

MINUTES OF THE SENATE ETHICS AND ELECTIONS COMMITTEE

The meeting was called to order by Chairman Vicki Schmidt at 9:30 a.m. on February 4, 2009, in Room 446-N of the Capitol.

All members were present except:

Senator David Wysong- excused

Committee staff present:

Mike Heim, Office of the Revisor of Statutes
Ken Wilke, Office of the Revisor of Statutes
Martha Dorsey, Kansas Legislative Research Department
Reed Holwegner, Kansas Legislative Research Department
Carolyn Long, Committee Assistant

Conferees appearing before the committee:

Brad Bryant, Deputy Assistant Secretary of State for Elections and Legislative Matters
Don Merriman, Saline County Clerk
Elizabeth Ensley, Shawnee County Commissioner
Rocky Nichols, Disability Rights Center of Kansas
Carol Williams, Director, Governmental Ethics Commission

Others attending:

See attached list.

The Chair opened the hearing on **SB 55–Concerning ballots by uniformed overseas citizens and federal services voters.**

Staff clarification of bill stated this provided a registered voter stationed overseas or residing in a residence other than their home the same local ballot allowing them to vote on local issues, i.e. school board .

Brad Bryant, in support of this bill, said this measure was proposed by the county clerks and the Secretary of States office and in addition would simplify ballot preparation (Attachment 1).

Don Merriman appeared in favor of the bill and re-emphasized how important this would be for local issues (Attachment 2).

Elizabeth Ensley spoke in favor of the bill and echoed the sentiments of those speaking before her (Attachment 3).

The Chair thanked all who spoke in favor of the bill. There being no further conferees, the Chair closed the hearing on **SB 55.**

The hearing on **SB 56–Elections; security of advance voting ballots** was opened.

Brad Bryant stated this was proposed to strengthen the security of mailed advanced ballots by requiring a voter to designate another person in writing if the voter requests the person to mail or deliver the ballot to the election office; prohibit persons other than the voter from signing the ballot application form for voter; and would require any designated ballot delivery person to deliver the ballot within two days and that person would be required to sign a statement saying they had mailed or delivered the ballot as requested and had not exercised undue influence. This could be accomplished by a separate form enclosed in the envelope with the ballot or done directly on the ballot return envelope (Attachment 4).

Senator Wagle felt that the authorization should be contained on the envelope eliminating the need for additional papers.

Senator Pyle said there was similar legislation previously proposed and would like to be informed of the language contained in the conference committee report from the previous year.

CONTINUATION SHEET

Minutes of the Senate Ethics And Elections Committee at 9:30 a.m. on February 4, 2009, in Room 446-N of the Capitol.

Elizabeth Ensley, speaking in support of this bill, indicated her preference would be to place the addition on the outside of the envelope (Attachment 5).

Rocky Nichols spoke in opposition to the bill indicating that further restrictions may complicate the process even further and create yet another hurdle and confusion for those with a disability (Attachment 6).

There being no further discussion the hearing on **SB 56** was closed.

The chair then open discussion on **SB 57 - Campaign finance; requiring electronic filing of certain reports.** Brad Bryant said this bill was designed to require all reports during the 11 day block-out to be filed electronically, eliminating the need to staff an office over a weekend or on a holiday (Attachment 7).

Carol Williams submitted written testimony in favor of this bill (Attachment 8).

There being no further conferees, the hearing on **SB 57** was closed.

Chairman Schmidt called for final action on **SB 38-Hospital districts; formation, Linn county.** Senator Apple distributed an amendment allowing the board of county commissioners to submit the proposition to the qualified electors without the submission of the petition (Attachment 9).

Senator Apple moved, Senator Reitz seconded, to recommend SB 38, as amended, favorably for passage. Motion carried.

The Chairman then called for final action on **SB 80-Certain cities; sale of utility systems; elections.** Senator Brungardt moved, Senator Reitz seconded, to recommend **SB 80** as amended favorably for passage. Motion carried.

