

CANVASSING KANSAS

An update on election news from Kansas Secretary of State Ron Thornburgh

June 2006

August 1 primary planning full-steam ahead

CANVASSING KANSAS

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It is less than 60 days until the August 1 primary, the second statewide primary election conducted after implementation of HAVA. The 2004 election brought several HAVA-related changes—voter identification, provisional voting changes and required county election officer (CEO) and poll worker training—to name a few. The 2006 primary brings even more HAVA requirements—the first statewide election using the ELVIS registration system, new ADA-compliant voting equipment and second chance voting.

ELVIS has been successfully implemented, and all 105 counties were using it before the end of 2005. New features are being added weekly to comply with the contract between the Secretary of State (SOS) and Election System & Software (ES&S), and more enhancements are planned for the future.

More than \$12 million worth of voting equipment is being deployed to comply with HAVA requirements for at least one fully ADA-compliant, accessible voting device per polling place. Many counties have upgraded the rest of their equipment, or adopted entirely new voting systems, alongside deployment of the ADA-compliant equipment.

Voter identification rules have not changed since their adoption in 2004. The law still says that any first-time voter in the county must present valid identification before voting, otherwise the ballot is provisional. A person voting a provisional ballot due to lack of valid identification must present ID to the CEO before the county canvass to have the ballot count. The list of acceptable forms of ID has not changed since 2004.

This year is a non-presidential election year, meaning all statewide offices are up for election: governor/lieutenant governor, secretary of state,

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Accessibility at the polls important part of 2006 election

During the 2004 elections, tremendous progress was made to provide accessible polling places for voters with disabilities. Accessibility is a major theme of HAVA, and the law expressly requires all voting facilities to meet the standards of the Americans with Disabilities Act.

Using an accessibility checklist provided by the U.S. Department

of Justice, and assisted in most areas by local disabilities experts, county election officers surveyed each polling place and noted its deficiencies, if any. Federal grant funds distributed by the U.S. Department of Health and Human Services were used to purchase accessibility products for counties to deploy in their poll sites on election day to

temporarily resolve accessibility problems.

That process was successful in that no formal complaints were filed with the Secretary of State using the state's new Administrative Complaint Procedure established under HAVA. One of the specific purposes of the procedure is to identify accessibility issues.

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HAVA compliant machines being deployed

One of the major provisions of HAVA that takes shape in 2006 is the deployment of HAVA-compliant voting equipment. HAVA requires each polling place in the state (and the nation) to have at least one fully accessible voting device that complies with the Americans with Disabilities Act and that allows a voter having a disability to cast a completely independent, unassisted and secret ballot. The August 1, 2006 primary is the first state-wide election at which this provision of HAVA must be met.

More than \$12 million in HAVA funds, including the 5 percent state/county matching funds, have been earmarked for the acquisition of these voting devices. In addition, many counties have taken this opportunity to supplement the federal HAVA funds with county dollars to upgrade their existing voting systems or to switch to new ones. Several million dollars worth of county finances have been expended for this purpose.

Each county selected its vendor and placed its first major order for voting equipment in December 2005. A “second chance purchasing” opportunity was set for April and May to allow fine-tuning of the initial orders.

The three successful vendors—Diebold, Election Systems & Software, and Voting Technologies International—are, at the time of publication, arranging delivery dates to their county customers and scheduling training and user acceptance testing (UAT) shortly after delivery. The Secretary of State’s office is coordinating the process with the vendors and the counties.

Each county is required to receive training from the vendor on the operation of the equipment and to ensure that its poll workers are adequately trained to operate the equipment on election day. Each county election office is required also to be present and participate in the user acceptance testing with vendor representatives. It is recommended that county information technology (IT) personnel also be present at UAT, if they are available.

For counties that do not have IT personnel or expertise in their offices, the Secretary of State offers state-sponsored third party UAT technicians to take part in the proceedings. Approximately 70 counties opted to accept state UAT technical support.

