

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 10, 2010, in Room 144-S of the Capitol.

All members were present.

Committee staff present:

Mike Heim, Office of the Revisor of Statutes
Sean Ostrow, 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, Elections and Legislative Matters
Elizabeth Ensley, Shawnee County Commissioner of Elections

Others attending:

See attached list.

The Chair opened the hearing on **SB 466 - Elections; voter registration; advance voting ballot security; HAVA compliance.** Staff informed the committee that this proposed legislation would require each voter to show a valid identification document when voting at the polls on Election Day or when voting by advance ballot. The bill provides exemptions for federal service overseas voters and special procedures for permanent advance voters and voters participating in all-mail ballot elections. In addition, it would require an advance voter to designate, in writing, another person if the voter wishes to have them mail or deliver their ballot to the election office. That person would sign a statement that the ballot would be delivered as requested by the voter and that no undue influence had been imposed by that individual. The bill would also codify into law the provisions in the federal Help America Vote Act (HAVA) that require the statewide voter registration database to interface with records from the Department of Corrections, the Office of Vital Statistics, and the Division of Motor Vehicles to verify registration records and remove ineligible persons from the rolls.

Brad Bryant, Deputy Assistant Secretary of State for Elections and Legislative Matters testified in support of this bill at the request of the Secretary of State and felt that passage would enhance the security of our electoral system by giving the voter control of his/her own ballot and would let election officials know who is handling ballots. The bill would also make state laws agree with the federal law; requiring obtaining information to cancel the registrations of persons who are ineligible to vote due to felony convictions or death. It also requires verification of voter registration records using the driver's license list (Attachment 1).

Also speaking in favor of this legislation was Elizabeth Ensley, Shawnee County Commissioner of Elections. Ms. Ensley stated this bill would provide security of voting without discouraging participation and would require a written record of the person that picks up and delivers a ballot for a voter. It would also require ID for each person when they vote. She also recommends an amendment indicating that the voter card sent out by election offices would not qualify as official ID (Attachment 2).

Submitting written testimony in support of **SB 466** was Sherrie Riebel, Allen County Clerk (Attachment 3) and Linda Buttron, Jefferson County Clerk (Attachment 4).

Presenting written testimony in opposition to this legislation was Rocky Nichols, Executive Director, Disabilities Rights Center of Kansas (Attachment 5).

There being no further discussion, the hearing on **SB 466** was closed. The Chair thanked all those who testified and submitted testimony.

The next meeting is scheduled for February 11, 2010.

The meeting was adjourned at 10:20 a.m.

SENATE ETHICS AND ELECTIONS COMMITTEE GUEST LIST

DATE: Wednesday, February 10, 2010

NAME	REPRESENTING
Elizabeth Ensley	Shawnee Co
Brad Bryant	Sec of State

RON THORNBURGH
Secretary of State



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STATE OF KANSAS

Senate Committee on Ethics and Elections

Testimony on Senate Bill 466

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

February 10, 2010

Madam Chair and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 466. This bill was requested by the Secretary of State as an election security bill. It contains three main concepts:

- (1) voter identification,
- (2) advance ballot security, and
- (3) codification of voter registration verification procedures required by the Help America Vote Act.

Voter Identification

Sections 1 – 4, 7, 10, 11

Senate Bill 466 will require identification of each voter at each election, with certain exceptions.

We urge adoption of this policy for the following reasons:

- It will enhance the security and integrity of the electoral process.
- Half the states in the United States have adopted identification policies similar to, or stronger than, the policy proposed in SB 466.
- It will establish more equal procedures for voters.
- 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.
- The age of the rural state is past. Some say we don't need voter ID because precinct poll workers know all the voters. Times have changed. Most Kansans now live in cities where poll workers don't know all the voters.
- This is a policy that both houses of the Kansas Legislature have passed in previous years.

Article 5, Section 4 of the Kansas Constitution says:

“The legislature shall provide by law for proper proofs of the right of suffrage.”

