MINUTES OF THE HOUSE ELECTIONS COMMITTEE

The meeting was called to order by Chairman Steve Huebert at 3:30 p.m. on January 27, 2010, in Room 144-S of the Capitol.

All members were present except:
      Representative Bob Bethell- excused
      Representative Mike Peterson- excused

Committee staff present:
      Ken Wilke, Office of the Revisor of Statutes
      Martha Dorsey, Kansas Legislative Research Department
      Jill Shelley, Kansas Legislative Research Department
      Florence Deeter, Committee Assistant

Conferees appearing before the Committee:
      The Honorable Ron Thornburg, Secretary of State

Others attending:
      See attached list.

The Chairman welcomed Secretary of State Ron Thornburg, who gave a synopsis of events surrounding the 2008 election, saying that the overall process was one of the most successful elections seen in modern history (Attachment 1). He reported there was an unprecedented turn-out of voters. Many chose to use the advance ballot voting procedure with two counties reporting over 50% of voters having voted before election day. Secretary Thornburg reported that 34% of votes were recorded before the opening of polls at seven o'clock. He indicated that the opportunity for advance voting would continue to increase. The satellite program in place in various Kansas communities allows any voter from any precinct to vote at that location; of greatest concern is accessability, convenience and security for each voter.

Secretary Thornburg said the high point of his career came with the Help American Vote campaign which made significant changes in voter registration laws. The act made provision for any voter, including the disabled, to obtain and submit a secret ballot with assurance that their vote would be counted. Subsequently, the Military and Overseas Empowerment Act (MOVE) provides voting access for both military personnel and ex-pats. He noted that legislation is in place to bring Kansas into compliance with federal regulations in relation to MOVE.

Secretary Thornburg noted that following the 2010 Census, redistricting will take place in Kansas. He said there is proposed legislation through the Redistricting Advisory Commission that during redistricting years the filing deadline for candidates be set at June 18th; the deadline for other years would be moved to June 1st. Implementation of this plan will allow the Secretary of State's office time to prepare ballots which need to be distributed within the 45-day period before the August election cycle.

Commenting further, Mr. Thornburg said that a balance between access and security must be in place. Two pertinent elements for consideration are third-party persons handling a voter's ballot for delivery, and the requirement of voter identification at the polling place. Because of federal requirements in the Help American Vote Act, Mr. Thornburg recommends having voter identification using one of the eighteen forms of identification in addition to photo identification. He reported that Kansas is the third state to have on-line voter registration, which allows anyone with a driver's license to be able to vote electronically.

Secretary Thornburg reported that a statewide voter registration data base, in which the state owns the data base and each county owns the data, allows coordination with twelve other states ability to detect and eliminate dual registration. Using this process keeps a clean list for the viability and success of the voting process in Kansas.

Secretary Thornburg provided a look at the future of voting in Kansas by stating that an eclectic group of persons involved in the electoral process enumerated five principles for consideration in the evolving process: 1) enhance participation; 2) assure accuracy; 3) develop security within the system; 4) promote access for all persons; and 5) provide equity within the system.

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CONTINUATION SHEET

Minutes of the House Elections Committee at 3:30 p.m. on January 27, 2010, in Room 144-S of the Capitol.

In answer to members' questions, Secretary Thornburg said:

An adjustment is made when considering the student and military population in the process of redistricting;

April 1st is the date for enrollment in the 2010 Census and only persons residing within the residence are counted;

Some counties are using a paper form for student voter registration;

The first federal census was conducted in 1990; prior to that date, an agricultural census was conducted;

Fewer than twenty persons have been convicted of voter fraud;

An updated procedure for gathering evidence is being put in place; and

Any person not voting in two consecutive cycles is then moved to an inactive voter list and contact is maintained for an additional eight years.

Secretary Thornburg concluded his remarks by stating that Kansas has a record of good accessibility and security in the voting process.

The Chairman called for bill introductions. Representative Huebert made a motion to move city council, mayor, and school board elections from the spring cycle to the fall voting schedule. Representative Schwab seconded the motion. The motion passed.

Staff Martha Dorsey provided explanation regarding the question of county commissioners in Sherman County. A resolution on the November ballot will clarify the number of positions to be put in place. She reported that as recorded in K.S.A. 19-204, all counties are permitted to vote.

