



LR 335 Recommendations: Recommendations of Policy Changes to Implement 2014 Presidential Commission on Election Administration Recommendations in Nebraska

Prepared by Nebraskans for Civic Reform

Presented to Members of the Government, Military and Veterans Affairs Committee

Executive Summary

Nebraskans for Civic Reform recommends the following policy initiatives:

1. Nebraska join the Electronic Registration Information Center (ERIC)
2. Require state and local agencies currently obligated to provide voter registration material to prominently place the online voter registration link on their website
3. Creation of collaborative partnership to recruit and train bilingual poll-workers
4. Expand the Youth Election Service program to include college students
5. Encourage school districts to make Election Day an in-service day
6. Require the Secretary of State to promulgate uniform poll worker training standards
7. Create a voter advisory board with representatives from various communities in Nebraska including voters with disabilities and limited-English proficiency
8. Extend required publication of sample ballots to cover early voting period
9. Allow for publication of Spanish ballots in Spanish newspapers
10. Establish a permanent vote-by-mail list for those with disabilities
11. Allow for early voting on weekends and a process by which county citizens may request weekend early voting from their election official
12. Require post-election audits and publication of such audits currently performed by Secretary of State's office on a voluntary basis
13. Create an Election Technology Fund and Advisory Board
14. Create uniform forms for the voluntary collection of data and publish a report on the SOS website of data voluntarily submitted

Recommendations

A. VOTER REGISTRATION

NCR Recommendation #1: *Nebraska should join the Electronic Registration Information Center (ERIC) in addition to the Interstate Voter Registration Crosscheck Program (IVRC)*

The Interstate Voter Registration Crosscheck Program (IVRC) conducts manual comparisons between voter lists and is more time consuming, generates many false matches that require further processing, and does not provide as much functionality.¹ Election Registration Information Center (ERIC) member states submit, at a minimum, their voter registration and motor vehicle licensee data, which includes a voter's (1) name, (2) address, (3) date-of-birth, and (4) the last four digits of his or her social security number. Private data is anonymized prior to being transmitted to ERIC to reduce any potential security risks. Financial costs for being a member of ERIC are distributed across states based in part on the sizes of states' voting electorates, and most states did not find costs to be a pressing issue for being an ERIC member.² States that have already modernized their systems have recovered costs within two to four years due to money saved as invalid registrations are removed, more registration management is done

¹ Bland, G., & Burden, B. C. (2013). *Electronic Registration Information Center (ERIC) Stage 1 Evaluation: Report to the Pew Charitable Trusts*. Retrieved from RTI International website:

https://www.rti.org/pubs/eric_stage1report_pewfinal_12-3-13.pdf

² Bland, G., & Burden, B. C. (2013). *Electronic Registration Information Center (ERIC) Stage 1 Evaluation: Report to the Pew Charitable Trusts*. Retrieved from RTI International website:

https://www.rti.org/pubs/eric_stage1report_pewfinal_12-3-13.pdf

electronically, less data processing is done by hand, and mailing and printing costs are reduced.³

NCR Recommendation #2: *Require those state and local agencies required to provide voter registration information to prominently include a link for online voter registration on the agency's main webpage*

Under current federal and Nebraska law those offices that provide either public assistance or state-funded programs primarily engaged in providing services to persons with disabilities must offer voter registration. These offices include Department of Health and Human Services, Department of Labor, and Department of Education in addition to the Department of Motor Vehicles. Many of these agencies have transitioned to online applications and some have included the voter registration question in the online application. However, regardless of an individual applying, anyone seeking information in person at an office should be offered voter registration. From this requirement NCR recommends a push to have these offices, as designated in Neb.Rev.Stat. 32-310(1), publish the online voter registration link prominently on their agency website.

