



CANVASSING KANSAS

AN UPDATE ON ELECTION NEWS IN KANSAS

Official ballots should not use abbreviations

Thornburgh concerned about ballot confusion

During the 1998 Election cycle, the Secretary of State's office received a complaint from a statewide candidate that her party was abbreviated disadvantageously on the ballots in a number of counties.

When looking into the matter, it was determined that over the years, it had become common practice to abbreviate party names on ballots. This was done in order to save space and use bigger type, thus increasing legibility. In many areas, Republican was abbreviated Rep., Democrat was Dem., Libertarian

was Lib., Reform was Ref., and Taxpayers was Tax.

The ballot preparation statutes do

Political parties choose their names carefully in an attempt to identify their beliefs to the voting public.

not authorize abbreviations on ballots. In a January 6, 1999 letter to the private printing firm that printed

the ballots in question, Secretary of State Ron Thornburgh expressed his view that abbreviations should not be used so as to avoid confusion among the voters and criticism from candidates and parties. The printing firm said it would change this practice in future elections.

Political parties choose their names carefully in an attempt to identify their beliefs to the voting public. Shortening the names can mitigate their attempts to get their message across through their names. The Secretary of State recommends that county election officers review their ballots before the next partisan elections in 2000 to avoid abbreviated titles.

Kansas leads midwest in population growth

According to the U.S. Census Bureau estimates released in December 1998, Kansas' population grew by 27,630 in 1998. This is a 1.1 percent increase due to growth in all demographic areas, which are: births exceeding deaths and domestic and international migration. About 8,900 more people moved into Kansas from other states than moved out of Kansas.

"A number of other states in the Midwest—like Illinois, Michigan and Ohio—have a net domestic outmigration, which means many more people are moving out of their

states than into them... Kansas did not have that. It actually has more people moving in than moving out," said Marc Perry, a demographer with the U.S. Census Bureau.

Kansas moved ahead of the traditional population leader, Minnesota, where growth has slowed in the last few years. Kansas even outpaced the nation, which as a whole was up 1 percent. The West remained the fastest-growing region in the nation, with a population increase of 1.6 percent;

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Election night proceeds donated to county clerk scholarship fund

Each election year, election night results are collected and reported to the public through a cooperative arrangement between the county election officers and the Secretary of State's office.

There is no state law requiring county officers to report their results on election night, but it is done out of recognition of the public's right to know and because of the tremendous public interest generated on election night. The process of election night reporting is called election night tabulation, or ENT. Its setup is largely a result of how the various media outlets request that they receive the results.

County election officers report their precinct election results periodically throughout the evening and into the early hours of the morning by phone, fax or direct computer hookup. The results are tabulated by the Secretary of State's computer and disseminated

to the media and the public. There are public access terminals in the Capitol, but in the past two elections many people have simply logged on to the Secretary of State's web-site and viewed the results. Press organizations pay the Secretary of State for immediate access to the data; these payments help defray the computer programming costs.

The Secretary of State traditionally has donated most of the money collected from the media for ENT to the Kansas County Clerks and Election Officials Association's scholarship fund. Early this year, Ron Thornburgh's office mailed the first checks totaling \$1,700 to KCCEOA treasurer Dorothy Stites, Stafford County Clerk. The Secretary of State's office is hoping to donate additional funds when all the finances of ENT are completed. A formal presentation will be made at the May meeting of the KCCEOA in Hutchinson.

Voter registration requirement raises questions for colleges, universities

In the December 1998 issue of *Canvassing Kansas*, there was an article on a new federal law, the Higher Education Authorization Act, which requires institutions of higher learning to provide voter registration opportunities to students enrolling on their campuses. (See *Canvassing Kansas*, December 1998, page 6.) This has caused some questions to county election officers by colleges and universities around the state. Some of the institutions are also requesting voter registration application forms from the county election officers.

