

CANVASSING KANSAS

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

December 2009
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Double voting leads to conviction in Nemaha County

Alert actions by two county election officers in Kansas have led to a conviction for double voting. In early 2009, Shawnee County Election Commissioner Elizabeth Ensley and Nemaha County Clerk Mary Kay Schultejeans compared records involving duplicate voter registrations and discovered that the duplicate records did represent the same individual and that the person had voted in both Shawnee County and Nemaha County in 2004.

The two election officers jointly referred the matter to the Shawnee County District Attorney and the Nemaha County Attorney. The case was eventually pursued by Nemaha County Attorney Brad Lippert, who directed the sheriff to conduct an investigation. During the investigation, the voter confessed to the crime and, in a subsequent court appearance, received a one year sentence and was placed on probation. The case was prosecuted under K.S.A. 25-2415, which is titled “voting without being qualified.” The statute contains a prohibition against voting or offering to vote more than once in the same election. The offense is a misdemeanor.

While Kansas election officials have not discovered a large number of election crimes, there have been several situations uncovered in recent years that are apparent violations of the law and a small number have been referred to federal or county prosecutors. There have not been many prosecutions, partly because the penalties for these offenses are low and partly because prosecutors have more serious crimes that demand their time and efforts.

The recent Shawnee County-Nemaha County case is an example of the success that can be achieved when election officials are vigilant, collect facts and present an organized case to law enforcement officials, who have the authority to investigate and prosecute.

The Secretary of State encourages county election officers to watch for such cases, and the office will coordinate with county officials in determining the proper statutes under which to proceed. The Secretary of State’s office has referred some cases during the past year as a result of research done in conjunction with the interstate voter registration data crosscheck programs with other states and a program of comparing voter registration records with driver’s license records obtained from the Kansas Division of Motor Vehicles.

Kansas among top five in overseas voting

In September, the Overseas Vote Foundation (OVF) recognized Kansas as one of the five leading states that facilitate participation of overseas voters. The OVF, in a new study, unveiled a new scoring tool that measured the impact of individual state’s implementation of overseas voting legislation. This study identified five states – Kansas, Iowa, Colorado, New Mexico and South Carolina – as the top scorers with voting policies that are the easiest to navigate for overseas and military voters.

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Retirements cause changes in county election office

*T*here have recently been election personnel changes in several counties.

In May 2009, Assistant Election Commissioner Karen Browning retired from the Johnson County Election Office. Karen served in the Johnson County Election Office for almost 41 years and participated in more than 200 elections. After her retirement, the Johnson County election office announced a few staff changes; Debbie Tyrell has been appointed as deputy election commissioner and Jeanie Nichols and Tom Ray have been appointed as assistant election commissioners.

Jolene Campbell, Riley County deputy clerk for elections, recently retired to pursue other opportunities. Jolene served on several ELVIS advisory groups and was instrumental in improving the processes and procedures that are used today. Jolene has been replaced by Jolene Keck.

Finally, Norine Staab, Shawnee County deputy election commissioner, is retiring in December. Norine will have worked in the election office for almost 40 years at her retirement. She has been a great resource for Shawnee County and the secretary of state with her experience in Kansas elections.

With the retirements of Karen, Jolene and Norine, the state of Kansas is losing three extremely dedicated public servants who have helped administer hundreds of successful elections. We wish them the best of luck and a stress-free retirement; with the understanding they will be available as board workers!

*Thank you for serving
Kansas!*

SOS office closed for holidays

The Secretary of State's office will observe the traditional state holidays and be closed on **Friday, December 25 for Christmas Day and Friday, January 1 for New Year's Day.**

Also, Martin Luther King Day is a federal and state holiday so the office will be closed **Monday, January 18, 2010.**

HAPPY HOLIDAYS!!!



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RON THORNBURGH
Kansas Secretary of State

Dear friends,

Imagine being thousands of miles from home, fighting to restore order in a foreign land, working to give others a chance at experiencing the kind of democracy many in your own country often take for granted. Now, imagine having to wait weeks to receive a ballot to cast your own vote, and then hoping the paper document makes it back to the United States – and that it makes it in time to be counted. Or that you're able to locate a fax machine in time to submit your ballot electronically. Until just a few years ago, this was the situation many of our soldiers faced.

As you know, in 2006 my office expanded the definition of "fax" to mean electronic transmissions – including e-mail. Recognizing that computers are much easier to come by in these remote settings than a fax machine, I urged all of you to begin accepting these ballots – and in some cases, sending them – via e-mail. The change has proven to be successful, and many other states have adopted a similar policy.