B. POLLING PLACE & VOTER FLOW MANAGEMENT

NCR Recommendation #3: *Creation of a collaborative partnership between the Secretary of State, county election officials, non-profit organization and community groups to recruit and assign bilingual poll workers to precincts with substantial minority populations*

³ Electronic Registration Information Center (ERIC): Frequently Asked Questions. (2012, November 2). Retrieved from the Pew Charitable Trusts website: <http://www.pewtrusts.org/en/research-and-analysis/q-and-a/2012/11/2/electronic-registration-information-center-eric-frequently-asked-questions>

Currently only three counties are required under federal law to provide election materials in a language other than English – Colfax, Dakota, and Dawson counties, however many counties do have concentrated minority populations, though less than the 5% needed to trigger the Voting Rights Act requirement. While translation is not required in these counties, election assistance in a voter’s native language improves the voter’s experience, lessens confusion and time spent accommodating a limited-proficiency voter. Various community organizations and Nebraska non-profits are working in communities across Nebraska to encourage civic participation of minority voters and engage new immigrants, these organizations can be a resource for local election officials and the Secretary of State to connect with these communities and recruit poll workers. This goal can be one of the aims of the later discussed minority advisory board or can be a separate coalition outside of the Secretary of State’s office. Incorporating this goal under the minority advisory board can expand the purpose beyond recruitment in individual jurisdictions to recruiting a bank of bilingual poll workers that can be sent to specific precincts or counties outside of their home jurisdiction.

NCR Recommendation #4: *Expand the Secretary of State’s Youth Election Service program to include college students*

The Secretary of State has developed and implemented the *Youth Election Service* (YES) program, a program aimed at recruiting high school students to serve as election poll workers with a possible gift card award as an incentive for those who participate. NCR recommends this program be expanding to include a focus on recruitment of college students. Many current poll workers are retirees and older Nebraskans and as this generation ages out of election service, new volunteers must be found. A recent 2015 study, “Student Leaders in Elections”, found that those college

students who were recruited to serve were more likely to serve in subsequent elections and those who were bilingual were more likely than others to serve multiple elections. Expanding the YES program to include college students provides resources to recruitment efforts and could provide legitimacy to a student's request to be excused from class for such service. Furthermore, as noted in the 2015 study, college student poll workers improved election efficiency and eliminated need to back-up poll workers because they were willing to work outside their home precincts. The Secretary of State putting energy and resources towards recruiting college poll workers from the university system, state colleges and community colleges would be a great asset to local election officials across the state.

NCR Recommendation #5: *Encourage local school districts to make Election Day an in-service work day*

In recent articles, concern has been raised by parents about maintaining the safety of students in schools used as polling sites. In fact many schools have installed additional security features that are made moot when the schools are used as polling sites. However, schools are an attractive option to a local election official as a polling location – as a political subdivision that receives funds from the state, public schools are required to be available, at no charge, to the county to be used as a polling site. In addition schools generally meet accessibility requirements necessary of potential polling locations. One of the possibilities to balance the safety of students with the need for accessible and affordable polling locations is to encourage local school districts to make Election Day an in-service or staff training day. On such days students are not at the school. These days are periodically scheduled throughout the school calendar, being deliberate in the scheduling of such days could alleviate safety concerns of utilizing a school as a polling location.

NCR Recommendation #6: *Require the Secretary of State to promulgate uniform training standards for poll workers*

Beyond a requirement that the poll worker attend training, no current law requires a uniform training for poll workers, though it appears most counties obtain poll worker training materials from the Secretary of State's office and then modify them for each election, taking into consideration the type of election and needs for their county. NCR understands that each county has its own needs and a one-size-fits-all approach to poll worker training will not properly serve Nebraska counties. However, there are legal protections and requirements that cannot be adjusted on a county-by-county basis. Concerning these legal issues uniformity is required to ensure fairness in election administration, ensure integrity in our democratic process and protect Nebraska voters. Therefore NCR recommends the Secretary of State promulgate uniform poll worker training guidelines that must be used by all county officials with no adjustments or alterations.

NCR Recommendation #7: *Create a Minority Voter Advisory Board to assist the Secretary of State and county election officials with promulgation of materials for minority voters, to facilitate discussion of accessibility of election resources, and to evaluate compliance of election practice and procedures with the Voting Rights Act, Americans with Disabilities Act, etc.*

When the *Help America Vote Act* was implemented, a committee was formed pursuant to federal guidelines to offer assistance and consultation to the Secretary of State in the distribution of *HAVA* dollars. With the depletion of *HAVA* funds, the commissioner will be terminated next year. NCR feels this committee provided significant feedback and guidance to the Secretary of State and this interchange of ideas should be continued beyond

HAVA. NCR recommends an advisory board, similar to the *HAVA* commission, be created and its scope broad to ensure a wide array of assistance to the Secretary of State. Advisory board members should include representatives of the following communities: disabled voters, military/veteran community, limited-proficiency English speakers, youth representatives, former felons, county election officials of different population sizes, Nebraska Legislature, and the Secretary of State's office.

