

VOTE NEBRASKA INITIATIVE REPORT

December 31, 2004

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Executive Summary

The information contained in this report is the findings of the Vote Nebraska Initiative, a task force created by the Nebraska Legislature. The focus of the Initiative is to examine why voter turnout continues to decline, what voter education resources exist, what resources should be established to engage the voter and encourage voter turnout among minority and young voters, what roles the media and schools play in voter education and what the media and schools can do to increase voter education. The makeup of the task force was laid out in the legislation to represent various interest groups and populations within the Nebraska citizenry.

The recommendations here are not extensive but are the result of much debate, discussion and research. There are certainly other issues which could have been addressed, but simply were not seen as so pressing in Nebraska as in other states, such as whether to consider internet voting for statewide primary elections, or to go to all electronic voting systems without any paper ballots, or whether to adopt an all mail-in ballot system like Oregon.

The proposed recommendations are as follows:

- Recommendation I - The language of “absentee voting” should be replaced by “early voting” in all election and voting materials, including Nebraska state statute. Final vote 15 Yes, 0 No.
- Recommendation II - The Secretary of State’s office should voluntarily prepare voter registration instructions in languages based upon the larger second language populations in Nebraska which can be used by non-governmental organizations, news media, local election officials and others as educational tools to stimulate voting among non-English speaking citizens of Nebraska. Final Vote: 12 Yes, 3 No.
- Recommendation III - The Nebraska Legislature and the Nebraska Department of Education are encouraged to develop and implement a program for K-12 civics education as a part of the Nebraska State Social Studies Standards. Final Vote: 15 Yes, 0 No.
- Recommendation IV - The Secretary of State should facilitate the creation of a statewide website devoted to voter education and civic participation prior to the 2006

elections. This should be an independent site with useful links and downloadable materials. Final Vote: 15 Yes, 0 No.

- Recommendation V - The Nebraska Legislature should oversee and fund the formation of a Statewide Advisory Committee and/or Civic Education Task Forces that would encourage and help facilitate civic engagement programs. Final Vote: 10 Yes, 5 No.
- Recommendation VI - The Secretary of State's office should maintain a continuing interest in internet voting for elections in the future, but at present, such a system not be considered as secure, accountable, reliable or voter verifiable. Final Vote: 13 Yes, 1 No, 1 Pass.
- Recommendation VII - A plan should be developed by the Secretary of State and the Nebraska Legislature to allow satellite voting once the statewide interactive voter registration system is implemented, and the state acquires voting equipment under HAVA as needed for handicapped and visually impaired voter accessibility. The committee recommends that a plan of rotation be devised that meets the test of fairness and equal protection under the laws. Final Vote: 14 Yes, 1 No.
- Recommendation VIII - The Secretary of State should consider the arguments for and against Direct Recording Electronic (DRE) systems, and determine to the best of his ability and of his election office, whether such systems can be tested and certified to overcome the various objections raised by the academic studies and task force reports undertaken by other secretaries of state. As part of that review and study, the Secretary of State should weigh the other emerging technologies, such as the Automark and other similar equipment, which maintain a paper ballot for recount purposes, but are compatible with the optical scan systems in place for 85% of Nebraska voters. Final Vote: 15 Yes, 0 No.
- Recommendation IX - Legislation should be introduced to allow for same day voter registration in Nebraska. A minority report is included opposing this recommendation. Final Vote 9 Yes, 6 No.
- Recommendation X - Legislation or a constitutional amendment should be introduced allowing for the automatic restoration of voting rights to a person who has been

convicted of a felony crime immediately upon completion of his/her sentence. Final Vote 12 Yes, 2 No.

- Recommendation XI - The Nebraska State Constitution prohibits voting by persons who are “non compos mentis”, but does not define the term. The task force recommends that the Legislature should study the issue of regulating voting by those with diminished mental capacity. A minority report is included opposing the elimination of the constitutional language as favored by many committee members. Final Vote: 14 Yes, 0 No.
- Recommendation XII - Legislation should be proposed that would amend current mail-in provisions for local special elections. The legislation would allow the county election official, rather than the political subdivision, to choose the method of election (mail-in versus traditional precinct voting) following a review of the costs of the election and expected voter turnout. Final Vote: 15 Yes, 0 No.
- Recommendation XIII - The Secretary of State should propose legislation that mirrors that of other states currently permitting voted ballots to be sent electronically by overseas military and civilian personnel, with appropriate protections for identity. Final Vote: 12 Yes, 2 No.
- Recommendation XIV - The Secretary of State should include a Personal Identification Number (PIN) field in the statewide voter registration system. The PIN could be used to verify a person’s identity during either the voting or registration process as alternative voting methods become safe, reliable, secure, and voter verifiable. Additionally, the Legislature should adopt any necessary legislation to facilitate such use of a Personal Identification Number by the Secretary of State. Final Vote: 11 Yes, 4 No.
- Recommendation XV - The Secretary of State’s office should formally survey each county to determine whether the polling sites within that county are ADA compliant. The local election official should be required to certify the results of the survey to the Secretary of State. Final Vote: 14 Yes, 0 No.
- Recommendation XVI - The Secretary of State’s office should work with the major political parties of Nebraska to encourage the use of a caucus system for the selection of Presidential nominees, separate and distinct from the Nebraska primary in May.

