

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 25, 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:
Clancy Holeman, Riley County Counselor
Brad Bryant, Deputy Assistant Secretary of State for Elections and Legislative Matters

Others attending:
See attached list.

The meeting was called to order by the Chair who opened the hearing on **SB 268-Elections; military personnel; voting by electronic mail** by asking staff for an explanation of the bill. This bill would allow members of the armed forces, along with members of their families, to register to vote, request absentee ballots, and vote by electronic mail as outlined in the Uniformed and Overseas Citizens Absentee Voting Act.

Clancy Holeman, Riley County Counselor, appeared in support of **SB 268** on behalf of the Board of Riley County Commissioners. He explained that at the present time it is an election official who interprets e-mail requests for ballots to be the same as a "faxed" request and that the language contained in this bill would provide uniformity and guidance (Attachment 1).

Senator Wagle asked if verification of signature was required. Mr. Holeman responded that the voters signature would be electronically scanned and that this was implied on line 36-37 of the bill.

Brad Bryant, appearing on behalf of the Secretary of State, spoke in favor of the bill as it expands voting opportunities for a group of voters who often are in situations that make it very difficult to vote. Additionally, the Federal Voting Assistance Program recommends this procedure and supports this legislation. He also stated that in Kansas federal ballots are treated the same as all ballots and are accepted until the polls close on election day (Attachment 2).

Written testimony in support of **SB 268** was submitted by:
Bruce L. Newby, Election Commissioner, Wyandotte County Election Office (Attachment 3).

There being no further conferees the hearing on **SB 268** was closed.

The meeting was adjourned at 10:01 a.m. The next meeting is scheduled for March 4, 2009.



COUNSELOR'S OFFICE

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February 24, 2009

The Honorable Vicki Schmidt, Chairperson
Senate Committee on Ethics and Elections
Statehouse, Room 542-N
Topeka, KS 66612

Re: **Written Testimony in Support of Senate Bill No. 268**

Dear Chair Schmidt and Members of the Committee:

On behalf of the Board of Riley County Commissioners, I'd like to express my client's support of S.B. 268. Currently, there is no statute requiring election officials around this state to accept email ballots from our troops deployed on active duty. Instead, under the current language of the existing statute, the Secretary of State must rely upon those election officials interpreting such emailed requests for ballots from deployed troops to be substantively the same thing as a "faxed" request for a ballot.

Relying upon all election officials to interpret the existing statute in that manner does not seem the best way to go. There is every good reason to explicitly make acceptance of email ballot requests by deployed troops a statutory requirement. S.B. 268 will insure uniformity among the state's election officers and give them the clear guidance they deserve.

Passage of S.B. 268 is the right thing to do, because we owe the deployed men and women of our fighting force every opportunity to exercise their individual right to vote. S.B. 268 will help make certain that those making tremendous sacrifices every day to protect our freedoms retain their ability to have a voice in elections back home.

Thank you for allowing me to express the Riley County Commissioners' support for S.B. 268, and we encourage this Committee to pass the bill.

Sincerely,

Clancy Holeman
Riley County Counselor

cc: Riley County Commission:
Alvan Johnson, Chair
Mike Kearns, Member
Karen McCulloh, Member

Senate Ethics and Elections Cmte

Date 2-25-2009

Attachment 1

RON THORNBURGH
Secretary of State



Memorial Hall, 1st Floor
120 S.W. 10th Avenue
Topeka, KS 66612-1594
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STATE OF KANSAS
Senate Committee on Ethics and Elections

Testimony on Senate Bill 268

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

February 25, 2009

Madam Chair and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 268. This bill would allow overseas federal services voters seeking to vote under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) to apply for, receive and return their ballots by email. In doing so, the voters would be required to sign a statement waiving their right to secrecy.

We support this bill because it expands voting opportunities for a group of voters who often are in situations that make it very difficult to vote. In normal situations, ballots are sent to UOCAVA voters by county election officers beginning 45 days before the election, and Kansas law also allows the process to be completed by fax, but we find that in some cases these conveniences are not enough. Mail does not get delivered timely, and UOCAVA voters often do not have access to fax machines. We have learned that they are more likely to have access to the Internet than to a fax machine, so email is a better alternative for them in many cases.

In the past two election cycles, some UOCAVA voters have successfully voted by email. This has been done on a case by case basis using procedures recommended by the Federal Voting Assistance Program in situations when voters requested it because it appeared they would not be able to receive their ballots in time to return them by election day.

Senate Bill 268 will codify a procedure that will enable some voters to vote when otherwise they might not be able to. The Federal Voting Assistance Program recommends this process and supports this legislation.

We urge the committee to report Senate Bill 268 favorably for passage. Thank you for your consideration.



Wyandotte County Election Office

Bruce L. Newby, Election Commissioner
Frances D. Sheppard, Assistant Election Commissioner

TESTIMONY BEFORE SENATE COMMITTEE ON ETHICS AND ELECTIONS

Wednesday, February 25, 2009

Thank you for the opportunity to provide written testimony in support of Senate Bill No. 268.

The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) provides special guarantees to preserve the voting rights of military personnel including their spouses and dependents, whether serving within the United States or abroad, as well as U.S. citizens living abroad. UOCAVA voters apply for registration and for an advance ballot using the Federal Post Card Application (FPCA). Use of the FPCA gives the UOCAVA voter specific rights, including the right to receive and return their ballot by mail, by fax or by email.

Senate Bill No. 268 formally recognizes in state law the rights of the UOCAVA voter already established by federal law. The Federal Voting Assistance Guide states that in Kansas a UOCAVA voter may request a ballot, may receive a ballot, and may return a voted ballot by mail, fax or email. In addition, a UOCAVA voter is also required to return a signed affidavit with the voted ballot that attests their voter qualifications and Kansas/county residency.

As a matter of procedure, we insist the email voter receive and return the ballot using the same email address. We limit the UOCAVA voter to submission of only one ballot with the required Affidavit. Multiple voted ballots from the same voter whether sent by email, fax, or by mail are challenged and presented to the board of canvassers. All voted ballots must be received by 7:00 P.M. on Election Day.

All UOCAVA ballots are canvassed by the Advance Voting Special Board. Voted UOCAVA ballots are hand counted.

I support Senate Bill No. 268 and welcome any questions you may have.

/s/

Bruce L. Newby
Election Commissioner