

MINUTES OF THE ETHICS AND ELECTIONS COMMITTEE

The meeting was called to order by Chairman Terrie Huntington at 9:41 a.m. on February 17, 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
Ellen Martinez, Committee Assistant

Conferees appearing before the Committee:

Ryan Kreigshauser, Deputy Assistant Secretary of State for Policy
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 128 - Presidential preference primary election; date delayed**. Staff explained that **SB 128** would change the date of the next presidential preference primary in Kansas from 2012 to 2016. It also would change the filing deadline for a candidate who wishes to appear on the ballot of the presidential preference primary, from February 12 to seven weeks before such an election. The bill would allow darkening of an oval, in addition to making a mark in a square, to indicate a vote in a presidential preference primary.

Ryan Kreigshauser, Deputy Assistant Secretary of State for Policy, testified in support of **SB 128**. Secretary of State Kris Kobach requested this bill as primarily a cost saving measure. This bill would ensure that the Secretary of State's office and county election offices are not left with a statutory obligation to conduct a primary without funding. (Attachment 1)

There being no further discussion, the hearing was closed.

The Chairman opened the hearing on **SB 129 - Elections; vacancies; state senators**. Staff explained that **SB 129** would change election requirements for filling a vacated Senate office. If the vacancy occurred before May 1, changed by the bill from October 15, in the second year of the term, a senator would be elected in the next general election. Anyone appointed to the office would serve until that election. The bill would specify that the nomination and election process of the successor senator would be the same as that for a regular Senate term. A person appointed to a Senate office vacated after May 1 in the second year of a term would stay in the office for the remainder of the term.

Brad Bryant, Deputy Assistant Secretary of State Elections and Legislative Matters, testified in support of **SB 129**. Secretary of State Kris Kobach requested this bill to establish a more normal and orderly process for holding elections to fill vacancies in the Kansas Senate when they occur in the first half of the term. (Attachment 2)

There being no further discussion, the hearing was closed.

The Chairman opened the hearing on **SB 145 - Elections; corrupt political advertising; stand by your ads requirement**. Staff explained **SB 145** would add to the Campaign Finance Act requirements for a disclosure statement in any radio or television ad that clearly expresses the nomination, election, or defeat of a clearly identified candidate for state or local office. The statement would have to be spoken, and the bill would specify minimum "approved by" wording for the statement. The statement could be made by a candidate, the chairperson or treasurer or a party or political committee, an individual, or another person as a representative of a corporation, group, or entity. It would delete current requirements related to those ads.

Senator Schmidt testified in support of **SB 145**. Carol Williams, Executive Director of the Governmental Ethics Commission clarified several issues for the Committee. Senators Faust-Goudeau and Reitz both supported **SB 145**. (Attachment 3)

CONTINUATION SHEET

The minutes of the Ethics and Elections Committee at 9:41 a.m. on February 17, 2011, in Room 159-S of the Capitol.

Kent Cornish, Kansas Association of Broadcasters, stood for questions from the committee.

There being no further discussion, the hearing was closed.

The Chairman opened the floor for final action on **SB 125 - Elections; candidate filing deadline change.**

Senator Kelsey moved, seconded by Senator Faust-Goudeau. Motion carried.

The Chairman opened the floor for final action on **SB 130 - Elections; candidate filing deadlines; other.**

Senator Kelsey moved, seconded by Senator Schmidt. Senator Kultala asked that **SB 130** be amended to remove a provision that would have decreased from 300 to 100 the number of signatures needed on a nomination petition for the office of member of the State Board of Education.

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

Senator Kultala moved, seconded by Senator Faust-Goudeau, the bill be passed favorably as amended. Motion carried.

The Chairman thanked the conferees for appearing before the Committee.

The next meeting is scheduled for February 19, 2011

The meeting was adjourned at 10:29 a.m.

SENATE ETHICS AND ELECTIONS COMMITTEE GUEST LIST

Date: February 17, 2011

[illegible]

KRIS W. KOBACH
Secretary of State



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STATE OF KANSAS

Senate Committee on Ethics and Elections

Testimony on Senate Bill 128

Ryan Kriegshauser, Deputy Assistant Secretary of State
for Policy

February 17, 2011

Madam Chair and Members of the Committee:

Thank you for the opportunity to testify on Senate Bill 128. This bill would cancel the 2012 presidential preference primary but maintain the laws that call for a primary in future presidential election years. This bill is primarily a cost saving measure.

