



**Testimony in Opposition to LR1CA
Nebraskans for Civic Reform
March 2, 2017**

Nebraskans for Civic Reform (NCR), a nonpartisan nonprofit organization, respectfully submits testimony in opposition of LR1CA, introduced by Senator John Murante for your consideration. The mission of NCR is to create a more modern and robust democracy by removing barriers and increasing access to our democratic institutions. The heart of our opposition to LR1CA lies in the fact that it runs very counter to our mission and to the Nebraska Constitution.

Let us start from a point on consensus: The right to vote is fundamental, vital to our democracy, and should be preserved for every eligible Nebraskan. We should invest the Legislature's time and enact policies that protect this fundamental right for every eligible Nebraskan. So the question before the committee today is "Is LR1CA such a policy

The purported purpose of LR1CA is to reinstate voter confidence in our election system and preserve the relative power of each eligible citizen's right to vote. We pose this question to the committee: How can a photo ID requirement achieve those aims when it has the capacity to disenfranchise eligible voters in Nebraska? How does it modernize the election infrastructure in the state if millions of dollars have to be redirected to provide free IDs to voters? How does it combat voter fraud when it only addresses in-person voter impersonation, a rare form of voter fraud, and one Nebraska election officials have stated does not exist in Nebraska?

In short, it doesn't.



I. LR1CA in direct conflict with Article I, Section 22 of the Nebraska State Constitution.

In the Nebraska Constitution it clearly states that elections shall be free and that no qualified voter should experience a hindrance or impediment when exercising their right to vote.¹ However, should voters authorize the Legislature to construct and implement a system to require a photo ID, the Legislature would be tasked with passing legislation that would, on its face and in its execution, violate the Nebraska Constitution.

Current laws requiring voter registration are constitutionally permissible under the theory that voter accessibility must be balanced with election administration. While a voter may register at the DMV in tandem with their driver's license application, and thus required to present additional documentation, it was constructed for the ease of the voter and not the sole method of registration. Voters may still mail in a registration form, register online, or visit their county election official to register.

Requiring "voters present identification that contains a photograph or digital image of the voter prior to being able to vote" creates a system where a voter incurs a cost to obtain a photo ID or the documents necessary to obtain a photo ID.² Senator John Murante in various articles stated that

¹ Nebraska State Constitution, Article I, Section 22. "All elections shall be free; and there shall be no hindrance or impediment to the right of a qualified voter to exercise the elective franchise"

² To acquire a Nebraska driver's license or state ID card an individual requires (1) identify, proof of citizenship and (2) principal address verification. One document that can be used for identity is a birth certificate issued by the state government office or out of state license that has a Real ID indicator on it. The cost to obtain a birth certificate in Nebraska



free IDs would be provided and that all eligible voters would be able to obtain the necessary ID to vote. This has not been the case in states with voter ID laws. A 2016 investigation by *VoteRiders*, a nonprofit organization that assists voters in obtaining the proper identification to vote in Wisconsin, discovered rampant misinformation from the Wisconsin DMV and that the promise that “it would take one trip and be free” was not being honored by the state.³ Furthermore, states implementing voter ID laws have consistently run into problems funding the policy.

Indiana initially estimated about \$700,000 annually to provide free IDs to low-income individuals and those without the required identification.⁴ The state ended up having to appropriate funds in excess of the \$700,000 estimate and took a significant hit in lost revenue. In 2010, Indiana expended \$1.3M in production costs and lost \$2.1M in revenue in 2010. From 2007 – 2010, Indiana’s Bureau of Motor Vehicles issued 771,017 free photo IDs at a total cost of over \$10 million.⁵ Missouri, a state where a constitutional amendment was just passed, is facing similar budget uncertainty in implementing their voter ID proposal.⁶ But, at least Missouri’s constitutional amendment included

is \$17 and limited only to births occurring in Nebraska since 1904.