The information received by the Secretary of State's office indicates that colleges and universities are directed by this law to request a supply of registration forms from the state, not the county. The Secretary of State interprets "state" to mean the chief state election officer, which in Kansas and many other states is the Secretary of State. These requests must be made at least 120 days before the voter registration deadline prior to any election. The registration form distribution is designed to be conducted in the context of the

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enrollment process.

As yet the Secretary of State's office has not received any such requests, but expects some in preparation for the 2000 election cycle. County election officers may supply application forms to anyone they wish, but the Secretary of State's understanding of this law is that counties are not required to fill these requests from colleges and universities. Any county election officer who receives such a request may direct the institution to the Secretary of State.



RON THORNBURGH Kansas Secretary of State

Dear Friends:

In the June 1997 issue of *Canvassing Kansas*, I wrote in this column about the desire to implement a presidential preference primary with several states in the Midwest. After two years, it seems like the aspiration is becoming more of a reality.

We are currently working with Wisconsin, Minnesota and Missouri to hold elections on the same day in 2000. We were hoping to involve three other states, but at the current time, it does not look logistically possible. Creating a regional primary requires a great deal of communication on the parts of legislators, political parties and election officials of all the states. I am encouraged by the number expressing an interest in participating. Even having four states hold elections on the same day will increase the attention that the candidates as well as the states receive.

The presidential primary is a chance for voters to express their preferences. It is also a more democratic system and more inclusive than the closed party caucus system.

Right now, it is estimated that the primary election for the 2000 presidential election will cost \$1.6 million statewide. As I write this, there is a bill in the legislature to repeal the statute regarding regulation of primary elections. This would mean that the election would not be supported by the state and subsequently not receive any state funding. Therefore, the state would not reimburse the counties for their election costs and the funding might fall exclusively on the counties.

I believe that the presidential primary is a necessity for Kansas. Not only does it draw attention to the issues, but it makes voters more aware of the people involved in the process. Repealing the presidential preference primary would deny Kansans an opportunity to express their thoughts on the highest office in the land.

I urge each of you to contact your legislators in support of the presidential primary statute.

Sincerely,

RON THORNBURGH
Secretary of State

Elections Legislation 1999 Summary

This is a list of bills being considered in the 1999 legislative session that have impact on state and county election officers in Kansas. Information on the status and actions taken on bills is available by computer through the Information Network of Kansas in the Lobbyist in a Box service. *Significant changes in bills are indicated in italics.*

A number of campaign finance bills are in the Legislature but not included in this listing. Many of them do not affect county election officers; a few that do have been included here.

House Bills

HB 2087—This bill would require candidates for cities of the 1st class offices, the Wichita school district and the Kansas City Board of Public Utilities to file campaign finance reports with the county election officer and the Governmental Ethics Commission on May 10 after their April election in addition to their reports filed the next January. *Amended by House committee to change filing deadline to 30 days after April election to coincide with deadlines for other local officers.*

HB 2228—Proposed by the Secretary of State to assist Sedgwick and Butler county election officers, this bill would allow optical scan ballots to have the box or oval where the voter makes his/her mark to be on a separate paper from the ballot where the candidates' names are printed. This would accommodate a specific type of 2-sheet ballot manufactured by MicroVote. Also, the bill repeals KSA 25-2015, which requires a separate ballot for school district special elections.

HB 2231—Proposed by the Secretary of State, this bill would provide two tools for cleaning up the voter registration lists: (1) it would require the voter to provide the last four digits of the Social Security number on the voter registration application, and (2) it would allow the county election officer to conduct mass or targeted mailings as an alternative to participation in the annual National Change of

Address program. *Bill was defeated on initial vote on House floor on 2/18, but may be brought up again for a vote.*

HB 2241—This bill would require the county clerk, sheriff, treasurer and register of deeds to be qualified electors and residents of the county from the time they file as candidates for office throughout their terms in office.

HB 2324—Proposed by the county clerks association elections committee, this bill would move the deadline for requesting an advance ballot. There would be no advance voting in the county election office on the Monday before the election. It would end the Friday before the election or Saturday if the county election officer provided it on Saturday.