These caucuses should be held early enough in the primary/caucus season to encourage candidates to visit Nebraska thereby engaging Nebraska voters. The Legislature should adopt legislation necessary to facilitate this change. Final Vote: 12 Yes, 3 No.

INTRODUCTION

The passage of the Help America Vote Act by Congress in 2002, following the presidential general election of 2000, has fueled a nationwide inventory of election procedures and equipment. The problems highlighted in Florida in 2000 have led to increased scrutiny of election offices at every level of government. With the focus on the procedural and technological aspects of voting, one question remains to be answered? How to reinsert the American citizenry into the voting booth?

Over the past forty years, voter turnout on a national level has declined from 62.8% in the 1960 presidential election (Kennedy v. Nixon) to 51.0% in the 2000 presidential election (Bush v. Gore). Turnout in Nebraska has always exceeded the national average, but yet has experienced a decline of similar proportion to that on the national level.

With this knowledge and renewed interest in the election process, the Nebraska Legislature passed LB 358 in 2003 forming the Vote Nebraska Initiative. A copy of the legislation is included in Appendix I. The bill provided for Secretary of State John Gale and Chair of the Legislature's Government, Military and Veterans Affairs Committee Senator DiAnna Schimek to be joined by two people employed by the media, two members of the minority community, up to three residents of the Nebraska, three teachers employed by public schools, one representative of postsecondary education, a member of the League of Women Voters, three election commissioners or county clerks, one member of the Democratic Party and one member of the Republican Party. The members of the Initiative are listed on page five of this report.

The focus of the Initiative is to examine why voter turnout continues to decline, what voter education resources exist, what resources should be established to engage the voter and encourage voter turnout among minority and young voters, what roles the media and schools play in voter education and what the media and schools can do to increase voter education.

The Initiative met 13 times beginning in October 2003. The entire committee spent over 60 hours hearing testimony from the public and staff and discussing the various issues before the group. The members also met separately as subcommittee

groups. Minutes from the meetings are available in the office of the Secretary of State for review.

The basic framework of each of the meetings consisted of addressing a broad topic by beginning with a briefing of associated issues by staff, followed by testimony by invited guests and finished with testimony from the public and a discussion on the topic. From these meetings, recommendations were developed and discussed in detail and finalized at meetings in November and December, 2004.

The list of the testifying witnesses is available on page nine of this report. A brief description of their testimony is included in the summary of information reviewed section of the report beginning on page ten.

This report is divided into sections addressing each of the recommendations made by the Initiative. Accompanying each recommendation is some background on the discussion and issues addressed by the Initiative.

INITIATIVE MEMBERS

Honorable John A. Gale, Secretary of State and VNI chairperson

Honorable DiAnna Schimek, Nebraska State Senator and VNI vice chairperson

Ms. Kay Forslund, Sarpy County election commissioner

Ms. Diane Olmer, Platte County election commissioner

Ms. Beth Fiegenschuh, Cheyenne County clerk

Mr. Robert Sankey, mid-level educator

Dr. Ted Larson, high school educator

Dr. John Comer, college educator

Mr. Greg Jackson, Nebraska Broadcasters Association

Mr. Zean Carney, Nebraska Press Association

Dr. Bill Avery, Nebraska Democratic Party

Mr. Scott Lautenbaugh, Nebraska Republican Party

Ms. Karren Kerr, Nebraska League of Women Voters

Mr. Rudy Smith, citizen

Brigadier General Walter Zink, citizen

Mr. Gary Hill, citizen

Ms. Cecilia Olivarez Huerta, citizen

Mr. Jason Hayes, citizen

INFORMATION FOR VOTERS

The committee saw opportunities for improvement in the area of distributing information to voters. The members felt that an increase in the amount of information in the public forum will result in an increased participation by citizens.

RECOMMENDATION I

The language of “absentee voting” should be replaced by “early voting” in all election and voting materials, including Nebraska state statute.

