

CANVASSING KANSAS

An Update on Election News from Kansas Secretary of State Ron Thornburgh

March 2005

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Three Records Set in 2004 General Election

2004 was a presidential election year, and that always means everything is high—voter registration, voter turnout, and general interest in the election are higher in presidential years than in other elections. This proved to be the case in 2004 as three records were set.

Voter registration—the number of Kansans registered to vote reached an all-time high of 1,694,365.

A record number of those registered voters actually voted: 1,213,108 cast ballots, whereas the previous high was 1,161,927 in 1992.

Also, a record was set in advance voting with 245,827 voting in advance. The previous high was 185,399 in 2000.

The turnout and advance voting totals were not records in terms of percentages, just numbers. The increased number of names on the voter registration list, largely due to the voter registration opportunities brought about by the National Voter Registration Act of 2003, have tended to make turnout percentages smaller, but the total number of ballots cast has increased. Likewise, the greater turnout numbers mean that the advance ballots *as a percentage* of total votes cast are not records, but the number of advance ballots cast is a record.

The 2004 elections were the first under the new requirements of the Help America Vote Act of 2002. One of the more significant aspects of this was the increased accessibility of polling places. Federal grant money was spent by the Secretary of State to purchase accessibility products for county election officers to use in improving physical access to polling places, and the efforts of CEOs in reviewing and identifying accessibility problems was a huge success. No formal complaints were filed with the Secretary of State's office after the primary or general election.

Another aspect of HAVA was the creation of a formal administrative complaint procedure, which allows a voter to file a complaint if any of several requirements of HAVA are not met. The person filing the complaint also has a right to a formal hearing if the person chooses. Although there were inquiries about the complaint process, no administrative complaints were filed. This indicates to us that the efforts of state, county and precinct election officials to comply with the new rules under HAVA were a success.

We're Back...

The SOS office is resuming publication of this newsletter after a one-issue hiatus. The December, 2004 issue was not distributed for several reasons, the most important being the fact that we had just come out with the first issue of the *Blue Suede News*, which keeps

everyone updated on progress with the voter registration project, and the fact that everyone was so busy with various HAVA activities. That hasn't changed, but since it's time for the next *Canvassing Kansas*, here it is.

Thornburgh Testifies In Congress

Kansas Secretary of State Ron Thornburgh was invited to testify before the Administration Committee in the United States House of Representatives on February 9, 2005. Thornburgh was among a group of election officials invited to testify on the status of the Help America Vote Act (HAVA). One of the reasons Secretary Thornburgh was invited was that he was instrumental in crafting the language of HAVA in 2001 and 2002 as president of the National Association of Secretaries of State.

Other conferees at the hearing were: All four commissioners in the Election Assistance Commission: Paul DiGregorio, Ray Martinez, Gracia Hillman and DeForest "Buster" Soaries. New Mexico Secretary of State Rebecca Vigil-Giron, current NASS president; Iowa Secretary of State Chet Culver; and Indiana Secretary of State Todd Rokita.

The conferees discussed progress made under HAVA and how it is not fully implemented, that Congress should let HAVA work before considering additional changes to federal law. They also recommended that Congress appropriate additional funding, approximately \$900 million, to fully fund HAVA.

Thornburgh's comments centered on the American tradition of allowing states and localities to administer elections with minimal federal involvement. He emphasized that when the federal government involves itself in election administration it should outline broad policies and let each state fill in the details.

EAC Requires New Reports

Due to requirements in the Help America Vote Act, the federal Election Assistance Commission (EAC) has instituted two new reports after each federal election. In December, 2004 and January, 2005 these reports were collected for the first time. Much of the information was already collected informally from county election officers by the Secretary of State's office in the form of Post Election Reports, but the federal reporting requirements added some new data.

The first EAC report, called the Election Day Data Survey, asked about polling places, poll workers, provisional ballots, early (advance) voting, voter registration, voting equipment

failures, overvotes and undervotes, and accessibility to polling places.

