

Approved: March 15, 1994
Date

MINUTES OF THE SENATE COMMITTEE ON ELECTIONS, CONGRESSIONAL & LEGISLATIVE
APPORTIONMENT AND GOVERNMENTAL STANDARDS

The meeting was called to order by Chairperson Barbara Lawrence at 1:30 p.m. on February 24, 1994 in
Room 529-S of the Capitol.

All members were present

Committee staff present: Dennis Hodgins, Legislative Research Department
~~Mary Galligan, Legislative Research Department~~
~~Raney Gilliland, Legislative Research Department~~
Arden Ensley, Revisor of Statutes
Pat Brunton, Committee Secretary

Conferees appearing before the committee: Brad Bryant, Deputy Assistant Secretary of State

Others attending: See attached list

Chairperson Lawrence asked the committee to consider sending to interim committee SB 592-State
governmental ethics; compensation of state personnel for services to private persons.

Senator Lawrence informed the committee that after talking with John W. Campbell, Deputy Attorney General
of Kansas, and based on his information, it was felt this issue is much greater than that which affects the
Highway Patrol. (Attachment 1). She feels this should be sent to interim committee for an in-depth study.

A motion was made by Senator Martin to send SB 592 to interim committee for further study. Senator
Hardenburger seconded the motion. Motion carried.

Hearings were opened on HB 2591-Elections; federal services absentee voting.

Brad Bryant, Deputy Assistant Secretary of State, testified before the committee in favor of **HB 2591**. He
stated **HB 2591** will allow federal services voters overseas to vote their absentee ballots by facsimile. This
bill will allow federal services voters to request absentee ballots by FAX, receive their ballots from county
election officers by FAX, and return their voted ballots to the county by FAX. In exercising this option, they
will sign a statement waiving their right to a secret ballot. County election officers are charged in this
legislation with ensuring secrecy as far as practicable. **HB 2591** is a method of opening up the voting
process and encouraging participation by a segment of the electorate for whom voting is sometimes difficult.
It will cost the state nothing, and it will cost most counties very little money if any. (Attachment 2).

After much discussion on **HB 2591**, Senator Bond recommended an amendment to this legislation. On line
23, strike everything after United States to line 25, and a qualified elector, etc.

Senator Ranson moved to amend HB 2591 with this language. Senator Hardenburger seconded. Motion
passed.

Senator Parkinson made a motion to amend HB 2591 by replacing the word *transmit* on line 28 with the
word *mail* and striking the words *by facsimile*. Senator Ranson seconded the motion. Motion carried.

Senator Parkinson moved to pass as amended HB 2591. Senator Ranson seconded. Motion carried.

The meeting adjourned at 2:15 p.m.

GUEST LIST

SENATE ELECTIONS COMMITTEE

DATE: Feb. 24, 1994

NAME (PLEASE PRINT)

ADDRESS

COMPANY/ORGANIZATION

[illegible]



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

M E M O R A N D U M

TO: Chairperson, Senate Elections Committee &
Committee Members

FROM: John W. Campbell
Deputy Attorney General

DATE: February 24, 1994

RE: Senate Bill 592

In response to the concerns expressed by members of the committee, and after consultation with Ms. Williams and Sgt. Maple, the following are presented as three possible alternatives to the current proposed language amending K.S.A. 46-286(b).

I. NARROWING THE FOCUS

(b) Whenever any individual has, within the preceding two years directly participated as a state officer or employee in the licensure or inspection of any person or business, such individual shall not accept compensation for consulting with or be employed by that person or business while still employed as a state officer or employee.

SENATE ELECTIONS
2-24-94
ATTACHMENT 1

II. FEDERAL STANDARDS

(b) Whenever any state officer or employee has, participated in the licensure, inspection, or regulation of any person or business as a result of an official position which is funded in whole or in part by the government of the United States, that state officer or employee shall observe the same standards of ethical conduct as an employee of the government of the United States with regard to the acceptance of compensation for consulting with or employment by the person or business who was licensed or inspected in connection with that official position.