The term absentee voting implies to citizens that they must either be absent from their home on Election Day, or have a reason which precludes them from going to their polling place. The restrictions on voting early were removed from Nebraska statute in 1999. The intention was to allow any voter the opportunity to vote either via mail or at the office of the county official simply because they chose to do so. A similar movement on the national level is being seen in other states. In the 2000 election cycle, only 11 states allowed “no excuse” absentee ballots. In the 2004 election cycle, that number increased to over 30 states with such provision. The trend is to use the term “absentee” only in the instances where a voter must meet a requirement of being registered in order to vote, as well as providing a reason for voting before Election Day. Both of the major political parties are actively promoting early voting by their constituencies. In the 2004 election cycle, Washington saw 50% of early voting and Florida saw 33% of early voting. Nebraska only experienced about 16% early voting. The committee felt that while some voters are aware of this change, the continued use of the term absentee voting does not accurately reflect the current process. The members also believe that using the more accurate and inclusive term of early voting will result in more people participating in the process, thereby increasing voter turnout.

Final Vote:

15 Yes: Secretary Gale, Senator Schimek, Ms. Olivarez Huerta, Ms. Olmer, Ms. Forslund, Ms. Kerr, Ms. Fiegenschuh, Mr. Hill, Mr. Hayes, Mr. Lautenbaugh, Mr. Carney, Mr. Sankey, Dr. Larson, Dr. Avery, Dr. Comer

RECOMMENDATION II

The Secretary of State’s office should voluntarily prepare voter registration instructions in languages based upon the larger second language populations in Nebraska which can be used by non-governmental organizations, news media, local election officials and others as educational tools to stimulate voting among non-English speaking citizens of Nebraska.

The committee felt that it is important to recognize that Nebraska is experiencing a rapid increase in ethnic diversity, especially of new immigrants. This diversification continues to increase the number of languages spoken in Nebraska. The committee encourages the Secretary of State’s office to recognize that as recent immigrants become citizens, they still struggle with the English language in unusual situations, such as ballot language and voting instructions. Creating instructions for registering to vote in as many languages as are practicable will help reach new voters. These instructions would assist citizens whose primary language is not English with completing the form correctly. The instructions would also be useful to organizations who work with new citizen and English as second language communities. The goal is to increase participation by reducing the language barrier among these populations.

Final Vote:

12 Yes: Secretary Gale, Senator Schimek, Ms. Olivarez Huerta, Ms. Forslund, Ms. Kerr, Mr. Hill, Mr. Hayes, Mr. Carney, Mr. Sankey, Dr. Larson, Dr. Avery, Dr. Comer

3 No: Ms. Olmer, Ms. Fiegenschuh, Mr. Lautenbaugh

RECOMMENDATION III

The Nebraska Legislature and the Nebraska Department of Education are encouraged to develop and implement a program for K-

12 civics education as a part of the Nebraska State Social Studies Standards.

The committee felt strongly that one of the most effective ways to increase voter turnout is to increase education and interest in the process early in life. A 2003 survey by the National Conference of State Legislatures showed that 64% of 15 to 26 year olds reported having taken a high school course on civics or American government. Those who have done so are much more likely to believe they are personally responsible for making things better for society and have a more expansive concept of the qualities of a good citizen. On the importance of voting, for example, there is a 24 point spread between those who have taken a government class and those who have not. The same study showed that nine out of 10 Americans say that it is important for high schools to teach civics and government. However, there is no question that the teaching of civics, rather than history or government has steeply declined. In 1958, over half of all students in the nation were required to take civics in high school. By the 1990s, that number had fallen to 10%.

The committee did not find evidence of a consistent civics education standard across the state and so recommends the development and implementation of such a standard. This should include curriculum that is appropriate for all grade levels from kindergarten through twelfth grade. The Secretary of State's office should continue with the support of the Student Vote program as part of this curriculum.

Final Vote:

15 Yes: Secretary Gale, Senator Schimek, Ms. Olivarez Huerta, Ms. Olmer, Ms. Forslund, Ms. Kerr, Ms. Fiegenschuh, Mr. Hill, Mr. Hayes, Mr. Lautenbaugh, Mr. Carney, Mr. Sankey, Dr. Larson, Dr. Avery, Dr. Comer

RECOMMENDATION IV

The Secretary of State should facilitate the creation of a statewide website devoted to voter education and civic participation prior to the 2006 elections. This should be an independent site with useful links and downloadable materials.