The second EAC report, called the Military and Overseas Absentee Ballot Survey, asked about the number of federal services ballots requested and distributed, the number counted, and the method of transmission (mail, fax, email).

The EAC is required by HAVA to collect information and conduct studies of these issues, provide information to all jurisdictions nationwide, and report to Congress periodically. We can expect these reports to become part of the routine in the future, so look for the next one in late 2006.

It's Wolters, not Watkins!

Correction: The Smith County Clerk's name is Sharon Wolters, not Watkins. She was mistakenly referred to as Sharon Watkins in the September, 2004 newsletter.

Sharon took it well, and didn't even call us to complain. Sharon, we appreciate your patience and hope you'll let us know the next time we make a mistake.

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RON THORNBURGH Kansas Secretary of State

Dear Friends:

Well, we made it. Another major election is behind us. Looking back at the 2004 election season four months later, I'm sure we all feel a sense of relief that another busy presidential election year is over, and before we have to start planning for the 2006 election year (the August primary is only 17 months away!), we need to pause to congratulate each other on a job well done.

When I reflect on 2004, the thing that sticks out in my mind is the teamwork and cooperation we received from our friends, the county election officers in Kansas, especially in the area of reporting. Beginning with the infamous 2000 presidential election, we have all been surveyed more extensively than ever before on all aspects of the electoral process. The federal government, the media, think tanks, interest groups, political parties and candidates all want to know more than ever before about what we do.

Here's a sample of the reports you were asked to provide in the weeks and months before and after the August primary and November general election last year:

- Polling place accessibility surveys
- Polling place closure reports
- Post Election Reports
- Election Assistance Commission Election Day Data Survey
- Election Assistance Commission Military and Overseas Absentee Voting Survey
- HAVA matching funds payments
- ELVIS agreements
- Write-in votes for Horace Edwards for U.S. Senate
- Votes cast in the Democratic primary by unaffiliated voters

These reports were in addition to the other new HAVA-related things asked of many of you—work groups on voting equipment, ELVIS and training/education, ELVIS JADs and CRPs and conference room pilots, and the list goes on.

All this while conducting the primary and general elections, setting records in voter registration, advance voting and total ballots cast, and bringing it all to a successful conclusion.

It's a remarkable accomplishment of which we should all be proud.

Sincerely,

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

RON THORNBURGH
Secretary of State

2005 Legislation

Each year during the legislative session the elections division attempts to keep track of all the bills that affect elections in Kansas, including some bills dealing with ethics and campaign finance. We summarize the bills and the actions taken on them and email the summary to all county election officers approximately every week.

Following is a list of the bills on our tracking list this year. Anyone interested in viewing the actions taken on a particular bill can go to the Legislature's web site at <http://www.kslegislature.org/legsrv-legisportal/index.do> and type a bill number into the box titled "Track a Bill."

Senate Bills

SB 64—This bill would require persons or groups supporting or opposing candidates for state offices and first class cities (and the Wichita USD and Wyandotte's Board of Public Utilities) to file campaign finance reports if they make expenditures of \$300 or more for "electioneering communication." (Electioneering communication refers to regular campaign ads and not the crime of electioneering.)

SB 65—This bill would require candidates for state offices and first class cities (and the Wichita USD and Wyandotte's BPU) to electronically file campaign finance reports with the SOS and CEO during the 11-day period leading up to an election when last-minute contributions reach an aggregate amount of \$300 or more.

SB 66—This bill would require candidates for state offices and first class cities (and the Wichita USD and Wyandotte's BPU) to include in their regular campaign finance reports with the SOS and CEO any in-kind contributions totaling \$300 or more.

SB 67—This bill would require persons or groups supporting or opposing candidates for state offices and first class cities (and the Wichita USD and Wyandotte's BPU) to include a "paid for by" or "sponsored by" attribution in automated telephone campaigns.

SB 106—This bill would move the date for the beginning of advance voting from the 20th day before the election to the 14th day before the election.

