

CANVASSING KANSAS



An update on election news in Kansas.

2000 Primary Election Results

Voter turnout in the August 1 primary election was a disappointing 27% statewide. Secretary of State Ron Thornburgh attributed it mostly to a lack of hotly contested races.

Even though all 125 members of the Kansas House of Representatives and all 40 Kansas Senators are up for election this year, many party primary races in the districts were uncontested.

In many of the contested primaries the races were not close. There were some local candidate races that generated interest, and a few local questions on the ballots, but not enough to create a noticeable increase in turnout statewide.

There is no U.S. Senate race this year, so there were no statewide officers being elected. In November, the only statewide race will be U.S. President and Vice President.

There were some bright spots, however: the 3rd U.S. House of Representatives Republican primary generated a lot of interest in the Kansas City area, several open state Senate seats were hotly con-

Year	Registered Voters	Votes Cast	Turnout %
2000	1,557,680	415,390	27%
1998	1,493,779	439,779	29%
1996	1,352,393	532,294	39%
1994	1,273,648	458,336	36%
1992	1,187,515	516,532	43%
1990	1,166,031	481,788	41%

tested and there was a lot of interest in the five State Board of Education seats that were up for election.

Thornburgh had predicted a 31% turnout a few days before the election, but on the morning of election day he revised his estimate downward to a 25 to 27% prediction.

Turnout percentages are always lower for primaries than for general elections because Kansas' closed primary system allows only Democrats and Republicans to participate.

The other three recognized political parties nominate their candidates at conventions rather than primaries. However, unaffiliated voters may affiliate with either the Demo-

cratic or Republican party on primary election day and vote that party's ballot.

Still, most unaffiliated voters do not choose to do so, and they represent 27% of the electorate.

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IN THIS ISSUE

- 2 Office News
- 3 From the Secretary
- 4-6 State News
- 7 Clerk News
- 8-9 Legal Issues
- 10 Election 2000

Thornburgh named President-Elect of NASS



Secretary of State Ron Thornburgh was named President-Elect of the National Association of Secretaries of State (NASS) at its summer conference in June.

"I am very excited about this opportunity to lead NASS into the new millennium," Thornburgh said.

While his term will not begin until Summer 2001, he will be giving input on the major issues facing NASS.

Previously, Thornburgh served as Treasurer of NASS.

Summer interns assist with Census Adjustment Project

Every summer, the Secretary of State hires about 20 interns to assist with various projects in the office.

One of the projects this year involved the census adjustment. Seven students assisted census manager Mike Brassel with sorting, microfilming, data entry, calling and geo-coding.

The students involved in this project were Amber Cunningham, Topeka; Kristin Kinney, Topeka; Michael Loretto, Topeka; Andrew Nazar, Wichita; Bryce Nill, Topeka; Stephanie Spade, Silver Lake; and Babak Yeganeh, Lawrence.

"These students did an excellent job and put a

tremendous amount of work into this project," Secretary of State Ron Thornburgh said.

Besides the census project, interns also worked in other divisions of the office, including Corporations, UCC, Elections, IT and Communications.

"As a former student worker myself, I believe this is a great program that acquaints students with the day-to-day operations of a business and shows them their government in action," Secretary of State Ron Thornburgh said.

Other interns were: Carleton Becks, Parsons; Anitra Bell, Wichita; Evan Funk, El Dorado; Shawn Garmon, Lawrence; Shelly Hallier, Onaga; Ashley Harding,

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RON THORNBURGH

Kansas Secretary of State



Honor a Vet With Your Vote

Dear Friends:

Congratulations on the completion of the first round of elections for the new millennium! With the primary over it's time to focus our attention on the general election and promoting voter turnout.

The turnout for the primary was disappointing, with 26.7 percent of registered voters casting their ballots. We are in the process of launching a campaign that should remedy the situation for the November general election.

The Honor a Vet With Your Vote program encourages people to remember those who have served our country, by voting. This program began in 1998 and has been expanded for 2000.



