

CANVASSING

KANSAS

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



March 2008

inside

E-Motor-Voter back on track

Efforts between the Secretary of State, the Kansas Division of Motor Vehicles and the ELVIS vendor, ES&S, have been resumed to build an electronic voter registration system. It was reported in a recent issue of this newsletter (see *Canvassing Kansas*, December 2007, pages 1 and 10) that the program had been suspended indefinitely due to scarce programming resources in the Department of Revenue (DMV is part of Revenue). The suspension of the program was lifted after Secretary of State Ron Thornburgh met with Secretary of Revenue Joan Wagon in January. Secretary Thornburgh emphasized the importance of the program and offered assistance to KDOR to move it forward, citing the fact that much work had already been completed.

Secretary Wagon agreed and directed DMV and KDOR IT personnel to proceed. A tentative date of May 2008 has been set for completion. ES&S has finished writing specifications for the program and IT personnel in KDOR have resumed their work. Elections staff in the SOS office have initiated a series of weekly meetings with administrative personnel at DMV until the time the project is completed. SOS personnel also will participate in training regional directors of driver's license offices, who will in turn train the field offices. That training is scheduled to take place in late spring 2008.

Here are the basics of the program: The driver's license examiner asks each applicant if they want to register to vote. If the person says yes, the examiner asks three additional voting-related questions besides the regular driver's license questions. The questions are: (1) Are you a U.S. citizen? (2) Will you be 18 by the next election? (3) Do you wish to declare a party affiliation? The computer program will then assimilate the voting-related information with name, address and other information already collected for the driver's license, attach the digitized signature to the record, and send it in batches to the Agency Central database in the ELVIS voter registration system. CEOs will receive two types of transactions: Transaction Type 1 for new registrations and Transaction Type 2 for changes of address.

The current motor-voter program has been in place since 1995 after passage of the federal National Voter Registration Act of 1993, but it has always been a paper system. Driver's license examiners, some of whom

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May plans shaping up

In mid December the SOS office attended the KCCEOA planning meeting in Salina. The 2008 KCCEOA conference will be held at the Salina Holiday Inn Convention Center May 6-9. The Secretary of State's Office has been granted a full day for the required HAVA training. The SOS Office is putting together agenda items for Thursday, May 8.

Possible topics include: 2008 legislation, HAVA federal audit, census and redistricting, SOSIX update, polling place management, election day disaster procedures, poll agents, polling place posters, ELVIS and CEO task force results.

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Electricity, no electricity, election goes on

Doniphan County Clerk Peggy Franken conducted a special question election for the city of Highland - nothing extraordinary - and something that is done dozens of times a year by county election offices across the state. What makes this election special? The fact that the city of Highland did not have electricity for the week leading up to Election Day!!

December 10, 2007, the city received two inches of ice, and electricity was lost throughout the county. To assist the county, the SOS office, with the assistance of Election Systems and Software (ES&S), printed the poll books and shipped them to the county. Fortunately, electricity was restored in the city of Highland on the Saturday before the election, the candles were put away, and the election was conducted without further incident.

Former Trego County Clerk passes away

Kathleen Conness, former Trego County Clerk, passed away January 20 after a battle with cancer. Kathleen was survived by two children, three grandchildren and six great grandchildren. The funeral was held at Christ the King Catholic Church in WaKeeney, with burial in the Kansas Veterans Cemetery.

Kathleen was part of an important election law case, *Eveleigh vs. Conness*, that established rules concerning recall petitions for local office. In addition, Kathleen was one of the few county clerks who served a stint as the county sheriff while she was county clerk.

Our condolences go to Kathleen's family and the Trego County Clerk's office. She will be missed.

Rawlins County Clerk retires

Meredith Hrenchir, Rawlins County Clerk, retired February 1, 2008. Meredith was a long-time county clerk, having been appointed as county clerk in February 1975. (That would be 33 years of service!)

Krystal Hutfles, deputy county clerk, was appointed to fill the remainder of Meredith's term. Krystal, who has been deputy county clerk since May 2004, was born and raised in Wichita and worked for Raytheon Aircraft for 26 years.

While in Wichita, Krystal met her husband Dave. The couple have one son and two granddaughters. When she has time, Krystal also loves to travel and to read. Congratulations to Meredith and to Krystal!

