



CANVASSING KANSAS

AN UPDATE ON ELECTION NEWS IN KANSAS

Constitutional amendment fails

With a 17.8 percent voter turnout, Kansas registered voters made their way to the polls for the General Election on April 6, 1999. On the ballot there was a proposed constitutional amendment, which, if passed, would have allowed local city and county governments the option of exempting from property tax certain property used for the development, exploration or production of oil and gas.

Kansas voters defeated the proposed constitutional amendment 155,967 to 112,938 (58 to 42 percent). Only 14 of 105 counties voted to pass the proposed amendment.

This election marks the second time in state history—that the Secretary of State’s office is aware of—when a statewide election was held in conjunction with local city and school elections. The first was in 1995, when voters passed a constitutional amendment allowing “instant bingo” for certain organizations.

The SOS, with the cooperation of every county

See Amendment, page 8

Precinct committee appointments questioned

Questions arise concerning parties’ precinct committee appointments

Questions regarding party precinct committee appointments arose during the question and answer period of Secretary of State Ron Thornburgh’s presentation to the meeting of the Kansas County Clerks and Election Officials annual conference in Hutchinson on May 6.

Thornburgh said he would research the questions and address them in the June 1999 issue of this newsletter.

The questions raised were:

- When are precinct committee appointments by the county party chair official?
- How does Attorney General Opinion 99-1 affect the appointment process?
- How does 1999 Senate Bill 229 affect the appointment process?

According to K.S.A 25-3801(a), “Not later than three days after appointment of precinct committeemen and committeewomen, the county chairperson making the appointments shall notify the county election officer of such appointments. The county election

officer shall make such appointments public immediately upon receipt thereof.” This provision has generally been construed to mean that the appointments are effective when the county chair makes them. Filing them with the county clerk gives notice to the public that the appointments have been made, but does not in itself make the appointments official.

Attorney General Opinion 99-1 arose from a situation in Wyandotte County where a county party chair made appointments to vacant precinct committee positions after the primary election and before the county convention at which the chair and other officers were to be

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Personnel changes in SOS election office

Several personnel changes have occurred recently in the Elections Division of the Secretary of State's office. Every change has a significant effect because the office has only five full-time employees and one part-time employee.

In late March, Jessica Stockam, who had been in charge of campaign finance reports, enrolled bills and many other duties, resigned her position to move to the East Coast with her husband.

Stockam's position has been filled by current employee Kevin Gaskin, formerly in charge of lobbyist registrations and reports, statements of substantial interest, and our annual state fair booth. Additionally, Gaskin works with various computer functions, such as

formatting databases and spreadsheets.

Mike Brassel has taken Gaskin's former position. Brassel worked for the SOS in 1998 as a part-time college student. He left in January 1999 to work as an intern with the Senate Ways and Means Committee. Brassel graduated from Washburn University in May.

Raylene Wallace, who was in charge of law book and state flag distribution, resigned in late April to take a position in the private sector. Sarah Weeks, who has been with the agency for about one year, transferred from the Corporations Division to take Wallace's place.

For a listing of phone numbers and job descriptions, see page nine.

SOS to host kick-off meeting of the Kansas Complete Count Committee

This July, the Secretary of State's office will host a kick-off meeting of the Kansas Complete Count Committee.

The goal of the Complete Count Committee is to help ensure that the U.S. Census Bureau gets as accurate a count as possible in Kansas for the 2000 decennial census. The State Complete Count Committee will comprise members of Congress, state legislative leaders, county and city government leaders, media representatives, private business representatives and representatives

of groups that are traditionally undercounted.

The Complete Count Committee will attempt to achieve this goal in a variety of ways. Some of these ways include the following: raising public awareness of the upcoming census by attending fairs, concerts and other public events; educating people about the census and how census data benefits them; encouraging people to fill out and return the census questionnaire that is mailed to them; identifying areas that were undercounted in 1990; planning awareness and

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motivational activities to increase participation; and gathering resources from all facets of the community to work together toward a complete count.