SB 132—Proposed by the Secretary of State, this bill would update the laws governing the testing and certification of optical scanning voting equipment to bring them into compliance with the Help America Vote Act. Companion bill to SB 143.

SB 134—Proposed by the Secretary of State, this bill would amend Kansas' closed primary law, which currently requires voters to be affiliated with a party before voting that party's ballot in a primary election. Closed primary laws have been ruled unconstitutional by federal courts because state laws cannot mandate who may vote in a party's primary. Parties, as private associations, have the right to determine who may participate. The bill as drafted would require the parties to notify the SOS by April 1 each election year regarding who would be permitted to vote in their respective primaries that year.

SB 141—This bill would require the CEO to maintain a list of advance voters for public access before each election.

SB 142—Proposed by the Secretary of State as an advance voting security bill, this bill would (1) prohibit anyone other than the voter from signing the voter's advance ballot application, except in cases of assistance provided to voters with disabilities, (2) restrict delivery of the voter's ballot to the CEO or the mailbox to the voter or a member of the voter's family, and (3) require the CEO to check signatures on returned advance ballot envelopes against voter registration records and challenge those that do not match.

SB 143—Proposed by the Secretary of State, this bill would update the laws governing the testing and certification of electronic and electromechanical voting equipment to bring them into compliance with the Help America Vote Act. Companion bill to SB 132.

SB 163—This bill would authorize the SOS to adopt regulations on CEO and poll worker training and on the activities of poll agents, and would authorize any poll agent to challenge the vote of any voter in the primary election.

SB 204—This bill would apply many of the rules regarding ethics, lobbying and conflicts of interest to local officers as well as state agency representatives. In this case, "local officers" means those cited in the ethics and campaign finance laws in Article 41 of Chapter 25 of the statutes: first class cities, the Wichita school district, and the Wyandotte County board of public utilities.

SCR 1601—This concurrent resolution, if passed by a 2/3 majority of both houses of the legislature, would require a statewide vote on April 5, 2005, on whether to approve a constitutional amendment defining marriage as being between one man and one woman.

SCR 1605—This concurrent resolution, if passed by a 2/3 majority of both houses of the legislature, would require a

2005 Legislation

statewide vote on November 7, 2006, on whether to approve a constitutional amendment to allow the legislature to set limits on the taxes levied on residential property.

SCR 1606—This concurrent resolution, if passed by a 2/3 majority of both houses of the legislature, would require a statewide vote on November 7, 2006, on whether to approve a constitutional amendment to require justices of the Kansas Supreme Court to be confirmed by the Senate.

House Bills

HB 2005—This bill would require candidates for state and local office (all except federal offices) to disclose on their declarations of intention whether they have ever been convicted of a felony.

HB 2007—This bill would authorize the Horse Thief Reservoir Benefit District to conduct an election to determine whether to impose a sales tax on residents of the district.

HB 2092—This bill would change the beginning of county treasurers' terms from the second Tuesday of October to the second Monday in January immediately succeeding the election.

HB 2093—This bill would establish a procedure for the boards of county commissioners in two or more counties to adopt a resolution altering the boundaries of the counties and to call an election for approval by the voters in all the affected counties. The election could also be brought about by a petition signed by 5% of the registered voters of the counties.

HB 2094—This bill would establish a procedure whereby a county and the cities in the county could reorganize (consolidate?). The boards of commissioners and city governing bodies could establish a study commission, approval of which is required at an election, and the resulting plan for reorganization could then be submitted to the voters for approval. The procedure could entail two separate countywide elections.

HB 2111—This bill is similar to HB 2094.

SB 2167—This bill would allow any county, not just those previously defined in law, to initiate a process for consolidation of law enforcement. Hearing held in House committee.

HB 2252—This bill would require school districts to redraw member district lines to make them compact, contiguous and

equal in population and make them conform to precinct lines as much as possible.