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RON THORNBURGH
Kansas Secretary of State

During my time as Secretary of State, I have had the opportunity to visit a number of foreign countries and observe their electoral process. Many times, these countries were in the midst of transition and working to restore democracy through safe, secure elections.

Last year, I spent several days in the Republic of Armenia, located just east of Turkey in Southwestern Asia. During my visit, officials were preparing for one of the first elections to be held since a 1999 attack on the government left the prime minister, parliamentary speaker, and six other officials dead. While I was there, many residents were still skeptical of the validity of the process and even feared attacks on the polling places.

During the visit, I was struck by how hungry the Armenian people are for real democracy – and how fortunate we are to have it. Thanks in large part to the work you do on a daily basis, elections in the state of Kansas are among the most accurate and uniform in the world.

In December, I recognized two members of our elections community who exemplify this commitment to fair, accessible elections: Kathy Peckman, Miami County Clerk, and Michael Byington, a community advocate for Kansans with disabilities. Kathy's years of experience and dedication have proven invaluable on the many committees she serves on, particularly her work with several ELVIS subcommittees to implement the changes brought about by HAVA. Michael was also instrumental in educating HAVA committee members on the needs of the disability community and his work no doubt changed the landscape of election accessibility and accommodations for Kansas voters.

Both Kathy and Michael received NASS Medallions – one of the election community's highest honors – for being individuals who have made a substantial impact in the field I was proud to add their names to the list of distinguished officials and advocates from across the nation.

We often talk about what we can do to continue to ensure our elections are setting the national standard – be it changes in polling place locations, ballot types, or even the way in which we communicate with voters. These conversations are very important, and I am glad our state is represented by such a forward-thinking group. However, I think it is equally important to occasionally take the time to remember how fortunate we are to have an elections system that makes these types of ideas possible.

Sincerely,

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

RON THORNBURGH
Secretary of State

Many elections bills under consideration in 2008

The Kansas Legislature has many elections bills to keep it busy. A number of bills were passed in 2007, but many more that did not pass were carried over to this year. Any of those bills could pass in 2008, as well as new bills that have been introduced this year.

One significant piece of legislation that passed early in the session in 2008 was Senate Bill 65, the satellite advance voting bill. This bill nearly passed in 2007 but was delayed during the waning days of the session. It passed the House of Representatives early in the 2008 session, and the Senate approved it a couple of weeks later. The Governor signed it into law on February 22, making it the third bill to become law this year.

Following is a list of new bills introduced in 2008. Any of these bills as well as bills left over from 2007 could pass this year. Anyone wishing to track the progress of a particular bill may do so online at www.kslegislature.org using the feature called Track a Bill.

New Senate Bills in 2008

SB 414—This bill would establish a procedure for two or more contiguous counties to establish the office of district attorney. In areas with 3-year averages of at least 150 felony filings, the county commissions in the counties may adopt a resolution requiring a special election on whether to have a district attorney, or if a petition is submitted to the SOS with signatures of 5% of the voters in the area is submitted to the SOS, an election is held in the counties affected at the next countywide election.

SB 428—This bill deals with party district conventions held to select persons to fill vacancies in elective offices. It requires that the ballots at such conventions be (1) paper ballots signed by the voters, or (2) cast by roll call vote at which each vote is recorded in writing. After the convention the ballots and records are preserved for public inspection.

SB 454—This is a city-county consolidation bill. It would allow any county commission to establish a consolidation study commission. Upon adoption of a consolidation plan, it would be submitted to the voters for approval at a general election at least 45 days following adoption of the plan.

SB 496—This bill deals with filling vacancies in district court and magistrate judge positions. It states that in judicial districts in which judges and magistrates are elected, when there is a vacancy a party district convention is held to select a person for the governor to appoint. Under current law the party convention is not involved in the process.

SB 504—This is a campaign finance bill that would require state and local candidates (as defined in the campaign finance act) to report expenditures received from individuals totaling \$300 or more during the 11-day blackout period before each primary or general election.

SB 519—Proposed by the SOS, this bill would amend the current mail ballot laws to state that when the CEO initially mails ballots to voters in a local question submitted mail ballot election, ballots are not mailed to inactive voters. Inactive voters who believe they should have received ballots may request replacement ballots.