During the last two weeks of May, many counties began receiving their new voting equipment. The remainder is scheduled to arrive in June and early July. In all, more than 2,000 direct-recording electronic ADA-compliant voting devices will be deployed statewide, in addition to hundreds of optical scanners to upgrade existing voting systems.

HAVA represents an unprecedented infusion of new technology into polling places and historic levels of manufacturing of equipment, not to mention larger training programs than ever before.

The steep increase in technology deployment and the steep learning curve associated with it has lead to increased uncertainty. It is through **COMMUNICATION**—between counties, vendors and the SOS office—and careful attention to detail that carefully laid plans will be successfully implemented and the 2006 elections will go smoothly and be uneventful.

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RON THORNBURGH Kansas Secretary of State

Dear Friends:

With fewer than two months left until the primary election, it is critically important that we make voter education one of our top priorities. During this time of change, it is to be expected that some citizens within your community are hesitant about new voting equipment or a different polling place. As election leaders, it is our duty to alleviate these fears as best as we can. The most effective way to do this is to keep the flow of information open and timely.

With new voting equipment arriving at county election offices across the state, now is the perfect time to begin community demonstrations. Invite the public to come “kick the tires” of the new machines! Having access to the machines prior to entering the voting booth on August 1 will go a long way in calming voter apprehension.

Kansans should also know that this new system is allowing some members of our community the opportunity to cast an unassisted ballot for the first time in history, while making our election system more uniform and secure than ever before.

In this digital age, security is an ever-present issue. It is important that the public understand the many layers of protection built into our system to prevent would-be hackers from infiltrating our elections.

Many communities are also dealing with changes in polling places. Whether a minor tweak or a major overhaul, we must recognize that this is a potentially significant event for the voters in that area. Early education about where to vote on Election Day, as well as why the changes were necessary, are important steps that should be done immediately. If possible, you should be the person to inform the community of the changes, rather than it coming from a secondary source. This is a complex and emotional issue and we must assure the public that we are working to do what is right for Kansas and the nation.

I know many of you have already begun this process and I applaud your efforts. The sooner you can get this information out to the residents of your county, the more time you allow for them to ask questions, try out new machines, and if necessary, locate their new polling place. Additionally, our office is developing an outreach program that will be available to all of you later this month. In the meantime, I encourage you to contact Stephanie Wing, our public information officer, if you have any questions regarding voter outreach.

Sincerely,

A handwritten signature in black ink that reads "Ron".

RON THORNBURGH
Secretary of State

2006 Legislation update

Each year after adjournment of the legislative session, the Secretary of State issues an implementation guide to CEOs to assist them in carrying out the provisions of any new elections-related legislation.

The Legislature passed a major piece of legislation, Senate Bill 142, that contains a number of elections and campaign finance provisions, **but the Governor vetoed it**. If the Governor had signed the bill it would have become law on July 1, 2006.

Another bill, Senate Substitute for House Bill 2928, has passed into law. It is not strictly an elections bill, but has elections implications. However, the provisions of this bill affecting elections do not go into effect until 2007 (See the summary below).

Senate Bill 142—Advance Ballot Security Bill

Note: As stated above, this was vetoed by the Governor.

The bill would have:

- clarified that only the voter may sign his/her advance ballot application (Form AV1); exceptions are maintained in the law for voters with disabilities who need assistance in signing.
- required a voter to designate another person in writing (on the ballot envelope) if the voter wishes to have the person deliver the voter's advance ballot to the mail box or to the election office.