The next meeting is scheduled for February 3, 2010.

The meeting was adjourned at 04:50 p.m.

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HOUSE ELECTIONS COMMITTEE

GUEST LIST

DATE: January 27, 2010

NAME	REPRESENTING
Jenn Light	Intern for Rep Hurst
Brad Bryant	Sec. of State
Carol William	Gov Ethics
Ron Thuy	Sec State

Secretary of State Ron Thornburgh
Testimony before the Senate Committee on Ethics and Elections
and
House Committee on Elections
January 20, 2010
January 27, 2010

2008 Election

Kansas had a successful election in 2008.

So-called experts across the nation predicted unprecedented turnout and the electoral system would not be able to handle it. Predicted failure.

But failure did not occur, especially in Kansas. We worked with county election officers to
> prepare, and our counties and their poll workers met the challenge.

There were a few rough spots because no election is perfect, but by and large we were pleased with the result.

Kansas set new records for voter registration, voter turnout (total number voting, not %), and
> advance voting. (2 largest counties—Sedgwick and Johnson—had more than 50% of vote
> by advance ballot)

Advance voting statewide went from 22% of the vote in 2006 to 34.7% in 2008.

2010 Election

We're planning for another successful election in 2010.

We don't expect record voter registration and turnout because some of the factors that produced those records in 2008 are not anticipated to occur again in 2010.

All the statewide offices are on the ballot in 2010—Governor/Lt. Governor, Secretary of State,
> Attorney General, Commissioner of Insurance and State Treasurer.
> Also, 1 constitutional amendment (so far)—the right to own firearms "for the defense of
> self, family, home and state"

MOVE Act

Congress passed MOVE last fall (Military and Overseas Voter Empowerment Act).
> Almost all of its provisions are in effect for 2010.

Basic requirements:
- Begin distributing ballots to overseas voters 45 days before the election (this was already in Kansas law, but now it's in federal law)
- Allow overseas voters to obtain all voting information electronically.
- Collect ballot applications and transmit ballots by email or "other electronic means."
- Provide a method for overseas voters to submit Federal Write-in Absentee Ballots electronically
- Allow overseas voters to track their ballot (whether it's been sent and received) electronically
- Provide candidate lists (or sample ballots?) electronically to overseas voters
- Provide security of the system and protect voters' privacy *to the extent practicable (?)*

We are proposing legislation this year to codify these requirements in state law

Hs. Elections
1-27-10 Attch. # 1

2009 State Legislation
The Kansas Legislature passed several laws in 2009 that affect elections (most were very minor)
- Candidates for statewide office are required to file their campaign finance reports electronically
- Highway patrol members may serve on nonpartisan appointed or elected governing bodies
- Sherman County is allowed to adopt at-large election of county commissioners
- The "paid for by" attribution is required on web sites, emails and Internet communications disseminated to 25 or more individuals
- Voter approval required for cities to sell utilities

Several bills from 2009 did not pass, and we would like to see them considered this year:
SB 55—full ballot for UOCAVA voters (we will propose in a new UOCAVA bill along with MOVE Act requirements)
SB 268—emailing ballots to UOCAVA voters (we will propose in the new UOCAVA bill)
SB 56—security of mailed advance ballots

2010 Legislative Agenda
SOS Agenda
UOCAVA Bill (Military & Overseas Voters)
a. Allow UOCAVA voters to vote on local ballot questions and precinct committee positions
(CCR on SB 171)
b. Allow UOCAVA voters to email ballot applications, receive blank ballots by email, and return completed ballot by email.   (CCR on SB 171)
c. Shorten effective period of UOCAVA ballot application from 2 years to 1 to comply with MOVE Act. (new)
d. Add provision in state law for Federal Write-in Absentee Ballot (FWAB) to mirror UOCAVA & MOVE. (new)

Voting Crime Bill
Increase the penalty for double voting from a misdemeanor to a level 9, nonperson felony.

Candidate Filing Bill
Amend KSA 25-205(g) and (h) to make them compatible with the election calendar. This law changes the candidate filing deadline and petition requirements in redistricting years if the redistricting process is not completed early enough to allow candidates time to file.