In addition, the State Complete Count Committee will encourage local governments to form local complete count committees in as many areas as possible. If anyone is interested in more information about forming a local complete count committee, please contact the Secretary of State's office.



RON THORNBURGH

Kansas Secretary of State

Dear Friends:

Over the last 40 years, there has been a continual decline in the number of people voting. In particular, the concern arises within the 18 to 24-year-old bracket. In the 1998 election, fewer than one in five of that age group voted. This is the generation that will guide us through the future, and if the ideals of political participation are not taught early in life, the chance that a person will develop those later in life is doubtful. This not only puts our legacy in jeopardy, but it puts our future as a democratic society in question.

In 1998, the National Association of Secretaries of State founded the New Millennium Project, which is looking at understanding the reasons why our youth do not vote and developing strategies to combat this problem.

The first step that has already been taken was the hiring of the bipartisan team of The Tarrance Group and Lake, Snell, Perry & Associates to conduct a national poll of six focus groups of 15 to 24-year-olds. NASS studied the data and then publicly released the findings in February. A copy of this report can be found on the Internet at <http://www.nass.org> under New Millennium Project.

The survey showed that today's youth remain relatively uninvolved in voting and politics for a number of reasons. The lack of information on candidates, issues not affecting them, parental voting behavior, feeling ignored by candidates and campaigns, and not being educated about the voting process and political parties are a few reasons youth aren't voting.

NASS recommends several ways secretaries of state can alter this path, including focusing attention on this problem, developing insights and strategies that would help reconnect young people to civic and political life, and mobilizing a variety of organizations to join NASS as partner in these events.

Sincerely,

A handwritten signature in cursive script that reads "Ron Thornburgh".

RON THORNBURGH
Secretary of State

Voting Information

New voting equipment certified

Secretary of State Ron Thornburgh recently certified two new pieces of voting equipment for sale and use in Kansas. Kansas law is like many other states' laws in that it requires the chief state election official (in most states, the Secretary of State) to test and certify any voting equipment before it may be marketed, sold or used in any of the state's jurisdictions.

Modern voting equipment generally falls into two classes:

- Optical scan systems, which use paper ballots that are electronically read and tabulated by electronic scanning equipment, and
- Direct recording electronic (DRE) systems, which are computerized systems where the voter records his/her votes directly by pushing buttons or touching a screen.

According to records in the Secretary of State's office, there are 77 counties in Kansas using optical scanning systems and three using DRE systems. The remaining 25 use regular paper ballots.

On April 22, 1999, Thornburgh granted final certification for the Global Election Systems' Accu-Touch electronic ballot station. This is a touch-screen DRE system that had been tested in Kansas in 1997 and granted conditional approval pending successful completion of an election in a Kansas jurisdiction.

The system was used in the April 6, 1999, city and school elections by Kathy Peckman, county clerk in Miami County. The equipment worked flawlessly and received a positive response from voters, leading to official final certification later that month.

The Global equipment was originally developed by a new company called I-Mark, which had been started by individuals formerly associated with American Information Systems (now called Election

Systems and Software). E S & S manufactures and markets optical scanning equipment used in 49 Kansas counties. I-Mark was subsequently purchased by Global, which also has the Accu-Vote optical scanning system currently used in 28 Kansas counties.

On April 27, 1999, Thornburgh granted final certification to MicroVote Corporation's optical scanning system, designed to complement its DRE system certified and used in Butler and Sedgwick

Counties in Kansas. The MicroVote scanning system had been reviewed in the Secretary of State's office and had been temporarily approved for use in Butler and Sedgwick Counties for the Fall 1998 elections and Spring 1999 elections.

The Secretary of State's office proposed a technical change in Kansas law to allow the equipment to be certified. The legislation passed in the

1999 legislative session, clearing the way for final certification.

Many companies that produce voting equipment seek certification during odd-numbered, non-election years. The Secretary of State's office has already received several other applications for consideration this year, including both optical scanning and DRE systems.

Following is a summary of the procedure used for voting equipment certification in Kansas.