HB 2325—Proposed by the county clerks association elections committee, this bill would allow the county election officers in counties with populations greater than 250,000 to establish satellite advance voting sites in addition to their main offices.

HB 2326—This bill would change the Kansas primary system from a closed system to a blanket primary. It would allow any registered voter, regardless of party affiliation or lack thereof, to vote for the candidate of his/her choice for any office, regardless of the candidate's party affiliation or lack thereof. The ballot would contain the names of all offices, both major parties, and all candidates for each party.

HB 2328—Proposed by the county clerks association elections committee, this bill would restrict the ways in which voters' signed applications for advance ballots are delivered to the county election officer. It would prevent candidates, campaigns, parties and other organizations engaged in distributing advance ballot applications from having the applications pre-printed with an address other than the county election office. In past elections some groups have had applications mailed to their post

Elections Legislation 1999 Summary

office box, where they process the applications for their own purposes before forwarding them to the county election office for ballot distribution.

HB 2329—This bill would require district judges, both elected and retained, to maintain residency in the county from the time they take the oath of office as long as they stay in office.

HB 2340—This bill deals with county advance ballots. It states that if a person casts an advance ballot and dies before election day the ballot is counted. Current law requires such ballots be challenged, which leaves it to the county canvassers to determine whether the ballot counts.

HB 2366—This bill would permanently repeal the presidential preference primary permanently.

HB 2385—This bill affects the way the results of the presidential preference primary are used in choosing political parties' delegates to their national nominating conventions. It does not affect the conduct of the PPP election.

HB 2411—This bill would require 2000 primary and general elections to be conducted by all-mail ballot. In subsequent years it would require all voting to be done by mail ballot, advance ballot or Internet voting, subject to regulations by the SOS.

HB 2499—This bill would make the election of district court judges and district magistrate judges nonpartisan.

HCR 5002—This concurrent resolution, if passed by 2/3 majorities in both the House and Senate, would put to a statewide vote the question of whether to amend the state constitution to allow counties to exempt themselves from ad valorem taxation on the appraised valuations of certain properties. *Amended to change the date of the statewide election from November 2000 to April 1999.*

HCR 5019—This concurrent resolution, if passed by 2/3 majorities in both the House and Senate, would put to a statewide vote the question of whether to amend the state constitution to allow the legislature to classify and tax aircraft and watercraft differently from other property. The resolution requires a statewide vote in November 2000.

Senate Bills

SB 7—This bill would allow city/county government consolidation if approved by a majority of voters in an election. The election can be brought about by a joint city/county resolution or a petition signed by 10 percent of county electors.

SB 215—This bill would make the four election commissioners (Johnson, Sedgwick, Shawnee and Wyandotte counties) appointed by their respective county commission instead of appointed by the Secretary of State.

SB 229—Proposed by the Secretary of State, this bill would restrict the opportunity for county party chairs to appoint new precinct committee men and women during the period before calling a convention to choose someone to be appointed by the governor to fill a vacancy in elected office. Current law allows precinct committee appointments after the vacancy occurs until the chair sends a notice to precinct committee persons calling a convention to fill a vacancy. This bill would not allow any precinct committee appointments after the chair is notified that a vacancy has occurred or will occur. *Amended by the Senate to require the county clerk to notify county party chair of vacancies in elected county offices before the party chair can begin the process of calling the convention to select a replacement.*

SB 230—Proposed by the Secretary of State, this is an election administration bill. It would: (1) prohibit a person from being nominated by two or more parties in the same election year, (2) change

County voter registration purging questions answered

A frequent topic of conversation among election officials across the nation continues to be purge procedures. The Secretary of State has occasionally sent updates and clarifications of their understanding of the laws, and would like to respond to some recent questions from county clerks with the following summary.

Passage of the National Voter Registration Act of 1993 required substantial changes in purge laws in most states, including Kansas. When the Kansas Legislature passed legislation implementing the NVRA in 1996, county election officers were forced to adapt to a new and very different system of voter registration list maintenance.