Thus far, the legislature has not required anything further than the voter's signature on the registration card. Voter identification would constitute “proper proof” and would move Kansas much further toward compliance with this constitutional mandate.

Information provided by the National Conference of State Legislatures indicates that twenty-five

states have voter identification laws: seven require photo ID and eighteen others allow other types of ID besides photo. It is time for Kansas to join this growing trend.

The voter identification requirements proposed in Senate Bill 466 include exceptions for three groups:

- Overseas voters who vote under the federal Uniformed and Overseas Citizens Absentee Voting Act are exempt from identification requirements. This complies with the Help America Vote Act.
- Voters applying for permanent advance voting status are required to submit identification only once, as in current Kansas law.
- Voters in local question submitted elections conducted according to the mail ballot act have more options to comply with the identification requirements. Their options are the same as advance voters requesting mailed ballots.

Advance ballot security

Sections 5, 6

The bill would accomplish the following:

- 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 a person 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.

The security provisions of Senate Bill 466 may be summarized in two general principles:

- (1) The voter needs to control his/her own ballot.
- (2) Election officials need to know who is handling ballots.

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 466 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.

The advance ballot security provisions in this bill deal only with advance voting by mail; they do not affect regular voting at the polls on election day, advance voting in person, or voting by persons with disabilities. It affects one point in the advance voting process—when a voter has received a ballot in the mail and is ready to return it to the county election office.

Clarification and Codification of HAVA Voter Registration Requirements

Sections 8, 9, 12

Senate Bill 466 contains needed clarifications and definitions of current law. Most of the provisions proposed under this heading are required by the Help America Vote Act of 2002 and are already in place in Kansas. This bill would make state laws agree with the federal law.

In general, the requirement is to obtain information to cancel the registrations of person who are ineligible to vote due to felony convictions or death. Also, it requires verification of voter registration records using the driver's license list.

We have included a section-by-section summary of the bill beginning on the next page.

We ask the committee to recommend Senate Bill 466 favorably for passage to enhance the security of our electoral system.

Thank you for your consideration.

Following is a summary of Senate Bill 466 by section:

Section 1—Voter Identification in Mail Ballot Elections

This section deals with the mail ballot act, which allows local governmental units to conduct special question submitted elections by all mail ballot. This section allows voters participating in mail ballot elections to comply with the identification requirements the same ways as advance voters who choose to vote by mail in a regular election. They may provide copies of valid identification documents, their driver's license numbers or the last four digits of their Social Security numbers.

Subsection (h) establishes a procedure for the county election officer to verify the information provided by the voters. This procedure is already in Kansas law for all first-time voters.

Section 2—Voter Identification in Advance Voting

This section deals with identification requirements of advance voters.

Advance voters applying to vote in person are required to show valid identification documents, the same as voters who vote at the polls on election day. .

Advance voters applying to vote by mail are required to provide copies of valid identification documents or to provide their driver's license numbers or the last four digits of their Social Security numbers.

Subsection (g) specifies the procedure for voters applying for permanent advance voting status. These voters have the same options in providing identification as advance voters by mail, but they are required to provide it only once. This rule is the same as in current law. The reason for the exception is that permanent advance voters are often individuals who have difficulty providing identification each time they vote.

Section 3—Voter Identification in Advance Voting

This section specifies the language on the applications for advance ballots.

Section 4—Voter Identification in Advance Voting

This section spells out the procedure for verifying the information provided by voters on their advance ballot applications. If no identification information is provided by a voter, or if the information is not verifiable, the ballot is provisional. This procedure is already in Kansas law for first-time voters.

Section 5—Advance Ballot Security

This section states that, if a voter has applied for a ballot by mail and the voter wishes to designate another person to deliver the ballot to the election office, the designation of the person must be in writing. Advance voters have always been able to request others to deliver their ballots. This bill requires the request to be in writing so that election officers know who has handled the ballots in case there are allegations of improper activities.