Procedure for certification of voting equipment

The manufacturer or vendor sends a written request for certification, accompanied by a \$250 fee, to the Secretary of State.

The Secretary of State requires that the equipment be certified by an independent testing authority (ITA)

**Global Election Systems
Accu-Touch electronic ballot
station - a touch-screen DRE
system.
MicroVote Corporation's
optical scanning system -
designed to complement its DRE
system.**

See Equipment, page 8

Voting Information

Federal legislation would require unassisted disabled voting

A bill has been introduced in Congress by Sen. John McCain (R-AZ) that would require all voting jurisdictions to provide the means for disabled persons to vote secret ballots without assistance.

The legislation, S511, was introduced March 2, 1999, and is entitled: "Amendments to the Voting Accessibility Act for the Elderly and Handicapped Act."

Many national advocacy groups representing disabled persons' interests have joined to encourage passage of the bill. They have identified situations in various precincts around the country where disabled persons have experienced difficulty voting, including doorways too narrow for wheelchairs, voting machines with levers too high to reach from a sitting position, voting booths without enough clearance for control knobs of motorized chairs, and inadequate signage at polling places to direct disabled voters to the appropriate places.

The language of the bill as

drafted is not limited to physical disabilities such as blindness, but appears to include mental disabilities. If passed into law, the bill would require election officials to provide the means for any disabled voter, regardless of the nature of the disability, to vote

If passed into law, S511 would require election officials to provide the means for any disabled voter, regardless of the nature of the disability, to vote unassisted.

unassisted.

This could mean the voter would have a choice. For instance, a visually impaired voter might not read Braille type, so it would not be sufficient to provide Braille ballots; audiotaped ballots may be required if requested by the voter.

The U.S. Justice Department is given both regulatory and enforcement powers in the bill.

Complaints at the local level can be made to the chief state election officer (in Kansas, the Secretary of State), and election officers may be fined \$5,000 for first offenses and \$10,000 subsequently.

Two national organizations of election officials, the Election Center and the Joint Election Officials Liaison Committee, are having discussions with the bill's advocacy groups and lobbying members of Congress to go slow on this legislation, and not to pass anything without first hearing all sides of the issue.

It has been said that if this bill passes in its current form, the administrative and financial impact on state and local governments could be bigger than the National Voter Registration Act. Secretary of State Ron Thornburgh has been in touch with U.S. Senators Roberts and Brownback, and intends to monitor the situation and offer information as needed.

Large-print voter registration form available on request

The Secretary of State's office has developed a large-print voter registration application form. It contains all the information on the regular card, but the type has been enlarged to accommodate the visually impaired.

The idea was suggested by one of the university disabilities offices which began voter registration services as a result of the National Voter Registration Act.

The form is not a one-piece card; enlargement of the type expanded the form to about seven pages. It is available to other agencies upon

request.

The agency declination form was also redesigned in large-type format. It is available if anyone knows of NVRA voter registration agencies that need it, such as SRS offices, WIC offices and disability offices.

County election officers might begin to receive a few of the multi-page, large-type voter registration forms as registrants discover they're available. They should be treated as any other application. Kansas law says people wishing to register to vote must do so on a

form approved by the Secretary of State, and this is one more version of the form that has been approved.

In addition to the regular registration card, our office in recent years has approved several electronic versions for use on the Internet. The universal form produced by the Federal Election Commission must also be accepted by all states as a result of the NVRA.

Anyone who wishes to obtain a copy of the new large-print form may do so by calling the election office at (785) 296-4561.

Summary of 1999 Election Legislation

This is a summary of legislation passed in 1999 by the Kansas Legislature that affects the elections duties of Kansas election officers. These bills are all effective upon publication in the *Session Laws*, which is July 1, 1999.

Note: As of this date there will be one constitutional amendment on the statewide ballot on November 7, 2000. See HCR 5037 below.