The meeting was adjourned at 10:30 a.m. The next meeting is scheduled for February 5, 2009.

RON THORNBURGH
Secretary of State



Memorial Hall, 1st Floor
120 S.W. 10th Avenue
Topeka, KS 66612-1594
(785) 296-4564

STATE OF KANSAS

Senate Committee on Ethics and Elections

Testimony on Senate Bill 55

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

February 4, 2009

Madam Chair and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 55. This bill was proposed by the Secretary of State's office as an expansion of voting opportunities for federal services voters. Federal services voters are individuals who vote under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), including military personnel and their dependents and nonmilitary citizens living overseas. Article 12 of Chapter 25 of the Kansas Statutes Annotated consists of the state laws implementing UOCAVA in Kansas.

Since 1976, federal services voters' ballots have excluded two races: (1) local question submitted elections and (2) political party precinct committee positions, which are elected in the August primary each even-numbered year. Before 1976, dating back to 1943, these ballots excluded even more races. The only reason for these exclusions that we know of was that, at the time the law was passed, many overseas voters received little information about local races and thus may have been uninformed about these issues. With recent improvements in the availability of political information, especially through the Internet, we assert that federal services voters are no longer limited by this factor and thus should be allowed to vote on all issues that other voters have on their ballots. Senate Bill 55 therefore would expand voting opportunities and promote fairness and equality.

Another benefit of Senate Bill 55 would be to simplify the ballot preparation process for county election officers. They would no longer need to prepare a separate and different ballot for federal services voters. This would allow them to issue the same ballots to federal services voters as are issued to all other voters.

We recommend the committee report Senate Bill 55 favorably for passage. Thank you for your consideration.



SALINE COUNTY

Board Meetings - Monday, Tuesday, Wednesday
Meeting Room 209 - Office Room 211 - 300 W. Ash

P.O. Box 5040
Salina, Kansas 67402-5040
Phone (785) 309-5825
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COMMISSIONERS:
Randall E. Duncan
First District

Craig Stephenson
Second District

Sherri Barragree
Third District

February 4, 2009

Honorable Senator Vicki Schmidt
Chairperson – Senate Ethics and Elections Committee
and Committee Members

Re: S.B. 55
by Committee on Ways and Means

Chairman Schmidt and Committee Members:

As Saline County Election Officer and County Clerk, I am supportive of S.B. 55, to allow Federal Service Voters to vote on a complete ballot. This would include Precinct Committee Women and Men and, also, any proposition or local question, for which any qualified voter may cast a ballot. Precinct Committee Women and Men are elected on the August ballot in even years. They perform several important duties such as nominating a replacement for an elected official and helping with election board worker recruitment. They may, also, help with campaigns of officials of their choice.

Many important issues are decided at the local level on the ballot, and so I believe Federal Service voters should have an equal chance of making their voice heard.

Thank you for your consideration and time concerning this bill.

Sincerely,

Donald R. Merriman
Saline County Clerk and Election Officer
(Secretary of the Kansas County Clerks' and Election Officials' Association)

DRM: //

Senate Ethics and Elections Cmte
Date 2-4-2009
Attachment 2



Shawnee County Commissioner of Elections

Elizabeth Ensley
Election Commissioner
Norine Staab
Asst. Election Commissioner

911 S.W. 37th, Suite A
Topeka, Kansas 66611-2378
(785) 266-0285
FAX (785) 266-0299

M E M O R A N D U M

DATE: February 3, 2009

TO: Senator Schmidt, Chairman
Ethics and Elections

FROM: Elizabeth Ensley
Shawnee County Election Commissioner

RE: SB 55 – Federal Service Ballots

Thank you for allowing me to appear before your committee in favor of Senate Bill 55. This bill helps to fully enfranchise our many men and women who serve in the military Reserves and National Guard troops. It also eliminates the expensive and complicated difference between printing a federal service absentee ballot and a regular advance voting ballot.

