

# CANVASSING KANSAS

AN UPDATE ON ELECTION NEWS IN KANSAS

## Floods create voting difficulty

This year many areas of Kansas experienced an unusual difficulty voting in the November 3 general election. Continuous rainfall for a couple of weeks leading up to the election produced floods in many counties, and in certain counties the waters threatened county election officers' ability to distribute and collect ballots. According to information collected by the Secretary of State, the following counties experienced election-day flood problems: Butler, Chase, Cowley, Franklin, Leavenworth, Neosho, Osage, Saline, Sedgwick, Sumner and Wilson.

In some areas small cities were surrounded by water the day before the election, so voters couldn't get out to vote and ballots couldn't be brought in. In others, voters were stranded in their homes and unable to get to the polls. Or, in some cases the voters were able to leave home and the polling places were open, but there were flooded areas separating them.

In some of the counties the waters receded enough that the election was not disrupted. In others, including Chase, Cowley, Leavenworth and Sedgwick, one or more polling places had to be moved. In some isolated areas Secretary of State Thornburgh obtained permission from Governor Bill Graves to request assistance from the local National Guard. In such cases the Guard, working with the county election officer, distributed ballots to affected areas by helicopter or boat.

In each case where emergency procedures were used, the county election officer requested and received assistance from the local media in publicizing the change in voting procedures. Media assistance made the job much easier; in fact, it

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## Election '98 Wrap-up

The 1998 primary and general elections have come and gone, and for the most part they went smoothly again this year.

The Secretary of State's office collected the election-night information as usual from the county election officers on both election nights. In the November election, 26 counties reported their election results electronically via the Internet, and about half the rest reported by phone, with the remainder faxing. Besides the local media outlets that obtain the results from the Secretary of State, the national media markets rely on this information, including the major networks, Associated Press, Voter News Service, and Cable News Network.

Voter registration in the state established a record when it topped 1.5 million registered voters. Despite the strong registration numbers, turnout in the general election was a disappointing 49% statewide. While some counties enjoyed strong turnout, many areas lacked the close races or local ballot questions that tend to drive turnout up.

In several large areas of the state, turnout was depressed due to widespread flooding (see article elsewhere in this issue).

A number of localities did have ballot questions that created interest, including liquor by the drink, local school bond questions, sales tax, tax lid exemption, and recalls of local officers.

County election officers submitted their official abstracts of votes cast during the two weeks

following each election. In each election, the Secretary of State employs a group of individuals to tabulate the results and check abstract totals, then create a statewide abstract book that shows the various district races in county-by-county breakdown.

Advance voting continued its growth. The 1998 election was the second major statewide election since the advent of advance voting in Kansas. The August, 1998 primary election saw 53,429 advance voters among the total of 431,575 votes cast, which computes to 12%. This compares with approximately 8% that voted in advance in the 1996 primary election. In the November, 1998 general election, 84,160 voted in advance out of 743,288 total votes cast, which is approximately 11%. While this percentage is roughly equal to the percentage of advance voters in the 1996 general election, the process of advance voting appears to be better known and accepted in the

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# Census 2000 requires preparation

Everyone has heard by now that the next federal census will be taken in the year 2000. The actual census date is April 1; that's the day when the U.S. Bureau of the Census will take its "snapshot" of who lives where in the nation. Although the census generates a tremendous amount of information that is used for a wide variety of purposes, according to the U.S. Constitution the underlying purpose of the census is for the apportionment of the seats in the U.S. House of Representatives among the 50 states.

When the census is complete, the Bureau will report the results to the President, whereupon the Congress assigns House seats to each state. Federal law leaves to the states the task of drawing district lines, although certain court-enforced rules of population equality and minority representation must be observed.

The census process requires certain tasks to be accomplished by the Secretary of State and the county election officers.

## Geography

The Census Bureau must have complete and accurate maps of each county and locality. City, township and county officials report annexations and other boundary changes to the Secretary of State, who keeps a computerized database of the county geography. Each voting precinct must also be accurately reflected in the database, so when annexations, precinct splits or creation of new precincts change the configuration of a county's precincts, they must be reported to the Secretary of State, who apprises the Bureau of the changes. When the census is taken, population is allocated according to all the various geographic entities in the database. In 2002 the Kansas Legislature will redraw district lines for congressional, state legislative and state board of education seats. If the geographic database is inaccurate, it is impossible to draw district lines and apportion the population equally so the plan will withstand court scrutiny.