The Secretary of State's office coordinated with the county election offices to conduct the presidential primary in 1992, the last time a primary was held in Kansas. We are ready to implement whatever policy the Legislature sets, but recognizing that the current state budget climate makes it unlikely that the Legislature will appropriate funding for the presidential primary, we propose this bill to cancel the 2012 primary to ensure that the Secretary of State's office and the county election offices are not left with a statutory obligation to conduct a primary without funding.

If the Legislature chooses not to pass this legislation, there will be a 2012 presidential primary, and in case that happens, the Secretary of State's office is requesting a budget amendment for approximately \$1.3 million to pay the expenses of the primary.

Under current law, counties conduct the primary as they would any other election. They submit bills to the Secretary of State's office requesting reimbursement for their direct expenses associated with the primary. The Secretary of State is directed by law to review the requests in coordination with the Division of Accounts and Reports and to reimburse the counties.

With this legislation, the Secretary of State is not taking a stand either for or against the presidential preference primary. He is raising the policy question for the Legislature to decide. If the Legislature wishes to have a primary, it may appropriate the funds for it and dispose of this bill. If the Legislature does not wish to fund the primary, we urge passage of this legislation.

I should also mention that there are two technical changes included in this bill as well. The phrase "or darkened oval" has been included alongside language related to "voting square(s)." This language is needed because often ballots include ovals instead of squares. Additionally, there is a change to allow the filing deadline to float because the date of the presidential preference primary can move if at least five other states have a presidential primary the same day. However, the date of the presidential preference primary must be chosen and certified by November 1 of the year before the primary.

Because this bill is a cost saving measure and there has been some interest expressed in the Senate for further cost savings related to constitutional amendments, we have prepared an amendment to this bill to realize further savings. K.S.A. 64-103 mandates that the text of any constitutional amendment must be published in a newspaper in each county of the state once each week for three weeks before an election is held on a constitutional amendment. In many cases the cost of publishing the constitutional amendment exceeds the ballot programming cost. The proposed amendment would remove this requirement and instead allow the Secretary of State to publish amendments by posting them on the Secretary of State's website.

Thank you for your consideration.

SENATE BILL No. 128

By Committee on Ethics and Elections

2-7

1 AN ACT concerning the presidential preference primary, amending
2 K.S.A. 25-4502 and 25-4503 and K.S.A. 2010 Supp. 25-4501 and
3 repealing the existing sections.
4

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

6 Section 1. K.S.A. 2010 Supp. 25-4501 is hereby amended to read as
7 follows: 25-4501. (a) Subject to the provisions of this section, there shall
8 be held a presidential preference primary election in the year 20122016,
9 and every fourth year thereafter.

10 (b) On or before November 1, 20112015, and on or before
11 November 1 every fourth year thereafter, the secretary of state shall
12 certify to the governor, to the chief clerk of the house of representatives
13 and to the secretary of the senate a common date in the next succeeding
14 year on which at least five other states will hold a presidential preference
15 primary election, a delegate or mass convention or a caucus of qualified
16 voters at which delegates to a national convention are selected. On or
17 before each such date, if the secretary of state determines that there is no
18 common date on which at least five states are conducting such a selection
19 process in the next succeeding year, the secretary of state shall certify to
20 the governor, the chief clerk of the house of representatives and the
21 secretary of the senate on a date, which shall be on or before the first
22 Tuesday in April of the next following year, on which the presidential
23 preference primary election shall be held.

24 (c) The date certified by the secretary of state pursuant to subsection
25 (b) shall be the date on which the presidential preference primary election
26 authorized by subsection (a) shall be held in the state of Kansas.

27 Sec. 2. K.S.A. 25-4502 is hereby amended to read as follows: 25-

28 4502. (a) Every registered elector who has declared such elector's party
29 affiliation with a political party eligible to participate in a state primary
30 election shall have the opportunity to vote one vote at a presidential
31 preference primary election for such elector's preference for one person to
32 be the candidate for nomination by such candidate's party for president of
33 the United States or for "none of the names shown." Any registered
34 elector who has not declared such candidate's party affiliation prior to the
35 election may make such a declaration at the polling place, and thereupon
36 shall be permitted likewise the opportunity to vote one vote at the

1 presidential preference primary. A vote for "none of the names shown"
2 shall express the preference for an uncommitted delegation from Kansas
3 to the national convention of that elector's party. Preference shall be
4 indicated by marking with a cross or check mark inside a voting square *or*
5 *a darkened oval* on the ballot at the left of the voter's choice, or by voting
6 by using a voting machine.