Like most counties in Kansas, Shawnee County does not have a major military base with many active duty career military personnel. We do however; have many Reservists and a Kansas National Guard unit. **The men and women that serve in these units are Kansas residents,** however, the current statutes make them choose between receiving their ballots 45 days prior to the election or voting on party precinct committee officials and local questions. They cannot do both.

In August of 2008, we received 43 voted Federal Service ballots. These were not a concentration of ballots from Forbes. They were spread out from 42 different precincts across my county. In November, we had over 300 Federal Service voters. So this affects a sizable number of voters from my county and the state of Kansas.

The ballot used for Federal Service Voters is actually different. Since local questions and precinct committee officials are precluded from being printed on the ballot, the ballot must be photocopied with a cut and paste job of removing those offices and questions. This increases the chances of an error. It would not be difficult to accidentally remove the wrong race, or only remove one of the two precinct committee offices. A photocopied ballot cannot be fed through a machine, so it must be hand counted, which also increases the chance of miscounting.

Please vote in favor of SB 55. Thank you for your time and consideration.

Senate Ethics and Elections Cmte
Date 2-4-2009
Attachment 3

RON THORNBURGH
Secretary of State



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STATE OF KANSAS

Senate Committee on Ethics and Elections

Testimony on Senate Bill 56

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

February 4, 2009

Madam Chair and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 56. This bill was proposed by the Secretary of State to strengthen the security of mailed advance ballots. It has three concepts:

- It would require a voter to designate another person *in writing* if the voter requests the person to mail or deliver the ballot to the election office, maintaining current exceptions for voters with disabilities.
- It would prohibit persons other than the voter from signing a ballot application form for a voter.
- It would require any designated ballot delivery person to deliver the ballot within two days and to sign a statement saying that they had mailed or delivered the ballot as requested by the voter and had not exercised undue influence over the voter's decisions.

We have security procedures and chain of custody for voting machines and ballots in all other aspects of the electoral process. Advance voting by mail is one part of the process where election officials do not have control over who handles ballots. Senate Bill 56 will promote adherence to the rules by requiring written statements, and it will create a record of who has handled a ballot in cases of allegations of improper activities.

Following is a summary of the two substantive sections of the bill.

Section 1

This section, on line 35 of page 1, states that when an advance voter wishes to designate another person to mail or deliver his/her ballot, the voter must designate that person in writing. This may be done on a separate form enclosed in the envelope with the ballot, or it may be done directly on the ballot return envelope.

Section 2

This section accomplishes three things:

(1) Subsection (c) on lines 25-26 states that the voter must sign his/her ballot application form and others are not allowed to sign it for them. This is intended to p

Senate Ethics and Elections Cmte

Date 2-4-2009

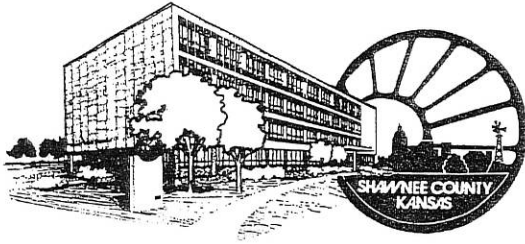
Attachment 4

signing application forms and having ballots mailed to voters without their prior knowledge. The law has exceptions for voters who are unable to sign due to illness or disability.

(2) Subsection (g) requires a designated ballot delivery person to sign a statement that they (a) will mail or deliver the ballot as requested by the voter, and (b) have not exercised undue influence on the voter's voting decisions.

(3) Subsection (g) also requires the designated ballot delivery person to mail or deliver the ballot within two days after receiving the ballot from the voter.

We urge the committee to strengthen the laws governing advance voting by mail and to reduce opportunities for unauthorized persons to handle ballots by reporting Senate Bill 56 favorably for passage. Thank you for your consideration.