<http://www.dmv.nebraska.gov/examining/pdf/verificationdocs.pdf>

³ Berman, Ari. “Wisconsin is Systematically Failing to Provide the Photo IDs Required to Vote in November”, *The Nation*, 9/29/2016. Last accessed 3/2/16. <https://www.thenation.com/article/wisconsin-is-systematically-failing-to-provide-the-photo-ids-required-to-vote-in-november/>

⁴ IN SBo483 Fiscal Impact Statement, Indiana State Senate, 2005.

⁵ Jeremy Burton, Help America Vote Act outreach manager with the Indiana Secretary of State’s office.

⁶ Jackson, Dylan. “True cost of Missouri voter ID still unknown”, *The Missourian*. 2/20/2017. Last accessed 3/2/2017.

http://www.columbiamissourian.com/news/state_news/true-cost-of-missouri-voter-id-law-still-unknown/article_e6f70756-f3ba-11e6-a0d2-ef7515fa8c92.html



permissive language, giving the legislature the authorization to create such legislation, not forcing it to do so.⁷

II. **The integrity of Nebraska elections will be diminished by LR1CA**

Low voter turnout in Nebraska should not be attributed solely to a lack of voter confidence and certainly should not be the entire foundation for implementing a policy that has been shown to bar eligible voters from casting a ballot, thus directly depressing turnout. In interviews with voters that did not cast a ballot, Nebraskans for Civic Reform has found that many voters were not happy with the candidates available or could not get to the polls on Election and were not aware of the ability to vote by mail.

As to the reasons and examples of low voter confidence provided by Senator Murante, rumors of Russian hacking and financial support for a recount in Wisconsin⁸, neither of these would be calmed by a voter ID law. First, hacking of voting systems is not possible in Nebraska as we use paper ballots that are counted by vote tabulators that are not connected to the internet and therefore not susceptible to hacking. Second, Wisconsin currently had a voter ID law in effect

⁷ Amendment 6 added Sec. 11 to Art. VIII of the Missouri Constitution: A person seeking to vote in person in public elections may be required by general law to identify himself or herself and verify his or her qualifications as a citizen of the United

⁸ “Voter’s belief that their vote is being counted accurately, that election results actually reflect who the voters voted for is at an all-time low”. Knapp, Fred. “Voter ID, Partisanship Divide Nebraska Lawmakers”, NET. Last accessed 3/2/17.

<http://netnebraska.org/article/news/1057625/voter-id-partisanship-divide-nebraska-lawmakers>



during the 2016 election where real evidence exists that eligible were unable to or experienced significant impediments in trying to obtain the proper identification to vote.⁹

Secretary of State John Gale has testified before the Government, Military, and Veterans Affairs Committee on numerous occasions that there is no voter fraud in Nebraska.¹⁰ Secretary Gale's assertion is corroborated by a study conducted by Professor Justin Levitt of Loyola University. In his national study, Professor Levitt identified, of more than 1 billion ballots cast in primary, general, and municipal elections, only 31 incidents of in-person voter impersonation – the only voter fraud prevented by voter ID.¹¹ Of these 31 incidents, Professor Levitt asserts that only 9 incidents could have been prevented by a voter ID law.

Since 2012, Nebraskans for Civic Reform has sent nonpartisan election observers to polling places across Nebraska. Affirming Secretary Gale's statement, none have witnessed a voter being turned

⁹ Ollstein, Alice Miranda. "This is how hard it is to get a voter ID in Wisconsin", *Think Progress*. <https://thinkprogress.org/this-is-how-hard-it-is-to-get-a-voter-id-in-wisconsin-8be821ef8a88#.n8r6ffqqs>; Berman, Ari. "Wisconsin is systematically failing to provide the photo IDs required to vote", *The Nation*. <https://www.thenation.com/article/wisconsin-is-systematically-failing-to-provide-the-photo-ids-required-to-vote-in-november/>; Hall, Dee J. and Doug Erickson. "State has no budget for voter ID, agencies says", *Wisconsin State Journal* 9/21/2014. http://host.madison.com/wsj/news/local/govt-and-politics/elections/state-has-no-budget-for-voter-id-agencies-say/article_b5e728ea-9148-5128-bd38-2639fd4412e5.html