Several states have undertaken projects to create websites that provide one repository for a citizen to learn all that they can about the process of elections. The committee felt that a website for Nebraska citizens that contained both general information on the processes of registration and voting as well as specific information on upcoming elections and candidates would be a great asset. A presence on the World Wide Web would provide an easily accessible link to an increasingly web savvy society, especially younger voters. The design of the website should be appealing to younger voters, while maintaining current information and easy site navigation.

Final Vote:

15 Yes: Secretary Gale, Senator Schimek, Ms. Olivarez Huerta, Ms. Olmer, Ms. Forslund, Ms. Kerr, Ms. Fiegenschuh, Mr. Hill, Mr. Hayes, Mr. Lautenbaugh, Mr. Carney, Mr. Sankey, Dr. Larson, Dr. Avery, Dr. Comer

RECOMMENDATION V

The Nebraska Legislature should oversee and fund the formation of a Statewide Advisory Committee and/or Civic Education Task Forces that would encourage and help facilitate civic engagement programs.

The committee believes that continued input from the public on the proposed recommendations would be a positive step. The formation of a statewide advisory committee to assist in the implementation of these recommendations would provide such input as well as assisting in the production of materials and direction for county level Civic Education Task Forces. These county level bodies would work at the community level to increase civic engagement and education.

Final Vote:

10 Yes: Secretary Gale, Senator Schimek, Ms. Olivarez Huerta, Ms. Kerr, Mr. Hill, Mr. Carney, Mr. Sankey, Dr. Larson, Dr. Avery, Dr. Comer

5 No: Ms. Olmer, Ms. Forslund, Ms. Fiegenschuh, Mr. Hayes, Mr. Lautenbaugh

ACCESSIBILITY TO THE ELECTION SYSTEM

The task force was particularly concerned with ensuring that voters had least restrictive access to the voting system and were fairly and uniformly treated. Many elements fell under the broad category of accessibility. This topic included restoration of voting rights, polling place accessibility and the expansion of methods of voting.

RECOMMENDATION VI

The Secretary of State's office should maintain a continuing interest in internet voting for elections in the future, but at present, such a system not be considered as secure, accountable, reliable or voter verifiable.

Voting via internet is a method of great interest to many citizens. The 2003 NASIS results showed that 73.2% of respondents agreed that more people would vote if they could do so via the internet. This sentiment received the greatest response among the respondents between the ages of 19 and 44. Following the 2000 presidential election the entire election system used across America came under intense scrutiny. Older methods of voting such as punch card equipment and lever action equipment were highly criticized for their inaccuracy, unreliability and high percentage of error. While the overall rate of over votes and under votes in the United States averaged 2-3%, there were counties in that presidential election where the ballot discard rate exceeded 5-6%. In addition, due to the aging of such equipment, it appeared to require more maintenance and was more subject to breakdown. Numerous national governmental and non-profit organizations studied and made suggestions on how to improve elections in America. While internet voting was discussed as a method of voting in the future, there were no task force reports from the mainstream studies that suggested internet voting as an immediate answer or solution. The reservations ranged from susceptibility of such a method to hacking and to viruses, as well as the lack of any adequate security program to assure completely fail-safe national system standards that would permit certifiable election results; another question was the ability to properly identify the computer voters to avoid duplication of votes or to prevent voter fraud; finally, there was the question of

whether any current system of internet voting would provide a reliable method of recounting ballots cast.

While Internet Voting may be possible in the future for general elections, it is only being used today for a few select party primaries in states such as New Mexico and Michigan. The nation is probably some ten to fifteen years away from undertaking the use of such a method for general elections. Security, equipment and security costs, and voter fraud issues, must first be resolved with the confidence of the voting public. The committee felt that internet voting will become a reliable method in the future, and encourages the Secretary of State to remain informed on the technological developments associated with internet voting.

Final Vote:

13 Yes: Secretary Gale, Senator Schimek, Ms. Olivarez Huerta, Ms. Olmer, Ms. Forslund, Ms. Kerr, Ms. Fiegenschuh, Mr. Hill, Mr. Carney, Mr. Sankey, Dr. Larson, Dr. Avery, Dr. Comer

1 No: Mr. Hayes

1 Pass: Mr. Lautenbaugh

RECOMMENDATION VII

A plan should be developed by the Secretary of State and the Nebraska Legislature to allow satellite voting once the statewide interactive voter registration system is implemented, and the state acquires voting equipment under HAVA as needed for handicapped and visually impaired voter accessibility. The committee recommends that a plan of rotation be devised that meets the test of fairness and equal protection under the laws.