Shawnee County Commissioner of Elections

Elizabeth Ensley
Election Commissioner
Norine Staab
Asst. Election Commissioner

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M E M O R A N D U M

DATE: February 3, 2009

TO: Senator Schmidt, Chairman
Ethics and Elections

FROM: Elizabeth Ensley
Shawnee County Election Commissioner

RE: SB 56 – Advance Ballot Delivery

Thank you for allowing me to appear before your committee in favor of Senate Bill 56. The intent of this bill is to improve security of the delivery of Advance Voting Ballots.

In the past, Shawnee County has had very active groups who offer to pick up voted mail ballots from voters. These groups were large and complex. It became evident when one ballot was delivered too late to be counted in the election, that no one was quite sure how many people had handled it and who was to take responsibility for delivering it. Many times, the voter does not even know who picked it up. They call our office and tell us that 'someone' picked it up, but do not know who. The result is rather chaotic.

The addition of a statement, that should be filled out by the voter, stating the name of the person who has the responsibility of delivering the ballot to the Election Office should add an orderliness to the process and protection for both the voter and the delivery person.

I do have a question. If a ballot is not delivered by the person named on the envelope, should the ballot be accepted and counted?

Please vote in favor of SB 56. Thank you for your time and consideration.

Senate Ethics and Elections Cmte

Date 2-4-2009

Attachment 5



Disability Rights Center of Kansas

Rocky Nichols, Executive Director

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785.273.9661 ♦ 877.776.1541 (Voice)

877.335.3725 (TDD) ♦ 785.273.9414 FAX

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Testimony Regarding SB 56

To The Senate Ethics and Elections Committee

February 4, 2009

Chairperson Schmidt and the honorable members of the committee, my name is Rocky Nichols. I am the Executive Director of the Disability Rights Center of Kansas (DRC). DRC is a public interest legal advocacy agency, part of a national network of federally mandated and funded organizations legally empowered to advocate for Kansans with disabilities. As such, DRC is the officially designated protection and advocacy system for Kansans with disabilities. DRC is a private, 501(c) (3) nonprofit corporation, organizationally independent of both state government and disability service providers. As the federally designated protection and advocacy system for Kansans with disabilities our task is to advocate for the legal and civil rights of persons with disabilities as promised by federal, state and local laws, including the right to vote.

I am here to testify concerning the negative effect of SB 56 on the ability to cast an advanced ballot by people with disabilities. In order to understand the perspective of our concern, you must understand that until recently, people with disabilities did not enjoy the full privileges of citizenship. People with disabilities have been dramatically disenfranchised when it comes to participating in society, including voting. Up until the 1950s, Kansas allowed forced sterilization of people with disabilities. So, if you were a person with a disability, your right to have a child could be taken away against your will. Up until 1974, the Kansas Constitution prohibited people with disabilities from voting or holding elected office if they were “insane,” “not competent” or “under guardianship” (a great number of Kansans with developmental disabilities were under guardianship at the time). Until recently, many polling places were not accessible to people with disabilities, etc. The history of discrimination against people with disabilities by Kansas state government explains why we are very concerned with new burdens to

Senate Ethics and Elections Cmte

Date 2-4-2009

Attachment 6

It is in this light of the historic discrimination against people with disabilities that DRC must express concern about the language in SB 56.

People with disabilities are disproportionately more likely to vote an advanced ballot, due to lack of transportation, mobility issues, etc. In fact, only people with a permanent disability can apply for and receive approval for a permanent advanced ballot.

The overarching concern regarding SB 56 is that it puts a new requirement and new burden (albeit potentially a smaller one) on the person with a disability in regards to voting. Many people with disabilities already have a huge barrier placed on them in the form of poverty because Kansas government generally forces people with disabilities to live in poverty in order to receive life saving services and supports. People with disabilities who receive SSI receive only around \$620 per month. In order to qualify to Medicaid, Kansas adults with disabilities are generally not allowed to make or retain over \$716 a month. Could you live on \$7,400 to \$8,500 per year? When you are living on around \$600 a month, the approximately 60 cents it takes to mail back the advance ballot is a barrier. Some Kansans with disabilities get around that barrier by having someone drop the ballot off for them and return it to the election office.

