

MINUTES OF THE ETHICS AND ELECTIONS COMMITTEE

The meeting was called to order by Chairman Terrie Huntington at 9:38 a.m. on February 10, 2011, in Room 159-S of the Capitol.

All members were present.

Committee staff present:

Mike Heim, Office of the Revisor of Statutes
Jill Shelley, Kansas Legislative Research Department
Estelle Montgomery, Legislative Research Department
Ellen Martinez, Committee Assistant

Conferees appearing before the Committee:

Carol Williams, Executive Director, Governmental Ethics Commission
Brad Bryant, Deputy Assistant Secretary of State, Elections and Legislative Matters

Others attending:

See attached list.

The Chairman called the meeting to order and opened the hearing on **SB 102 - Governmental ethics commission; candidate, lobbyist fee increases**. Staff explained the budget for the Commission. **SB 102** would increase certain fees credited to the Governmental Ethics Commission Fee Fund.

Carol Williams, Executive Director, Governmental Ethics Commission, testified in support of the bill. **SB 102** would provide the necessary fee increases that will be required to offset the SGF reductions recommended by the Governor. In order to sustain the Commission's current level of operations, the fee increases should be enacted. (Attachment 1)

There being no further testimony, the hearing on **SB 102** was closed.

The Chairman opened the hearing on **SB 103 - Elections; absentee voting by military and others; federal services absentee ballots**. Staff explained that **SB 103** would expand voting opportunities for certain absentee federal services voters and military personnel or their family members. The bill would allow overseas voters to vote a full ballot at all elections; apply for, receive and return their ballots by electronic means; and vote a write-in ballot, if needed.

Brad Bryant, Deputy Assistant Secretary of State, Elections and Legislative Matters, testified in support of the **SB 103**. The Secretary of State proposed this bill that would bring Kansas laws into compliance with the Federal Military and Overseas Voter Empowerment (MOVE) Act of 2009. It would allow Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) voters to vote in all elections, including special elections. (Attachment 2)

There being no further testimony, the hearing on **SB 103** was closed.

The Chairman opened the floor for final action on **SB 126 - Elections; campaign finance; public service ads by candidates restricted**. Senator Schmidt introduced an amendment to change the definition of "public service announcement or advertisement" to specify that the message would be one paid for with public sector funds or private sector funds from the governmental organization's current contractor and to exclude news stories and editorials in media not controlled by the candidate. It also added "intentionally" in the subsection regarding civil penalties.

Senator Schmidt moved, Senator Peterson seconded, the bill be amended as previously stated. Motion carried.

Senator Schmidt moved, Senator Apple seconded, the bill be passed favorably as amended. Motion carried.

The Chairman opened the floor for final action on **SB 103 - Elections; absentee voting by military and others; federal services absentee ballots**.

CONTINUATION SHEET

The minutes of the Ethics and Elections Committee at 9:38 a.m. on February 10, 2011, in Room 159-S of the Capitol.

Senator Schmidt moved that the bill be passed favorably; Senator Reitz seconded. Motion carried.

The Chairman opened the floor for final action on **SB 102 - Governmental ethics commission; candidate, lobbyist fee increases.** Senator Schmidt moved that the bill be passed favorably; Senator Reitz seconded. Following discussion, motion carried.

Senator Kultala introduced her pages from Patton Junior High School at Ft. Leavenworth, Kansas.

The Chairman called to the attention of the Committee additional written testimony by Representative Tom Moxley on **SB 31 - Campaign finance; electioneering communications; reporting.** (Attachment 3)

The Chairman thanked everyone for appearing before the Committee.

The next meeting is scheduled for February 16, 2011

The meeting was adjourned at 10:27 a.m.

SENATE ETHICS AND ELECTIONS COMMITTEE GUEST LIST

Date: February 10, 2011

[illegible]

**GOVERNMENTAL ETHICS COMMISSION**

www.kansas.gov/ethics

**Written Testimony before Senate Elections Committee
in Support of Senate Bill 102
by Carol Williams, Executive Director
February 10, 2011**

Governor Brownback's budget recommends reducing State General Fund (SGF) expenditures for the Governmental Ethics Commission by \$230,000 in FY 2012 and \$220,000 in FY 2013. The Governor recommends offsetting the SGF reductions with additional spending authority from the Commission's fee fund. His budget message stated this should be achieved by increasing the fees assessed to lobbyists and political action committees.

