MINUTES OF THE SENATE ELECTIONS AND LOCAL GOVERNMENT COMMITTEE

The meeting was called to order by Chairman Tim Huelskamp at 1:30 P.M. on January 11, 2007 in Room 423-S of the Capitol.

All members except Senator Donovan were present.

Committee staff present:
    Martha Dorsey, Kansas Legislative Research Department
    Matt Spurgin, Kansas Legislative Research Department
    Ken Wilke, Revisor of Statutes
    Zoie Kern, Committee Secretary

Conferees appearing before the committee:
    Doug Chapin, Electionline.org , Washington D.C.

Others attending:
    Not recorded

Senator Huelskamp introduced Doug Chapin of Election Line in Washington D.C. (Attachment1).

Meeting adjourned.

Respectfully submitted,

Zoie C. Kern, Committee Secretary

TESTIMONY OF DOUG CHAPIN
DIRECTOR, *ELECTIONLINE.ORG*

1. Introduction and brief bio

2. Election law stems from reasons why we hold elections

    2.1. Interests underlying elections
        2.1.1. Individual interest – every voter's voice heard (*"vox populi"*)
        2.1.2. Societal interest – choosing winners

    2.2. Result is a pair of policy imperatives that work both in tandem and conflict
        2.2.1. "Access" – desire to provide citizens with unobstructed access to the franchise
        2.2.2. "Integrity" – desire to ensure that outcomes are valid

3. Election administration

    3.1. Authority vests in different officials at different levels in different states

        3.1.1. State – originally just "responsible" for elections but HAVA increased authority
            3.1.1.1. Chief State election official
                3.1.1.1.1. Usually Secretary of State but can also be another state official
            3.1.1.2. State election director
                3.1.1.2.1. Employee of chief state official
                3.1.1.2.2. Chairman of State election board

        3.1.2. Local – formerly the final "authority" on election; this has waned some post-HAVA
            3.1.2.1. County/Town official
            3.1.2.2. Authority can be divided (Registrar, Clerk, etc.)
            3.1.2.3. Election duties are rarely sole responsibilities

        3.1.3. Federal – deliberately mentioned last because least authority
            3.1.3.1. Election Assistance Commission
                3.1.3.1.1. Technology responsibilities – voting standards
                3.1.3.1.2. Policy responsibilities
            3.1.3.2. U.S. Department of Justice
                3.1.3.2.1. Enforces HAVA and other federal laws
                3.1.3.2.2. Increasingly active

4. Election system - best understood by following voter through the process

    4.1. Registration

        4.1.1. Establishes list of voters who meet local qualifications to vote
            4.1.1.1. Age
            4.1.1.2. Citizenship
            4.1.1.3. Residency
            4.1.1.4. Criminal status (i.e. felony status)
            4.1.1.5. Identification

        4.1.2. Registration is required in 49 states and the District of Columbia (N.D. is exception)
            4.1.2.1. Registration is voter's responsibility
            4.1.2.2. Alternative is "universal registration" which exists elsewhere but not in U.S

        4.1.3. Process
            4.1.3.1. Voter files registration application

4.1.3.1.1. In person
4.1.3.1.2. By mail
4.1.3.1.3. Online
4.1.3.1.4. Via "third party" (in person with an unofficial registrar)

4.1.3.2. Application must be received by deadline
4.1.3.2.1. Varies state to state
4.1.3.2.2. Election Day Registration states – no deadline
4.1.3.2.2.1. EDR policies vary state to state

4.1.3.3. State/locality can seek more information if application is incomplete
4.1.3.3.1. Typical problems
4.1.3.3.1.1. Insufficient/missing identification
4.1.3.3.1.2. Incomplete applications (missing check boxes)
4.1.3.3.1.3. Domicile questions (e.g. college students)

4.1.3.4. Voter is added to registration list
4.1.3.4.1. List required to be statewide and computerized under HAVA
4.1.3.4.2. Can be mailed registration card
4.1.3.4.3. Voter is assigned to polling place and precinct
4.1.3.4.3.1. "Polling place" = physical location where voter votes
4.1.3.4.3.2. "Precinct" = combination of races/questions unique to voter's residence (also known as "ballot style")
4.1.3.5. New issue – matching
4.1.3.5.1. Within states
4.1.3.5.2. Between states

4.2. Voter information/education

4.2.1. Process for voter to determine
4.2.1.1. Where to vote
4.2.1.2. How to vote
4.2.1.3. What's on the ballot

4.2.2. Can be provided in numerous ways
4.2.2.1. Online (information portals)
4.2.2.2. Election guides (required in some states)
4.2.2.3. Sample ballots
4.2.2.4. Media
4.2.2.5. Campaigns/advocacy groups/PSAs

4.3. Voting
    4.3.1. Before election day
        4.3.1.1. Growing interest in "convenience voting" – takes many forms

            4.3.1.1.1.   Absentee voting – wide variation between states
                4.3.1.1.1.1. Eligibility
                    4.3.1.1.1.1.1.   "Excuse required" – must sign affidavit
                    4.3.1.1.1.1.2.   "No excuse"
                    4.3.1.1.1.1.3.   "Permanent absentee status" (aka "subscription voting")

                4.3.1.1.1.2. Location
                    4.3.1.1.1.2.1.   Most typically via mail
                    4.3.1.1.1.2.2.   In person at central locations
                    4.3.1.1.1.2.3.   Online (not in place anywhere but frequently discussed)

                4.3.1.1.1.3. Process
                    4.3.1.1.1.3.1.   Request ballot
                    4.3.1.1.1.3.2.   Receive ballot
                    4.3.1.1.1.3.3.   Return ballot