Before NVRA, Kansas law allowed the election officer to purge the name of any registered voter who failed to vote in two consecutive general elections. For this purpose, the term “general election” refers to an election held in November of an even-numbered year. This type of purging for simple nonvoting is no longer allowed; nonvoting can be a factor in the process that leads to the purge of a name, but it is limited to specific circumstances.

With NVRA, current law allows the purging of a voter’s name for the following reasons (see KSA 25-2316c):

(1) If the voter dies, the name should be purged. County election officers are directed by law to check the obituaries and remove names that appear. Also, they should receive periodic lists from the Kansas Bureau of Vital Statistics containing names of deceased persons. These can be

removed.

(2) If a voter requests in writing to have his/her name removed from the voter registration list, the county election officer may remove it.

(3) If a court orders the removal of a voter from the voter registration list for any reason (usually mental incompetence), the county election officer should comply by removing the name.

(4) If a voter is convicted of a federal felony, the U.S. Attorney in the judicial district notifies the Secretary of State of the conviction

Ways to be purged:

(2) If a voter requests in writing to have his/her name removed from the voter registration list, the county election officer may remove it.

and the Secretary of State notifies the county election officer, whereupon the person’s name must be removed from the voter list. If the county election officer receives notice of a state felony conviction, the person’s name must likewise be removed from the voter list. There is no general statutory provision that requires the state courts, prosecutors or Department of Corrections to notify election officers of felony convictions, but county election officers are authorized to act when they are informed of them.

(5) If a voter moves to another county or state and re-registers or completes a driver’s license change

of address form at a motor vehicle licensing office, the election officer in the new jurisdiction is directed by law to send a cancellation notice to the election officer in the voter’s previous jurisdiction. These names are then removed.

The system works well when all election officers diligently send cancellation notices to each other. However, when the cancellation/notification system breaks down, the election officer in the voter’s previous county of residence is unable to remove the voter’s name. Then, duplicate registrations accumulate in the voter files.

One of the most time consuming and expensive provisions of the NVRA is the confirmation mailing requirement. In brief, this requires the county election officer to send a forwardable confirmation notice to a voter when the election officer receives evidence of an address change *from a source other than the voter*. Information received directly from and signed by a voter, such as a change of address form, new registration card, or spontaneous request for removal does not require confirmation. Confirmation mailings are required to confirm evidence of an address change received from a source other than the voter.

When sending a confirmation mailing, it is important to note whether the confirmation is being sent in response to evidence indicating the voter moved *out of the county* or whether it was a move *within the county*.

If the apparent move was *out of the county*, the county election officer may ultimately remove the voter’s name from the list if one of three things occurs:

(1) the voter returns the confirmation mailing and by doing so confirms the out-of-county move, or

(2) the voter does not return the mailing and subsequently fails to vote in the next two consecutive general elections, or

(3) the post office returns the confirmation mailing marked “undeliverable” or “forwarding order expired.”

If the apparent move was *within the county*, the county election officer changes the address on the voter file, then sends the confirmation mailing. Then, (1) If

the voter returns the mailing confirming the address change within the county, nothing further needs to be done. (2) The voter’s name may be removed from the list if the post office returns the mailing marked “undeliverable” or “forwarding order expired” and the voter misses the next two consecutive general elections, but the Federal Election Commission strongly urges the election officer in such cases of in-county moves to investigate the situation by contacting the voter before purging the voter’s name.

If a voter’s name is purged from the list and he/she shows up at the next election, the voter must be allowed to re-register and vote a provisional ballot. This leaves the question of whether to count the ballot to the county board of canvassers.

Inactive Lists

One option many states have initiated with the NVRA is the use of inactive lists. Once a voter has been sent a confirmation mailing, the voter’s name is put into an inactive file (or coded as such on

the computer file) pending further contact by the voter. If the voter then votes, re-registers or establishes some other contact with the election office, the voter’s name is taken off the inactive list and restored to full voting status. If the inactive voter misses two elections, his/her name is purged. Inactive

voters should never be denied the right to vote a provisional ballot while their names are on the inactive list; inactive means they are still registered, but inactive.