Senate Bill 102 is before the Senate Elections Committee this morning to provide the necessary fee increases that will be required to offset the SGF reductions recommended by the Governor.

The Commission is a biennial budget agency. Since 1995, approximately one-third of the Commission's operations have been funded through the agency's fee fund. This reduction in SGF funding will mean the Governmental Ethics Commission Fee Fund will be financing approximately 74% of the Commission's operations.

To make up the \$230,000 reduction in SGF in FY 2012 and the \$220,000 SGF reduction in FY2013, the fees that lobbyists and political action committees pay into the Governmental Ethics Commission Fee Fund will have to triple. In addition, the fees paid by statewide candidates will have to increase by \$20 and all other candidate fees will increase by \$15.

To sustain the Commission's current level of operations, it is imperative the fee increases included in SB 102 be enacted. The Commission urges passage of SB 102.

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STATE OF KANSAS

Senate Committee on Ethics and Elections

Testimony on Senate Bill 103

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

February 10, 2011

Madam Chair and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 103. The Secretary of State proposed this bill to enhance voting opportunities and to comply with two federal laws governing the voting process for military and overseas voters. There have been amendments to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), and Congress passed the Military and Overseas Voter Empowerment (MOVE) Act in 2009.

Senate Bill 103 is identical to 2010 Senate Bill 426, which was passed by this committee last year.

The major provisions of Senate Bill 103 will allow overseas voter to:

- Vote a full ballot at all elections,
- Apply for, receive and return their ballots by email or other electronic means, and
- Vote a write-in ballot if needed.

More specifically:

Section 1—

This section will allow UOCAVA voters to vote in all elections, including special elections. Currently, K.S.A. 25-1215 limits them to primary and general elections, which leaves out special elections.

Section 2—

a. This section changes the effective period of UOCAVA voters' ballot applications from two federal general elections to one calendar year. Before 2004, Kansas law had a provision similar to the one-year application period proposed in this bill. The Help America Vote Act of 2002 (HAVA) required the period to be changed so that ballot applications would be effective from the date of submission of the application by the voter through the second succeeding federal general election, a period spanning two to four years. The MOVE Act reversed that provision from HAVA, allowing states to revert to their pre-HAVA rules.

b. This section allows UOCAVA voters the option of applying for, receiving and returning their ballots by email or other electronic means, as required by the MOVE Act.

We propose this provision not just because it would comply with the new federal law, but because it expands voting opportunities for a group of voters who often are in situations that make it very difficult to vote. Ballots are sent to overseas 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 overseas 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.

Section 3—

This section allows UOCAVA voters to vote a full ballot. 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 103 therefore would expand voting opportunities and promote fairness and equality. Another benefit of Senate Bill 103 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.

Section 3 also allows overseas voters the option of voting a Federal Write-in Absentee Ballot (FWAB) as provided for in UOCAVA. The FWAB is used when overseas voters have applied for regular ballots but the ballots were lost or not delivered. If there is not enough time to apply for a replacement ballot, voters may obtain a FWAB and write in the names of their preferred candidates for federal offices (President/Vice President, U.S. Senate, U.S. House of Representatives).

We urge the committee to recommend Senate Bill 103 favorably for passage.

For the committee's information, following are the main provisions of the 2009 MOVE Act.

- Begin distributing ballots to overseas voters 45 days before the election (this was already in Kansas law, but now it is in federal law).
- Allow overseas voters to obtain all voting information electronically.
- Collect ballot applications and transmit ballots by email or "other electronic means."
- Provide a method for overseas voters to submit Federal Write-in Absentee Ballots electronically.
- Allow overseas voters to track their ballot (whether it's been sent and received) electronically.
- Provide candidate lists electronically to overseas voters.