NCR Recommendation #8: *Change the required publication of ballots in newspapers of general distribution in counties from 3 weeks prior to Election Day to start of early voting period, 5 weeks prior to Election Day*

County election officials are required to publish a sample ballot in the newspaper prior to Election Day but are limited in statute to no more than 15 days before. Early and absentee voting has dramatically increased in Nebraska with around 30% of votes cast in 2014 in such a manner. The publication requirement does not serve the 30% of voters that vote early. NCR recommends that the publication requirement be amended to include a required publication in a newspaper of general circulation at the start of the early voting period. In addition to this change in the publication requirement, NCR would encourage the Secretary of State and those county officials with voter registration look-up websites to include a publication of a sample ballot for that voter's precinct in addition to the list of political subdivisions in which that voter resides.

NCR Recommendation#9: *Require the publication of ballots in Spanish in those counties required to provide bilingual election materials pursuant to state and federal law*

Under current law a county official is only required to publish the sample ballot once, no more than 15 days prior to Election Day, in a paper of general circulation. In those counties where election materials are required to be in Spanish, the election notice and sample ballot must also be in Spanish, however there is no provision that ensures the Spanish ballot will be printed in a newspaper of general circulation among the Spanish population. Furthermore, the printing of sample ballots prior to the 15 days is at the county election official's discretion, including those ballots required to be in Spanish. While many English-speaking voters have access online to ballot content during the early voting process, including referendum and ballot initiatives, very few of these resources are available in Spanish or sufficiently distributed where they are most likely to be found. NCR recommends the current statutes be amended to require the publication of an other-language ballot to be in a newspaper of general circulation of individuals who speak that language; and where that is not possible, or it is unlikely, require the county election official to print sample ballots in that language at the start of early voting. NCR also recommends that it be required for the Secretary of State to publish the language of any referendum or ballot initiative in any other language required under the Voting Rights Act.

C. VOTING BEFORE ELECTION DAY

NCR Recommendation #10: *Establish a permanent absentee voting program for voters with disabilities*

Individual counties may choose to establish their own permanent early voting list. To date Lancaster County is the only county that currently administers such a list. Disabled voters face various obstacles to participating in the voting process, with each obstacle unique to their

disabilities. Because of this, no one solution will overcome all possible obstacles for voters of this community. One solution that could ease the burden is to create a permanent absentee list for those individuals with a disability who choose to vote by mail. Such a list will lessen the burden associated with securing, signing and mailing the application every election. NCR recommends such a list be the responsibility of the Secretary of State. Currently the Secretary of State administers the *Address Confidentiality Program*. In this program individuals who have suffered abuse or stalking may apply and, if qualified, may register to vote through the Secretary of State's office and receive mail-ballots for every election. To ensure their safety the Secretary of State keeps a separate list of these individuals to ensure their names are not disclosed to political parties or candidates who request the voter rolls. The administrative tasks associated with this program are similar to those proposed in a permanent absentee list for disabled voters. About nine states allow permanent absentee voter status to individuals who meet specific criteria, like permanently disabled voters or another challenge to reaching a physical polling location.

NCR Recommendation #11: *Allow for early voting on weekends and a process by which county citizens may request weekend early voting from their election official*

Under the *Early Voting Location Act* a county election official may apply to have a satellite early voting location outside of their permanent county election office. It is unclear from the administrative code whether these locations are restricted to those dates and hours kept by the county office, though the availability of a satellite location requires the approval of the Secretary of State. From statute it appears the county officials decide the days and hours of operation of the county election office. NCR recommends clarification be added to the statutes to explicitly allow for voting on weekends.