Our agency will promote Honor a Vet at our Kansas State Fair booth with promotional items, information, banners and booth workers wearing *Honor a Vet...Vote* T-shirts. You also will see promotion at mall food courts statewide, as well as radio and TV advertisements.

County clerks will be receiving a program packet in late September. I encourage you to support the Honor a Vet program by promoting it in public appearances or in daily contacts through your office.

Sincerely,

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

RON THORNBURGH
Secretary of State

Online address changes at DMV

Licensed drivers can now change their addresses online.

The Division of Motor Vehicles (DMV) recently established an Internet site at www.ink.org/public/kdor/new.html where licensed drivers may submit their address changes without having to fill out a paper form or visit the office.

County election officers were notified of the program through regular communications from the Secretary of State's Office.

The program has implications for county election officers because of the statutory requirements in the National Voter Registration Act and state laws that require driver's license offices to conduct voter registration and changes of address. The law states that when a person changes his/her address for driver's license

purposes, it automatically changes the voter registration address unless the person declines it on the form.

Thus far the state DMV office has printed the change of address records and mailed them weekly to county election officers for processing. This is the first step in a multi-step plan. Future steps are to:

1. Begin sending the change of address records via e-mail. Hopefully, this will begin by early September, after the DMV office finishes some programming. They plan to use the WAN e-mail addresses given by the Department of Revenue to each county:

XX_county_clerk@wan.kdor.state.ks.us

2. Send change of address records via electronic file transfer. This will be tested through a pilot program involving a small number of counties.

3. Collect the full voter registration records, not just changes of address, electronically at driver's license stations and on the Internet and transmit them to election officers electronically. This ultimate goal will require the capture of a digitized signature or the use of electronic signatures, which has recently been authorized by federal and state laws.

SECURITY

Questions have arisen about security, or the ability of the DMV office to identify the person filing the change of address online.

Voter registration application cards and the paper change of address forms require applicants to sign the forms. Electronic forms do not include signatures.

The security of the system is built on the requirement that the applicant must match the name, date of birth and driver's license number correctly to complete the electronic transaction.

Once the change of address is submitted, the data is automatically compared to the record in the driver's license database. If the data does not match exactly, the applicant is notified that the transaction cannot be completed.

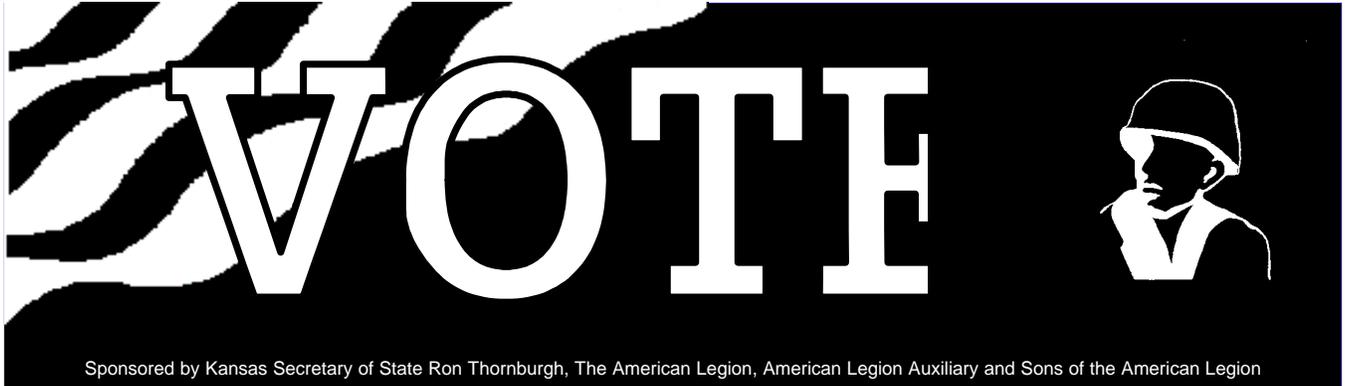
This program is a natural outgrowth of the National Voter Registration Act and the state's so-called motor-voter laws. DMV offices are required by law to be voter registration sites.