Realizing the benefit on a national level, Congress recently passed what is known as the MOVE (Military and Overseas Voters Empowerment) Act, which includes an amendment that requires state and local election officials to provide a way for UOCAVA voters to apply, receive, and return their ballots via e-mail. I believe that this legislation is a direct result of your efforts – and the efforts your colleagues in other states – to look beyond statutory obligations and standard operating procedures and create a solution that allows greater flexibility for our overseas troops (and other citizens living outside of the country), without compromising the security and integrity of our election process. The fact that your work is being duplicated on the national level is further proof that our election officials are among the best and brightest in the country.

As we move into my final election cycle as secretary, I want to once again thank you for all that you've done to put Kansas at the forefront of election reform – our citizens are fortunate to have such a forward-thinking group of individuals serving them.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'R' followed by the name 'Ron' in a cursive script.

RON THORNBURGH
Secretary of State

Federal services voting law is amended by Congress

The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) is the principal federal law governing voting by military personnel, their dependents and non-military U.S. citizens living overseas. The voting procedures for these federal services voters, also called UOCAVA voters, were enhanced in 2009 when Congress passed what is known as the MOVE Act. MOVE's amendments to the UOCAVA law were passed as part of amendments to the National Defense Authorization Act.

The major feature of MOVE is to require state and local election officials to provide the means for UOCAVA voters to apply for and receive their absentee ballots by e-mail. It is up to each state to determine if it will allow the voters to return their completed ballots by e-mail.

E-mailed ballots for UOCAVA voters are not new to Kansas. During the 2006 and 2008 elections, some county election officers in Kansas administered federal services ballots upon the request of UOCAVA voters in cases where their ballots had not been received by mail or fax in time to allow them to be returned before the deadline on election day. Kansas has a law that allows faxing of voting materials to and from UOCAVA voters—they may submit their Federal Post Card Applications (FPCAs) for ballots by fax, receive their blank ballots from the county election officer by fax, and return their completed ballots by fax. In doing so, they must sign a waiver of secrecy, but CEOs have been instructed to take whatever measures are possible to guarantee the voter's privacy to the extent possible.

Recognizing that faxing is a form of electronic transmission, Secretary of State Ron Thornburgh expanded the interpretation of the fax law to include e-mail, which is another form of electronic transmission of information. This was an acknowledgement of the fact that in most cases UOCAVA voters have much easier access to e-mail than to fax machines. Secretary Thornburgh recommended that CEOs adopt a policy of accepting e-mailed FPCAs and transmitting and receiving ballots by e-mail on a case-by-case basis upon request of UOCAVA voters.

Some of the major points of the MOVE Act would require each state to:

- Allow UOCAVA voters to request voter registration applications and ballot applications by mail or electronically—their choice
- Protect the security and privacy of the process and the UOCAVA voters
- Designate at least one electronic means for UOCAVA voters to request information and include it in all materials the SOS produce
- Develop procedures for transmitting blank ballots by mail and electronically
- Develop a free access system so UOCAVA voters can find out if their voted ballots were received
- Allow use of the FWAB (Federal Write-in Absentee Ballot) for all elections
- Send ballots beginning 45 days before the election
- Amend the HAVA state plan to indicate how they will comply with the Act
- Report to the EAC and FVAP on the number of ballots sent, received and rejected

Voting

from page 1

Using eight registration laws and eight balloting regulations to define the core of UOCAVA legislation, this study rated individual states on how well their laws and procedures facilitate overseas and military voting. In addition, ballot return rates, ballot acceptance rates and voter satisfaction were measured and compared with the voting policies. Although state level legislation has a significant effect on voter satisfaction, outreach programs and communication by local election officials are also critical to this effort.

Congratulations are in order for each of the 105 counties that enabled Kansas to score well on this study. Great job!

The OVF helps overseas and military voters participate in U.S. elections by providing public access to secure, Web-based voter registration tools and services. In 2008, 4.75 million Web site visitors used OVF's Internet-based voter services.

Information for this article was obtained from the OVF Web site.

Just how does the census adjustment work?

With the passage of K.S.A. 11-301 *et seq.* during the 1989 legislation session, the constitutional duty of adjusting the federal census in preparation for state redistricting was assigned to the Secretary of State's office. New regulations were promulgated in 1989 to codify the procedures of the census adjustment process, and in 1992, for the first time in its history, Kansas reapportioned its state legislature according to the new provisions in Article 10, Section 1 of the Kansas Constitution. The census adjustment project was repeated in 2000 and is required again in 2010.