SB 229—Precinct Committee Appointment Bill

This bill restricts the time when county party chairs may appoint people to fill vacancies in precinct committee positions before calling a convention to fill a vacancy in an elected office. Current law says that when a vacancy occurs in state or county elected office due to death or resignation, the county party chair calls a convention of precinct committee persons to select someone for the Governor to appoint to fill the vacancy. The county chair calls the convention by mailing a notice to the precinct committee persons informing them of the date, time and place of the convention. Under the old law, the chair was prohibited from filling vacant precinct committee positions *after the notice had been mailed calling the convention.*

This bill prohibits precinct committee appointments *after the county chair receives notice of the vacancy in elected office.* This is intended to prevent the chair from stacking the committee just before the convention in an attempt to influence the committee's choice of a replacement to fill the vacancy in elected office. After the vacancy has been filled, the county chair may resume appointing people to fill vacant precinct committee positions.

Other provisions of the bill include:

- A county official who wishes to resign is directed to send the resignation letter to the person who will appoint his/her replacement (the Governor) *and to the county election officer.* Presumably this will ensure that the county party chair will be notified of the vacancy or pending vacancy.

- When a state legislator resigns, the Secretary of State is directed to notify the party chair in *each*

county in a multi-county legislative district to prohibit further precinct committee appointments. The old law required the Secretary to notify only the chair who would be calling the convention to name a replacement.

- A member of the state board of education who wishes to resign is directed to send the resignation letter to the state board *and to the Secretary of State.* Presumably this will ensure that the appropriate county party chair will be notified of the vacancy or pending vacancy.

SB 230—Election Administration Bill

This is the major election bill to pass in 1999. It contains part or all of three other bills in addition to most of the original provisions of SB 230.

The bill **deletes several requirements** for county election officers to send official election mailings by **first class mail.** This is to enable county election officers to save on postage by using the U.S. Postal Service's election logo. The bill removes the

requirement that ballots be sent by first class mail in mail ballot elections and removes requirements that notices of disposition sent in response to voter registration applications be sent by first class mail.

Another provision of the bill prohibits candidates from receiving **multiple nominations** for the same office in the same election year. Current law simply prohibits a candidate's name from appearing on the ballot more than once. This bill prohibits situations such as:

- Filing for a major party nomination after receiving a minor party nomination;
- Filing as an independent candidate after receiving a minor party nomination;
- Filing as an independent after filing in the primary (in case the candidate loses the primary); or
- Filing in the primary and also winning a write-in nomination for the other party.

If any of the above situations occur, the bill includes provisions for the candidate to withdraw from one or more candidacies.

The bill tightens the **recall petition** procedure by making three changes in the procedure:

- When a blank petition is filed with the county

SB 229 - Precinct Committee Appointment Bill
SB 230 - Election Administration Bill
SB 351 - Federal Census Population Data
HB 2471 - New District Attorney Position in Reno Co.
HCR 5037 - Constitutional Amendment Election in 2000

Summary of 1999 Election Legislation

election officer by a recall committee, the county election officer is required to send a copy to the county/district attorney for review,

- The county/district attorney is limited to five days in which to render the opinion regarding the sufficiency of the grounds for recall as stated in the petition, and
- The 90 days allowed for collecting signatures begins when the county/district attorney issues the opinion to the recall committee regarding the sufficiency of the grounds for recall.

A provision originally introduced as part of HB 2228 authorizes the squares or ovals on **optical scan ballots** where the voter indicates his/her preferences to be on a separate card from the sheet containing the names of offices, candidates and ballot questions. This is to accommodate a specific type of ballot manufactured by MicroVote Corporation to complement their electronic voting equipment, which is currently used in Butler and Sedgwick Counties.

Another provision of the bill, originally introduced as HB 2325, allows the county election officer in a county of 250,000 population the option of establishing **satellite advance voting** sites. Currently, this would apply only to Johnson and Sedgwick Counties.

A section originally introduced as part of HB 2231 allows the county election officer the option of conducting **mass or targeted mailings** instead of participating in the U.S. Postal Service's National Change of Address Program (NCOA) conducted by the Secretary of State. The National Voter Registration Act (NVRA) requires the state to have a systematic voter registration list maintenance program. When NVRA legislation was implemented in Kansas in 1996, state laws were written requiring the state and all counties to participate in NCOA to satisfy the list maintenance requirements. Three years of experience with NCOA has prompted a number of counties to request an option to NCOA. With this legislation, each county has an option of participating in NCOA or using mass or targeted mailings to cover all their registered voters.