Discussions during the past year between Secretary of State Ron Thornburgh and Director of Vehicles Sheila Walker have led to the current plan to gradually eliminate the paper and move toward an electronic system.

Spanish Voter Card

Over the past several months the Secretary of State's Office, in partnership with the Kansas Advisory Committee on Hispanic Affairs, has been working on producing a Spanish voter registration card. The cards are not finalized but can be requested for photocopying by calling (785) 296-4561.

Honor A Vet...



Honor a Vet program continues in 2000

Plans continue for the expansion of the Honor a Vet with Your Vote program in 2000. The program was initiated in Kansas and several other states in 1998. It is an attempt to encourage voter turnout and at the same time recognize veterans of military service.

When voters visit their polling places on election day November 7, 2000, they will receive a lapel sticker bearing the Honor a Vet logo and a blank space where they may write the name of a military veteran.

By the act of voting they can memorialize the sacrifices made by military veterans in defending the American democratic system and, in particular, the right to vote.

The program is being sponsored by Secretary of State Ron Thornburgh, along with The American Legion, American Legion Auxiliary and Sons of the American Legion.

Promotional efforts for 2000 include:

- *pocket cards provided to county election officers and interested groups for public distribution*
- *Secretary of State's booth at the Kansas State Fair in Hutchinson*
- *radio and TV advertisement*
- *meal tray placemats at mall food courts statewide*
- *a mentoring program whereby a military veteran selects a first-time voter to take to the polls to "show them the ropes"*

These promotional efforts are considerably greater than in 1998. All efforts are designed to increase public awareness of the program and participation in the election.

SOS booth at 2000 Kansas State Fair

For the 14th consecutive year the SOS will be operating a booth in the

Meadowlark Building, formerly known as the Industrial Building, at the 2000 Kansas State Fair in Hutchinson, September 8-17. Each year SOS volunteers register voters, distribute information

on elections and hand out promotional materials, as well as sell Kansas flags. The centerpiece of this year's fair booth will be the promotion of the Honor a Vet With Your Vote program.

Party seeks name change

The Kansas Taxpayers Party, one of five political parties currently officially recognized in Kansas, has submitted a request to the Secretary of State to have its name changed to the Kansas Constitution Party.

In a July 20, 2000 letter, state party chairman Cedric Boehr officially requested the name change, saying the national party changed its name from U.S. Taxpayers party to U.S. Constitution Party by a majority vote of its convention delegates in September 1999. The Kansas Taxpayers Party's executive committee subsequently voted to adopt the name change.

Secretary of State Ron Thornburgh has asked the state party to provide copies of documentation detailing the actions by the national and state party organizations for his review in considering the request.

There have been other instances in the past few decades when a recognized political party sought a name change. In some cases the state party was required to circulate a new petition seeking official recognition because the state organization had split off from the national party.



Presidential-only ballots are an option for some voters

Special provisions in Kansas law allow voters who have moved immediately prior to the presidential general election to vote a limited ballot of only the presidential race.

These voters include:

1. New residents - voters who move from another state into Kansas less than 45 days before the presidential election.

2. Former residents - voters who are registered to vote in Kansas but move from Kansas to another state less than 45 days before the presidential election.

Such a split signals a change in party ideology, necessitating a new petition drive and separate recognition.

The request from the Taxpayers Party is different from the earlier cases and will be considered separately.

The Secretary of State's Office will notify county election officers when a decision is made.

If the name is officially changed it will require that the voter registration application forms be revised and phased in to the voter registration sites across the state. Also, voter registration databases will have to be programmed to accommodate the name change.

3. Relocated residents - voters who move from one precinct in Kansas where they are registered to another precinct in Kansas within 20 days or less before the presidential election.

The law prescribes a separate ballot application form for each of these categories of voters. The deadline for filing the applications is noon the day before the election, which coincides with the deadline for in-person advance voting.

The Secretary of State provides Form PF for former resident voters, Form PN for new resident voters, and Form PR for relocated resident voters.

