

MINUTES OF THE SENATE ETHICS AND ELECTIONS COMMITTEE

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

All members were present.

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  
Kathy Perry, Elections Official from Wichita

Others attending:

See attached list.

The Chair opened the meeting and asked for approval of the minutes for February 12, February 18, and February 25, 2009 as electronically transmitted. Senator Apple moved, Senator Faust-Goudeau seconded. Motion passed.

The hearing on **SB 267–Elections; voters; voter identification changes** was opened. After a brief explanation of the bill by staff including the need for the word “request” to be added to Section 5, line 41, the Chair recognized Brad Bryant, Deputy Assistant Secretary of State for Elections and Legislative Matters, who spoke in favor of this legislation (Attachment 1). This bill, supported by the Secretary of State’s office, will accomplish three things: enhance security and integrity of the Kansas electoral process by requiring voters to show identification each time they vote, clarify definition in current law of what constitutes valid voter identification, and codify procedures for verification and maintenance of statewide voter registration list. He also offered two proposed amendments dealing with permanent advance voter status. The first was to not require identification in subsequent elections unless the voter changes their name or residential address, moves out of the county or state, or is removed from the list and then re-registers. The second addresses any person applying for such status shall submit valid identification; once submitted and approved, then no validation would be required in subsequent elections unless one of the above situations applies.

Responding to questions regarding voter fraud from Senator Kultala, Mr. Bryant responded that there really was no way to identify the extent of fraud as no measure was in place.

Senator Pyle asked if notifications such as a traffic violation would be a legal document. The Secretary of State’s office works off a published list and as of this time that type of document does not appear.

Asking for a definition of a permanent advanced voter, Mr. Bryant said that this person is typically in a nursing home. Asked what triggers removal from the rolls; he said that two consecutive unreturned ballots generates a 30-day notice sent to voter and if no response then voter is removed from the permanent advance roll.

The Chair welcomed Kathy Perry, a provisional ballot judge from Wichita (Attachment 2). Ms. Perry shared with the committee her observations and frustrations resulting from the last national elections regarding what she considered flaws in our system and the blatant attempts at voter fraud which she witnessed.

Due to time restraints, the hearing on **SB 267** will be continued on March 11, 2009.

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



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## STATE OF KANSAS

### Senate Committee on Ethics and Elections

#### Testimony on Senate Bill 267

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

February 18, 2009

Madam Chair and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill <sup>267</sup>~~447~~. The Secretary of State proposed this bill to accomplish three things:

- enhance the security and integrity of the Kansas electoral process by requiring voters to show identification each time they vote,
- clarify the definition in current law of what constitutes valid voter identification, and
- codify procedures for verification and maintenance of the statewide voter registration list as required by Section 303(a) of the Help America Vote Act of 2002 (HAVA).

Following is a summary of the bill by section:

Sections 1, 2 and 3 deal with advance voters.

#### Section 1

This section removes references to "first-time voters" from the laws on advance voting. Under this section, a voter who applies for an advance ballot would provide a valid identification, or a copy of an identification document, from the list authorized by HAVA. The section also clarifies that a valid identification document is one which shows the voter's current name and either the voter's photograph or current residential address. Advance voters wishing to vote *by mail* could provide their driver's license number or the last four digits of the voter's Social Security number on the ballot application form as an alternative to providing a copy of the document.

#### Section 2

This section in lines 9-10 and 37-38 on page 5 removes a reference to first-time voters from the affirmation on the application for an advance ballot. It also clarifies that a valid identification document is one which shows the voter's current name and either the voter's photograph or current residential address.

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**Attachment** 1

### Section 3

Subsection (c) of Section 3 directs the state or county election officer to check Social Security or driver's license numbers provided by advance voters *by mail* against the voter registration file verified by the Division of Motor Vehicles and the Social Security Administration. If the information does not match, a provisional ballot is issued and the voter has an opportunity to provide valid identification prior to the county canvass of the election in order to ensure that the ballot will count.