Concerning the availability of satellite early voting, it is the sole decision of the county election official to submit an application. Given the various ways in which county election officials are placed into office – appointment by the governor, appointment by the county board, election by the county – some opportunity for county voters to petition or request an application be submitted could ensure that the *Early Voting Location Act* can be utilized by voters that want it. It is NCR’s recommendation that this possibility be explored to ensure that voters in rural and urban areas can request relief from distance and travel and have the ability to vote early at a location convenient to them.

D. MILITARY AND OVERSEAS VOTERS

1. No recommendations.

E. ELECTION EQUIPMENT AND VOTING TECHNOLOGY

NCR Recommendation #12: *Require post-election audits and publication of such audits currently performed by Secretary of State’s office on a voluntary basis*

According to the National Association of Secretaries of State, as of 2007, 16 states require some type of post-election audit – Nebraska is not one of these states. Secretary of State John Gale has voluntarily performed such audits of voting tabulation machines; however these audits are not published beyond a press release and are not consistently performed after each election.⁴ Nebraskans for Civic Reform recommends that these audits become general practice to ensure a consistent stream of data. As these voting machines age, audits to ensure their accuracy is necessary to both

⁴ [Nebraska SOS Press Release \(2009\) - Election Audit](#); [Nebraska SOS Press Release \(2013\) - 2012 General Election Audit](#); ; [Nebraska SOS Press Release \(2015\) - Manual Audit](#)

instill confidence in the electorate and notify election officials of the need for repair or replacement.

Two options exist for implementation. The first option would be to codify post-election audits, and require them of each precinct. However, in the responses we received from election officials, some expressed exasperation at the many requirements placed on them. A second option, then, would be to encourage counties to complete audits or continue to complete the audits they are already doing, and use the Secretary of State as a way to gather that information and make it available to the public.

NCR Recommendation #13: *Create an Election Technology Fund and Advisory Board*

Many of the voting machines and equipment currently used in Nebraska elections were purchased with funds provided by the federal government via the *Help America Vote Act*. The U.S. Election Assistance Commissioner on a recent conference call confirmed what many suspected – that no federal funds will be available to replace outdated and dilapidated voting equipment. Nebraskans for Civic Reform recommends the creation of an Election Technology Fund to ensure long-term investment in the modernization of Nebraska elections. Technology has evolved so dramatically since the passage of *HAVA*, particularly in programs available to disabled individuals and online accessibility, that members of the community should be at the table to discuss and weigh options when it is time for decisions to be made as to what technology should be bought. NCR recommends that the Election Technology Fund be tied to an advisory committee that includes representatives from the disability community.

F. COLLECTION AND DISTRIBUTION OF ELECTION DATA

NCR Recommendation #14: *Request the Secretary of State to create uniform forms for the voluntary collection of data, collect data voluntarily provided by county election officers, promulgate and publish a report on the SOS website of data collected*

In statute no provision requires the collection nor submission of election data concerning items such as accessibility of polling locations, wait times, etc.⁵ Reasons for provisional ballot rejections are recorded by county election officials and reported to the Secretary of State, but a report of this information is not promulgated nor published.⁶

While there is no requirement to collect such data, Nebraska county election officials have indicated that they undertake such an endeavor voluntarily. Of the 24 counties that responded to NCR's 2015 County Election Official Questionnaire, 21 counties indicated they do some type of election audit. These audits tend to include activities before elections or on Election Day, such as running test ballots or checking the waiting times at polling places. From the county responses⁷ to NCR's survey it is clear that the content and process of these voluntarily audits are far from uniform and rarely go beyond the confines of the election official's office. Therefore NCR recommends that the Secretary of State provide uniform election audit guides for those county election officials who choose to perform such audits. Only from uniform data can trends and issues in election administration can be identified and separated from isolated incidents. However, the collection of data is not enough, analysis must be performed

⁶ It should be noted that the Secretary of State has provided the provisional ballot information to NCR upon request and NCR has created such reports and provided this information to the Government Committee.

⁷ County responses are provided verbatim in LR 335 Report Appendix C

on the aggregate of data collected. Therefore, NCR recommends that the Secretary of State serve as steward of the information collected by county election officials and promulgate and publish a post-election report from information submitted. Transparency in our election administration fosters confidence in our election process.