¹⁰ Committee Hearing, LB 318 (2013; Submitted testimony, LB 111 (2015)

¹¹ Levitt, Justin. "A comprehensive investigation of voter impersonation finds 31 credible incidents out of one billion ballots cast", *Washington Post*, 8/6/2014. *Last accessed 3/2/2017*. Professor Leveit defines "incidents" as any "specific, credible allegation that someone may have pretended to be someone else at the polls". https://www.washingtonpost.com/news/wonk/wp/2014/08/06/a-comprehensive-investigation-of-voter-impersonation-finds-31-credible-incidents-out-of-one-billion-ballots-cast/?utm_term=.f7693d7fea54



away because an individual impersonated them and voted earlier in the day. However, they have witnessed the following issues that do undermine voters confidence in our elections:

- Polling places being moved without proper notice in Douglas County
- Poll workers asking for voter identification numbers in South Omaha
- Poll worker asking a minority for their ID to vote because they registered to vote online (not permitted in statute), but not asking her Caucasian husband or friend, who also registered to vote online
- Precincts in North Omaha running out of provisional ballots and voters having to wait over 30 minutes for more to be delivered (2016, General)
- Precincts in Douglas County running out of ballots (2012, General)
- AutoMARK machines not set up for early voting and voters with visual disabilities being turned away (General, 2012)
- Ballots rejected for lack of signature with no notice of opportunity to remedy and not offering office hours after work or on weekends (General 2016)
- Nonpartisan voters being told they cannot vote in the primary election and turned away (2016, Primary)
- Voters attempting to request a mail ballot by sending their request with a valid signature electronically, as allowed under statute, being rejected and told not a viable method of application



Improvements can and should be made to address these issues and improve voter confidence, but voter ID and LR1CA are not the solution and, in fact, may exacerbate the problem. A 2014 study released by the U.S. Government Accountability Office reviewed the impact of voter ID laws on voter turnout, finding a drop in voter turnout where voter ID was in place among registrants 18 to 23, those that has been registered less than one year, and African-American registrants.¹² A recent *Washington Post* article addressed the plethora of research on the accessibility of photo IDs and lack of evidence of voter fraud. The authors of the article also authored an academic study that examined who is impacted by voter ID laws. Their results were disturbing, finding a significant drop in minority participation when and where strict voter ID laws are in place.¹³ Anecdotal evidence of the impact of voter ID laws on individual voters and election officials in different states is included below:

- **Wisconsin:** 84-year-old woman who has been voting since 1948 is no longer eligible to vote in Wisconsin due to lack of photo ID. Although she tried to obtain a state issued ID card, she was unable to do so because her birth certificate was unrecoverable.¹⁴ Another 90-year-old woman was turned away from the polls for similar reasons. Requiring a photo ID will negatively hurt some voters

¹² Elections: Issues related to state voter identification laws [Reissued on February 27, 2015] GAO 14-634: Published: Sept. 19, 2014, Publicly Released: Oct. 8, 2014. <http://www.gao.gov/products/GAO-14-634>

¹³ Hajnal, Zoltan L., Nazita Lajevardi, and Lindsay Nielson. "Do voter identification laws suppress minority voting? Yes. We did the research", *Washington Post*, 2/15/2017. Last accessed 3/2/2017. <https://www.washingtonpost.com/news/monkey-cage/wp/2017/02/15/do-voter-identification-laws-suppress-minority-voting-yes-we-did-the-research/>