SB 520—Proposed by the SOS, this bill would automate and improve the accuracy of ballot rotation. The bill deletes the word “alphabetical” in several places in the rotation laws so that counties and/or precincts can be rearranged to achieve the fairest rotation of candidates’ names. It would allow the software that most counties own to automatically rotate names.

SB 558—This bill would authorize irrigation districts to opt to have their elections for boards of directors conducted by mail ballot using procedures in the existing mail ballot act. (Note: Currently there are only 5 irrigation districts. Some lie in more than one county. This bill would affect Norton, Phillips, Smith, Jewell, Republic, Rooks, Osborne, Mitchell, Cloud and Ottawa counties.)

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SB 562—Proposed by the SOS, this is a mobile polls/nursing home voting bill. It would require the CEO to contact each nursing home, assisted living facility and long term care facility before each election to offer them the opportunity of having a mobile poll come to the facility to conduct advance voting for the facility’s residents. If the facility agrees to participate, the CEO would appoint, train and equip a mobile poll to go to the facility to deliver and collect ballots from the residents.

SB 574—This bill would provide for the consolidation of fire districts in Johnson County. Upon agreement of the affected districts, an election would be held according to general bond law to decide the question of whether the districts should be consolidated.

SB 576—This bill would expand the definition of lobbying in the campaign finance act. Lobbying would include actions to affect executive and administrative agencies as well as attempts to affect legislation under consideration by the legislature.

SB 575—This is a campaign finance bill. Current law prohibits certain state and local agencies from using public funds, machinery, equipment, supplies, or employee time to campaign. This bill expands the prohibition to any municipality.

SB 616—This bill would allow any registered voter to apply for permanent advance voting status without having to specify an illness or disability. Once granted, the permanent status would continue until the voter requested in writing that the status be discontinued, the voter changes residences, or becomes unregistered.

New House Bills in 2008

HB 2649—This is an initiative bill that would provide for county elections on taxing or spending matters. If a petition with signatures of 15% of the voters is submitted to the governing body of a county, an election is held on the question. If such a resolution passes, the governing body may submit a question at subsequent elections to repeal it.

HB 2670—This bill would amend the mail ballot act to allow any county the option of conducting all its elections by mail ballot. The county commissioners could pass a resolution “declaring that all local, state and federal elections in that county shall be conducted by mail ballot.”

HB 2683—Proposed by the SOS, this bill is referred to as the continuity in Congress bill. It establishes a procedure for expedited elections to fill vacancies in the U.S. House of Representatives. A federal law passed in 2004 in response to the events of Sept. 11, 2001 states that in cases of extraordinary circumstances, defined as more than 100 vacancies in the U.S. House, any state with a vacancy will hold an election within 45 days or within 75 days if a regular election is scheduled within 75 days.

HB 2718—Proposed by the SOS, this bill would authorize the SOS to (1) purchase voting equipment or software for counties with the agreement that the county repay the amount of the purchase, or (2) make low-interest loans to counties for such purchases. The bill is intended to maximize flexibility in the use of remaining HAVA funds. (Note: The SOS has decided not to pursue this bill in 2008.)

HB 2741—This bill would change the date when county treasurers take office from the second Tuesday in October to the second Monday in January, bringing them in line with other elected officials.

HB 2747—This bill would establish limitations on city annexations. Among other things, some annexations would be subject to approval by the affected voters.

2008 Legislation

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HB 2775—This bill would require municipalities to report the expenses of all lobbying activities.

HB 2813—This bill would require retired judges who exercise temporary judicial duties to face retention at general elections the same as other retention judges.

HB 2836—This bill is entitled the Kansas illegal alien reform act. It requires citizenship checks by employers, various state agencies and law enforcement agencies. Its one election-related provision would make it a crime to induce or aid any person to vote who is not a lawfully registered voter.

HB 2853—This bill would allow Sedgwick County to conduct an election on whether to allow electronic gaming at racetracks. The election could be brought about by county commissioner resolution or petition.

HB 2876—This is a same-day voter registration bill. It would allow any person to register to vote on the day of any primary, general or special question submitted election. The person must complete a voter registration card and provide proof of residence according to rules and regulations adopted by the Secretary of State.