HB 2254—This bill would require all electronic voting equipment in use in Kansas after January 1, 2006 to be equipped with a voter verifiable paper audit trail (VVPAT). It would require all such equipment to be equipped with VVPATs before the SOS could certify it for use in Kansas. It would require all electronic equipment procured for 2006 pursuant to HAVA accessibility requirements to have VVPATs.

HB 2350—This bill would lower to \$100 the amount of campaign finance funding to require local candidates to file campaign finance reports. This affects 2nd and 3rd class cities and school district candidates. It also changes their filing deadline to 10 days after the primary and general elections instead of 30 days, and it includes precinct committee candidates in the definition of local offices.

HB 2437—This bill would change the size of the Kansas Senate from 40 members to 30 members and the size of the Kansas House of Representatives from 125 members to 90 members after January 14, 2013.

HCR 5001—This concurrent resolution, if passed by a 2/3 majority of both houses of the legislature, would require a statewide vote on November 7, 2006, to approve a constitutional amendment to allow the legislature to establish up to ten classes of cities, instead of the current 4 classes, for purposes of imposing limitations and prohibitions on the levying of taxes and fees.

HCR 5004—This concurrent resolution, if passed by a 2/3 majority of both houses of the legislature, would recommend to Congress that the National Voter Registration Act of 1993 be amended to allow voters' names to be purged from the voter registration lists for missing a specified number of elections. It is intended to simplify the current system of list maintenance required by NVRA (confirmation mailings, etc.).

HCR 5006—This concurrent resolution, if passed by a 2/3 majority of both houses of the legislature, would require a statewide vote on November 7, 2006, to approve a constitutional amendment to establish a constitutional right of access

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to public documents and deliberations of public bodies.

HCR 5010— This concurrent resolution, if passed by a 2/3 majority of both houses of the legislature, would require a statewide vote on November 7, 2006, to approve a constitutional amendment to create a redistricting commission to draw districts for the state legislature, state board of education and congressional districts instead of having the state legislature draw the lines.

HCR 5012— This concurrent resolution, if passed by a 2/3 majority of both houses of the legislature, would require a statewide vote on November 7, 2006, to approve a constitutional amendment to require justices of the Kansas Supreme Court to be elected instead of appointed by the governor.

EAC Hotline

The new Election Assistance Commission created by HAVA is intended to serve as a national clearinghouse and resource for information on the administration of elections and federal election law. The Office of Election Administration from the former Federal Election Commission was relocated to the EAC by HAVA to carry out this function and others.

One of the programs created in 2004 by the EAC to pursue its clearinghouse role was the establishment of a call center on election day, November 2, 2004, to take calls from the general public. Staff members at EAC were trained to anticipate and answer as many questions as possible, but they also were instructed to refer calls to the appropriate state or local election official as needed.

In the days immediately surrounding November 2, 2004, the EAC's call center fielded approximately 700 election-related calls from across the nation. The vast majority of calls were questions regarding voting information, the location of polling places, hours of poll operations, procedures for registering to vote, and questions about absentee voting, provisional voting, voting machines, and election fraud.

The call center received only two calls from Kansas. One caller asked if voters could take their own pens to the polling place to use in marking their ballots. The other was from a voter who had asked a poll worker "who came up with HAVA?" The precinct official wasn't sure of the answer and indicated that the voter was trying to "be difficult." The EAC staffer provided information about the congressional origins of HAVA and notified the county election officer of the incident.

Two calls from one state is not many. Most voters in Kansas were calling their county election offices rather than the EAC to find out how to register, vote, find their polling

places, and other information for which the county office is the most appropriate source.

Election Season Brings New CEOs

It is natural for each election to bring about turnover. When county clerks' elected terms end and the incumbents face re-election, there are always some retirements and, unfortunately, sometimes some defeats at the ballot box. The 2004 election season has resulted in 17 new county election officers: 16 county clerks and one election commissioner.