III. PERCENTAGE OF COMPENSATION

(b) No state officer or employee who directly participates in the licensure, inspection, or regulation of any person or business shall accept compensation for consulting with or be employed by that person for an amount greater than the annual salary paid to the state officer or employee by the State of Kansas.

At this time there is no recommendation dealing solely with the Kansas Highway Patrol. These is due to the fact that counsel and the superintendent have not been able to meet and discuss such recommendations.

SENATE BILL No. 592

By Committee on Elections, Congressional and Legislative
Apportionment and Governmental Standards

1-25

9 AN ACT relating to state governmental ethics; concerning conflict
10 of interests; compensation of state officers and employees for serv-
11 ices to private persons; amending K.S.A. 46-286 and repealing
12 the existing section.
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 46-286 is hereby amended to read as follows:
16 46-286. (a) No state officer or employee, in the officer's or employee's
17 official capacity, shall participate directly in the licensure, inspection
18 or administration or enforcement of any regulation of or in any
19 contract with any outside organization with which the officer or
20 employee holds a position.

21 (b) *No state officer or employee shall accept compensation for*
22 *consulting with or be employed by, any person who is licensed,*
23 *regulated or inspected by the state office or agency in which such*
24 *state officer or employee holds a position or is employed.*

25 (c) This section shall not apply to appointed or elected members
26 of a state board, council or commission, except that no member of
27 such board, council or commission shall participate in any license,
28 inspection or contract on behalf of their state board, council or
29 commission with any outside organization with which such member
30 is associated or the holding of a position as a member of an advisory
31 board, council or commission of an outside organization or of a
32 position of a voluntary or charitable nature if the advisory, voluntary
33 or charitable position is taken without any expectation or acceptance
34 of remuneration other than reimbursement of necessary and actual
35 expenses.

36 Sec. 2. K.S.A. 46-286 is hereby repealed.

37 Sec. 3. This act shall take effect and be in force from and after
38 its publication in the Kansas register.

Bill Graves
Secretary of State



2nd Floor, State Capitol
Topeka, KS 66612-1594
(913) 296-2236

STATE OF KANSAS

Senate Committee on Elections, Legislative Apportionment and Governmental Standards

Testimony on HB 2591

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

February 23, 1994

Madam Chair and Members of the Committee:

Thank you for the opportunity to appear before the committee and urge your support and passage of HB 2591. HB 2591 will allow federal services voters overseas to vote their absentee ballots by facsimile. The bill will amend K.S.A. 25-1216, which is part of the federal services ballot statutes, required by federal law.

The Federal Voting Assistance Program (FVAP), operating as part of the Department of Defense in the Pentagon, is charged with overseeing the process by which American military personnel stationed overseas and their dependents may vote in the state and county of their residence. The FVAP also includes non-military U. S. citizens, some of them federal government employees and some non-government employees.

According to the FVAP, in 1992 81% of the 1.8 million military personnel and 76% of their 1.5 million dependents voted. Three years ago, during the Desert Storm conflict, a precedent was set in many states, including Kansas, whereby military personnel voted by facsimile. The Department of Defense encouraged states to allow FAX voting during that emergency, and now it encourages states to write such provisions into their election laws.

This bill will allow federal services voters to request absentee ballots by FAX, receive their ballots from county election officers by FAX, and return their voted ballots to the county by FAX. In exercising this option, they will sign a statement waiving their right to a secret ballot. County election officers are charged in this legislation with ensuring secrecy as far as practicable.

SENATE ELECTIONS
2-24-94
ATTACHMENT 2

HB 2591 is a method of opening up the voting process and encouraging participation by a segment of the electorate for whom voting is sometimes difficult. It will cost the state nothing, and it will cost most counties very little money if any.

We in the Secretary of State's office join the Federal Voting Assistance Program in urging passage of HB 2591, which passed the House of Representatives 125-0 last month.