7 (b) The name of any candidate for a political party nomination for
8 president of the United States shall be printed on the ballots only if, not
9 later than ~~twelve o'clock~~ 12 noon, ~~February 12~~ *prior to on the date which*
10 *precedes by seven weeks the date of the presidential preference primary*
11 *or, if such date falls on Saturday, Sunday or a holiday, not later than*
12 ~~twelve o'clock~~ 12 noon the following day that is not a Saturday, Sunday or
13 holiday.

14 (1) The candidate files with the secretary of state a declaration of
15 intent to become a candidate accompanied by a fee of \$100; or

16 (2) there is filed in the office of secretary of state a petition in the
17 form prescribed by K.S.A. 25-205, and amendments thereto, signed by
18 not less than 1,000 registered electors, who are affiliated with the political
19 party of such candidate as shown by the party affiliation list. The
20 secretary of state shall determine the sufficiency of each such petition,
21 and such determination shall be final.

22 Sec. 3. K.S.A. 25-4503 is hereby amended to read as follows: 25-
23 4503. (a) The names of the candidates for nomination for president of the
24 United States by a political party eligible to participate in a state primary
25 election shall be printed on the official ballots for the presidential
26 preference primary elections of their respective parties along with the
27 choice of "none of the names shown." The ballots shall be marked,
28 returned and canvassed in the same manner and under the same
29 conditions, so far as the same are applicable, as in the case of the primary
30 election of candidates for nomination for state offices.

31 (b) The official presidential preference primary election ballots shall
32 be printed in a single column and shall have the following heading:

33 OFFICIAL PRESIDENTIAL
34 PREFERENCE PRIMARY
35 ELECTION BALLOT

36 _____ Party

37 To vote for a person whose name is printed on the ballot make a cross
38 or check mark in the square, *or darken the oval*, to the left of the name of
39 the person for whom you desire to vote. To vote for "none of the names
40 shown" make a cross or check mark in the square to the left of such
41 words.

42 This shall be followed by the names of the candidates for president of
43 the United States of such party in the manner and order certified by the

1 secretary of state.

2 (c) As soon as possible after February 12 the candidate filing
3 deadline, the secretary of state shall certify to each county election officer
4 the name of each person who is a candidate for nomination to be
5 president of the United States of each party authorized to participate in
6 the presidential preference primary election. The secretary of state shall
7 publish, not less than 21 days prior to the presidential preference primary,
8 a notice in one newspaper in each county of the state where a newspaper
9 is published, that the official list of candidates and the date of the election
10 can be acquired in the office of the secretary of state or the office of the
11 county election officer.

12 (d) When a party participating in the presidential preference primary
13 election has more than one candidate, the secretary of state shall
14 determine by lot the order in which the candidates' names will appear on
15 the ballot. The order of names, as established by the secretary of state,
16 shall be uniform in each county throughout the state.

17 Sec. 4. ~~K.S.A. 25-4502 and 25-4503 and K.S.A. 2010 Supp. 25-~~
18 ~~4501 are hereby repealed.~~

19 Sec. 5. ~~This act shall take effect and be in force from and after its~~
20 ~~publication in the statute book.~~

Comment [Ryan Krie1]: Insert New Sec:
"K.S.A. 64-103 is hereby amended to read as
follows: 64-103. (a) All acts of the legislature which
shall provide for their taking effect on publication in
any newspaper or in the Kansas register shall be
published in the Kansas register, which shall be
deemed the official publication. Except as otherwise
provided in this subsection, all proclamations,
orders, notices and advertisements authorized by any
state officer shall be printed and published in the
Kansas register. Payment for such publication shall
be made by the state at the rates prescribed by law.
The provisions of this subsection shall not apply to:
(1) Resolutions making propositions to amend the
constitution; or (2) proclamations issued by the
governor which are not required by law to be issued
by the governor. All proclamations issued by the
governor which are not published in the Kansas
register shall be published on the official Kansas
internet website."