HCR 5019—This concurrent resolution, if passed by a 2/3 majority of both houses of the legislature, would create a statewide vote on a constitutional amendment to authorize the legislature to exempt from property taxation any residential property owned by persons 65 years or older or disabled persons or surviving spouses of military veterans. The election would be held in November 2008 unless an earlier election is called.

HCR 5020— This concurrent resolution, if passed by a 2/3 majority of both houses of the legislature, would create a statewide vote on a constitutional amendment to limit the annual sessions of the legislature to 88 days instead of 90 days. The legislature could extend a session for not more than two days. If the resolution is adopted, the election would be held in November 2008 unless and earlier election is called.

HCR 5021— This concurrent resolution, if passed by a 2/3 majority of both houses of the legislature, would create a statewide vote on a constitutional amendment to authorize the legislature to establish privately owned or publicly owned casinos in Kansas counties bordering other states. If the resolution passes, the election would be held in November 2008 unless an earlier election is called.

Democrat is now Democratic

Secretary of State Ron Thornburgh has approved a change in the way the Democratic Party is referred to in election records. For many years, certain records in the Secretary of State's Office have referred to the party as Democrat. All those references are being changed to "Democratic."

The change comes as the result of requests from members of the Democratic Party and has been approved by the party's state headquarters.

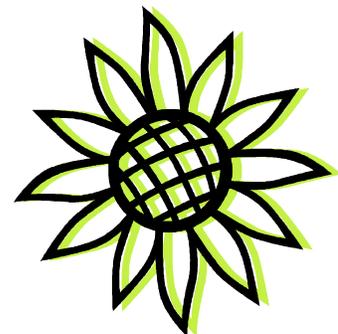
The most prominent forms and records affected by the decision are the candidate's declaration of intention form, abstracts of votes cast, certificates of party affiliation and ELVIS, the statewide voter registration system.

No similar change is anticipated for the Republican, Libertarian or Reform parties.

May plans

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If you have any additional agenda suggestions, please submit them to Craig Bourne at craigb@kssos.org. The SOS Office will do its best to cover all suggested items.



Three NASS Medallions awarded

On December 19, 2007, Secretary of State Ron Thornburgh recognized the efforts of three Kansans by presenting them with NASS Medallion Awards (NASS stands for National Association of Secretaries of State). The three honorees were: Kathy Peckman, Miami County Clerk; Michael Byington, community advocate for citizens with disabilities; and John Bartolac, Johnson County Director of the Department of Records and Tax Administration.

Peckman was recognized for her work on the county and state levels of election management. Kathy served on the SOS's HAVA Advisory Council, ELVIS work group, evaluation subcommittee, pilot county group and ELVIS enhancement committee. She also is involved with the state's GIS system.

Byington also served on the SOS's HAVA Advisory Council and the Accessibility Subcommittee. His efforts were instrumental in educating elections officials on the needs of voters with visual impairments and other disabilities.

Bartolac was recognized for his leadership as chairman of the Kansas Electronic Recording Commission. He guided the committee through the process of developing standards for the electronic notarization of mortgage filings.

In presenting the awards, Thornburgh said, "Our state has benefited greatly from the work of these outstanding individuals. As technology continues to change, it is important that we have people like John, Michael and Kathy, who are dedicated to keeping government responsive, up-to-date, and inclusive. I applaud their efforts and encourage them to continue their involvement."

The NASS Medallion Awards are given by respective secretaries of state to individuals in their states who promote the goals of NASS in one or more of the following areas:

- Elections, with special emphasis on voter education and participation.
- Civic education, including the teaching, promotion and study of the subject.
- Service to state government, specifically as it relates to the duties of the office of secretary of state.

Each member of NASS is allowed to award up to five Medallions annually.

Puerto Ricans can vote

According to the United States Constitution, any citizen who is 18 years or older and who is a resident of one of the 50 states may vote in elections held in the voter's state of residence. But the United States also has four territories—Guam, the Virgin Islands, American Samoa and Puerto Rico. A question arose recently in an area of the state with a high concentration of persons of Puerto Rican descent as to whether they could vote.