Another provision, originally introduced as Section 2 of HB 2228, **repeals KSA 25-2015**, which required that questions submitted to the voters of any school district be printed on separate ballots.

With this legislation, school district questions may be printed on the regular ballot if the question is submitted at a regular election.

NOTE on SB 230: The original language in SB 230 moved the date of the county canvass from Friday after the election to the following Monday and the deadline to request a recount from the Monday after the election to the following Tuesday and the deadline to complete the recount from the second Friday after the election to the following Monday. These provisions were removed from the bill, so in effect, no changes were made to the county canvass timeline. Counties will continue to operate according to current law with the canvass on the Friday following the election.

SB 351—Federal Census Population Data

This bill specifies that the Secretary of State will use the actual enumeration of the state's population, rather than statistically adjusted data, in preparing the data for the Legislature to use in redistricting in 2002. Recently the U.S. Census Bureau announced that in 2000, for the first time, it would release two sets of population data for each state. One set would be the enumeration (head count) of population, as has been done since 1790. The second would be a set of adjusted data, statistically altered to improve the population figures for areas and groups that have been undercounted in past censuses.

For other purposes unrelated to redistricting, such as applications for grants by state and local governments, either set of data may be used.

HB 2471—New District Attorney Position in Reno County

This bill establishes a new position of district attorney in Reno County and abolishes the position of county attorney. The district attorney—an elected state office—becomes the sixth such position in Kansas, joining the district attorneys in Douglas, Johnson, Sedgwick, Shawnee and Wyandotte counties.

HCR 5037—Constitutional Amendment Election in 2000

This resolution was approved by a 2/3 vote of both houses of the Kansas Legislature in 1999. It requires a statewide vote on a constitutional amendment on November 7, 2000. The proposal would amend Article 13, Section 2 of the Kansas Constitution to allow retirement and pension plans authorized in Kansas law (the Kansas Public Employee Retirement System) to be stockholders in banking institutions.

Elk County has new clerk

As of April 30, Elk County has a new county clerk. Her name is Donna Kaminska and she is no stranger to the county clerk business.

Previously, she worked in the Wilson County Clerk's Office with County Clerk Maurine Burns before assuming her new duties in Elk County.

Kaminska succeeds Marvis Gaddie, who resigned in April to move to Cowley County with her husband Jim, who plans to retire from the Highway Patrol in June. However, Gaddie isn't completely out of the

county clerk business—she is working as the deputy to Carmelita Clark in the Cowley County Clerk's Office.

Kaminska, a resident of Elk County most of her life, has seven children and 13 grandchildren. Besides her strong interest in family matters, she enjoys sewing, gardening and playing softball.

The SOS welcomes Donna Kaminska to the ranks of Kansas election officials and wishes her the best in her new endeavors.

The SOS welcomes Donna Kaminska to her new position as Elk County Clerk.

SOS operating booth at State Fair

For the thirteenth year, the Secretary of State's office will be operating a booth in the Industrial Building at the 1999 Kansas State Fair in Hutchinson, September 10-19, 1999.

Each year, the SOS registers voters, sells Kansas flags, distributes information on elections and hands out promotional materials at the fair.

Some years there are special promotions.

The first year the SOS operated

the booth was in 1987 for the purpose of promoting the 1988 Kansas Census. Some years, there have been promotions on

Kids Voting and advance voting. This year, the SOS is planning an emphasis on the 2000 U.S. Census.

Each year, some county election officers volunteer to work in the booth. Any election officers who are interested

should contact Kevin Gaskin in the elections division at (785) 296-4561.

Any election officers interested in working at the SOS booth at the Kansas State Fair should contact Kevin Gaskin at (785) 296-4561

Equipment: continued

and requests a copy of the ITA's report.

