

## Update on SAFE implementation

The 2011 Secure and Fair Elections Act (SAFE) has brought about the most significant changes in the administration of elections since the Help America Vote Act of 2002. It affects all election administrators, voter registrars and voters. Planning has been underway since before the bill was signed by the Governor in April, 2011, and much has been accomplished. However, much remains to be done in the coming months before the August primary and November general election. One of the keys to a successful election season this year under SAFE is the CEO training of poll workers. Besides training everyone involved in elections, another crucial aspect of implementation is making sure all the voters know about the new rules so they are prepared to vote on election day and to ensure that their ballots count.

### Experience in Early Elections

The early signs are positive. A number of local elections have been conducted since SAFE went into effect (10 to be exact, as of this writing), and the system has worked as intended. The first election was a city sales tax question on January 10, 2012, in the city of Cimarron in Gray County. Only one provisional ballot was cast due to the lack of photo ID, and that ballot was from a person who knew the rules but chose not to provide her ID. Elections followed in Roeland Park (Johnson County), Bucklin (Ford County), Milford (Geary County), Wellington (Sumner County), Basehor (Leavenworth County), Wichita (Sedgwick County), Shawnee, Mission, and Prairie Village (all in Johnson County). Although some of these elections were small, they have not produced a significant surge in provisional ballots. This is good news for our stated goals: to administer the new voting rules under SAFE without a dramatic increase in provisional ballots, and more importantly, to have as many voters' ballots count as possible.

### Policies

The three major policies created by SAFE are:

- Each voter must show photo ID when voting, with certain specific exceptions
- Security provisions are added to advance voting by mail
- New registrants in Kansas must provide evidence of US citizenship beginning January 1, 2013 (or sooner, depending on legislation)

The following additional policies have been developed during the early months of implementation of SAFE:

- House Bill 2437 would move the date of citizenship verification earlier than January 1, 2013 (see the third bullet above)

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### New County Election Officer

Gina Castillo was appointed in January to the position of Morton County Clerk, succeeding Mary Gilmore. Born and raised in Elkhart, Gina has been active in the community by serving on the city council, chamber of commerce board and as a youth leader.

Gina is a newcomer to the county election office; she previously worked at First National Bank. Gina has two children, Bryan and Valerie, and in her spare time enjoys gardening and working with youth. ■

## canvassing Kansas

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Memorial Hall  
120 SW 10th Ave.  
Topeka, KS, 66612-1594  
(785) 296-4564

### EDITORS

Brad Bryant  
Kay Curtis

### LAYOUT AND DESIGN

Justin Runge

### CONTRIBUTORS

Brad Bryant  
Bryan Caskey  
Josh King

Suggestions or comments?  
Please call (785) 368-8095.

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Kansas Secretary of State



### From the desk of the Secretary

Ten elections have taken place in Kansas since the Secure and Fair Elections law became effective on January 1, 2012. As of that date, Kansas voters have to show one of eight types of photographic identification to vote, or be eligible for one of five exemptions. To vote by mail, either a driver's license number or a copy of valid photo ID must be included with the ballot application.

It was my pleasure to observe the elections in Cimarron, Roeland Park, and Wichita. I'm very pleased with the successful implementation of Kansas's SAFE Act. Many poll workers and voters were enthusiastic about the changes, sharing such comments as "It's long overdue!"

The photo ID security measures have proven to work smoothly. Critics of the tighter procedures have claimed that a large number of Kansans do not have valid identification and thus will be unable to vote.

With over 30,000 votes cast under the new requirements, less than one-tenth of one percent of voters did not bring a photo ID to the polls. (And some of them indicated that they had a valid ID but were making a political statement in protest of the law by not showing it.)

Some critics also claimed that the photo ID requirement would suppress voter turnout. But in nearly all of these local elections voter turnout was higher than normal.

The predictions made by critics of the law have been proven incorrect. Complying with this law has been easy for Kansas voters. This is not surprising, since carrying a photo ID is part of American life in 2012.

In addition to securing each legal vote, the photo ID has resulted in quicker check-in times. Where polling locations use paper poll books, the ID shows the proper spelling of the voter's name. Where electronic poll books are used, the driver's license can be scanned to pull up the voter registration record much faster.

For details about the changes in election law as well as educational resources for your use, visit [www.gotVoterID.com](http://www.gotVoterID.com).

## HAVA Audit Update

The HAVA audit has come to a close and one lesson rings louder than any other: The Common Rule giveth, and the Common Rule taketh away.