Included with copies of my remarks are some 1992 figures from the FVAP that might give some idea of the impact of this legislation.

<u>Voting Group</u>	<u>Number</u>	<u>From Kansas</u>	<u>1992 Turnout</u> (nationwide)
Military personnel	1.8 million	14,823	81%
Military dependents	1.5 million	11,117	76%
Civilian non-government employees	3 million	22,988	31%
Civilian government employees	200,000	N/A	79%

Bill Graves
Secretary of State



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Topeka, KS 66612-1594
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STATE OF KANSAS

Senate Committee on Elections, Congressional and Legislative Apportionment and Governmental Standards

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

February 24, 1994

Madam Chair and Members of the Committee:

The office of the Secretary of State wishes to propose an amendment to HB 2591 for the committee's consideration. It involves defining the term of office of a person appointed to fill a vacancy in an elected county office. It would amend K.S.A. 19-303 regarding county clerks, 19-504 regarding county treasurers, 19-804 regarding sheriffs, and 19-1203 regarding registers of deeds.

This proposed amendment to HB 2591 would distinguish between the *regular* term of an elected county official and the *interim* term of the person appointed when a vacancy occurs. Current incumbents in these offices were elected in 1992, began their regular terms in January of 1993, and will end their regular terms in January of 1997.

Legislation was passed in 1986 to distinguish between vacancies occurring before May 1 of the second year of a regular term and vacancies occurring after May 1 the same year. Using this year as an example, if the vacancy occurs before May 1, 1994, the successor serves until the general election in November, 1994. If the vacancy occurs after May 1, 1994, the successor serves the remainder of the term.

We think the statute as amended in 1986 does what it's supposed to do, but confusion has arisen that could result in the voters being denied the opportunity to decide who serves the final two years of an unexpired term. The proposed amendment will clarify that the voters decide who serves the final two years.

If adopted, the amendment will affect only those instances where a vacancy occurs two or more times within a regular term, and will affect only instances where a vacancy occurs between May 1 and the county canvass of the vote on the Friday following the general election.

We propose this amendment to HB 2591 be adopted and made effective upon publication in the Kansas Register.

13. Vacancy in office of county clerk, how filled. If a vacancy in the office of county clerk should occur by death, resignation, or otherwise, the vacancy shall be filled by appointment of a qualified elector of the county in the manner herein provided. If the vacancy occurs on or after May 1 of the second year of the term, the person so appointed shall serve for the remainder of the unexpired term and until a successor is elected and qualifies. If the vacancy occurs before May 1 of the second year of the term, the person appointed to fill the vacancy shall serve until a successor is elected and qualifies at the next general election to serve the remainder of the unexpired term. Nomination and election of such successor shall be in the same manner as nomination and election of a county clerk for a regular term. Appointments hereunder shall be made in the manner provided by law for filling vacancies in the office of member of the house of representatives.

If ~~the~~ a vacancy occurs on or after May 1 of the second year of the *regular* term, the person so appointed shall serve for the remainder of the unexpired *regular or interim* term and until a successor is elected and qualified. If ~~the~~ a vacancy occurs before May 1 of the second year of the term, ~~the person appointed to fill the~~ an election shall be held at the next national or state general election to fill the unexpired term commencing from the date of the final canvass. A person appointed to fill the vacancy for the interim term shall serve until a successor is elected and qualified at the next *national or state* general election to serve the remainder of the unexpired *regular* term.

19-504. Vacancy in office of county treasurer, how filled. In case the office of county treasurer shall become vacant, there shall be appointed a qualified elector of the county to perform the duties of such treasurer, and the person so appointed, upon giving bond, with the like sureties and conditions as that required in county treasurer's bonds, and in such sum as the board of county commissioners shall direct, shall be invested with all the duties of

such treasurer. If the vacancy occurs on or after May 1 of the second year of the term, the person so appointed shall serve for the remainder of the unexpired term and until a successor is elected and qualifies. If the vacancy occurs before May 1 of the second year of the term, the person appointed to fill the vacancy shall serve until a successor is elected and qualifies at the next general election to serve the remainder of the unexpired term. Nomination and election of such successor shall be in the same manner as nomination and election of a county treasurer for a regular term. Appointments hereunder shall be made in the manner provided by law for filling vacancies in the office of member of the house of representatives.