Section 6—Advance Ballot Security

This section has two provisions.

First, it states that a person wishing to advance vote by mail must sign his/her own ballot application form. People should not be allowed to cause ballots to be sent to voters without their

consent. There are exceptions in the law for voters with disabilities who need someone to perform these acts for them.

Second, subsection (g) of Section 6 states that the designated delivery person must (a) deliver the ballot within two business days and deliver it as directed by the voter, and (b) sign a statement that the person has not exercised undue influence over the voter.

The two-day delivery rule is already in law, in the advance voting suppression crime statute, K.S.A. 25-2433. Having it in the statement signed by the designated delivery person would ensure that they are aware of it.

The signed statement is already required of individuals who assist voters with illnesses or disabilities. This would require the same statement of anyone assisting an advance voter, regardless of whether the voter has a disability.

Section 7—Voter Identification Exemption for Overseas Voters

Military and nonmilitary overseas voters are exempt from identification requirements. This exemption is limited to voters who choose to vote under the federal Uniformed and Overseas Citizens Absentee Voting Act. This exemption is consistent with the Help America Vote Act.

Section 8—HAVA Voter Registration Requirements

This section rearranges some language in the statute that specifies the contents of the Kansas voter registration application form. The requirements are the same, but the rearrangement of the language is more consistent with the Help America Vote Act. Under HAVA, an applicant for voter registration is asked to provide either his/her driver's license number or the last four digits of his/her Social Security number. The preference in HAVA is to collect driver's license numbers first and to collect Social Security numbers only from individuals who have no driver's licenses.

Section 9—HAVA Voter Registration Requirements

This section codifies into state law the verification requirements that are in federal law. HAVA required the state to develop a statewide voter registration database and to establish interfaces with the Department of Corrections, Office of Vital Statistics and the Division of Motor Vehicles. The purpose of the interfaces is to collect records on felony convictions and deaths to remove ineligible persons' names from the registry and to verify voter registration records using driver's license records which are verified through the Social Security Administration. These interfaces are in place in compliance with the federal law, and the purpose of this provision is to make state law agree with federal law.

Section 10—Voter Identification at the Polls

This section requires voters to provide identification when voting at polling places on election day.

Section 11—Voter Identification at the County Canvass

This section removes a reference to first-time voters in the rule for canvassers to count only ballots for voters who have complied with the statutory identification requirements.

Section 12—Voter Registration Cleanup

This section removes an inconsistency in current state law. The voter registration deadline is 15 days before any election. This section amends K.S.A. 25-3304, a party affiliation statute, to agree with the deadline specified in the voter registration statute, K.S.A. 25-2311.



Shawnee County Commissioner of Elections

Elizabeth Ensley
Election Commissioner
Norine Staab
Asst. Election Commissioner

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T E S T I M O N Y

TO: Senator Schmidt, Chairman
Committee on Ethics and Elections

FROM: Elizabeth Ensley
Shawnee County Election Commissioner

DATE: February 8, 2010

RE: SB 466 –Ballot Security

Thank you for allowing me to speak in favor of Senate Bill 466. This bill provides security of voting without discouraging participation. First, it requires a written record of the person that picks up and delivers a ballot for a voter. Secondly, it requires ID for each person when they vote.

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 whom. 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 orderliness to the process and protection for both the voter and the delivery person.

There are several ways that the statement can be handled and the person making the delivery could sign in to a logbook in the election office upon delivery. Any way that it is handled; the percentage of ballots delivered in this way is not great enough to cause any real complication. It would simply be a matter of informing groups that handle ballot pickup and voters.

Secondly, it requires voters to show ID when they vote. This merely expands current law from first time voters that works quite well. SB466 is practical and easy to implement as it is written. Our election board workers are already trained in acceptable forms of ID and the voters should already possess one or more of these documents. There should be little cost in implementation.

I would like to suggest one possible amendment. The voter card sent out by election offices should not be allowed to be used as ID since identification does not have to be produced at the time of registration.