First, the giveth part. The Common Rule requires the state and counties to keep detailed records on all equipment purchased with HAVA funds. The auditors found us greatly lacking in this, which gave us our first Notice of Finding and Recommendation (NFR) and a big homework assignment.

Thanks to your hard work this year, we were able to bring our inventory records into compliance. We submitted these as part of our annual HAVA financial reports at the end of December and the Election Assistance Commission (EAC) has crossed that item off of our list.

Our second NFR required the state to work with the Division of Accounts and Reports to calculate the amount of interest money that was missed out on because of late payments. When added to the figure from the fourth NFR, which detailed unallowable expenses, we arrived at \$21,470.93.

Fortunately, replacing these funds won't require any bake sales or car washes. In fact it won't require anything at all because they have already been replaced. The EAC recognizes any state or county money spent on HAVA activities as unclaimed matching funds. We were able to use these to offset the unallowable expenses and missing interest.

Finally, the taketh away part. The Common Rule states that agencies can approve the use of program income for matching fund requirements. Because the EAC had adopted the common rule in the early days of HAVA, it was able to approve the use of program income, which resolved the third and arguably most difficult NFR. This new policy will also allow us to use workstation fee money for any future matching requirements.

With that, the year-long process of the HAVA audit can come to a successful end. Thank you to everyone that was involved in this process from start to finish. And thanks again, Mr. Common Rule. You have some new fans in Kansas. ■

## KCCEOA Conference in Dodge City

The Secretary of State's office is pleased to have been invited once again to make a presentation at the annual spring conference of the Kansas County Clerks and Election Officials Association. This year's conference will be themed "Blazing Trails West" and will be held at the Dodge House Hotel & Convention Center in Dodge City. Dates for the conference are May 1-4, 2012.

KCCEOA president Janet Rumpel, Sherman County Clerk, and the other officers of the Association devoted a significant amount of time on the agenda to the Secretary of State's office for election training. The greatest emphasis will be on implementation of the SAFE Act, but there are other topics: redistricting, HAVA updates, new ELVIS functionality, military and overseas voting under UOCAVA and MOVE, and poll worker training.

The SOS presentation on elections will be all day Thursday, May 3, and part of the morning on Friday, May 4. This will be election officials' most important opportunity to prepare for the implementation of SAFE before this year's presidential election, as well as discuss the impact of the redistricting process. Here's a brief rundown of the topics to be covered:

- 2012 legislation
- Redistricting
- Voter registration list maintenance
- ELVIS—candidate module, VoterView
- NVRA confirmation mailings
- UOCAVA and the MOVE Act—ballot deadlines, email ballots, security of email
- HAVA—audit, funding, ELVIS workstation fee, training, 2012 endowment, ELVIS release 12.2
- Poll worker training
- SAFE Act—photo ID, citizenship verification, CEO's role, poll worker's role, forms and regulations, advance ballot security, voter education, early 2012 experiences with SAFE elections

This promises to be a packed agenda, and we are looking forward to seeing our elections colleagues and visiting the new casino and hotel in Dodge City. We appreciate the KCCEOA's hospitality and the invitation to attend. ■

## 2012 Elections Legislation

The SOS office works with the KCCEOA elections committee to monitor legislation that affects the elections duties of CEOs. This includes bills proposed by KCCEOA and/or the SOS office as well as bills proposed by other individuals or groups that have an impact on the election process.

Following is a list of bills currently being monitored. Many of these bills were proposed this year, but some were held over from 2011. “SB” means Senate Bill; “HB” means House bill. “SCR” means Senate concurrent resolution; “HCR” means House concurrent resolution. Some concurrent resolutions create statewide votes on amendments to the Kansas Constitution, which is why they’re included in lists of elections legislation.

A list of bills is emailed to CEOs periodically during the legislative session. That list includes summaries of actions taken on the bills.

**SB 102** – This bill would require certain candidates, lobbyists and political committees to pay higher fees to the Governmental Ethics Commission.

**SB 242** – This bill would involve Kansas in an interstate compact to elect the president. Kansas’ six presidential electoral college votes would be cast for the slate of candidates for president/vice president which received the most popular votes in the participating states. If enough states join the compact, the president/vice president would be elected by popular vote instead of electoral college vote.

**SB 309** – This is a “stand by your ads” bill requiring attributions on campaign ads specifying who sponsored them.

**SB 333** – Proposed by the SOS, this bill would bring state petition circulator laws into compliance with recent court cases. It would remove the requirement that petition circulators be residents of Kansas.

**SB 344** – This is a redistricting bill produced by the Senate redistricting committee to draw new lines for Kansas’ four U.S. House of Representatives districts.