The committee has given significant time to the idea of moving beyond the traditional and almost universal system of voting, whereby voters are required to go to their voting precincts in order to cast their ballots. Briefly described, the traditional system works as follows: each precinct is customarily staffed with trained poll workers and precinct election judges who insure that the registration of voters is checked and

confirmed; that the voters receive the proper official ballots and are instructed on how to complete the ballots and cast their ballots; and that the cast ballots are properly secured and delivered to the central election office for tabulation. The current exceptions to this process are these: 1) for voters to cast absentee ballots prior to the election, which ballots are returned to the county central election office for processing; and 2) for voters to come to the central election office prior to the election and both register to vote and vote, or confirm their registration and cast their vote. In current pilot projects, early voters in Lancaster and Douglas counties can use DRE equipment; the county election offices tabulate the electronic votes and include them in the final tabulation. The fact that DRE equipment can produce thousands of ballot faces, it makes a fairly smooth process for the voter to register, or to have their registration confirmed, and then their precinct confirmed and a proper electronic ballot created for their use.

In light of the movement in our society toward “one stop shops”, the committee discussed and debated the possibility of Nebraska adopting by legislation a new method of voting, namely “satellite voting”. The concept is that DRE equipment or laptops plus printers could be taken to locations where concentrations of the voting population may gather, and using trained workers, confirm registration or take new voter registrations, and then produce the proper precinct ballot for the use of each such voter. Such locations could be shopping malls, hospitals, college campuses, large assisted living or senior centers, large high schools or government buildings. Obviously, the counties could not cover every such facility prior to an election, and would therefore need to create a plan that is fair and equitable to all areas of the county, together with a public schedule of locations and times when such “satellite voting” equipment would be made available. Counties might specifically schedule areas of the county where voter turnout has traditionally been low in order to attempt to improve voting in those areas.

With the HAVA mandate of a statewide, interactive voter registration system, which must be implemented by January 1, 2006, information will be as real time as possible, so that using laptops to access the centralized voter registration system for “satellite voting” becomes very practical. Having such equipment and trained workers at places that are convenient to voters at places where they gather, it may help eliminate some of the excuses heard by non-voters that voting is: 1) inconvenient due to the time

required to drive, park and wait in lines at polling sites; 2) not easily accessible due to confusion about location of polling sites; 3) hard to schedule because of work and family obligations on election days. States that have such early voting provisions are: California, Arizona, Hawaii, New Mexico, and North Carolina.

The committee discussed satellite voting as a way to encourage those who are in populations less likely to vote or in areas less likely to vote to participate in the system. The 2003 NASIS results showed that 83.9% of 19-24 year old respondents believed that more people would vote if they could vote somewhere other than their polling place. The committee did express concern over placement of the early satellite voting locations, and the effects that placement may have upon turnout. It is noted in the recommendation that the developed plan should include rotation of locations to address issues of fairness and equal protection.

Final Vote:

14 Yes: Secretary Gale, Senator Schimek, Ms. Olivarez Huerta, Ms. Olmer, Ms. Forslund, Ms. Kerr, Ms. Fiegenschuh, Mr. Hill, Mr. Hayes, Mr. Carney, Mr. Sankey, Dr. Larson, Dr. Avery, Dr. Comer

1 No: Mr. Lautenbaugh

RECOMMENDATION VIII

The Secretary of State should consider the arguments for and against Direct Recording Electronic (DRE) systems, and determine to the best of his ability and of his election office, whether such systems can be tested and certified to overcome the various objections raised by the academic studies and task force reports undertaken by other secretaries of state. As part of that review and study, the Secretary of State should weigh the other emerging technologies, such as the Automark and other similar equipment, which maintain a paper ballot for recount purposes, but are compatible with the optical scan systems in place for 85% of Nebraska voters.

Ever since the passage of the Help America Vote Act of 2002, a debate has ensued over the provisions that dealt with methods of providing the physically handicapped and the visually impaired with voting systems that would secure to them the right of a private, unassisted ballot. During the debates in the U.S. Congress, the disability communities were very vocal and focused about achieving the status of first class citizens. There was much debate about the problems with elections in most every state, ranging from lack of access to many voting precinct facilities for the disabled community, to the need for poll worker assistance for the casting of ballots whereby the ballot choices of the disabled voter then became known to other persons, to the discouragement from voting for members of the disabled communities because of the challenges faced by them from access to proper assistance to the embarrassment of requiring special needs that local election officials were impatient about providing. Considering that the disabled and visually impaired communities have been estimated to constitute some 30 million voting age Americans, something clearly needed to be done.

