

SESSION OF 2003

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2288**

As Agreed to April 3, 2003

Brief *

HB 2288 implements certain provisions of the federal Help America Vote Act (HAVA) of 2002 into state election laws, requires additional voter identification information, and allows qualified voters, remaining at the voting place after polling hours, to vote by regular ballot.

The bill includes the following provisions:

Voter Identification Requirements

Requires identification from all voters. Voters who wish to vote by advance ballot would be required to provide one of the following: a copy of a current and valid Kansas driver's license; nondriver's identification card; or another valid form of identification approved by the Secretary of State. A current Kansas driver's license number; a nondriver's identification number; or the last four digits of such voter's Social Security number could be written on the advance ballot application and serve as identification (Section 4).

Individuals voting at the polling place would be required to show one of the following: an individual's current and valid Kansas driver's license; nondriver's identification card; or other valid identification as provided in rules and regulations to be adopted by the Secretary of State which meet or exceed the requirements of HAVA. If such voter was unable to provide one of these forms of identification, the voter would have to vote a provisional ballot. Voters voting by provisional ballot who registered by mail and are first-time voters (HAVA voters)

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must provide one form of identification to the county board of canvassers prior to the canvass in order for their provisional ballot to be counted. Voters voting a provisional ballot who are not HAVA voters must provide a Kansas driver's license number or nondriver's identification card number or the last four digits of their Social Security number at the time of voting in order for their provisional ballot to count. These voters also could submit a copy of one of the accepted forms of identification by mail or electronic means before the canvass (Sections 4 and 8).

Additional Voter Eligibility Requirements

Requires additional information dealing with citizenship, age, and voter identification to be included on a current voter registration application to determine voter eligibility. The application would include the question of whether the applicant is a United States citizen, is 18 years of age, and include a statement informing the applicant that such applicant shall be required to provide identification when voting. Requires that if the applicant fails to answer the citizenship statement, then such applicant would be sent a notice of incompleteness, and the applicant would be provided an opportunity to complete the application in a timely fashion (Section 6).

Provisional Voter Affidavit

Requires an individual casting a provisional ballot at the polling place to sign an affidavit that such individual is a registered voter in the jurisdiction and is eligible to vote. Language would be added to the current affidavit for provisional voters, voting in primary elections, to comply with unsworn declaration requirements prescribed in KSA 53-601 (Sections 1 and 2).

Ballots Cast After Polling Hours

Allows voters to cast a provisional ballot if the polling hours are extended by a court or other order. These ballots are required to be separated from other provisional ballots cast during normal polling hours (Sections 3 and 9).

Allows voters to cast a regular ballot if such voter is waiting in line at the polls to vote and has not voted after the polls close unless the ballot is challenged for another reason (Section 10).

Posting Notices in Polling Places

Requires a poster be posted in every polling place including the following information: a sample ballot, the date of the election, and polling place hours, and information contained in current law dealing with voter's rights and responsibilities (Section 7).

Federal Services Absentee Ballot Application

Changes application procedures for federal services absentee ballots. Such ballots would be considered effective for two consecutive general elections for national and state offices (Section 5). Current law requires an individual to apply for a federal services absentee ballot every year.

Background

HB 2288 was proposed by the Secretary of State (SOS). A representative testified that the bill would implement certain election reform changes mandated by the federal Help America Vote Act of 2002. These changes require implementation by January 1, 2004. The representative stated that anything less than full compliance with the federal mandates may have the potential following ramifications: litigation initiated by the United States Department of Justice, denial of federal funds for HAVA implementation, and classification as a pre-clearance state by the United States Department of Justice.

The provisions mandated by HAVA include the following:

1. Requires identification from first-time voters in the county who registered by mail and wish to vote by advance ballot or at the polling place. The federal identification requirement may be met by providing a current and valid photo identification or a current utility bill, bank statement, government check, or other government document that shows the name and address of the person.

2. Requires information dealing with citizenship, age, and voter identification to be included on a current voter registration application to determine voter eligibility.
3. Requires affidavits to be signed by voters voting provisional ballots.
4. Allows voters to cast a provisional ballot if the polling hours are extended by a court or other order. These ballots are required to be separated from other provisional ballots cast during normal polling hours.
5. Requires a poster be posted in every polling place to include the following information: a sample ballot, the date of the election, and polling place hours, and information dealing with voter's rights and responsibilities.
6. Changes application procedures for federal services absentee ballots. Such ballots would be considered effective for two consecutive general elections for national and state offices.

In addition to an explanation of the bill, the representative of the SOS provided an update on the federal funding plan. He said that HAVA authorizes, but does not appropriate, \$3.86 billion over the next four years to reimburse the states for implementation costs. According to the SOS, the funds would be appropriated in the following manner:

Title 1 Funds: Congress recently appropriated \$325 million and the money may be received by the states as early as May, 2003. Kansas' share would be \$5 million.

Title 2 Funds: HAVA authorizes \$3 billion which has not been fully appropriated. If funding formulas are maintained, Kansas' share could be \$7.5 million. These funds may be received by the states in 2003 or early 2004. The state's 5 percent matching funds obligation would be approximately \$375,000.

The Division of Budget's fiscal note indicates that the cost to the Secretary of State's Office for posters would be \$2,000. Additional poll workers and additional costs for each election is estimated at

\$220,000 per year. Additional staff time is estimated at \$116,000 per year and a one-time expense to print new voter registration application forms would be \$15,000. The fiscal note stated that Congress has authorized, but not appropriated, \$3.86 billion for implementation of HAVA. Some of the money will be distributed to the states based on a formula, some of it will be in the form of grants, and some would be received only after certain conditions had been met by the state. If fully funded over the next three or four fiscal years, Kansas' share of HAVA funding could be as much as \$32 million. Any fiscal effect resulting from the enactment of HB 2288 would be in addition to amounts included in *The FY 2004 Governor's Budget Report*.

The House Committee of the Whole amended the bill allowing a voter to vote by regular ballot if the polling place closes and such voter is waiting to vote.

The Senate Committee on Elections and Local Government amended the bill to include a requirement for a valid form of identification approved by the Secretary of State on the application for advance voting; a registration card issued by the county election officer; or other form of identification which meets or exceeds HAVA for in person voters; authorization of the Secretary of State to promulgate rules and regulations; authorization for a ballot to be challenged for other reasons other than individuals waiting in line to vote after the polls close; and deletion of the requirements for posting the notice informing voters they could vote by regular ballot after polling hours.

The Conference Committee agreed on the Senate version of HB 2288 with an amendment to delete the use of a registration card as a form of identification.