to the residence of a consumer for the purpose of soliciting a sale of any property or services to the person called, or for the purpose of soliciting an extension of credit for property or services to the person called, or for the purpose of obtaining information that will or may be used for the direct solicitation of a sale of property or services to the person called or an extension of credit for such purposes.

(2) "Unsolicited consumer telephone call" means a consumer telephone call other than a call made:

(A) In response to an express request of the person called;

(B) primarily in connection with an existing debt or contract, payment or performance of which has not been completed at the time of such call; or

(C) to any person with whom the telephone solicitor or the telephone solicitor's predecessor in interest has an established business relationship, unless the consumer has objected to such consumer telephone calls and requested that the telephone solicitor cease making consumer telephone calls.

(3) "Telephone solicitor" means any natural person, firm, organization, partnership, association or corporation who makes or causes to be made a consumer telephone call, including, but not limited to, calls made by use of automatic dialing-announcing device.]

1 [(4) "Automatic dialing-announcing device" means any user terminal
2 equipment which:

3 (A) When connected to a telephone line can dial, with or without
4 manual assistance, telephone numbers which have been stored or pro-
5 grammed in the device or are produced or selected by a random or se-
6 quential number generator; or

7 (B) when connected to a telephone line can disseminate a recorded
8 message to the telephone number called, either with or without manual
9 assistance.

10 (5) "Negative response" means a statement from a consumer indi-
11 cating the consumer does not wish to listen to the sales presentation or
12 participate in the solicitation presented in the consumer telephone call.

13 (6) "Established business relationship" means a prior or existing re-
14 lationship formed by a voluntary two-way communication between a per-
15 son or entity and consumer with or without an exchange of consideration,
16 on a basis of an application, purchase or transaction by the consumer,
17 within the preceding 36 months, regarding products or services offered
18 by such person or entity, which relationship has not been previously ter-
19 minated by either party.

20 (b) Any telephone solicitor who makes an unsolicited consumer tel-
21 ephone call to a residential telephone number shall:

22 (1) Identify themselves;

23 (2) identify the business on whose behalf such person is soliciting;

24 (3) identify the purpose of the call immediately upon making contact
25 by telephone with the person who is the object of the telephone
26 solicitation;

27 (4) promptly discontinue the solicitation if the person being solicited
28 gives a negative response at any time during the consumer telephone call;

29 (5) hang up the phone, or in the case of an automatic dialing-an-
30 nouncing device operator, disconnect the automatic dialing-announcing
31 device from the telephone line within 25 seconds of the termination of
32 the call by the person being called; and

33 (6) a live operator or an automated dialing-announcing device shall
34 answer the line within five seconds of the beginning of the call. If an-
35 swered by automated dialing-announcing device, the message provided
36 shall include only the information required in subsection (b)(1) and (2),
37 but shall not contain any unsolicited advertisement.

38 (c) A telephone solicitor shall not withhold the display of the tele-
39 phone solicitor's telephone number from a caller identification service
40 when that number is being used for telemarketing purposes, except that
41 before January 1, 2005, a telephone solicitor's telephone number shall
42 not be required to be displayed when the telephone solicitor's service or
43 equipment is not capable of allowing the display of such number.]

1 ~~[(d) A telephone solicitor shall not transmit any written information~~
2 ~~by facsimile machine or computer to a consumer after the consumer~~
3 ~~requests orally or in writing that such transmissions cease.~~

4 ~~(e) A telephone solicitor shall not obtain by use of any professional~~
5 ~~delivery, courier or other pickup service receipt or possession of a con-~~
6 ~~sumer's payment unless the goods are delivered with the opportunity to~~
7 ~~inspect before any payment is collected.~~

8 ~~(f) A telephone solicitor shall not use or connect to a telephone line~~
9 ~~an automatic dialing-announcing device unless:~~

10 ~~(1) The consumer has knowingly or voluntarily requested, consented~~
11 ~~to, permitted or authorized receipt of the message;~~

12 ~~(2) the message is immediately preceded by a live operator who ob-~~
13 ~~tains the consent of the consumer called before the message is delivered;~~
14 ~~or~~

15 ~~(3) the consumer has an established business relationship with the~~
16 ~~telephone solicitor or the telephone solicitor's predecessor in interest and~~
17 ~~the consumer has not:~~

18 ~~(A) Objected to such consumer telephone calls; and~~

19 ~~(B) requested that the telephone solicitor cease making consumer tel-~~
20 ~~ephone calls.~~

21 ~~(g) Local exchange carriers and telecommunications carriers shall not~~
22 ~~be responsible for the enforcement of the provisions of this section.~~

23 ~~(g) (h) Any violation of this section is an unconscionable act or prac-~~
24 ~~tice under the Kansas consumer protection act.~~

25 ~~(h) (i) This section shall be part of and supplemental to the Kansas~~
26 ~~consumer protection act.]~~

2 27 Sec. ~~3~~ K.S.A. 25-4156 [and 50-670 are] hereby repealed.

3 28 Sec. ~~4~~ This act shall take effect and be in force from and after its
29 publication in the statute book.