Senate Bill 142 also contained:

- Senate Bill 132—Optical Scanning Equipment Certification Bill
This bill would have updated state laws governing the requirements of optical scanning systems.
- Senate Bill 143—Direct Recording Electronic (DRE) Equipment Certification Bill
This bill would have updated state laws governing the requirements of electronic voting systems and bring them into compliance with HAVA.
- Senate Bill 409—reporting allegations & convictions of election crimes
 - SOS would have designed a report form
 - CEOs would have reported allegations of election crimes to the SOS using the form
 - District court clerks would have reported convictions of election crimes to the SOS
- Senate Bill 2118—Satellite Advance Voting
Any county would be authorized to conduct satellite advance voting
- Senate Bill 448—Recall Election Cleanup Bill
 - county/district attorney would have notified a person who is subject of recall if petition form is valid (before circulating for signatures), in addition to notifying recall committee and CEO
 - court actions to compel or prohibit action in recall would have had to be filed within 30 days of determination of sufficiency of petition (current language says “not less than” rather than “within” 30 days)
- Senate Bill 65—Campaign Finance Reporting Bill
 - The treasurer for any candidate for state or local office would have had to file a campaign finance report when the candidate has received contributions from any person totaling an aggregate of \$350 or more during the 11 day period.

2006 Legislation update

- The report would have to be filed “on or before the close of the second business day following the day in which any contribution is received,” or when the aggregate reaches the threshold of \$350.
- The reports would have to be filed “by hand delivery, express delivery service, facsimile transmission or any electronic method authorized by the secretary of state.”
- Reports filed by candidates for *state* office would be filed only with the Secretary of State. Reports filed by candidates for *local* office are filed in the county election office of the county in which the name of the candidate is on the ballot.

“Local office” includes:

- 1st class city governing bodies,
 - county offices
 - USDs with 35,000 or more pupils (only Wichita),
 - board of public utilities (only Kansas City, Kansas)
- Senate Bill 67—Telephonic Campaign Finance Records
This bill would have required attributions (“paid for by”) on automated telephonic campaign messages.
 - Increase in campaign contributions for state House and Senate candidates—
 - House of Representatives, judges, district attorneys and state board of education contribution limits would have increased from \$500 to \$1,000.
 - Senate contribution limits would have been up from \$1,000 to \$1,500.

As noted earlier, this entire piece of legislation was vetoed by the Governor.

Other Legislation That Passed

“Safe At Home” bill—Senate Substitute for House Bill 2928

This is a law similar to those passed in 18 other states establishing an address confidentiality program. Victims of domestic violence, sexual assault, trafficking and stalking who qualify for the program may restrict their residential addresses from all public records. Their addresses are known only to the administrator of the program, which in Kansas is the Secretary of State’s office. All mail intended for these individuals goes to the Secretary of State, who forwards it to them at an undisclosed mail box.

The general purpose of the “Safe At Home law is not elections-related, but it authorizes the Secretary of State to adopt regulations regarding registration and voting for participants in the program. The regulations will be adopted later this year to establish a system for preserving the confidentiality of program participants with relation to the voter registration list, poll books and other voting records.

Constitutional Amendments

No concurrent resolutions passed that would create statewide elections on constitutional amendments in 2006.

Conference focuses on HAVA

Kansas County Clerks and Election Officials Association (KCCEOA) annual spring conference was held May 2-5, 2006 in Great Bend. The conference theme, “7th Inning Stretch”, fit perfectly in reference to the status of HAVA’s implementation.

HAVA was the hot topic of conversation at the conference, especially during the day-and-a-half-long training session presented by the Secretary of State’s office. Tuesday afternoon and Wednesday were spent on a variety of topics including IRS issues, taxes, property valuation, and best practices. Thursday and Friday morning were devoted to the Secretary of State’s presentation. This was the third year since adoption of the state law requiring county election officers (CEOs) to receive training, which was part of the HAVA implementation law in 2004. The SOS presentation was divided into four workshops:

- 1 General Issues
- 2 HAVA General Issues
- 3 Voting Equipment
- 4 ELVIS

General Issues included updates on the following topics: 2006 elections legislation, the rules for voting in party primaries this year, redistricting, voter identification and satellite advance voting. One highlight of this workshop was a panel of CEOs; Bill Gale, Sedgwick County, Brian Newby, Johnson County and R. J. Wilson, Crawford County, discussing satellite advance voting.