Puerto Ricans are citizens of the U.S. as a result of the federal Jones Act on March 2, 1917. The Jones Act granted citizenship to the people of Puerto Rico and established Puerto Rico as a "duly constituted, existing political entity," but did not make Puerto Rico a state. It was granted a position of Resident Commissioner, a person who sits in the U.S. House of Representatives for an elected term of four years but who may not vote on bills considered in the House.

Puerto Ricans who live in any of the 50 states may vote in federal elections there and state and local elections as allowed by state law, but Puerto Ricans who live in Puerto Rico may not. Those who live in any of the 50 states and vote there will forfeit their right to vote in U.S. elections if they return to Puerto Rico.

As nonresident U.S. citizens, Puerto Ricans enjoy two other benefits: they may travel freely in the U.S. as territorial residents, but they do not have to pay federal income taxes.

Caucuses fill void of presidential primary

Secretary of State Ron Thornburgh and his predecessors have long been active supporters of the presidential preference primary (PPP). Some of the main arguments for the PPP are that it is more inclusive than caucuses or party committee meetings, and a PPP more effectively puts the state on the national political map. A primary would involve several hundred thousand voters rather than several hundred or several thousand party regulars making the decisions in the absence of a primary. However, as Secretary Thornburgh reported to CEOs at the May 2007 KCCEOA conference, the Kansas Legislature canceled the 2008 Kansas PPP even though there is a law on the books calling for a PPP to be conducted every presidential election year.

The cancellation of the PPP was not an up-or-down vote on a bill by both houses of the Legislature. Rather, the \$2 million funding (later reduced to \$1.6 million) was removed from the SOS's agency budget request in a six-member conference committee working on the annual omnibus appropriations bill. However, just removing the funding did not cancel the PPP because of the law saying there will be a primary. So the conference committee also inserted a proviso into the appropriations bill stating that no state agency or county would conduct a PPP in 2008. A proviso is a one-year provision written into a spending bill. If a policy has multi-year implications, the proviso must be re-adopted each year. Without the proviso, the SOS and the counties would have had to conduct the PPP to comply with the law, but would have received no funding.

This is the fourth consecutive time the Kansas PPP has been canceled. A PPP was held in 1980 and again in 1992, but for various reasons, often related to funding, it was canceled in 1996, 2000, 2004 and now in 2008.

Presidential candidates are nominated at national party conventions held in late summer each presidential election year. Each state party is assigned a number of delegates by the national party organization, and the state party adopts rules establishing procedures for deciding who the delegates will be and how they will vote at the convention.

The purpose of the PPP is to allow voters in the parties to express their preference among the candidates running for their respective parties' nominations for president of the United States. Because political parties are private organizations with constitutional rights of free association, the state cannot bind them to the results of the PPP, but in the past the parties have adopted rules binding themselves to use the PPP results as one of the major factors in choosing their delegates.

Without a PPP, the parties are left to rewrite their rules for choosing and committing their delegates. Before 2008 the processes adopted did not include full-fledged caucuses, but in 2008 both the Democratic and Republican parties did have caucuses. The Democratic caucus was held on the evening of February 5 at various sites around the state, and the Republican caucus was during the day on Saturday, February 9. Party officials are not normally in the business of conducting elections, but all indications were that they worked very hard to approximate the procedures election officials would have used in conducting a PPP. However, one thing they may not have been fully prepared for was the heavy turnout.

It was reported by the media that the Democratic caucus brought approximately 38,000 voters out, and the Republicans reportedly had about 20,000. This created some long lines and a number of complaints, but overall most people seemed to appreciate the parties' efforts to involve them in the process.

Although the SOS office and county election offices were not officially involved in the caucuses, they were affected by voters' confusion about the caucus system and their assumption that they were conducted by the government. During the days surrounding the caucus voting, election offices were inundated with

*Please see **Caucuses**, page 10*

Recruitment materials released for poll workers

In January 2008, the U.S. Election Assistance Commission released a compendium of materials related to poll workers. The EAC issues contracts for studies in various aspects of election administration as part of its duties under the Help America Vote Act to provide assistance to election jurisdictions around the nation. The poll worker information was the result of a 15-month study.

The materials included:

- A guidebook titled “Successful Practices for Poll Worker Recruitment, Training and Retention.”
- A compendium of State Poll Worker Requirements.
- A CD titled “Effective Designs for the Administration of Elections” containing information on ballot design and polling place postings, including templates to produce guides to help voters through the process.
- A Guidebook for Recruiting College Poll Workers.