Kansas did not establish an inactive

list on a statewide basis when the NVRA was implemented in 1996, but it is being considered for the future. Some county election officers have designated voters as inactive on a county basis. The advantage is that when candidates, campaigns and parties purchase voter registration lists, they may opt to omit the inactive voters and decrease their purchase price as well as mailing costs.

An article in the December 1997 issue of *Canvassing Kansas* (page 2) reported on several changes in interpretation of the laws governing the confirmation mailing and purge process, some of which have been incorporated here. It should be noted that one of the interpretations reported in that issue has been revised. It was reported that the U.S. Department of Justice had ok’d a “no contact” purge in a case arising in California. This meant that if a voter had not voted or had no

contact with the election office for three years, the election officer could send a confirmation mailing with the possibility of eventually purging the voter’s name according to the regular confirmation/purge rules. The Federal Election Commission has informed us that this court decision allowing no-contact purging applied only to the specific circumstances in California. Other states are not advised or authorized to adopt such a policy based solely on that decision.

We recommend county election officers who are unsure how to proceed in specific circumstances, not proceed without verification of the rules. It is better to keep an inactive voter on the list than to remove a name that shouldn’t be removed. Election officers might want to review the NVRA “Guide for County Election Officers” distributed by the Secretary of State in February 1996; the article entitled “Change in NVRA Confirmation Mailing Procedure” in the December 1997 issue of *Canvassing Kansas*; and the Federal Election Commission’s

NVRA implementation manual, “Implementing the National Voter Registration Act of 1993: Requirements, Issues, Approaches, and Examples,” which contains most of the administrative

guidance available from the FEC on a variety of NVRA issues. Election officers can call the FEC at 1-800-424-9530 to inquire about the availability of the manual, or the Secretary of State’s office can make photocopies of desired sections upon request.

(5) If a voter moves to another county or state and re-registers to vote, the name may be purged

(3) If a court orders the removal of a voter from the voter registration list for any reason, the name may be purged

Water-related districts receive clarification

With drainage districts facing upcoming elections, there has been confusion on what is a drainage district, a watershed district and a public wholesale water supply district, and the reporting requirements to the Secretary of State's office with these districts.

K.S.A. 24-401 et seq. governs drainage districts. A drainage district is created for the purpose of draining and reclaiming wet and overflowed land located near flowing rivers and other bodies of water. The drainage district is governed by a three-member board of directors. K.S.A. 24-412 requires an election for the board of directors be held every four years, commencing in 1983, on the first Tuesday in April. Within 30

days following the election, the county election officer must report the names of the newly elected directors of the district and a geographical description of the district to the Secretary of State's office.

K.S.A. 24-1201 et seq. governs watershed districts. A watershed district is created to alleviate problems of erosion, floodwater or sediment damages and to provide for conservation, development and utilization of water. A watershed district is governed by a board of directors that contains an odd number of members as well as no fewer than three, nor greater than fifteen members. Election of the members of the board is conducted at an annual meeting of the qualified voters of the district. Members

serve three-year terms. The names of the directors is not required to be reported to the Secretary of State.

K.S.A. 19-3545 et seq. governs public wholesale water supply districts. A public wholesale water supply district is created to allow agencies to cooperate with each other to secure a source of water, which an agency could not secure if acting alone, in order to sell water wholesale back to the public agencies or municipalities. These water supply districts are governed by an agreement that is entered into by the various agencies. This agreement must be submitted to the Attorney General for approval and then filed with the Secretary of State.

Double candidacies on city, school elections

The deadline for filing for city and school offices recently passed. The Secretary of State's office received numerous questions dealing with a candidate's name being on the ballot more than once. K.S.A. 25-213 prohibits the printing of a candidate's name on the primary ballot more than once, and K.S.A. 25-612 prohibits the printing of a candidate's name on the general ballot more than once, but those prohibitions apply only to national, state, county and township offices. These statutes do not apply to city and school elections. K.S.A. 25-2009 and 25-2113 state that city and school elections are nonpartisan in nature and laws applicable only to partisan elections shall not apply.