## Census Liaison

The Census Bureau requests the Governor in each state to designate a liaison for general census purposes. For the past ten years Kansas Governors have designated the Secretary of State. Further, Kansas has a state law designating the Secretary of State as the liaison with the Bureau. As liaison, the Secretary of State's office assists the Bureau in advertising and promotional campaigns, working with local government officials, and obtaining temporary office space and recruiting personnel. Some of these duties are approached through the creation of a Complete Count Committee for the state. When formed, the Committee will work to publicize the census, encourage a high response rate to census questionnaires, and design programs to reach hard-to-count segments of the population.

## Census Adjustment

Kansas is unique in that its state constitution requires the federal population figures to be adjusted. This is a result of the decades-long practice of taking our own state census. For most of the latter half of this century, the Kansas Constitution required that only U.S. citizens be counted, and they were counted at their places of permanent residence. These rules differ from the federal census guidelines, so Kansas took its own census, called the Agriculture Census, which was used for state redistricting. The census was ended in 1979 and the Constitution was amended to require the use of the federal census for redistricting, but it required that the population figures be adjusted to count military personnel and college students at their permanent residences. In 1990 this task was assigned to the Secretary of State, and it will be so again in 2000 unless the law is changed.

To conduct the adjustment, the Secretary of State works with all the military installations, colleges and universities to distribute and collect questionnaires from students to provide information on which to base the adjustment. The Secretary relies on county election officers for assistance in

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collecting local geographic information to assist in plotting students' addresses on maps. The final adjustment is done by computer and the adjusted data are reported to the Legislature by July 31, 2001 for use in redistricting seats in the state Legislature. For congressional districts, the unadjusted federal census data are used.

Preparation for the 2000 census is underway, and has been for most of two years. In the next three to five months the Secretary of State will work closely with county election officers to update the state's geographic database.



**RON THORNBURGH**  
Kansas Secretary of State

*Ron*

## A FOCUS ON VOTING

### **Program honors veterans, encourages voting**

A new program called Honor a Vet with Your Vote was initiated this year as a cooperative effort of Secretary of State Ron Thornburgh and a number of military and veterans organizations. The organizations most heavily involved in planning and promoting the program were the Kansas Commission on Veterans Affairs, VFW, American Legion, and the Kansas Adjutant General's office. Some of the organizations contributed funds to support the program.

The program kicked off with a May 22 press conference on the south grounds of the State Capitol near the Kansas Veterans Memorial. The press conference was timed to coincide with the Memorial Day weekend. At the conference Secretary Thornburgh said, "Casting an informed vote on election day is a fitting tribute to Kansas veterans. They have time and again offered the ultimate sacrifice so that all Americans might enjoy the opportunity to live in a country governed by the principles of freedom and democracy. The best thing we can do to sanctify their efforts is to cast an informed ballot on election day."

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**--Ron Thornburgh**

The program was intended to honor veterans of military service and at the same time encourage voter participation by personalizing the significance of the act of voting. It was hoped to have a positive impact on voter turnout by encouraging some potential voters who feel alienated from government to make the effort to vote by making it a personal tribute.

Promotional materials were prepared, including a lapel sticker that said "My vote honors a vet" and with a blank line where a person could write the name of a military veteran they admired. Working with the cooperation of the county election officer in each county, nearly one million lapel stickers were distributed among the state's 3,200 voting precincts. The stickers were to be handed out to voters as they completed the voting process.

Secretary Thornburgh appreciates the assistance of the military and veterans organizations in planning the Honor a Vet with Your Vote program and the hard work contributed by the county election officers in distributing the lapel stickers to voters on November 3.

### **SOS initiates election board worker recognition program**

Secretary of State Ron Thornburgh, in cooperation with the county election officers across the state, initiated a program in 1998 to recognize precinct election board workers who had served 25 or more years. In asking county election officers to submit names of qualifying board workers, Thornburgh said, "Each election more than 11,000 Kansas give their time and efforts to support our democratic system by working in their neighborhood precincts as election board workers. These soldiers in the army of democracy are the people who meet the voters, hand out ballots, and in general carry out the electoral process."

Thornburgh sent a congratulatory letter to each board worker, along with a certificate honoring them for their service and an invitation to attend the meeting of the state board of canvassers on November 30, when the official results of the 1998 general election were certified by the Governor, Attorney General and Secretary of State. Thornburgh also notified the local newspapers in the board workers' communities so the board workers' longstanding service could be publicly recognized.