The county election office where these applications are filed is required to send a copy of each application to the election officer in the other affected jurisdiction to prevent multiple ballots being received by the same voter.

Ballots may be distributed not earlier than 25 days before the election nor later than noon the day before the election. A return envelope is included with the ballot, bearing a declaration that must be signed and dated by the voter.

Ballots must be received in the election office by the close of polls on election day to be counted.

Law requires county canvass on holiday

In many counties, the 2000 general election will create a conflict between the county canvass and the traditional Veterans Day Holiday.

This conflict has occurred before, most recently in the 1994 general election. This year's election is November 7, and all state offices and many county offices will observe Veterans Day on Friday, November 10.

K.S.A. 25-3104 requires county commissioners in each county to meet on the Friday after the election to canvass election returns. The time of the start of the canvass, between 8:00 and 10:00 a.m., is specific in the law to provide public notice.

Other aspects of elections, such as the date of the election and the dates, places and close of voter registration, are published in newspapers to notify the public.

There is not time between the Tuesday election and the Friday canvass to publish a notice of the canvass, so the statute serves as notice to any candidates or other members of the public who wish to attend.

The Secretary of State's Office has informally discussed the situation with the Attorney General and reached the following conclusions:

The statute is clear that the county canvass must begin on Friday morning after the

election. If that is a county holiday and the courthouse is closed, the canvassers may consider a couple of options. If at least one county commissioner can be present, K.S.A. 25-3102 allows for the appointment of one or more canvassers to take the place of those absent. If none of the commissioners can be present at the courthouse for the canvass, they may agree to meet at another place as long as the county election officer publicizes the change of location.

If none of the commissioners can be present either at the courthouse or at another location, a conference call may be arranged. In such cases, the canvassers would most likely convene briefly, then recess until they can meet again to certify the election results in person. If

the canvassers meet and recess until another time, they must be mindful of the deadlines for requesting recounts or election contests and give candidates and the public adequate time to consider their options and file the recounts or contests.

K.S.A. 25-3107(b) establishes the deadline for requesting a recount at noon on the Monday following the canvass.

K.S.A. 25-1439 establishes the deadline for filing an election contest as five days after the canvassers certify the election results.

Another factor to consider is that the county election officer must certify the abstract of votes cast for national and state offices to the Secretary of State by the second Tuesday after the election (K.S.A. 25-3203). In 2000, the deadline will be November 21.

Record number of registered voters

Kansas has reached an all-time record number of registered voters. As of July 17, 2000, 1,557,680 persons were registered to vote. This is an increase of approximately 64,000 voters compared to the 1998 primary election and an increase of approximately 41,500 voters compared to August 1, 1999.

Democrats - 430,410	(27.6%)
Libertarians - 9,369	(0.6%)
Reform - 2,149	(0.1%)
Republican - 696,480	(44.7%)
Taxpayers - 2,256	(0.1%)
Unaffiliated - 416,971	(26.7%)
Total - 1,557,680	

Supreme Court addresses blanket primaries



The United States Supreme Court addressed the issue of blanket primaries in California Democratic Party v. Jones during its 2000 term.

Until 1996, the state of California had a primary election system similar to Kansas. Persons who were members of a political party, i.e., who had declared an affiliation with a party when they registered to vote, could vote on the party nominee.

In 1996, California adopted Proposition 198, which authorized blanket primaries. Under the new law, all persons who are entitled to vote can vote for any candidate. The candidate of each party that receives the most votes wins the nomination of the party.

The Democratic Party, the Republican Party, the Libertarian Party and the Peace and Freedom Party filed a lawsuit asserting that California's blanket primary statute violated their First Amendment rights of association. Each party had a rule that prohibited persons not members of the party from voting in the party's primary.

The court's opinion recognized that the first amendment protects the "freedom to join together in furtherance of common political beliefs" which "necessarily presupposes the freedom to identify the people who constitute the association and to limit the association to those people only."