In its simplest form there are four steps to this project before the adjusted data are presented to the Legislature:

1) Questionnaire Distribution and Data Collection –

According to state law, every university and college located in that state shall obtain census information from all students enrolled in the spring 2010 semester. In addition, every military base will also obtain census information from all military personnel stationed within the state. Information will be collected through the distribution of a questionnaire provided by the Secretary of State's office. In previous census adjustments the primary method of distribution was paper. However, in the 2010 census adjustment, we are anticipating many electronic responses. The Secretary of State's office will have an online questionnaire made available for students and military personnel, and many institutions have built their own online system. An electronic method will allow for better tracking and fewer incomplete responses.

2) Data Processing –

Each educational institution and military base will send the completed student questionnaires, paper or data file, to the Secretary of State's office for data sorting and counting. We will work with the institutions and military bases to contact any student or military person who, for some reason, did not return the questionnaire or for whom the information is incomplete. All information taken from the questionnaires will be entered into a database created by the Secretary of State's office.

3) Geography –

Once data entry is completed, the Secretary of State's office will use mapping software to assign a census block code to each address. This process is called geocoding.

4) Data Interpretation –

The Secretary of State's office will receive a copy of the 2010 decennial census population data provided by the U.S. Bureau of the Census, which will become the basis for the Kansas census adjustment. Using a vendor, we will adjust all relevant population and demographic census information for all eligible student and military questionnaires. This recalculation program will adjust not only the gross population of all affected census blocks, but also the corresponding racial, ethnic and voting age attributes.

When the recalculation of the federal census population data is complete, the Secretary of State's office will report the adjusted data to the Legislature before the statutory deadline of July 31, 2011. That database will be used by the Legislature during its 2012 legislative session to redraw district lines for the Kansas House of Representatives, Kansas Senate and Kansas State Board of Education. The adjusted database is not used for redrawing districts for the U.S. House of Representatives.

Secretary of State Ron Thornburgh has assigned Craig Bourne as project manager for the 2010 Census Adjustment Project. Craig also serves as the HAVA Coordinator in the Elections Division.

UPDATE: HAVA

Electronic Poll Book Contract Update –

The Secretary of State's office continues to work on the electronic poll book contracts. We recently held a vendor fair to allow counties a chance to talk to vendors about electronic polling books. The fair was held at the El Dorado Civic Center and 41 people from 23 counties participated. Thanks to Butler County Clerk Ron Roberts and his staff for helping organize the vendor fair.

Our goal is to have pricing finalized and contracts signed in the coming days and then immediately contact counties that expressed interest through the endowment program to finalize their request. The SOS will then respond to all county endowment requests regarding how much they have been awarded. Our hope is to place orders with vendors before the end of the 2009 calendar year.

ELVIS PKI Token Application –

Just a few reminders when vetting county users:

1. With the new PKI system, we asked all counties to complete a new Trusted Partner Agreement. This only needs to be completed and sent to our office once. You do not need to complete this agreement each time you vet a county user(s).
2. When completing the Authentication of Identity form, please print the name exactly as it appears on their driver's license, including middle name/initial. We also require one copy of two forms of ID, one of which needs to be their driver's license or some other state government-issued photo ID.
3. There are two signature lines at the bottom of the Authentication of Identity form. The first signature line pertains to #4 of the Trusted Partner Agreement and the second signature line pertains to #12 of the Trusted Partner Agreement. If this is the same individual for both #4 and #12 of the agreement, only one signature on the Authentication of Identity is required.
4. When vetting more than one county subscriber, you do not have to complete a separate Authentication of Identity form for each person. You can include up to three county subscribers on page one. Any additional subscribers can be included on the supplement page.

If you have any questions please contact Craig Bourne at (785) 296-0080 or craigb@kssos.org.

Voting equipment certifications announced by EAC

Two voting equipment certifications have been announced in 2009 by the federal Election Assistance Commission (EAC). The Unity 3.2 software system by Election Systems & Software was certified August 6, 2009, and the Premier Assure 1.2 system was certified the same day.

The Assure system was submitted to the EAC for testing and certification before Premier Election Systems was purchased by ES&S.

These two systems are among the first few certified by the EAC under the Help America Vote Act of 2002. Prior to HAVA, the national certification program was an unofficial one devised by the National Association of State Election Directors (NASSED) out of necessity. The process dated back to the late 1980s. In drafting the HAVA law, Congress recognized the value of a national-level certification process and assigned to the newly created EAC the duty of operating the federal testing and certification program. NASSED transferred the program to EAC several in 2005.

ES&S's Unity 3.2 and Premier's Assure 1.2 are of interest to Kansas election officials because many counties' voting systems use software systems that are precursors to these systems.