DRE was accepted by HAVA as an appropriate remedy and therefore states were authorized to use HAVA funds to provide such electronic voting equipment to replace the old punch card and level action equipment, and funds were provided to the states to buy out these older systems so the newer DRE systems could replace them. At the very least, each voting precinct was required to provide by January 1, 2006, a piece of equipment whether DRE or otherwise that would accommodate the disabled communities, and allow them to vote a private, unassisted ballot.

The debate continues whether such electronic voting equipment provides the ability to reliably recount ballots, as well as whether the DRE systems have proper security codes to preclude fraudulent manipulation by dishonest equipment technicians or corrupt election officials, and finally, whether such equipment should or should not be required to have a voter verifiable paper trail in the event of recounts in close elections.

Secretaries of State across the country are in the midst of this debate, and trying to find reasonable solutions to the suggested weaknesses. Ohio has done an intensive investigation and required all DRE vendors to provide equipment to Ohio counties that would meet the security and reliability standards set by the Secretary of State; California had decided that DRE equipment is not sufficiently reliable, and is unreasonably subject

to fraud, and the California Secretary of State banned the use of DRE equipment that did not meet specified security requirements, despite the protests from some large counties that have had an excellent record of use of DRE equipment. North Dakota has contracted to purchase DRE equipment, but has now requested the vendor to consider substituting a vote tabulation system that has the disability features for a private, unassisted ballot, but actually creates a paper ballot that can be counted with optical scan equipment. Election Systems & Software of Omaha, Nebraska, has begun marketing such equipment under the trade name of AutoMARK™, and other companies are considering this market as well.

The National Association of Secretaries of State (NASS), and the National Association of State Election Directors (NASED), have remained neutral in this frenzied academic and media debate, and relied on the position that despite the critical studies conducted by several academic institutions, focusing on a few isolated issues, one must consider the totality of the election process to determine whether the equipment may be deemed reliable or not. This means the equipment must be tested and certified by independent laboratories, and by each State Election Officer, before any local use can be made of it; this also means adequate election official and poll worker training in any planned use of such electronic election equipment.

The new U.S. Elections Assistance Commission (EAC), created under HAVA to give guidance and advisory assistance to the state and local election officials, will not be able to develop and implement testing standards and a certification process until well after January 1, 2005. This will be too late for states to wait for such guidance and still be able to meet the HAVA deadline of January 1, 2006. By then each precinct is required to have equipment to meet the needs of the disability and visually impaired communities giving them private, unassisted ballots.

As a result, each state must do its best in good faith and with due diligence to design for itself a system that meets the standards of HAVA, maintains the confidence of the voting public, and passes appropriate testing and certifications standards for use. The committee expressed their concern on the issues of security and recountable ballots. They encouraged the Secretary of State's office to research all technology that would

ensure full compliancy while maintaining high standards for certification, testing and recounts.

Final Vote:

15 Yes: Secretary Gale, Senator Schimek, Ms. Olivarez Huerta, Ms. Olmer, Ms. Forslund, Ms. Kerr, Ms. Fiegenschuh, Mr. Hill, Mr. Hayes, Mr. Lautenbaugh, Mr. Carney, Mr. Sankey, Dr. Larson, Dr. Avery, Dr. Comer

RECOMMENDATION IX

Legislation should be introduced to allow for same day voter registration in Nebraska.

There are currently six states that allow voters to register to vote on the day of an election, plus one state that has no voter registration at all. The same day registration states showed a turnout percentage that was on average 14.64 percentage points higher than the national average in the 2000 general election. They also showed an average of a 7.34 percentage point advantage over the national average in the turnout for 18-24 year old voters for the same election. While same day registration presents challenges in the logistical preparation for elections, it also appears to increase voter turnout – especially among the youngest voters. The committee supports the implementation of same day registration in Nebraska.

Final Vote:

9 Yes: Senator Schimek, Ms. Olivarez, Huerta, Ms. Kerr, Mr. Hill, Mr. Carney, Mr. Sankey, Dr. Larson, Dr. Avery, Dr. Comer

6 No: Secretary Gale, Ms. Olmer, Ms. Forslund, Ms. Fiegenschuh, Mr. Hayes, Mr. Lautenbaugh

RECOMMENDATION X

Legislation or a constitutional amendment should be introduced allowing for the automatic restoration of voting rights to a

person who has been convicted of a felony crime immediately upon completion of his/her sentence.

Currently Nebraska has provisions in both the state Constitution and statutes which prohibit felons from voting unless “restored to civil rights.” This restoration currently requires obtaining a pardon from the State of Nebraska Board of Pardons. This process can be so lengthy and overwhelming, that many ex-offenders do not apply for a pardon. The number of disenfranchised Nebraskans has varied in many studies. A 1998 Demos study estimated there to be 11,900 affected Nebraskans, while in 2000 the estimated number was 9,427.