¹⁴ ARTICLE: The Right to Vote Under State Constitutions, 67 Vand. L. Rev. 89, 92



- **Missouri:** County election officials reported being on the phone all day with would-be voters who were no longer on the voter rolls because they had not voted in the past two years.¹⁵ It is anticipated that the number of voters turned away at the polls will increase with the passage of Amendment 6 last year. In 2014, the Missouri Secretary of State estimated 220,000 registered voters in the state lack the required photo ID – roughly 10% of the votes cast in the 2012 presidential election.¹⁶
- A student at Texas State University in San Marcos was denied a ballot because her name was misspelled on her University issued ID. She was not even offered a provisional ballot. An 83-year-old African-American man was turned away from the polls, even though he had a veteran’s ID card, voter registration card and his expired driver’s license. Lacking a birth certificate, he was unable to obtain a new photo ID. Although he was known by the poll workers, they had to turn him away.¹⁷

Nebraska lawmakers have a responsibility to fully evaluate the impact legislation could have on Nebraskans and while putting an issue to the voters is one method of getting the opinion of roughly 40-60% of registered voters, it is not conducive to ensuring that laws enacted do not harm or prevent eligible voters from casting a ballot. Academic studies, news articles and litigation from other states, and individuals testifying before the committee is evidence that a voter ID law will

¹⁵ Zagame, Kristina “Some Buchanan County voter turned away at the polls”, KQ2 News, 11/8/2016. Last accessed 3/2/2017. <http://www.stjoechannel.com/news/local-news/some-st-joseph-registered-voters-turned-away-at-the-polls/606780414>

¹⁶ Rios, Edwin. “Missouri becomes the next state to enact voter ID Law”, Mother Jones. 11/8/2016. Last accessed 3/2/2017. <http://www.motherjones.com/politics/2016/11/missouri-revive-voter-id-law>

¹⁷ Court Strikes Down Texas Voter ID Law – What’s Next? <http://www.pbs.org/wgbh/frontline/article/court-strikes-down-texas-voter-id-law-whats-next/>



negatively impact eligible Nebraska voters. Pair that with the fact it does not address real issues that need to be addressed in Nebraska and it should be obvious that LR1CA is not good policy.

III. LR1CA not a solution to the issues that plague our election systems

As noted previously, implementing a photo voter ID law will cost the state money and reduce revenues. Currently an estimated 200,000 individuals in Nebraska do not have a Nebraska driver's license, providing free ID cards to these individuals will cost the State roughly \$5.2 in lost revenue over a 5 year period.¹⁸ Were Nebraska to provide free ID and driver's licenses to current holders, the State would need to appropriate over \$37.7 million to cover lost revenues. The General Fund would lose \$16.8 million and would have to appropriate an additional \$20.9 million to the DMV Cash Fund to cover expenses. The counties would also lose revenue, having to absorb approximately \$5.1 million loss over 5 years statewide. In addition to the cost of providing free IDs as promised by Senator Murante, education funding would need to be appropriated. In 2015 Secretary Gale estimated \$300,000 to cover expenses though a larger investment should be made.

In 2016, the Legislature created the Election Technology Committee that studied the longevity and cost of updating current election equipment. The Committee report estimated roughly \$25 to \$30 million" with a prudent course of "appropriating \$2.5 million annually to the fund beginning this

¹⁸ From every \$26.50 collected by the DMV, \$3.50 is directed to the county's cash fund. For 2015, counties would have seen \$1.1M in lost revenues from Class O license and state ID card fees. Revenue loss over a 5 year period (2011 - 2015) would have been approximately \$5,047,565. Estimated numbers based on DMV annual reports 2011 - 2015 and data from the U.S. Census Bureau.



year”.¹⁹ This is the investment necessary to modernize our election systems, not LRICA. Furthermore, investments should be made in voter registration maintenance and software to allow Nebraska to join Election Research Information Center (ERIC), a member-based organization of states that share data to accurately match and remove voters as they move between states to ensure the integrity and accuracy of the states’ voter registration lists. These are investments and policies that will address issues with our election systems, remove those problems that cause voter confidence to wane, and will do so without jeopardizing an eligible voter’s ability to cast a ballot.

¹⁹ Election Technology Committee Report, 2016, page 23.