Election Security Bill
a. Advance voting ballot security
Require voter to sign own ballot application, designate in writing another person to deliver ballot if desired
(2005/2006 SB 142; 2007 HB 2281 & SB159; 2009 SB 56)

b. Voter ID bill—Require every voter to show ID each time they vote. (not new)

CEO agenda
CLEANUP—City/school primary elections—reduce # of primaries
(2009 amendments proposed to SB 103)

Move candidate filing deadline
(2009 SB 79, included in CCR on SB 171)

Require all candidates for city offices to file with the county election office. Current law says 1st & 2nd class city candidates file with city clerk; 3rd class candidates file with either city clerk or CEO.

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Change extension council candidate filing deadline from early March to 10 weeks before April election to coincide with city & school board candidates.

Electronic Motor-Voter / Online Voter Registration
Two new voter registration programs have been implemented in the past 18 months in a cooperative effort with the Division of Motor Vehicles (in the Dept. of Revenue)

1. Electronic motor-voter

We took the paper out of the motor-voter program. When a person applies for or renews a driver's license or changes their address, they just have to answer a few election-related questions, and their answers are merged with the relevant data from their driver's license record along with their digitized signature and sent electronically to our statewide voter registration database.

2. Online voter registration

Once we had the e-motor voter program underway, we enhanced that system to include online voter registration. Any person with a current Kansas driver's license can go online and register to vote, change their address or make any other update to their record. The electronic records come to our voter registration database the same as the e-motor voter ones do.

Advantages of E-motor voter / Online VR

- It is easy and convenient for voters to register or change their addresses at their leisure, using a computer instead of going to a registration site during business hours.
- Instead of handwritten paper forms, the CEO receives data that is always legible.
- The CEO does not have to spend time and bear the expense of entering the data into the system.
- The opportunity for data entry errors is eliminated from the CEO's process.
- It reduces the amount of paper in the system.
- Since the beginning of motor-voter in the 1990s, CEOs have received change of address forms from voters who thought they were registered to vote but in fact were not. This required the CEO to mail each such person a paper voter registration application form. This problem is greatly reduced or eliminated.
- Signatures are more up to date because they're renewed with each driver's license renewal.

This was a cooperative effort with Sec. of Revenue Joan Wagnon, Director of Vehicles Carmen Alldritt, their administrative and IT staffs.
These programs were designed and implemented completely in-house, with no extra budget, no state appropriation, and no vendor.

Interstate Voter Registration Data Crosscheck Program
We have been involved since 2005 with other states in a program to compare voter registration records to (1) identify possible duplicate registrations and (2) identify possible double votes.
It began with Iowa, Missouri, Nebraska and Kansas and has expanded to include a total of 13 states: Arizona, Arkansas, Colorado, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, Oklahoma, South Dakota and Tennessee.
The chief state election officer in each of these states has signed a Memorandum of Understanding to participate in the program.
Crosschecking is one more list maintenance tool to ensure our voter registration list is as clean as possible. It complements the National Change of Address Program, felony checks and death list checks we do routinely.

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These list maintenance tools are part of the security we need on the back end of the process to balance access vs. security. We work hard to provide access to the voting process (with advance voting, e-motor voter and online VR), but those efforts must be balanced with adequate security to ensure that people don't take advantage of the system.

In the crosscheck program, every year we collect the entire database from each participating state and run a computer program to crosscheck. If two records match exactly on first and last name, date of birth and last 4 Social Security numbers (if available), it is identified as a possible match.

The results are sent to county election offices for processing.

Study Group on the Future of Elections in Kansas

I am distributing to members of the House and Senate elections committees and to legislative leadership offices copies of the Report of the Study Group on the Future of Elections in Kansas.

I appointed the Study Group last year to look at the various alternatives for voting and to consider the ways in which our state should consider improving election administration.

I invited 20 people representing various groups (parties, election administrators, interest groups, academics, disabled communities, etc.).

I asked them to look ahead 20-30 years to what our elections should look like in the future.

You can see in the conclusion in the report that the Study Group did not settle on a single, magic bullet that everyone could agree on to improve our electoral system.

And, I don't assume our system is broken and needs fixing. We have a good system, but we're always looking for ways to improve it.