Transportation is another barrier. Most cities in Kansas do not have public transportation. Many people with disabilities do not have access to reliable transportation.

SB 56 puts new requirements on the person with a disability and on the person who is transporting their ballot. Remember, many times the person with a disability is forced by the government to live in poverty and the person dropping off their ballot is doing them a favor (saving them postage, ensuring that their vote counts if its too late to mail, etc.). SB 56 makes the voter with a disability fill out additional paperwork to “designate in writing” that they are having the person deliver the ballot for them. Though this may not be a huge burden, it still puts the new requirement back on the voter. The person doing them a favor and delivering the ballot must also fill out additional information. What happens if it’s Election Day or it’s too late to mail the ballot? The voter with a disability gives the ballot to someone to deliver. This person volunteers there time and energy to ensure the vote is counted, but the voter didn’t fill out the additional information to “designate in writing” that they authorize them to return the ballot. Can the person still deliver ballot for the person with a disability? Is it a provision ballot? **If the person who is doing the voter with a disability a favor hand-**

delivers their ballot for them and the voter has not filled this new required information, has that good Samaritan just committed a level 9 non-person felony (as per lines 12-13 on page 3 of SB 56)? What if the voter forgets to fill out the new sections on the ballot? Are they a criminal? Will the vote count if they don't sign this? Are there protections in this bill to absolutely ensure these votes will be counted if the voter forgets to fill out this new designation? If there are these protections, we don't see them.

Our biggest problem is that SB 56 puts a new requirement back on the advance voter, a disproportionate number of which are persons with disabilities. We think that voting is such a fundamental right that SB 56 is going about this issue all wrong. **Instead of having the voter sign additional statements, and adding requirements on the voter, why not have government break down barriers and simply pay the postage for returning the advance ballot?** That would put the requirement on the government, not the person with a disability. Some counties already pay for the return postage. Shawnee County has done this. Paying the return postage can be done simply by a return pre-printed postage paid indicia. Doing this would have the government help break down a barrier instead of erecting a new requirement on the voter with a disability. 60 cents may not seem like much, but if in order to qualify for your life saving Medicaid services you only could keep a maximum of around \$700 a MONTH, 60 cents can be a lot of money. If the government would pay for the return postage, then you would most likely take much of this entire issue of handling of advance votes and personal delivery of advance votes off the table. People would avail themselves of the paid return postage, and more of them would drop the ballot in the mail. This would, we believe, greatly reduce the number of ballots delivered by hand. If the postage was paid by government to mail back the advanced ballot, that positive step forward could justify the additional requirements in SB 56 of having the voter fill out the additional information on the ballot to allow their ballot to be returned.

Government could pay for the return postage by either the State of Kansas paying for it as a provision of this bill, or requiring the Counties to pay for it in this bill. The State of Kansas provides funding to counties and broad latitude in the area of taxation authority (no longer have the strict tax lids, etc.). Paying for the return postage for ballots

should simply be a cost of doing business that the government pays. Who can more afford it? State/local governments or a person with a disability living on \$7,000 a year?

We hope you will agree that if new requirements are going to be placed on voting, that the State should start with requiring government to pay for the return postage of advance voting before it places new requirements on voters with disabilities and those who are doing them a favor by returning their ballot by hand.

Thank you for your attention to our concerns.

RON THORNBURGH
Secretary of State



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STATE OF KANSAS

Senate Committee on Ethics and Elections

Testimony on Senate Bill 57

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

February 4, 2009

Madam Chair and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 57. This bill was proposed by the Secretary of State as an improvement in the process of filing last-minute campaign finance reports during the eleven-day "blackout" period before an election when contributions or expenditures reach the cumulative level of \$300 or more. The bill would require such last-minute reports to be filed either by fax or electronically. Current law, passed in 2008 in the form of Senate Bill 196, allows the reports to be filed by hand delivery, express delivery service, fax or electronically.