HAVA General Issues touched on the confirmation mailing process, accessibility of polling places and voting machines, polling place consolidation, provisional voting and voter outreach programs. A discussion on polling place consolidation, featuring Lou Kern, Washington County, Stacia Long, Seward County and Bill Gale was the focal point of this workshop.

Various issues were discussed in **Voting Equipment** related to the procurement and deployment of HAVA-compliant voting equipment this year. Counties’ second chance to purchase equipment with HAVA funds, training, the state/KCCEOA security policy, second chance voting, user acceptance testing, future maintenance costs, state standards for what constitutes a vote, and the acquisition of recording services for audio ballots were all part of this discussion. At the conclusion of the session, an hour was devoted to the vendor user group meetings. The equipment vendors were given an opportunity to meet with their county customers and discuss the upcoming process for delivery, testing and training.

Updates on the **ELVIS** voter registration system were the focus of workshop 4. Topics ranged from the recent announcement by Secretary Thornburgh that the annual per-workstation cost for ELVIS connectivity was reduced from \$1,500 to \$1,300; the fee structure adopted by the SOS for ELVIS public service requests; policies involving public key infrastructure (PKI) and federal services voters; advisory elections conducted using ELVIS; and an update on activities involving the agency central part of ELVIS, including felon lists, death lists, NVRA reports, and the connection to the American Association of Motor Vehicle Administrators (AAMVA) and the Social Security Administration through the state Division of Motor Vehicles. There was a discussion of upcoming events surrounding ELVIS: Mock Election II, training, VoterView implementation, electronic reporting, the SOS secure information exchange (SOSIX), the release schedule for future updates, results of the annual National Change of Address program, and the activities of the ELVIS Enhancement Committee. Two members of the Enhancement Committee; Kathy Peckman, Miami County and Rich Vargo, Riley County presented their ideas on the committee’s work from a CEO member’s point of view.

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Accessibility at polls

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It is important to remember that the ADA requirements are permanent. Some counties have moved polling places or consolidated them since 2004, so each new site must be surveyed using the checklist. Any deficiencies must be noted and corrected before the state's August 1 primary.

The Secretary of State is receiving \$100,000 in new grant money this year. The intent is for a portion of those funds to be used for another round of accessibility product purchases. The SOS office distributed an order form during the training session at the KCCEOA

conference in Great Bend on May 4.

Most of the remainder of the grant funds will be used to support the parts of the 2006 voter outreach media program that address voting by individuals with disabilities.

The SOS office also distributed a "Surplus Accessibility Product Report Form" for CEOs to use to report extra products they do not need. Whenever possible, the SOS will arrange for products to be traded to save the expense of purchasing new items when they may not be needed.

Elections Official Directory to aid federal services voters

In March 2006, the Overseas Vote Foundation (OVF) launched a new Web site to assist overseas military and civilian voters in obtaining ballots. This new Web site, www.ovf-eod.org, is referred to as the Election Official Directory. It contains a database of 7,838 local election officials, including Kansas county election officers.

The purpose of this site is to allow overseas voters to contact the election officers in the local jurisdictions where they would vote to find the status of their applications or ballots. This is done via e-mail whenever possible. OVF intends to contact local election officials periodically to keep the information up-to-date.

This program seeks to address the three most common concerns expressed by overseas and military voters: (1) whether their voting residence address is accepted, (2) whether their voter registration forms have been received, and (3) whether their ballots have been sent out, received and counted.

The OVF will license other interested groups to use the site for their voter outreach programs because it has a reliable, up-to-date database of election officials' contact information.

The new site complements the OVF's other online services, including RAVA—Registration and Absentee Voter Application—the first online system to provide a complete voter registration solution for both civilians and military voters. More information on the suite of secure, online services available from OVF may be found at www.overseasvotefoundation.org.