One of the reasons for appointing the Study Group was that several ideas have come out in recent years and have gained some traction, the most prominent being vote by mail and vote centers. I wanted to ask the people and the groups who participate in our current election system and who have stakes in the outcome of elections to tell me what they think.

Although they didn't agree on one approach for overhauling our electoral system, the Study Group did some valuable work in three days of deliberations.

The Study Group outlined 5 Guiding Principles and 5 Factors to Consider in assessing the advantages and disadvantages of any proposal to improve elections.

<u>Guiding Principles</u>
- Participation—What system will achieve the highest levels of voter participation?
- Accuracy—Does a particular system produce accurate results, or is it less accurate than other systems?
- Security—Do some systems provide greater security of the ballot? Can they provide security without reducing access?
- Access (convenience & accessibility)—What systems provide greater access? Can full access be provided while maintaining security? This principle includes two perspectives: convenience of the voter in obtaining and voting a ballot, and accessibility in the sense of serving voters with disabilities.
- Equity—What systems are best at providing equal protection and treating various voters and groups equally?

<u>Factors to Consider</u>
The study group identified five factors that should be considered in evaluating the merits of an electoral system. These are variables to be considered in the evaluation process.
- Feasibility—Is a particular voting option workable or would it require disruptive change?
- Effect on voters—Will a particular option promote participation or discourage it? Will voters like it?

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- Effect on groups—How will a particular voting option affect parties, election administrators, local governmental units, voters with disabilities, and other groups?
- Cost—Are some options more expensive than others? Will some options save money over the current system?
- Advantages / Disadvantages—Considering the advantages and disadvantages, or pros and cons, of a particular option, what is the balance? Does a particular option have more disadvantages than advantages, or are its advantages so great that its disadvantages are insignificant?

The Study Group looked at 6 voting options:
- Vote by Mail—Every registered voter is automatically mailed a ballot every election. Some accommodations must be made in the election office or at selected sites for voters with disabilities in order to comply with the Help America Vote Act, but otherwise there are no election-day polling sites in a pure vote by mail system.

- Vote Centers—Polling places are set up around the county on election day. Voters are not required to vote at an assigned place where they're registered. They can vote at the most convenient site. All ballot styles used in the county must be provided at each vote center. This is done most efficiently using electronic machines, which in most cases have enough memory to hold all ballot styles, or a ballot-on-demand system, where ballots are printed at the time they are requested rather than being pre-printed. Vote centers are usually larger than traditional polling places and serve multiple precincts, so the total number of vote centers usually is smaller than the number of precinct-based polling places.

- Expand Advance Voting—Make advance voting more convenient by implementing ideas such as no-excuse permanent advance voting and incentives for more counties to conduct satellite advance voting. No-excuse permanent advance voting would allow any registered voter to apply to be on a list to automatically receive a ballot by mail each election. Kansas law currently offers this option only to voters with illnesses or disabilities. All counties have the option of establishing satellite advance voting sites. Whether to conduct satellite advance voting and the number and location of the sites are decisions left to the county election officer. Without satellite sites, all in-person advance voting is done at the county election office.

- Telephone Voting—Some states use telephone voting to comply with the HAVA mandate for voters with disabilities. Voters go to a site, record their votes via telephone key pad, and a ballot is printed for scanning or hand-counting. Telephone voting would not necessarily be limited to voting by persons with disabilities; it could be used for all voters, but to date this has not been done on a large scale. Telephone voting requires the acquisition of voting technology in addition to, or in place of, technology currently in use.

- Internet Voting—This is a system of voting via the Internet from voters' personal computers with some type of secure voter verification. Internet voting has been done on a pilot basis by the Department of Defense and some election jurisdictions. Some foreign nations have experimented with this system more than the United States. The technology must allow a voter to submit the ballot electronically and securely while allowing the election official to identify who the voter is without knowing the contents of the ballot. Recent reports suggest the technology exists to do this, but providing it on a widespread basis is expensive and, as yet, unfeasible.

- Status Quo—This option would be a continuation of the present system for the foreseeable future, with polling places on election day and advance voting in person or by mail at the voter's

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choice. The status quo offers voters with disabilities options of receiving assistance, applying for permanent advance voting status, or voting at the polling place on fully accessible voting equipment in compliance with the Americans with Disabilities Act and HAVA

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