Attorney General Opinion 83-10 declared that K.S.A. 25-213 did not

apply to city elections. Therefore, a person has the right to seek nomination or become a candidate for more than one city office at the same election. An earlier Attorney General Opinion, 79-248, stated a person may be a candidate for a city office and for a seat on a board of education.

In the Secretary of State's reading of the statutes and the above Attorney General opinions, they have found no prohibition of a candidate's name appearing on the ballot more than once for city and/or school elections. A person could run for more than one city office, more than one school office, or for a combination of the two. For a copy of the Attorney General opinions, please contact the Secretary of State.

Growth

Continued from page 1

followed by the Southern region with 1.3 percent; the Midwest with 0.4 percent; and the Northeast with 0.3 percent.

Lt. Governor Gary Sherrer, who oversees the Kansas Department of Commerce and Housing, attributed the population growth to job creation, namely manufacturing. In October 1997, Kansas had 1.33 million jobs. By October 1998, that number had grown by 36,000. Since 1995, the state has experienced an increase of 30,000 to 40,000 jobs a year and is expected to gain about 30,000 in 1999.

Legislation 1999 Summary

Continued from page 5

the date by which state senators must resign for their appointed successors to avoid a midterm election from Oct. 14 to May 1 of the second year of the term, (3) repeal several statutory provisions requiring county election officers to send election mailings first class so they can take advantage of the new Postal Service election logo, (4) require the last four digits of a voter's Social Security number on the advance voting ballot application to help county election officers prevent multiple applications, (5) move the county canvass from Friday after the election to the following Monday to allow more time for processing provisional ballots, and move the deadline for requesting a recount from noon Monday to noon Tuesday after the canvass, and (6) amend recall statutes to limit the county attorney to five days for determination of sufficiency of grounds for recall stated in the petition, require the determination of sufficiency to be done before signatures are collected on the petition, and require the county election officer to send a

copy of the petition to the county attorney after it's filed by the recall committee. *Senate amended bill by removing items (1), (2), (4) and (6). Item (5) was amended by moving the deadline to request a recount from Tuesday to Wednesday and moving the deadline to complete the recount from Friday to the following Monday.*

SB 231—This bill would prohibit employees of local school districts from serving as members of the school board.

SB 244—This bill would amend the general petition statutes (KSA 25-3601) to say that if the county/district attorney fails to furnish an opinion within five days as to whether the question on a petition is legal, the number of days allowed for circulating the petition is extended 1 day for each day the attorney extends the 5-day period. The attorney is required to provide assistance in redrafting the question if it is determined to be illegal. Failure to submit a petition to the county/district attorney cannot be the sole grounds for invalidating it.

SB 245—This bill would allow any taxing subdivision of Kansas to put any issue involving levying, increasing, extending, reducing or eliminating any tax directly to a binding vote when the issue is subject to a protest petition. In effect, the governing body may put the issue to a vote directly without having to wait for the protest petition process to occur.

SB 261—This bill would make the election of state board of education members nonpartisan.

SCR 1601—This concurrent resolution, if passed by 2/3 of both houses of the legislature, would cause a statewide election on April 6, 1999 on whether to amend the Kansas constitution to abolish the adjustment of the federal census. Currently, the constitution requires the census figures to be adjusted to count college students and military personnel at their permanent residences. In 1990, the adjustment was conducted by the Secretary of State. *Bill died in vote on House floor 2/26.*

Linn Valley becomes Kansas' 628th incorporated city

On November 23, 1998, the city of Linn Valley became incorporated. This city is located in the southern portion of Linn County near Linn Valley Lake.

This community was originally a lake development subdivision that petitioned to

become a city of the third class. The city's first election



of officers will take place in April.

The city has approximately

400 residents, many of whom are eligible to register and vote in the first election. Linn Valley becomes the state's 628th city and is the first new city to incorporate since Lake Quivira in 1980. Lake Quivira lies partly in Wyandotte County and partly in Johnson County.