USPS unveils new Web site

The United States Postal Service recently announced two programs to assist elections officials in understanding postal procedures and planning mailings to maximize their use of postal rates and to more effectively communicate with voters.

The USPS unveiled the "Election Officials' Mailing Resources" Web site at www.usps.com/electionmail to provide quick and easy access to postal resources, products, services and information. The site offers information about USPS contacts to get answers to questions, the State and Local Election Mail User's Guide, a downloadable election logo to print on official mail pieces and links to other useful information. The site was developed in consultation with various state and county election officials and the Election Center.

The Postal Service also now offers a 90-minute training program entitled "Election Mail: Tips, Tools, and Tactics for Successful Mailing." The program is available for state conferences of election officials and is designed to help anyone who uses the mail during the election process. It offers tips on designing mail pieces, determining the best class of mail to use, working with local postal officials, reducing "undeliverable-as-addressed" returned mail and other topics.

Key ELVIS staff resign positions

In recent months, two key persons in the SOS office have resigned to pursue other job opportunities.

Mary Hill, project manager for implementation of the ELVIS voter registration system, left March 14, to take a position with an insurance company in Kansas City. Mary worked for the SOS office for almost two years. Her first project was ELVIS, and Mary was largely responsible for the architecture and security of the system. She also was responsible for ensuring that the software that was delivered conformed to the requirements of the contract. In late 2005, Mary had begun to split her time between ELVIS and the development of a new accounting software program in the SOS office. Before coming to work for the SOS office, Mary

had been employed in the Kansas Department of Health and Environment. As of mid-May, Mary's position had not been filled.

Brian Henson resigned as HAVA coordinator for the SOS office May 4, to take a position with Election Systems & Software, the ELVIS vendor and also the largest voting equipment vendor in Kansas. Brian will be working mostly with other states in his new position. Brian began working as HAVA coordinator in October 2003, succeeding Mindy Miller, the first HAVA coordinator. Mindy served as HAVA coordinator for seven months at the beginning of the HAVA implementation process.

Brian's work as HAVA coordinator kept him busy with all aspects of HAVA—ELVIS, voting equipment, securing federal appro-

priations and grant funds, procurement of accessibility products and training programs for CEOs. As many are aware, Brian is the son of McPherson County Clerk Susan Meng. He also worked for Elizabeth Ensley in the Shawnee County Election Commissioner's Office prior to moving to the SOS office.

The SOS office was fortunate to have a person to immediately fill Brian's position. Craig Bourne was appointed to take over as HAVA coordinator in May. Craig had been working in the Human Resources Department of the SOS office for approximately two years while he attended Kansas State University. Craig completed his degree this spring and began working full time May 15.

August 1 primary

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attorney general, state treasurer, and commissioner of insurance. All four members of the U.S. House of Representatives are on the ballot, but no U.S. Senator from Kansas will be elected this year. Because U.S. Senators have six-year staggered terms, every sixth year there is an election with no U.S. Senator on the ballot. All 125 members of the Kansas House of Representatives are up for re-election. Members of the Kansas Senate serve four-year terms and are not up for election until 2008. County commissioners and township clerks are up for election, but no one holding a county-wide office. Some district judges are elected, and they will have primaries. Retention judges are not on the ballot until the general election.

One issue that arose during the 2004 election and is still relevant this year is the question of who may vote in each party's primary election. The primary in Kansas is open only to the Democratic and Republican parties. However, federal courts have ruled that the parties, not the government, may decide who can vote in their respective primaries. Their ruling states, "It is not the business of the state government to tell parties, which are private entities with constitutional rights of free association, who may vote in their primaries to nominate candidates to represent the parties in the general election." In 2004, the Republican party decided to keep its closed primary, meaning only registered voters affiliated with the Republican Party could vote on that party's ballot. Registered unaffiliated voters could affiliate with the party at the polls on election day, thereby becoming Republican affiliates, and vote the party's ballot. During the 2004 election, the Democratic Party adopted a semi-open primary, meaning unaffiliated voters could vote the party's ballot without affiliating. Some chose to affiliate before voting while others voted Democratic without affiliating.