Following is a list of new county clerks:

Debbie Wesley, Barber County
Linda Bogart, Cloud County
Angie Kirchner, Coffey County
Karen Brooks, Cowley County
R. J. Wilson, Crawford County
Jamie Shew, Douglas County
Elsa Ulrich, Finney County
Joyce Truskett, Harvey County
David Lamb, Linn County
Janet Hale, Meade County
Renee Kerr, Ness County
Alicia Showalter, Rice County
Nita Keenan, Stafford County
Shelly Harms, Thomas County
Lori Augustine, Trego County
Rhonda Willard, Wilson County

In addition to the newly elected county clerks, a new election commissioner has been appointed in Johnson County. Brian Newby was appointed to fill the vacancy created when Connie Schmidt retired effective December 17, 2004. Brian took the oath of office January 11, 2005. Connie agreed to stay in the office part time through January to ease the transition. Like all the other new county election officers, Brian has quickly become immersed in elections and is well into the spring election season. He has had the benefit of the entire staff remaining with him to get him up to speed.

Welcome to all the new election officers. We in the SOS office look forward to meeting with you throughout the rest of the year to prepare for the 2006 elections and to move ahead with our implementation of HAVA.

HAVA Update

Here's an update on the latest HAVA activities

Voter Outreach and Education

ELVIS

On Monday, November 15, 2004, Secretary of State Ron Thornburgh announced that the state of Kansas had begun development of the Election Voter Information System (Elvis). So what exactly does that mean? The Help America Vote Act of 2002 (HAVA) requires all states to maintain a centralized voter registration database and ELVIS will help us meet that requirement.

The state is working to name a vendor to help meet the HAVA requirements. HAVA requires the registration list to be operational by January 1, 2006. Using an off-the-shelf product, county election officers and secretary of state's staff will work to configure the system to meet the needs of Kansas.

The new system will not only meet the requirements of the law, but will do much more. ELVIS will improve election management throughout the state and will set a national standard of excellence for voter registration and election management systems.

Pilot Counties Lead the Way

One phase of the implementation of ELVIS is the pilot phase. Nine counties have agreed to share their time and knowledge to help spearhead this phase of the project. So what will the pilot counties do? Counties participating in the pilot phase will be the first to convert their voter information data and will be the first to go "live" on the system. They will also be the first to receive training on the system and will help troubleshoot any issues that arise after initial implementation.

Once the pilot phase is complete other counties will begin to go live on the system. Counties will convert to the system incrementally starting with the pilots, until all counties are live on ELVIS. All counties will be using the new system by December 31, 2006. The new system will streamline how elections and election data are managed throughout the state. Implementing a statewide system will improve consistency across the state. Having all counties on the same system, for instance, would allow neighboring counties to share ideas and knowledge.

Although it is not mandatory for all counties to use the full functionality of ELVIS, it is the Secretary of State's goal that all Kansas counties will choose to convert to the new System.

The Help America Vote Act (HAVA) requires the states to implement many new systems and programs. Systems such as the central voter registration database and electronic voting devices are constantly being discussed and even debated at the local, state and national level.

However, there are many other important programs required by HAVA that don't get as much attention. One such program is voter outreach and education. HAVA requires states to educate voters on their voting rights, what types of voting systems are used and how to use such systems, if they vote a provisional ballot how to learn whether that ballot counted and if not, why.

The Secretary of State's Office launched such a program prior to the 2004 Presidential election cycle. Staff members worked to develop content for four brochures for outreach and educational purposes. The brochures explain how to vote, voting accessibility, provisional voting and how to file a formal complaint using the HAVA administrative complaint procedures.

Another outreach effort came in the form of a television commercial. Secretary Thornburgh appeared on commercial that aired throughout the state and was designed to encourage people to get out and vote.

With technology constantly changing and becoming more popular the Secretary of State's Information Technology staff designed and created the Vote! Kansas website. The site provides the same information covered in the brochures but provides much more detail and can be easily accessed anytime. The web address is: voteks.org. Take a few minutes and check it out!

HAVA has provided funding that wasn't available in the past and such voter education and outreach programs can be provided using such funding. We encourage all county election officers to promote the brochures and the website so we can help Kansans get out and vote!