**SB 385** – This bill would authorize the county commission in each county to adopt a resolution defining the duties of the county clerk, treasurer and register of deeds.

**SB 388** – This bill would require the secretary of state to develop and implement a statewide comprehensive training program for all election officials, poll workers, and everyone else involved in the administration of elections, and also for everyone involved in the administration and enforcement of voter registration rules. The program would be in place before the August primary in 2012 and would include proficiency tests, the failure of which would lead to retraining or removal of an individual from his/her position.

**SB 389** – This bill would require the secretary of state to develop and implement a voter education program 60 days before the 2012 general election to inform the public about voter identification requirements. The program would include: direct mail to each voter, direct mail to each household, mass media campaign with at least 25,000 PSAs, press events, and social media.

**SB 423** – This bill would authorize the Kansas Supreme Court to allocate district court judge and district magistrate judge positions among the counties as the court determines necessary and appropriate.

**SCR 1611** – This is a concurrent resolution that, if passed by a 2/3 vote of both houses of the legislature, would create a statewide vote in November, 2012 on a constitutional amendment to create a contingency reserve fund in the state treasury.

**SCR 1612** – This is a concurrent resolution that, if passed by a 2/3 vote of both houses of the legislature, would create a statewide vote in November, 2012 or at a special election on a constitutional amendment to authorize the legislature to limit valuation increases of single-family residential real property owned by residents 65 years or older.

**HB 2423** – This bill would prohibit municipalities (defined as cities and counties) from limiting the number, size or duration for displaying political campaign yard signs on private property in residential areas.

**HB 2425** – This is a campaign finance bill that would (1) move local board of education elections and all question submitted elections from Article 9 of

Chapter 25 of the KSAs to Article 41 of Chapter 25, (2) require individuals or groups supporting or opposing question submitted elections in cities, USDs, community colleges, township and counties to file campaign finance reports with the SOS and the CEO. This puts school board and question submitted elections under the jurisdiction of the Governmental Ethics Commission.

**HB 2437** – Proposed by the SOS, this bill would move the effective date of the requirement for first-time voter registration applicants to provide evidence of US citizenship from January 1, 2013 to June 15, 2012. The citizenship requirement was passed as part of the SAFE Act in 2011.

**HB 2438** – This bill would move the beginning of the elected term of county treasurers from the second Tuesday in October to the second Monday in January immediately following their election. The beginning of treasurers' terms would then coincide with the beginning of the term of other state and county officers.

**HB 2472** – This bill would remove land ownership from the definition of “participating member” of water districts.

**HB 2502** – This bill deals with corporate hog and dairy farming. It would permit counties to permit *or deny* facilities, specify that the elections may be held on state or county election dates or on special election dates, and add language to the ballot question informing voters that corporate agriculture facilities are regulated by KDHE and the KS Dept. of Agriculture.

**HB 2555** – This bill would provide for the dissolution and re-formation of recreation commissions.

**HB 2606** – This is a plan for redrawing the Kansas House districts.

**HB 2635** – This bill would authorize county commissions to raise sales and property taxes to support technical colleges, subject to protest petition and election.

**HB 2641** – This bill would require the election of county appraisers beginning in 2016.

**HB 2685** – This bill would establish a procedure for forming reservoir improvement districts. A petition would be submitted to the SOS, reviewed by the water office, and a mail election conducted by a steering committee.

**HB 2714** – This bill would amend the grounds for recall of elected officials by adding “loss or suspension of a pertinent license or person conduct falling short of a criminal felony but rising to the level of criminal or civil misdemeanor.”

**HB 2715** – Proposed by the KCCEOA, this bill would require candidates for extension councils and drainage districts to pay \$5 filing fees and set the candidate filing deadline for drainage districts 10 weeks before the April general election, to coincide with other spring election filing deadlines.

**HB 2720** – This bill would add tribal ID cards issued by Indian tribes recognized by the federal government to the list of valid photographic ID documents that may be used for voting.

**HB 2721** – This bill is the same as SB 389. It would require the secretary of state to develop and implement a voter education program 60 days before the 2012 general election to inform the public about voter identification requirements. The program would include: direct mail to each voter, direct mail to each household, mass media campaign with at least 25,000 PSAs, press events, and social media.

**HB 2722** – This bill is the same as SB 388. It would require the secretary of state to develop and implement a statewide comprehensive training program for all election officials, poll workers, and everyone else involved in the administration of elections, and also for everyone involved in the administration and enforcement of voter registration rules. The program would be in place before the August primary in 2012 and would include proficiency tests, the failure of which would lead to retraining or removal of an individual from his/her position.