In conducting the study on poll workers, the EAC acknowledged that finding and keeping good poll workers is a chronic and nationwide problem. Election administrators at all levels are encouraged to use the materials provided to improve their processes and to provide the EAC with feedback about their usefulness. For its part, the EAC intends to continue to improve and update the materials as needed.

The package of materials was mailed to election officials nationwide. If any county election officer in Kansas who failed to receive a package may contact the EAC to request it.

FVAP works to automate online ballot applications

In October 2007, the Federal Voting Assistance Program (FVAP) announced improvements in the online ballot application process for federal services voters. The FVAP is the federal agency working as part of the Department of Defense responsible for implementing the Uniformed and Overseas Citizens Absentee Voting Act, which allows military personnel and their dependents as well as non-military U.S. citizens living overseas the opportunity to vote using special procedures guaranteed by federal law.

Kansas law allows the electronic transmission of ballot applications and ballots, traditionally by faxing them. In recent years, however, electronic transmission has evolved to include e-mail and online submissions. In 2006 the FVAP deployed a system allowing any UOCAVA voter the option of completing a Federal Post Card Application (FPCA) online. That system has been improved for 2008 so that the online FPCA is tailored to state-specific requirements, and it guides voters through the process of completing and submitting their FPCAs. Another added feature is the capability for the voter to submit the electronic FPCA to the county election officer using a secure server provided by the Department of Defense.

The capability is there to also allow the county election officer to provide a blank ballot to the voter through the DoD server. Another feature is the ability of the UOCAVA voter to digitally sign the FPCA.

Many UOCAVA voters who apply for ballots from Kansas counties still use the mail to receive and return their ballots. Some use the fax capability provided for in Kansas law. For those who have slow mail service or who lack access to fax machines, the SOS office has worked with CEOs on an individual basis to allow electronic submission of voting materials, usually through e-mail. As large numbers of military personnel remain deployed overseas, we can anticipate expanded use of the e-mail option and the secure electronic transmission of ballot applications and ballots using the new procedures announced by the FVAP last year.

Faxed voter registrations now acceptable

The Secretary of State's Office has adopted a policy to accept voter registration applications by fax. This policy represents one more step in easing the process of registering and voting for the public. A number of county election officers have expressed support for the policy in recent years.

There was no specific legislation adopted by the Legislature to enact this policy. Rather, faxing certain types of documents is generally permissible under the Uniform Electronic Transactions Act (UETA). UETA was passed in 2000, and it authorizes electronic transmissions as long as both parties involved in the transaction agree to accomplish it electronically.

UETA includes in its provisions the acceptance of digitized, or scanned, images and signatures. UETA also authorizes digital signatures, which are a highly secure form of communication using public key infrastructure (PKI).

The policy of accepting faxed voter registration applications is a benefit to both the applicants and the election officers involved in the application process. The secretary of state recommends all county election offices adopt a similar policy.

E-Motor-Voter

From page 1

are county treasurers, ask each person applying for or renewing a driver's license if they want to register to vote. If the applicant says yes, the person is handed a voter registration card, which may be completed and left at the office or taken and mailed to the election office later.

The new e-motor-voter system will save time at the driver's license offices and at the election offices since CEO staff will no longer need to enter the data into ELVIS. It also will alleviate the problems encountered in the past when delivery of application forms to the election office was delayed or, sometimes, never completed.

Caucuses

From page 8

phone calls and e-mails from people wanting to know where their polling places were, complaints about the locations of their polling places and the procedures used by the parties, and complaints about the cancellation of the PPP. As the questions were answered and people realized they were participating in a caucus rather than a primary, many called their legislators. This prompted requests from legislators and legislative leadership offices for information they could disseminate to explain the situation.

The fact that there is no incumbent president running for re-election, combined with close races for the nominations and some significant national issues, lead many to believe there will be a high turnout in this year's general election. Participation thus far in the caucuses and primaries held in various states including Kansas indicates that voters' interest level is high, and if opinion polls continue to show the race is close, election officers across the nation will need to plan for a high turnout as they prepare for election day November 4.