More than 500 election board workers from across the state were recognized this year.

### **Registered voters reaches all-time high for Kansas**

The number of registered voters in Kansas has reached an all-time high. Statistics for the November general election show that over 1.5 million Kansans registered to vote. In 1992 the number of registered voters topped out at 1,365,849. It then dipped to 1,314,213 in the general election in 1994. In 1996, possibly due to the Presidential election, the numbers jumped back up to a high of 1,438,894. Since then, nearly 68,000 more voters have

registered to make the new high 1,513,685 this year.

Out of 105 Kansas counties, 72 had 50% or more of their registered voters vote in the general election. Lane County showed the highest voter turnout percentage with 71.55% of registered voters turning up at the polls. The majority of the 72 counties with 50% or more had a turnout percentage around 60%. Voter turnout for the entire state in November was 49.10% of the 1,513,685 voters.

## ***NASED plans clearinghouse for felons and deceased persons***

The National Association of Secretaries of State (NASS), meeting in the summer of 1998, adopted a resolution "to establish a taskforce to develop a strategy for a national clearinghouse for the collection and dissemination of names of deceased persons and disqualified voters who have been convicted in court, so that the names of such persons will be forwarded to the appropriate jurisdictions." NASS sent Iowa Secretary of State Paul Pate to make a presentation at the August conference of the National Association of State Election Directors (NASED) in San Diego to request their assistance in determining the feasibility of such a clearinghouse.

The current president of NASED, George Russell of Kentucky, plans to name a task force to determine how states might obtain and disseminate the necessary information. There is a variety of ways in which states deal with felons. Some don't disqualify felons from voting; some do; some restore voting rights upon release from prison; some require full discharge from any parole or probation; some require ex-felons to re-register when qualified; other states automatically restore them to the voter rolls.

The NASS resolution was prompted in part by reports that felons had been able to register and vote in some jurisdictions, and the proper election officers aren't always notified of felony convictions if the conviction occurs in a jurisdiction other than where the felon lives. Further, many states have reported difficulty in obtaining consistent and reliable information regarding deaths to use in purging their registration lists.

These developments could prove to be valuable tools in Kansas to supplement registration list maintenance programs already in place, such as the National Change of Address program and the computer check for duplicate names. Other possibilities being considered by the Kansas Secretary of State's office include: purchasing the Social Security Administration's death list, using jury duty lists to remove names of non-U.S. citizens, and using utility records of address changes to keep track of the movements of voters.

### **Floods (continued from page 1)**

would probably have been impossible without it.

Kansas law makes no provision for alternate voting procedures in emergencies, nor does it authorize anyone to move the date of the election. In extreme situations such as the floods of 1998, election officers are forced to devise makeshift procedures as circumstances dictate, keeping in mind the main purpose: distributing a ballot to every registered voter who wants to vote.

## ***Questions arise concerning privacy of voter registration records***

An important question has arisen recently from several different sources concerning people's privacy as related to voter registration records. The Secretary of State's office and certain individual county election officers have been approached by people wishing to register to vote but at the same time wishing to avoid having their residence addresses publicized.

In one recent case, a person had been the victim of a violent crime and knew the perpetrator was soon to be released from prison, so the person inquired about the possibility of having the county election officer conceal the address for safety reasons. In other cases, officers of the courts have requested that their addresses not be released for fear of retaliation by offenders they had encountered in their jobs. In addition, some people don't want to be on the mailing lists of candidates and political parties.

A review of relevant voter registration laws and the Kansas Open Records Act (KORA) by the Secretary of State's office has led to the conclusion that registration records are open. That is, they are not specified as exceptions to the KORA, so the custodians of the records are not authorized to restrict them from public access.

However, there is one exception to the KORA that could be interpreted to cover voter registration information. KSA 45-221(a)(30) allows a public agency to close "public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy." The courts have never defined what kind of disclosure constitutes a clearly unwarranted invasion of personal privacy. It is possible that a court of law could make the determination that voter registration information meets this standard. Until there is such a court decision, county clerks and election officers should err on the side of disclosure.

The law forbids the use of registration records for commercial purposes, but it clearly authorizes the data to be sold for campaign and election-related purposes. The law specifically requires the voter registration applicant to provide a residence address so the election officer is able to assign the person to the correct voting precinct so they may receive the correct ballot. Registrants may provide a mailing address *in addition to* the residence address, but not in place of it.