### Section 4

Section 4 of SB 267 codifies three voter registration list maintenance activities that are required by Section 303(a) of HAVA. These activities include: (1) verifying voter registration records against the driver's license records that are verified by the Social Security Administration, (2) using state felony conviction records to cancel the registrations of ineligible voters, and (3) using state records on death to cancel ineligible voters.

### Section 5

Section 5 deals with identification of voters at the regular polling places on election day. It requires each voter to provide valid identification, directs the election board to request identification from each voter, removes references to "first-time voters" from current law, and defines valid identification as a document containing the voter's name and either the photograph or current residential address.

### Section 6

Section 6 removes from current law a reference to "first-time voter" in the statute governing the process of canvassing ballots at the county level.

### Proposed Amendment

In order to promote consistency in the language of the bill and to provide a needed exception to assist permanent advance voters, we recommend the committee consider two amendments to Senate Bill 267. We have detailed those amendments on a separate page of this testimony.

We urge the committee to pass SB 267 because it contains needed clarifications and definitions of current law. But, more importantly, the bill will require identification of each voter at each election. We urge adoption of this policy for the following reasons:

- It will enhance the security and integrity of the electoral process.
- It will treat voters equally.
- It will simplify the process for poll workers because they will not need to categorize voters and administer ballots according to different rules for different voters.
- This is a policy that both houses of the Kansas Legislature passed in 2003.

We urge the committee to amend Senate Bill 267 as proposed and to report the bill favorably, as amended, for passage. Thank you for your consideration.

## Proposed Amendments to Senate Bill 267

1. In Section 1, on page 3, subsection (h), line 36, insert the following:

*Once such permanent advance voter has provided valid identification, or if such voter's registration has been verified pursuant to K.S.A. 25-2354, and amendments thereto, such voter shall not be required to provide identification in subsequent elections unless the voter:*

- (1) changes name or residential address;*
- (2) moves out of the county or state; or*
- (3) is removed from the registration list and re-registers.*

2. In Section 2, on page 6, subsection (c), line 11, insert the following:

*Any person applying for permanent advance voter status shall submit valid identification as provided in subsection (b) or (c) of this section. Once such permanent advance voter has provided valid identification, or if such voter's registration has been verified pursuant to K.S.A. 25-2354, and amendments thereto, such voter shall not be required to provide identification in subsequent elections unless the voter:*

- (1) changes name or residential address;*
- (2) moves out of the county or state; or*
- (3) is removed from the registration list and re-registers.*



Senate Ethics and Elections Committee Members,

Thank you for allowing me the time to come before you today and share some of the activities that I witnessed as a provisional ballot judge for the Nov 4, 2008 presidential election. In my remarks I will refer to "we" – meaning myself and the supervising judge, Deanne Dickerson, with whom I worked that day. Deanne is available to verify these events that I am sharing with you today. She also signed my original typed notes as a witness.

As a provisional ballot judges we encountered many voters that were not registered in the state of Kansas. Our job was to assist these voters in finding their polling districts or with any other voter problems. We were told to let anyone vote and to not ask ID from anyone unless they were first time voters. We were instructed to allow everyone to vote, even people without any ID, as first time voters. Providing the proper identification would have helped the poll workers determine the proper ballot for these voters in a timely manner; without the identification we had to refer to a map to try to determine where the voters lived. All voters who could not determine where they lived from the maps were given a provisional ballot – which allowed them to cast a vote for the presidential and federal level contests. The votes of these individuals who voted out of their proper district were not counted for their local races.