**HB 2739** – This bill would move the local elections currently held in the spring of odd-numbered years to the fall of even-numbered years. It is similar to 2011HB 2126.

**HCR 5011** – This is a concurrent resolution that, if passed by a 2/3 vote of both houses of the legislature, would create a statewide vote in November, 2012 on a constitutional amendment to establish a contingency

## SAFE Act

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- The Kansas Department of Health and Environment's Office of Vital Statistics is required to provide free certified copies of birth certificates to individuals who need them to register to vote. But KDHE moved the effective date of the free-certified-copy program to February, 2012, to accommodate individuals who needed birth certificates to prove their citizenship to the Division of Motor Vehicles for purposes of obtaining a free nondriver's ID card for purposes of voting.
- The SAFE Act exempted individuals on the permanent advance voting list from the photo ID provisions. Early on, the SOS office had adopted a policy, and proposed a corresponding administrative regulation, stating that individuals who were not previously on the permanent advance list and who applied for permanent status after January 1, 2012 would be required to provide photo ID one time during the process of applying for permanent status. This regulation was ultimately rescinded, so it never went into effect. This represents a change in policy and it means that *no one who is currently on, or is added to, the permanent advance list is ever required to provide photo ID.*
- A new policy was adopted in mid-February by the Secretary of State to assist a small category of voters. Persons who are registered to vote and were *born outside Kansas* to use in acquiring a free nondriver's photo ID card from DMV may apply to the SOS office. Their applications will most likely go through the CEO office to the SOS office, where they will be assessed and a state government photo ID issued.

All of these policy changes were made to help certain groups of voters who may have difficulty complying with the new rules.

### Forms and Regulations

A number of forms and regulations were adopted by the Secretary of State and the CEO Task Force to define and clarify the provisions of the SAFE Act. All

of the forms and regulations are available on the SOS web site and on SOSIX, the secure site established for communication with county election officers. The forms include redesigned advance ballot envelopes containing the statements required for voters to designate other individuals to deliver their ballots for them.

### Training

A resource manual detailing the process of conducting elections under the SAFE rules is being developed for printing and distribution to CEOs at the KCCEOA conference in May. It will be similar to the 2004 notebook produced for CEOs during implementation of the Help America Vote Act. The new SAFE notebook will replace the HAVA notebook, which was titled "HAVA-County Election Officer" and is still available electronically on SOSIX. The new notebook will contain a section designed for poll workers. A draft is available on SOSIX as of this writing.

The intent of the notebook is to educate CEOs about the requirements of SAFE and to provide a basic state curriculum for use in training poll workers. CEOs are directed to incorporate this curriculum into their training, or base their training on it, realizing that they are free to augment it with county-specific information.

Training materials for poll workers will include a PowerPoint presentation containing the main topics in the printed materials.

In-person training includes appearances by SOS staff at regional meetings of the county election officers, culminating in the KCCEOA spring conference May 1-4 in Dodge City. That training session will span all of Thursday, May 3 and much of the morning on Friday, May 4. Appearances at fall regional county clerk meetings will follow, and additional meetings may be held as needed.

### Contract with Disability Rights Center

On January 27, 2012, the Secretary of State's office signed a contract with the Disability Rights Center of Kansas to implement an informational and training program. See the article on Page 8 of this newsletter.

## Voter Education

One of the requirements of the SAFE Act as it passed in its final form in 2011 was to develop and implement a comprehensive, statewide program of voter education to inform the public of the new voting rules.

New Section 14 of SAFE reads:

*“The secretary of state shall provide advance notice of the personal identification requirements of this act in a manner calculated to inform the public generally of the requirements for forms of personal identification as provided in this act. Such advance notice shall include, at a minimum, the use of advertisements and public service announcements in print, broadcast television, radio and cable television media, as well as the posting of information on the opening pages of the official internet websites of the secretary of state and governor.”*

The Secretary of State’s office issued a Request for Proposal in the fall of 2011 and selected Whitworth Ballou from a group of six companies that responded to the RFP. Whitworth Ballou representatives met with CEOs at the KAC conference in November, 2011 to discuss aspects of the plan that was under development at that time. The company has developed an aggressive program including radio, television, PSAs, paid newspaper ads, and a network of corporate and community partnerships to help produce and distribute informational materials.

The theme of the program is “got photo ID?” and includes a toolbox of production-ready artwork available on the Secretary of State’s web site at [www.gotvoterid.com](http://www.gotvoterid.com). At the site, visitors may click and view the television ad, hear the radio ad, or select and print various sizes of posters and hand cards for distribution. It is expected that county election officers, candidates, political parties, interest groups and other partners will incorporate the toolbox materials into their respective educational campaigns.