It is possible that more people will make similar requests in the future as they become increasingly aware of the availability of public records, but it will take changes in state law to close the records.

## ANNOUNCEMENTS

### Law books to be distributed in January

The Secretary of State's office is preparing the 1998 distribution of the Kansas Statutes Annotated. The updates will consist of **only** paper supplements; no cloth bound KSA volume will be printed for 1999. All cloth bound KSA volumes remain effective for 1999. The new supplements will be available in January 1999. If you have any questions regarding this, please call Raylene Wallace at (785) 296-4557.

### Scott marries Coffeyville mayor

Charlotte Scott, Montgomery County's clerk and election officer, was recently married to Henry E. Schmidt on Friday, September 18, 1998. She is now referred to as Charlotte Scott-Schmidt. Henry is serving his second term as Mayor of Coffeyville, Kansas. The couple was married at Coffeyville's Hillcrest Golf Course by Administrative Judge Jack Lively on the eve of the grand opening

of an addition to the golf course, which was a long-awaited project of Mayor Schmidt's. Charlotte has one son and two daughters.

### Secretary of State Office sets holiday hours

During the holiday season, the Secretary of State's office will be closed Friday December 25 and Friday January 1. The office will also be closed Monday January 18, in observance of Martin Luther King Day.

## REMINDERS

- The 1999 spring city & school elections are just around the corner! The general election date is April 6, the primary election date is March 2, and the candidate filing deadline is noon on January 26. More information, including a calendar, will be sent soon to each county election officer.
- The next NVRA report will be due after

January 1, 1999. It will cover the period from November 4, through December 31, 1998.

- The next report of the central voter registration database will be after January 1, 1999. This is the program that we refer to as CVR; it requires each county to send the SOS a copy of their complete voter

registration database on computer tape, diskette or via the Internet every three months. We are required by law to maintain a statewide voter registration database.

- Officers elected in the November 3, 1998 general election take their oaths of office the second Monday in January, which is January 11, 1999.

## NEW FEDERAL LAWS

### *Voter registration required at colleges*

On October 7, 1998, President Clinton signed into law HR6, referred to as the Higher Education Authorization Act. It contains a provision that requires institutions of higher learning that receive federal funding to distribute voter registration applications to students. The law requires covered educational institutions to request

voter registration forms from the State 120 days before the registration deadline for elections.

Although it was amended into a higher education bill, this provision is considered an expansion of the National Voter Registration Act of 1993. It applies to all 44 states that are subject to the provi-

sions of the NVRA.

Institutions that conduct student enrollment by telephone are allowed to offer a voter registration phone prompt when students enroll in their classes. Other means may be used when class enrollment is conducted by facsimile or the Internet.

## RESULTS OF KANSAS STATE FAIR OPINION POLL

The Secretary of State fair booth, for the 12th year, was another great success. The fair was held in Hutchinson on September 11 - 20. More than 350,000 fair goers attended and the Secretary of State's office registered more than 100 Kansans to vote. Along with other state agencies the Secretary of State's office provided Kansans with an array of information including candidates' names for office's, opinion poll voting opportunities, and a chance to buy Kansas state flags.

### Results from the Secretary of State's Opinion Poll:

- 1) Overwhelmingly, the public voted for Gov. Bill Graves (Republican, 1,148) over his opponents, Tom Sawyer (Democrat, 217), Kirt Poovey (Taxpayers, 69), and Darrel King (Reform., 25).
- 2) No closer was the issue of corporate hog farming, in that the majority of the voters chose to keep letting the counties decide, as they do now (983), compared to outlawing it by state law (483).
- 3) The distinction between urban pollsters and rural pollsters was no more evident than in the question about raising the legal age of obtaining a driver's license to seventeen (831), to

keeping the age at sixteen (665).

- 4) On the issue of implementing a new highway program, more Kansans decided that they need more bridge repair, road expansion, and new highways (1,188), in comparison to those who decided that the state has done enough for now (366).

- 5) Kansans who know Kansa means "people of the south wind" (893) outnumber those who think it means "people of the Konza prairie" (232), "people who follow the stars through difficulty" (179), and "people who hunt buffalo" (125).