These last-minute reports were not required before 2008, so in anticipation of the filing of reports by hand delivery or express delivery, the Secretary of State's office and, by extension, the Governmental Ethics Commission were required to be open on Saturday and Sunday preceding both the August primary and the November general election in 2008. Although a few reports were received by fax and electronic means, none were received by hand delivery or express delivery service. Senate Bill 57 proposes to eliminate the unnecessary office hours for two state agencies by requiring last-minute reports to be filed by fax or electronic means.

This legislation also brings into play a law passed in 2007 which required the Secretary of State's office to design and implement an electronic campaign finance reporting system. No one who files campaign finance reports is required by law to file electronically, but the Secretary of State and the Governmental Ethics Commission are working to encourage its use. Senate Bill 57 would encourage expanded use of the electronic reporting system.

We encourage the committee to report Senate Bill 57 favorably for passage. Thank you for your consideration.



GOVERNMENTAL ETHICS COMMISSION

www.kansas.gov/ethics

**Written Testimony before Senate Committee on Elections
in Support of Senate Bill 57
by Carol Williams, Executive Director
February 4, 2009**

Senate Bill 57 amends K.S.A. 2008 Supp. 25-4148b and 25-4148c which contain the last minute reporting provisions in the Campaign Finance Act.

Under current law, the filing of last minute reports by candidates, political and party committees before the primary and general elections can be done by hand delivery, express delivery service, facsimile transmission or any electronic method authorized by the Secretary of State. This bill would eliminate the hand delivery and express delivery service as a means of filing last minute reports. With continued advances in technology, the Commission believes facsimile transmission and electronic filing are sufficient means by which to file a last minute report. Party committees and political action committees are required to file reports on a daily basis, including the Saturday and Sunday before an election. To my knowledge, no reports were filed in person or by express delivery on the Saturday or Sunday before either the primary or general election. The requirement that staff be present in the Secretary of State's office and the Commission's office to receive such in-person or express delivery on these two weekends is a waste of staff time and agency funds. The Commission urges your supports of SB 57.

Senate Ethics and Elections Cmte

Date 2-4-2009

Attachment 8

Senator Pat Apple

SENATE BILL No. 38

By Committee on Ethics and Elections

1-15

Senate Ethics and Elections Cmte
Date 2-4-2009
Attachment 9

9 AN ACT concerning hospital districts; relating to the formation of a hos-
10 pital district in Linn county.

11

Be it enacted by the Legislature of the State of Kansas:

13 Section 1. (a) Whenever a petition, signed by not less than 10% of
14 the qualified electors of the Mound City township and Paris township in
15 Linn county, is filed with the board of county commissioners of Linn
16 county requesting the formation of a hospital district, the board shall
17 submit the proposition at an election called and held for that purpose in
18 a manner provided by K.S.A. 10-120, and amendments thereto.

19 (b) If a majority of the qualified electors of the proposed hospital
20 district who vote in the election, vote in favor of the creation of the
21 hospital district, the board of county commissioners of Linn county shall
22 enter an order in its proceedings establishing the hospital district. The
23 original hospital board for the hospital district shall be established as pro-
24 vided in K.S.A. 80-2504, and amendments thereto.

25 (c) The hospital board may levy an annual tax of not to exceed two
26 mills for operating, equipping, maintaining and improving the hospital.
27 Any mill levy increase shall be made in accordance with the provisions of
28 K.S.A. 80-2516, and amendments thereto.

29 (d) The provisions of this act shall be a part of and supplemental to
30 the provisions of K.S.A. 80-2501 through 80-2533, and amendments
31 thereto.

32 Sec. 2. This act shall take effect and be in force from and after its
33 publication in the statute book.

The board of county commissioners, on its own motion, may submit the proposition to the qualified electors of Mound City township and Paris township without the submission of the petition.