            4.3.1.1.2.   "Early voting"
                4.3.1.1.2.1. Looks similar to absentee voting but is not identical
                4.3.1.1.2.2. Best understood as polling place voting before Election Day
                4.3.1.1.2.3. Usually conducted at centralized polling places

    4.3.2. On election day
        4.3.2.1. Precinct – usually closest to residence

        4.3.2.2. "Vote centers"
            4.3.2.2.1.   Pioneered in Colorado
                4.3.2.2.1.1. Any eligible voter in jurisdiction can vote at any vote center
                4.3.2.2.1.2. Allows voters to cast ballot at convenient location

        4.3.2.3. Vote by mail
            4.3.2.3.1.   Used in Oregon and in vast majority of Washington State
            4.3.2.3.2.   Voter receives ballot in advance and returns ballot
                4.3.2.3.2.1. By mail
                4.3.2.3.2.2. At central drop-off location

4.4. At the point of voting

    4.4.1. Verification of eligibility
        4.4.1.1. Registration list
            4.4.1.1.1.   Still a printed list in many locations
            4.4.1.1.2.   New development – "ePollBooks" (computers with electronic list)

        4.4.1.2. Identification
            4.4.1.2.1.   Required of whom
                4.4.1.2.1.1. First-time voters
                4.4.1.2.1.2. All voters
                4.4.1.2.1.3. HAVA requirement

            4.4.1.2.2.   What required
                4.4.1.2.2.1. Photo ID
                4.4.1.2.2.2. Other documentation
                4.4.1.2.2.3. Signature

    4.4.2. Eligibility problems
        4.4.2.1. Provisional voting
            4.4.2.1.1.   Voter fills out form and casts ballot
            4.4.2.1.2.   Eligibility determined
                4.4.2.1.2.1. On list?
                4.4.2.1.2.2. In proper precinct (required in some states)?
                4.4.2.1.2.3. ID provided?
            4.4.2.1.3.   If eligible, vote counted
            4.4.2.1.4.   If not, voter is supposed to be notified

    4.4.3. Casting ballot
        4.4.3.1. Methods vary

            4.4.3.1.1.   Paper-based ballots
            4.4.3.1.2.   Mechanical (lever) machines
            4.4.3.1.3.   DRE (direct recording electronic) machines (aka touch-screens)

        4.4.3.2. Requirements
            4.4.3.2.1.   Accessibility for voters with disabilities
            4.4.3.2.2.   Language flexibility
            4.4.3.2.3.   "Second chance" to verify choices

        4.4.3.3. Recent developments
            4.4.3.3.1.   Growth of "verifiability" as security concerns grow
                4.4.3.3.1.1. "voter-verified paper trails" (VVPATs)
                4.4.3.3.1.2. parallel monitoring, etc.

            4.4.3.3.2.   Focus on pre-election testing
                4.4.3.3.2.1. Federal government oversees national certification
                4.4.3.3.2.2. State/local governments can and do test as well
                4.4.3.3.2.3. Issue regarding access to source codes

4.4.4.Staffing the polls
    4.4.4.1. Poll workers are key component

        4.4.4.1.1.   Actually conduct election; distinguish from watchers/list-checkers
        4.4.4.1.2.   Usually volunteers or very low-paid day workers
        4.4.4.1.3.   Aging population

        4.4.4.1.4.   Jurisdictions experimenting with alternatives
            4.4.4.1.4.1. Government workers
            4.4.4.1.4.2. Young people
            4.4.4.1.4.3. Other organizations
            4.4.4.1.4.4. Eliminating need for poll workers by eliminating polling places

        4.4.4.1.5.   Training is important
            4.4.4.1.5.1. Growing legal requirements
            4.4.4.1.5.2. Growing technical complexity

4.5. After the election
    4.5.1.Compiling results

        4.5.1.1. Unofficial election night counts

        4.5.1.2. "Canvass"
            4.5.1.2.1.   Process of gathering and officially tabulating results
            4.5.1.2.2.   Provisional votes and other challenged ballots resolved

        4.5.1.3. "Certification"
            4.5.1.3.1.   Official declaration of results
                4.5.1.3.1.1. Returns published
                4.5.1.3.1.2. Winners issued "certificates of election"

4.6. Post-election procedures
    4.6.1.Recounts
        4.6.1.1. Process by which candidate or other individual seeks re-tabulation
        4.6.1.2. Focus is on getting the right vote totals
        4.6.1.3. Timeframe - pre-certification
        4.6.1.4. Can be done automatically or upon request
        4.6.1.5. Costs vary by reason for recount
        4.6.1.6. Can be judicial or administrative procedure

    4.6.2.Contests
        4.6.2.1. Process by which returns are challenged because of error in the process
        4.6.2.2. Focus in on ensuring that returns reflect fair process
        4.6.2.3. Timeframe – usually post-certification
        4.6.2.4. Costs usually borne by party challenging outcome
        4.6.2.5. Usually judicial in nature

4.6.3. Audits
    4.6.3.1. New development
    4.6.3.2. Some jurisdictions already conduct "sample recounts"
    4.6.3.3. More states conducting audits to test outcome and system simultaneously

    4.6.3.4. Issues
        4.6.3.4.1.   What to count
            4.6.3.4.1.1. Electronic totals
            4.6.3.4.1.2. VVPATs

        4.6.3.4.2.   How much to count
            4.6.3.4.2.1. Precincts or machines
            4.6.3.4.2.2. Percentage to count

        4.6.3.4.3.   What to do with results
            4.6.3.4.3.1. Larger recount if problems found?
            4.6.3.4.3.2. Improvements to election system

    4.6.3.5. Some jurisdictions also now require balloting "balance sheet" as form of audit

1-6