The following are examples of incidents that we encountered that day:

- A lady with a thick foreign accent told us that she resided in Tulsa, OK, and Wichita, KS – asked to vote. She voted provisionally in district 0527, at 6:50PM. After we sealed her ballot, she asked if it was OK to vote in two states, and told us that she had driven from Tulsa where she voted earlier in the day. I documented this on the envelope of the provisional ballot - she did, however vote a second time in Kansas.
- Two men who spoke very broken English told us that they were not sure if they were US citizens, we flagged their ballot - no identification was given. We were told kindly by election officials not to ask for identification, but that state law allowed anyone to vote.
- A lady came in with a state ballot, not a sample ballot, and she asked if she could put her completed ballot into the ballot counter. I asked her where she lived. She said that she did not know. I asked her what side of town she lived on. She did not know. I asked her where she received her official ballot. She said she found stacks of them that were being given out. I asked her where, and she told me she could not remember. We told her that she have to vote provisionally.
- A man who was not in the registration book was told to fill out the provisional ballot and seal it in an envelope. He filled out his optical scan ballot, but would not put it into the sealed envelope. As I was assisting the next voter in line, the man rushed the M-100 scanner machine and inserted his ballot. He left the poll site without completing the envelope information.
- Another man who voted in the general election told us that he "advanced voted" in Nebraska, and had just voted again at his old Kansas address. He asked us if it was OK to vote twice if his name was not removed from the registry.
- A lady that voted computer ballot said as she was leaving, "IN CHICAGO WE HAVE A SAYING, 'VOTE EARLY AND VOTE OFTEN, BYE.'" Yes it was that blatant.
- This final example is documented in the poll registry from the precinct where I worked. Every poll worker was aware of this situation. A lady had three similar first names registered at the same address. [For example Chris, Christine, Christy Fox]. She had three registrations and w

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was given one, and voted in the general election. She could have easily returned and voted under the other two registered names. She admitted that she was the same person as the other two on the list.

Here are examples of the types of questions I received from people routinely throughout the day after they voted:

- What happens if you vote at different places?
- Can I try and go vote again at my old place that I used to live?
- Can I vote for my father that is now dead if we did not tell?
- Can you look up for me and see if I am registered to vote anywhere else?
- Do you get arrested if you are caught voting more than once?
- Can I vote all the places I have lived before and in other states too?
- What happens if a person gets caught let's say voting five times?

This was a very sad day for the election workers. Often disenfranchised voters throughout the day asked if their votes counted since the media accounts showed individuals voting multiple times in other states. Some were asking if there was a point to voting any more. One elderly couple stopped to talk to me and told me that this would be their last election. They drove all the way from Attica, KS to vote in Wichita and felt that it was pointless to vote if others were being allowed to vote multiple times. Many honest voters asked why we did not request identification from them. Many would pass their identification to me without being asked, and comment that everyone should have to show their identification in order to have a fair voting process. They felt very disenfranchised by the unfair identification laws that allow people to vote multiple times without having to identify themselves. One woman commented that we should have our elections at Wal-Mart if we are not going to monitor how many times people vote.

I have learned that the current Kansas laws state that I could not ask voters for identification unless I wanted "lawyers crawling all over the place". I learned that this outdated system needs to be changed to protect the people, the candidates, and our democracy. Why do we throw our democracy into the hands of people who are trying to vote over and over again without getting caught? Are they the people we want deciding who our next elected officials are? Our process depends on the honesty and credibility of the voters, and yet it does not ask for any credible representation of who they are.

Laws that affect the voting process must prove that they are not hindering legally eligible citizens from voting, as well as catching ineligible voters, or those voting multiple times.

We must offer identification to cash checks, to get prescriptions, to rent DVDs, and even to purchase a can of aerosol paint. If the law does not change, people will continue to cheat the system, vote early and often, and compromise all we hold dear. Currently in eighteen states there are laws requiring identification for all voters. In Mexico, voters are required to provide a photo ID, a signature, and a thumbprint in order to vote. These measures to stop voter fraud were instrumental in the fair election of Vicente Fox in the year 2000. I am in support of Senate Bill 267, and urge you to pass this bill to protect the voting process in our great state.

Kathy Perry

You may e-mail me at [Steve2728@msn.com](mailto:Steve2728@msn.com)