(b) For the purpose of informing the electors of the
propositions to be voted on at the election thereon,
the secretary of state shall cause resolutions making
propositions to amend the constitution to be
published in one newspaper in each county of the
state where a newspaper is published, once each
week for on the website of the secretary of state for
at least three consecutive weeks immediately
preceding the election at which the proposition is to
be submitted."

Comment [Ryan Krie2]: Insert: "Sec. 5"

Comment [Ryan Krie3]: Insert: "Sec. 6"

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STATE OF KANSAS

Senate Committee on Ethics and Elections

Testimony on Senate Bill 129

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

February 17, 2011

Madam Chair and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 129. This bill was proposed by the Secretary of State to establish a more normal and orderly process for holding elections to fill vacancies in the Kansas Senate when they occur in the first half of the term.

Current law states that if a vacancy in the Senate occurs before October 15 of the second year of the Senator's term, the person appointed to fill the vacancy serves until the midterm election, when the appointee faces election to complete the remainder of the term. If the vacancy occurs after October 15, the appointee serves the remainder of the term without facing a midterm election.

A situation arose on September 8, 2010 when Senator Jim Barnett submitted a letter of resignation effective October 1. The timing of the resignation required the political parties to nominate candidates within the span of one week in order to allow county election officers to meet the September 18 deadline to distribute ballots to military and overseas voters. There was no time for a proper candidate filing period or a primary election. Independent candidates, who are required to file by petition, were essentially left out of the process. The situation threatened to put county election officers out of compliance with federal law.

With Senate Bill 129, we propose to amend K.S.A. 25-321 to allow for a candidate filing period and a primary election. The bill states that if the vacancy occurs before May 1 of the second year of the Senator's term, the person appointed to fill the vacancy faces a midterm election for the remaining two years of the term. There would be a regular June 10 candidate filing deadline and an August primary.

Under this bill, if the vacancy in the Senate seat occurs after May 1 of the second year of the term, the appointee serves the remainder of the term without a midterm election.

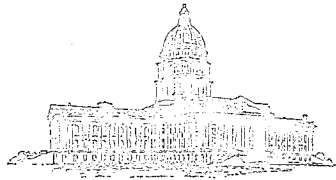
The process that would be established with passage of Senate Bill 129 mirrors the process currently prescribed in law for many other elected officials who serve four-year terms. After the expedited election that occurred in 2010 to fill the vacancy in District 17 of the Kansas Senate, Senate leadership expressed interest in a proposal to establish a more orderly process. This bill is such a proposal.

Thank you for your consideration.

STATE OF KANSAS

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SENATOR VICKI SCHMIDT
ASSISTANT MAJORITY LEADER

COMMITTEE ASSIGNMENTS

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CHAIR: ADMINISTRATIVE RULES
AND REGULATIONS
CHAIR: HEALTH POLICY OVERSIGHT
MEMBER: INFORMATION TECHNOLOGY

TESTIMONY on SB 145
February 17, 2011
"Stand by Your Ad"

Chairwoman Huntington and members of the committee, I appreciate the opportunity to speak in support of SB 145. This bill could be called the "Stand by Your Ad" provision and would simply make candidates for state and local offices do what candidates for president and congress already have to do. They would have to let voters know clearly that they are responsible for the advertising content of their ads. Dr. Bob Beatty, Political Science Professor at Washburn University, contacted me about this issue this past fall. In the testimony you will find the content of his written editorials to several newspapers in Kansas that published his thoughts.

The original idea behind this provision was that candidates might not run such negative ads if they had to clearly associate themselves with their ads. Now there is another reason for this provision. Anonymous groups and individuals have run multiple political TV advertisements. Voters have a difficult time trying to figure out who is behind these advertisements. As such, the issue of credibility is hard to discern. One simple remedy for this problem is to do what several other states have done and adopt the federal political TV advertisements. Groups and individuals will still be able to run advertisements and hide their identities, but with this reform at least voters will know when a candidate is behind the information. As for politicians, they should embrace the reform. A recent academic study showed that advertisements where the candidate has approved the communication had a more positive impact on viewers compared to those that did not, regardless of whether they knew the candidate well.

Thank you for your consideration! I am Vicki Schmidt and I approve the above message, because this small reform can make a big difference in the legitimacy of elections!

Ethics and Elections Committee
Attachment 3
Date 2-17-11