Over the years, the legislature has considered a variety of similar bills. I am sure that many suggestions will be made in both the House and Senate committees. I would like to suggest three principles when considering this bill:

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Date 2-10-2010
Attachment 2

- I. **Voter ID must be implemented by election board workers.** They are not attorneys and should not have to be. Please keep the requirements straight forward and without many exceptions. Board Workers do an excellent job of serving the thousands of people that vote at the polls on Election Day. They have a lot of information given to them and complicated instructions could become confused. *This current bill uses the same forms of identification that the election board workers use now. It would be easy to implement.*
- II. **Please remember the voters age 65 years old and over and those with disabilities.** *Current identification requirements allow a Nursing home roster on a government form or Medicare or Medicaid card.* If a photo ID is required, this age group (65+ years) has the highest percentage of voter turnout in the election, yet they are the most likely to not have a driver's license and could have difficulty even getting to an agency that produces ID. In my county, 85% of those people 65+ years voted in the November 2008 General Election. (18-24 turned out 63%, 25-44 66%, 45-65 83%)
- III. **Please fund any costs** that might come about due to amendments to this bill. As it is *currently written, I do not see any great costs to implementation.* However, photo ID is frequently discussed as another option for ID. The key to implementing photo ID is to not charge those people who do not have a driver's license as this could be seen as a poll tax. Georgia has successfully implemented such legislation but issues free non-driver's ID and each Election Office has photographic and lamination equipment so that they may issue an ID when needed. This would be expensive in 105 counties.

Please vote in favor of SB 466. Thank you for your time and consideration.

ALLEN COUNTY COURTHOUSE

Sherrie L. Riebel
COUNTY CLERK

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Iola, KS 66749

620-365-1407
Fax: 365-1441
Email: coclerk@allencounty.org

February 10, 2010

To: Senate Ethics and Elections Committee

Re: Testimony on Senate Bill 466

From: Sherrie L. Riebel, Allen County Clerk/Election Official

Honorable Chair and Members of the Committee:

Thank you for the opportunity to submit written testimony in support of Senate Bill 466. I support this legislation as Allen County Clerk/Election Official.

I would like voter identification to be uniform throughout the State of Kansas.

I would encourage increased security of mailed advanced ballots. Currently, the county election official does not know who handles the ballots once they are mailed from the County Election office. This bill would help ensure the voter's ballot is returned in a timely manner and by an authorized person. This would not affect voters with special needs.

I would also support SB 422 because passage of the bill would put Kansas in agreement with the Help America Vote Act (HAVA) on voter identification as well as security of advanced ballots.

KCC&EOA urge the committee to report Senate Bill 466 favorably for passage. Thank you for your consideration.

Sincerely,
Sherrie L. Riebel
Allen County Clerk/Election Official

Senate Ethics and Elections Cmte
Date 2-10-2010
Attachment 3

Jefferson County, Kansas

Linda M. Buttron, COUNTY CLERK

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COUNTY OFFICES

Commissioners
863-2272

Clerk
863-2272

Attorney
863-2251

Sheriff
863-2765

Register of Deeds
863-2243

Treasurer
863-2691

Clerk of the
District Court
863-2461

Road & Bridge
863-2211

Appraiser
863-2080

Auxiliary Services
863-2581

Emergency
Services
863-2278

Extension
863-2212

Planning & Zoning
863-2241

Health
Department
863-2447

GIS/IT
863-2173

911 Dispatch
863-2247

February 11, 2010

Honorable Senator Vicki Schmidt
Chairperson-Senate Ethics and Elections Committee
And Committee Members

Re: S.B. 466

By Committee on Ethics and Election

Chairman Schmidt and Committee Members:

As Jefferson County Clerk and Election Officer, I am in support of the passage of Senate Bill No. 466.

I think the provisions of the bill that tighten election security will be good for voters and give them additional confidence in the election system here in Kansas.