At the time of publication, the parties have not informed the SOS of their intentions, but it appears that the rules for voting in the primaries in 2006 will be the same as in 2004.

Threshold increases for election workers

The Social Security coverage threshold has increased for 2006. A coverage threshold is an amount of earnings that triggers coverage under the Social Security program and requires payment of taxes and withholding by employees.

The federal government recently announced the threshold for 2006 has risen to \$1,300. This increase is calculated using a formula based on the 1999 threshold of \$1,000. If an election employee such as a poll worker is paid less than \$1,300 in the calendar year, that employee's earnings are exempt from Social Security withholding and do not apply to the employee's benefits.

More information is available from the Social Security Administration's Web site at www.socialsecurity.gov.

Articles regarding employee exemption thresholds have appeared in previous issues of this newsletter in September 2004, June 2002, June 1998, March 1998, and June 1995.

Conference focuses

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The last hour of KCCEOA was devoted to a user group meeting, where county election officers had the opportunity to speak to vendor representatives about their concerns and questions. Vendor representatives were Dane Nannen of ES&S and Shelly Kitchen of InfiniTec.

Among the many highlights of the conference were a talent show on Wednesday evening and a delicious steak at the banquet. The after-banquet entertainment was a very enjoyable performance by a hypnotist who put a number of audience members under his spell and, through the power of suggestion, made them do some hilarious things.

A small, unofficial group of

unnamed CEOs had baseball outfits made bearing the team name "No Socks" for SOS staff members, apparently in commemoration of Ron Thornburgh's sockless appearance at a MEOC session last December. Although Secretary Thornburgh was unable to attend the KCCEOA conference and did not get to share in the fun, there were plans being whispered to bring the "No Socks-ers" back in September for the KCOA conference.

A one-day makeup training session was held on Friday, May 12 at the Kansas State University campus in Salina for those CEOs or deputies who were unable to attend the conference in Great Bend.

SOS staff attend institute

The annual Sanborn Institute for County Clerk Certification was held April 10-14 in Wichita. The SOS office was invited to give a presentation on Thursday, April 13, entitled "Update on Kansas Election Law and Issues," to a combined session of the Year 2 and Master Academy attendees. Co-presenters were Brad Bryant, election director, and Bryan Caskey, administrative assistant for the Elections Division.

The presentation was organized into four main parts:

1. Review of Year 1 and issues covered in recent Sanborn meetings
2. Election Law
3. Current Issues
4. HAVA/ELVIS policy issues

During the *Review of Year 1* there was a discussion of election technology, uniform election board worker training and the sources of law, including statutes, court decisions, regulations, and legal opinions.

Election Law reviewed specific sources of laws affecting elections, including HAVA, NVRA and the Voting Rights Act, as well as state legislation, new Attorney General opinions and recent decisions affecting the petition process.

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SOS staff

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Current Issues focused on two important election issues: the development of the Kansas Election Standards and the upcoming census and redistricting processes.

HAVA/ELVIS considered the following issues related to HAVA: precinct redistricting and polling place consolidation, voter identification, the status of the procurement of HAVA-compliant voting equipment, accessibility and the status of the ELVIS implementation.

The combined Year 2 and Master Academy session included approximately 70 attendees, so the discussion was lively and included a lot of questions. The session accomplished its goal of helping CEOs to stay current on issues affecting their duties as election officers.

The SOS office welcomes opportunities to meet with groups of CEOs, especially opportunities such as the Year 2 and Master Academy where issues can be discussed in more depth and detail than in normal training sessions or state-wide conferences.