If ~~the~~ a vacancy occurs on or after May 1 of the second year of the *regular* term, the person so appointed shall serve for the remainder of the unexpired *regular or interim* term and until a successor is elected and qualified. If ~~the~~ a vacancy occurs before May 1 of the second year of the term, ~~the person appointed to fill the~~ an election shall be held at the next national or state general election to fill the unexpired term commencing from the date of the final canvass. A person appointed to fill the vacancy for the interim term shall serve until a successor is elected and qualified at the next *national or state* general election to serve the remainder of the unexpired *regular* term.

19-804. Vacancy in office of sheriff, how filled. Duties and liabilities of undersheriff. Except those counties operating under the provisions of consolidated law enforcement acts, whenever a vacancy occurs in the office of sheriff of any county, the undersheriff of such county shall in all things execute the office of sheriff until a sheriff shall be appointed by the governor in the manner provided by law for filling vacancies in the office of member of the house of representatives.

If the vacancy occurs on or after May 1 of the second year of the term, the person so appointed shall serve for the remainder of the unexpired term and until a successor is elected and qualifies. If the vacancy occurs before May 1 of the second year of the term, the person appointed to fill the vacancy shall serve until a successor is elected and qualifies at the next general election to serve the remainder of the unexpired term. Nomination and election of such successor shall be in the same manner as nomination and election of a sheriff for a regular term. Any default or misfeasance in office of such undersheriff in the meantime, as well as before such vacancy, shall be deemed to be a breach of the condition of the bond given by the sheriff who appointed the undersheriff, and also a breach of the condition of the bond executed by such undersheriff to the sheriff by whom the undersheriff was appointed.

If the a vacancy occurs on or after May 1 of the second year of the *regular* term, the person so appointed shall serve for the remainder of the unexpired *regular or interim* term and until a successor is elected and qualified. If the a vacancy occurs before May 1 of the second year of the term, ~~the person appointed to fill the a~~ *election shall be held at the next national or state general election to fill the unexpired term commencing from the date of the final canvass. A person appointed to fill the vacancy for the interim term shall serve until a successor is elected and qualified at the next national or state general election to serve the remainder of the unexpired regular term.*

19-1203. Vacancy in office of register of deeds, how filled. In case of a vacancy in the office of register of deeds, the same shall be filled by the appointment of a qualified elector of the county.

If the vacancy occurs on or after May 1 of the second year of the term, the person so appointed shall serve for the remainder of the unexpired term and until a successor is elected and qualifies. If the vacancy occurs before May 1 of the second year of the term, the person appointed to fill the vacancy shall serve until a successor is elected and qualifies at the next general election to serve the remainder of the unexpired term.

Nomination and election of such successor shall be in the same manner as nomination and election of a county register of deeds for a regular term. In the absence or inability of the register of deeds to perform the duties of his office, the deputy shall perform the duties of said register during the continuance of such absence or inability. Appointments hereunder shall be made in the manner provided by law for filling vacancies in the office of member of the house of representatives.

If the a vacancy occurs on or after May 1 of the second year of the *regular* term, the person so appointed shall serve for the remainder of the unexpired *regular or interim* term and until a successor is elected and qualified. If the a vacancy occurs before May 1 of the second year of the term, ~~the person appointed to fill the a~~ *election shall be held at the next national or state general election to fill the unexpired term commencing from the date of the final canvass. A person appointed to fill the vacancy for the interim term shall serve until a successor is elected and qualified at the next national or state general election to serve the remainder of the unexpired regular term.*