The committee expressed concern that certain communities are more affected by these laws than the average population. The December 2003 MALDEF study reported that nearly 13% of the Latino citizen voting age population in Nebraska is ineligible due to felony disenfranchisement. The 1998 Demos study found that 10.2% of African American men in Nebraska were disenfranchised.

At present time, the State of Nebraska Board of Pardons is considering the issuance of warrants of discharge through an administrative process to allow for the expedited restoration of voting rights. The proposed process would involve the ex-offender making application to the Board of Pardons for a warrant of discharge. At the time of the reception of such application, a criminal history report would be prepared for review by the Board. At a subsequent meeting, the Board would review or make motions on such applications in summary fashion. There would be no hearing or appearance of any applicant or applicant’s representative.

The committee felt that upon completion of their sentence it is important to work with ex-offenders to re-integrate them into society; this includes restoration of voting rights. The members supported the automatic restoration of voting rights through whatever means the Legislature deems suitable.

Final Vote:

12 Yes: Senator Schimek, Ms. Olivarez Huerta, Ms. Olmer, Ms. Forslund, Ms. Kerr, Ms. Fiegenschuh, Mr. Hill, Mr. Hayes, Mr. Carney, Mr. Sankey, Dr. Larson, Dr. Avery

2 No: Secretary Gale, Mr. Lautenbaugh

RECOMMENDATION XI

The Nebraska State Constitution prohibits voting by persons who are “non compos mentis”, but does not define the term. The task force recommends that the Legislature should study the issue of regulating voting by those with diminished mental capacity.

Currently Nebraska has provisions in both the state Constitution and statutes which prohibit persons found to be “non compos mentis” from voting unless restored to civil rights. Nebraska is one of 44 states that have provisions in either their state constitutions or statutes that address voting by those with some degree of diminished mental capacity. It is very rare under current mental health care standards for a patient to be attached with such a label. Those affected by this ruling were determined to be “non compos mentis” prior to the mid 1970’s. There are no current provisions for the reversal of such a determination.

This topic was one of great discussion for the members of the committee. The initial recommendation was to remove the prohibition from the constitution. The members were evenly divided on both the preliminary and final votes. This led to the amended recommendation that encourages the Nebraska Legislature to study the issue of voting by those citizens with diminished mental capacity. Those in favor of the removal of the provision felt that having such language in state law undermined the goal of this committee to increase voter participation by disenfranchising a population of voters. The committee expressed concern about the vagueness of the definition of “non compos mentis” and the possible discriminatory application of these statutes. There was a strong sense by other members that the complete removal of these provisions could leave the Legislature without recourse should they want to clarify them in the future.

On a national level the suggestion of the use of competency exams has surfaced. Mental health professionals believe that such tests would hold people with disabilities to a higher standard than the rest of the population.

The committee felt that the Nebraska Legislature should undertake a study of the issue of regulating voting by those with diminished mental capacity. The members felt

that intensive review by state policymakers would provide the best opportunity for clarification and revision.

Final Vote:

14 Yes: Secretary Gale, Senator Schimek, Ms. Olivarez Huerta, Ms. Olmer, Ms. Forslund, Ms. Kerr, Ms. Fiegenschuh, Mr. Hill, Mr. Hayes, Mr. Lautenbaugh, Mr. Carney, Mr. Sankey, Dr. Larson, Dr. Avery

RECOMMENDATION XII

Legislation should be proposed that would amend current mail-in provisions for local special elections. The legislation would allow the county election official, rather than the political subdivision, to choose the method of election (mail-in versus traditional precinct voting) following a review of the costs of the election and expected voter turnout.

The committee discussed the turnout record of the State of Oregon which conducts all of its elections by mail-in ballots. In other words, there are no traditional voting precincts provided to Oregon voters as the primary method of voting. The process now in place was approved on a test basis for local elections by the Oregon Legislature in 1981. A measure allowing vote by mail for primary and general elections was passed by voters in November 1998. Oregon has achieved some of the highest voter turnout in American history through its mail-in ballot system of elections. Their turnout for the 2000 Presidential General was 79.8% and 83.47% in the 2004 Presidential General.

In light of the fact that most states have not achieved dramatic success with absentee or no-cause early voting causes some reflection on how Oregon could be so successful with an entire election system based on mail-in ballots. Nebraska historically had recorded absentee ballot rates hovering around 6% when cause was needed to be given for an absentee ballot request. When the Legislature changed that to no-cause early voting, the mailed-in ballot rate jumped to some 12%. However, the common thought has been that new voters have not been reached, but rather the frequent and infrequent voters have gone to the system for its convenience.