The Secretary of State reviews the equipment to ensure that it meets standards established by the Federal Election Commission and the requirements of Kansas law.

The Secretary of State conducts a public hearing in Topeka at which the manufacturer or vendor displays the equipment and members of the Secretary's staff and other interested persons test the equipment.

The Secretary of State may hire a private expert to review the equipment at the manufacturer's expense.

The Secretary of State contacts other jurisdictions in the United States that have certified and used the equipment to inquire about their experiences.

The Secretary of State may grant temporary conditional approval for the equipment to be used in a Kansas jurisdiction before granting final certification.

If the above conditions are met, the Secretary of State makes the final decision whether to grant certification and informs the manufacturer and vendor of the decision in writing.

Amendment: continued

election officer, was able to develop a plan that ensured every voter received one ballot.

This plan was based on school district elections. This also made the plan more complex as many school districts crossed county boundary lines. With the work of each county election officer, the plan was successfully implemented.

SOS Contact Numbers

With the number of personnel changes the elections office has undergone, it seems like a good time to update phone numbers within the agency. This may help avoid telephone transfers and save additional time.

The elections general office telephone number is (785) 296-4561. Use this number if you do not know with whom you need to speak. Your call will then be directed to the correct extension.

The elections fax number is (785) 291-3051. If you're not using this number, please begin immediately.

Brad Bryant (785) 296-4559:
General questions, legal issues, elections legislation and voting equipment.

Bryan Caskey (785) 296-3488:
Census questions, precinct mapping questions, legal issues and election results.

Kevin Gaskin (785) 296-4561:
Campaign finance reports, copies of enrolled bills, state fair and general telephone inquiries.

Sarah Weeks (785) 296-4557:
State flags and lawbooks.

Mike Brassel (785) 296-0080:

Statements of substantial interest, lobbyist registrations and lobbyist reports.

Other numbers you may need:

Ron Thornburgh's front office:
(785) 296-4575

Melissa Wangemann (785) 296-4801: Legal issues.

Chuck Knapp (785) 296-1864:
Media inquiries, communications issues and publications.

Georgia Lott (785) 296-2239:
Notaries public, manual signatures and apostilles.

Precinct committee appointments questioned: continued

chosen. KSA 25-3801(a) says: "...vacancies occurring in the office of precinct committeeman or committeewoman shall be promptly filled by appointment by the county chairperson, except that any vacancy which occurs because the party had no candidate at such primary election shall not be filled until the county central committee has elected or reelected its chairperson..."

The county chair had made appointments in situations where no candidates filed for precinct committee positions but at least one candidate received write-in votes, even though none received the required five write-in votes to be elected (see KSA 25-213). The party chair considered the persons who received at least one write-in vote to be official candidates and made the appointments before the party convention. The district attorney asked the Attorney General if this was proper, and the

resulting opinion, 99-1, did not rule on the specific question but rather stated that subsection (a) of KSA 25-3801 was unconstitutional.

Because political parties are private organizations and not governmental entities, the government must demonstrate a compelling state interest before passing laws regulating their behavior. Restrictive laws based on no compelling state interest are unconstitutional infringements on parties' right of freedom of association.

Senate Bill 229, passed by the 1999 Kansas Legislature, deals with the appointment of precinct committee persons (see legislative summary on page 6). The bill narrows the opportunity for county party chairs to appoint people to fill vacant precinct committee positions. It states that no such appointments may be made after the chair receives notice that a vacancy in an elected office has occurred or will

occur.

The law requires the county chair to call a convention of precinct committee persons to select a replacement for the Governor to appoint to fill a vacancy in a state or county partisan elected office. Under current law the chair may appoint precinct committee vacancies after the vacancy in elected office has occurred *until the chair sends the notice to precinct committee persons calling the convention.*

The new law prohibits the chair from making precinct committee appointments *after the vacancy in elected office occurs.* This is intended to prevent the chair from filling the convention with appointees favorable to the chair's preference to fill the vacancy in elected office.

The new legislation has no impact on the question of when the chair's appointments of precinct committee persons are effective.