Because Proposition 198 requires political parties to associate with individuals who are not members of the party and, in fact, allows these nonmembers to determine the party's messenger and thus its message as well, the law burdens the party's right of association. A law that burdens this constitutional right will only be upheld if it is narrowly tailored to serve a compelling state interest.

The state offered seven compelling state interests served by Proposition 198. The state first argued that it has an interest in producing elected officials who better represent the electorate. The state also argued that the blanket primary expands candidate debate beyond that of partisan concerns. The court rejected this argument, arguing that an association should be free to choose the content of its speech without modification by outsiders.

The state also argued that the blanket primary is the only way to ensure that disenfranchised persons enjoy the right to vote. The state defined "disenfranchised persons" as independents or members of a minority party whose vote is not "effective" in a closed primary system because they are not allowed to participate in the determinative election, the majority party's primary. The court rejected this argument, stating that a nonmember's interest in participating in the party does not override the party's right to determine its membership and the content of its message.

The state's remaining four arguments in favor of the blanket primary were promoting fairness, increasing choices for voters, increasing voter participation and protecting privacy. The court found none of these to be compelling state interests. The court also noted that, if it had determined the state's interests to be compelling, Proposition 198 was not narrowly tailored to accomplish those interests.

In conclusion, the court ruled that Proposition 198, which created blanket partisan primaries, placed a severe burden on the right of association and that the law was not narrowly tailored to accomplish a compelling state interest.

Supreme Court passes chance to review advance voting law

The U.S. Supreme Court passed up the opportunity to review a Texas law that allows voters to vote in advance of the general election.

By refusing to intercede, the Supreme Court let stand a Fifth Circuit Court of Appeals decision that found the Texas advanced voting laws did not violate the federal law establishing the Tuesday after the first Monday in November as the federal election day.

Five Texas voters and the organization Voting Integrity Project asked the high court to review the case and rule that Congress mandated federal elections be held on a certain day. The petitioners argued that the federal statute creating

a federal election day was enacted to ensure that all voting occur on a single day and thus the Texas Early Voting Act violated the statute.

The Fifth Circuit Court of Appeals upheld the district court's finding that the state law did not conflict with the federal law.

The Fifth Circuit opined that the election of federal officers is not finalized until election day, and therefore the Texas law is not inconsistent with federal law. The court looked to federal legislation that supported early voting, such as the Voting Rights Act Amendments of 1970, which mandated absentee voting in presidential elections.

The court concluded that

Congress' legislative intent in enacting the federal law would not have included restricting the right to vote, and therefore the Texas law is complementary to the federal voting laws.

The court's decision is important to states such as Kansas who have adopted early voting systems. Kansas' advance voting is similar in some respects to Texas' early voting, one difference being that in Kansas the voter may choose to vote by mail rather than in person.

A successful challenge to the constitutionality of the concept of early voting would threaten to disrupt voting procedures that are popular and firmly in place.

Action taken to ensure military facilities remain as polling places

It was reported in the June 2000 issue of this newsletter that there had been a directive from the U.S. Department of Defense that appeared to prohibit the use of military facilities as voter registration or polling sites.

The directive was opposed by many in the election community, and it set off a scramble in many states as election officials sought new locations that would be suitable for voting.

Kansas Secretary of State Ron Thornburgh had sent a letter to Major General Gregory Gardner, Kansas Adjutant General, asking him not to apply the Defense Department's directive in Kansas.

Gardner wrote back that he did not believe the directive applied in Kansas because National Guard Armories, the military facilities most commonly used as polling places, were state-owned property.

In response to the controversy caused by the Defense Department directive, Congress quickly passed a law allowing any military facility that had been used as a polling place in 1996 or later to continue to be used for voting.

The legislation was passed as a defense appropriations bill, HR4425 and S2521.

The bill was presented to President Clinton on July 1, 2000, and he is expected to sign it.



Election 2000

The latest information is available at:
www.kssos.org/2000elec.html

- Primary Election Results

- Primary Election Candidate Filings

**- Amendments to the
Kansas Constitution**

(appearing on the Nov. 7, 2000 ballot)

- Honor a Vet With Your Vote

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