One of the strengths of Whitworth Ballou is the use of grassroots partnerships to leverage the resources of the Secretary of State’s voter education program. Corporate sponsors and community service organizations have signed on to help in the printing and distribution

of brochures. As of February, the list of partners included Westar Energy, Kansas City Power & Light, HyVee, Kansas Bankers Association, Sunflower Bank, Capitol Federal, Kansas Society of Association Executives, Kansas Healthcare Association, Leading Age Kansas, Kansas Health Care Association/Center for Assisted Living, Kansas Farm Bureau, Kansas State University Student Governing, League of Kansas Municipalities, Kansas Association of Counties, Panera Bread, Kansas Republican Party, Kansas Press Association, Kansas Association of Broadcasters, Salina Media Group (Morris Media), and the Kansas County Clerks and Election Officials Association.

Some of the other plans for voter education include:

- A 14-city tour of public meetings in June and July, leading up to the primary election in August. Various groups will be invited to the meetings: candidates, local media, political parties, libraries, elected county and local officials, legislators, disabilities groups, contacts through the Department on Aging, and Whitworth Ballou partners.
- Contacting elderly voters and residents of nursing homes, assisted living facilities, and long-term care facilities through email, direct mail and newsletters distributed through existing networks identified by the Kansas Department on Aging: LeadingAge Kansas, Kansas Adult Care Home Executives, and Kansas Health Care Association.
- Distribution of information designed for voters with disabilities using networks identified by the Disability Rights Center of Kansas and the Kansas Commission on Disability Concerns.
- Regular appearances and media contacts around the state by Secretary of State Kobach and members of his staff.

The Secretary of State’s office is committed to a successful implementation of the SAFE Act in 2012, and a major component contributing to that success is frequent communication with county election officers. We encourage CEOs to contact the SOS office with questions and to begin early planning for local voter education and poll worker training. This year promises to be a busy one with the presidential election, redistricting, and implementation of the SAFE Act. ■

## Legislation

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reserve fund, or “rainy day fund,” and a debt prepayment fund in the state treasury.

**HCR 5013** – This is a concurrent resolution that, if passed by a 2/3 vote of both houses of the legislature, would create a statewide vote in November, 2012 on a constitutional amendment to require a two-thirds vote of the Legislature to create new taxes or increase existing taxes. The amendment also would establish rules for spending limits, reserve funds, transfers of excess funds, and borrowing.

**HCR 5015** – This is a concurrent resolution that, if passed by a 2/3 vote of both houses of the legislature, would create a statewide vote in November, 2012 on a constitutional amendment to authorize the Governor to appoint justices of the Kansas Supreme Court, subject to the consent of the Senate. Also, the bill would alter the membership of the Supreme Court nominating commission. Under the constitutional amendment proposed by this resolution, justices would serve for a term of good behavior and not be subject to elections every six years for retention in office.

**HCR 5017** – This is a concurrent resolution that, if passed by a 2/3 vote of both houses of the legislature, would create a statewide vote in November, 2012 on a constitutional amendment to allow the legislature to classify and tax watercraft differently than other property.

**HCR 5018** – This is a concurrent resolution that, if passed by a 2/3 vote of both houses of the legislature, would create a statewide vote at the general election in 2011 (April 5, 2011?) on a constitutional amendment to abolish the state board of education and the board of regents and assign the authority for providing for public education to a secretary of education and the legislature.

**HCR 5029** – This is a concurrent resolution that, if passed by a 2/3 vote of both houses of the legislature, would create a statewide vote in August, 2012 on a constitutional amendment to guarantee rights as human beings to everyone from the beginning of biological development, including fertilization. ■

## Disability Rights Center Contract

The Secretary of State’s office signed a contract in January, 2012 with the Disability Rights Center of Kansas to coordinate in the development of a program for training and education on voting by individuals with disabilities. The contract calls for DRC to develop training aids for election workers and informational materials for distribution to voters with disabilities. The program will incorporate voter ID requirements of the SAFE Act, but also will include general information about how to serve the voting needs of people with disabilities and sensitivity to the difficulties they may face.

Under the contract, DRC will develop the following: a short video dealing with voting by persons with disabilities; a training guide for CEO; and a brochure for poll workers.

Also, Rocky Nichols, executive director of the DRC, will make brief presentations at regional KC-CEOA meetings held in the spring of 2012, and will provide a training program at the May KCCEOA conference in Dodge City as part of the Secretary of State’s training program. ■



The Johnson County Election Office wrapped a van to advertise the message “got photo ID? Take it to the polls.” Photo by Tom Treacy.