Requiring voter id from each voter when they vote will make my election board workers more comfortable. Under current law they must ask a first time voter for ID and sometimes this creates uncomfortable situations when a voter thinks they are being singled out.

The measures to enhance the security of advance ballots are important as well. This is one area where the County Clerk/Election Officer cannot have control over the ballot once it leaves the office. Requiring the advance voter to designate in writing the person who they want to deliver their ballot will discourage misuse of the advance ballot system.

Thank you for your consideration concerning this bill.

Sincerely,



Linda M. Buttron
Jefferson County Clerk & Election Officer

Senate Ethics and Elections Cmte

Date 2-10-2010

Attachment 4



EQUALITY ♦ LAW ♦ JUSTICE

Disability Rights Center of Kansas

Rocky Nichols, Executive Director

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Written Testimony – SB 466 Senate Ethics and Elections Committee February 10, 2009

Chairperson Vicki 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.

History of Discrimination & Our Concerns in Context – I am here to testify concerning the negative effect of SB 466 on the ability to cast an advanced ballot by people with disabilities. In order to understand the perspective of our concern, you must understand the history of discrimination against people with disabilities. Until recently, people with disabilities in Kansas 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.” Until recently, many polling places were not accessible to people with disabilities. According to the current Kansas Constitution, the Legislature still has the option to take away the right to vote for all Kansans with mental illness. The list goes on and on. The history of discrimination against people with disabilities by Kansas state government provides historical context as to why we are concerned with any new burdens to voting.

The overarching concern regarding SB 466 is that it puts new requirements and new burdens on the person with a disability in regards to advance voting. Among the new burdens is that it would require the person with a disability to do additional certifications on the advance ballot when they designate someone to transport a ballot for them. It also places new requirements on the transporter of the ballot, which may reduce the pool of people available to transport advance ballots for seniors and people with disabilities. It also places new requirements to

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Date 2-10-2010

Attachment 5

include copies of “valid identification” every time someone votes an advance ballot. We believe the current standard is sufficient, which requires copies of valid identification to be included with the advance ballot only for first time voters. Although there is consideration for those who register to vote a permanent advance ballot – generally requiring them to provide ID only when they apply for the permanent ballot application – not all people with disabilities avail themselves of the permanent advance ballot. Many people with disabilities prefer to vote in person at the polls, but may from time to time vote advance due to convenience.

All of these changes proposed in SB 466 place additional barriers on people with disabilities to cast an advance ballot. 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 to get to the polls.

Our biggest problem is that SB 466 puts new requirements on the advance voter, a disproportionate number of which are persons with disabilities. **Instead of placing new burdens on the advance 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.

Regarding paying for returning advance ballots, DRC asks the Committee to have the Secretary of State answer a key question on this matter. On page two, lines 13-14 of SB 466, current law states the following: “The county election officer shall provide for the payment of postage for the return of ballot envelopes.” In checking with county election officials, it would appear that all election officers do NOT pay the return postage for advance ballots. However, this language seems to indicate that perhaps county election officials should be paying for the return postage. DRC would ask the Senate Elections Committee to get a definitive answer from the Secretary of State regarding this issue, whether election officers are all paying for the return postage, and if not, then why not given this provision of existing law.

The language of the bill also raises several questions about the ramifications of these policy changes. 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 the change in the bill)? 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 new requirement? Where are the protections in this bill to absolutely ensure these votes will be counted if the voter forgets to fill out this new designation? From what we can tell, there are none.

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.

Thankfully, last year the Governor vetoed many of these new burdens when they were presented in a separate bill. Also last year, our concerns were mischaracterized on the Senate side as “philosophical in nature,” the direct inference being that DRC only had problems with what the bill represented, not the actual language. Let us be perfectly clear, we have both philosophical and real-world concerns about these proposals. Yes, the history of discrimination perpetrated against people with disabilities provides the philosophical underpinnings of our concern, however, we have real-world application problems with creating new barriers for people with disabilities to cast an advance ballot.

Thank you for your attention to our questions and issues.