# SOS Office attends county clerk meeting at KAC

Members of the Kansas County Clerks and Election Officials Association met at the annual Kansas Association of Counties convention at the Wichita Hyatt Hotel November 15 through 17. One of the actions taken by the Association at this year's meeting was to change the name from Kansas County Clerks Association to Kansas County Clerks and Election Officials Association. KCCEOA president Linda Scheer, Leavenworth County Clerk, invited the Secretary of State's office to address the clerks during their meeting in the afternoon of November 17. Attending from the Secretary of State's office were Brad Bryant, election director; Melissa Wangemann, legal counsel; and Bryan Caskey, administrative assistant for elections.

Wangemann participated in a presentation on advisory elections that was led by Marilyn Chapman, Sedgwick County Election Commissioner. Chapman reviewed her experiences with advisory elections over the past five years. Wangemann summarized the legal aspects of advisory elections, including relevant statutes, court cases and Attorney General opinions. Wangemann informed the county election officers that advisory elections are nonbinding, unofficial elections not governed by state law. According to Attorney General Opinion 94-106, they may not be conducted on an official election day within 250 feet of an official polling place unless they are conducted pursuant to city or county home rule power and conducted by the county election officer. If these conditions are not met, the local governing body wishing to conduct the advisory election must poll

the voters according to another plan designed and executed by them.

Following the advisory election discussion, Bryant and Caskey coordinated in an update on election issues. Bryant discussed the recent participation by county election officers in the Honor a Vet with your Vote program, the Election Board Worker Recognition program, and election night tabulation in the August primary and November general elections. Bryant also gave a brief review of legislation under consideration for the 1999 legislative session, plans for the 2000 presidential preference primary, the 2000 federal census, a Midwest Election Officials Conference to be held in 1999 or 2001, and the impending move of the Secretary of State's office from the State Capitol to the Memorial Building across the street from the Capitol in Topeka.

Caskey updated the election officers on plans to improve the accuracy of the voter registration database and preparations for the federal census, including updating of all counties' precinct geography.

At the conclusion of the meeting, Bryant swore in the officers of the Clerks and Election Officials Association for next year. Next year's officers are: President, Don Proffitt, Linn County Clerk; Vice President, Joleen Walker, Mitchell County Clerk; Secretary, Mary Gilmore, Morton County Clerk; and Treasurer, Dorothy Stites, Stafford County Clerk.

Secretary of State Ron Thornburgh and his elections staff wish to thank Linda Scheer for her assistance during the past year and for her service as KCCEOA president.

## *Signatures required for county clerks, election commissioners*

During the KAC convention in Wichita (see related article in this issue), the question arose whether county clerks and election commissioners are required to have their signature on file with the Secretary of State. The answer is yes.

A law was passed during the 1998 legislative session granting the county clerks and election commissioners the powers of notaries public. Unlike the county clerks and election commissioners—who are commissioned notaries by law—most notaries are commissioned only after application to the Secretary of State.

Documents bound for foreign countries must have an authentication or apostille by the Secretary of State's office for recognition in the foreign country. In order for the Secretary of State to attach the authentication or apostille to the document, the document must be notarized by a Kansas notary public. The Secretary of State must check that the notary is a Kansas notary public and compare the signature on file with the one on the document before he can authenticate the document. This is not a problem for most notaries because they record their signature with our office when they apply for their commissions. County clerks and election commissioners on the other hand, do not have an application on file with our office. Therefore, they must file a signature with our office so that we can check their signature against their signatures on notarized documents that are destined for foreign countries.

If the county clerk or election commissioner does not have his or her signature on file with our office, the Secretary of State cannot authenticate the document. This can be very frustrating for a customer who is trying to obtain an apostille or authenticated document. We will be sending each county election officer a form to use in filing manual signatures. We ask each election officer to take time to complete the form to record your signature with our office. Please return the form to: Georgia Lott, Notary Public Desk, Office of the Secretary of State, 2nd Floor-State Capitol, Topeka, KS 66612-1594.

### **Wrap-up** (continued from page 1)

various areas of the state. In 1996, advance voting returns lagged in some areas because people hadn't heard about the opportunity. Many of those areas reported higher advance voting levels this year.

This year's general election was finalized on November 30 when the state board of canvassers met in the Secretary of State's office to certify the results of the

tabulation. This body corresponds to the county board of canvassers, made up of the county commissioners, that meets in each county on the Friday after the election to certify the results. The statutory makeup of the state board of canvassers is the Governor, Attorney General and Secretary of State.