There are very good reasons to think such a method of elections would strongly recommend itself to voters. First, they do not have to make a request for an absentee ballot, but rather registered voters just simply receive the mail-in ballot without the two step system mandatory in other states.

Secondly, the voters can vote at their convenience since they have the ballot at home, and can fill it in at whatever time of day works for them; in fact, with the increasing complexity of ballots, with initiative and referendum issues more frequently showing up, they have more time to think about the issues and research them than they would by stepping into the voting booth in a normal voting precinct in other states.

Thirdly, the voters do not have to try to remember the election day timetables nor their new or old voting precinct, nor the challenge of when during the day they can break away to cast their ballots; the ballot just arrives in the mail, and they fill it in when they are able, and drop it back off in the mail at the nearest mailbox.

In Nebraska, there are currently some very limited provisions of the law allowing mail-in ballot elections. These elections can be conducted by smaller political subdivisions, where the cost of holding a regular election with election workers at every relevant precinct may be higher than the cost of mailing ballots to the subdivision registered voters. The choice of method however gets to be made by the political subdivision, and not by the county election official. The commonly held belief of political subdivisions seems to be that having more voters is more risky to their special elections than having fewer voters. As a result, the use of elections by mail-in ballots for such special elections has been few.

It seems to the committee that a change-over to a total mail-in ballot system in Nebraska would be fairly radical change to the over-all election system, and does not have any compelling reasons to do so yet in Nebraska. Of course, if the percentage of turnout continues to decline, other methods of election may need to be explored again in the future.

At the same time, it would seem that Nebraskans could acquire some experience with mail-in ballot elections, and some cost-savings would be achieved, if the choice between mail-in ballots versus traditional precinct balloting could be made by the appropriate election official rather than by the political subdivision. Special elections,

dealing with only one issue, and usually not receiving much attention or publicity, are simply not going to have large turnouts at voting precincts. One special school bond issue in Grand Island in recent years had an 11% voter turnout. Since special elections can have a direct bearing on property tax issues, it would seem that greater voter participation is better for local democracy than some of the historical minimal turnouts.

Final Vote:

15 Yes: Secretary Gale, Senator Schimek, Ms. Olivarez Huerta, Ms. Olmer, Ms. Forslund, Ms. Kerr, Ms. Fiegenschuh, Mr. Hill, Mr. Hayes, Mr. Lautenbaugh, Mr. Carney, Mr. Sankey, Dr. Larson, Dr. Avery, Dr. Comer

RECOMMENDATION XIII

The Secretary of State should propose legislation that mirrors that of other states currently permitting voted ballots to be sent electronically by overseas military and civilian personnel, with appropriate protections for identity.

The committee, mindful of the current deployment of over 1300 National Guard personnel from Nebraska to overseas assignments, considered whether the State of Nebraska is taking all reasonable steps to accommodate voting access and ease of voting for our overseas military and civilian personnel. The Secretary of State's Office has been aggressively reviewing and implementing options available within the discretion of the Chief Elections Officer to improve voter accessibility abroad. The Office has produced a brochure and made adequate quantities available to the Nebraska National Guard for distribution to Voting Assistance Officers of the Guard for use by personnel being deployed and by their family members. This has been well-received. In addition, the Office has created a special link on its website for overseas military and civilian personnel to easily access relevant information and forms to permit registration and to obtain voting information. Secretary Gale has also placed a telephone message on the U.S. Federal Voting Assistance Program toll-free WATS line advising overseas voters of where to go to get appropriate voting information.

Secretary Gale, working with the Legislature's Government, Military and Veterans Affairs Committee (Government Committee), considered a legislative bill in the 2004 session, introduced by Senator Matt Connealy, that would: 1) allow appropriate ballots to be faxed to registered overseas personnel for the overseas voters to complete, sign, and mailed back to the proper local election office; 2) allow families of overseas military and civilian personnel of voting age to cast ballots in Nebraska, without ever having lived in the state, if the state is the state of residence of the parent or parents; and 3) grant certain emergency powers to the Secretary of State to take steps to make voting accessible to overseas military and civilian personnel in the event of extraordinary circumstances that would otherwise frustrate the opportunity of overseas voters to receive or return their ballots by customary means.

After consideration by the Government Committee, a bill was advanced to the floor and ultimately passed which would permit overseas military and civilian personnel to have their ballots faxed to them for completion, signing, and return by regular mail. In addition, the Legislature did not adopt the flip side of faxed ballots, meaning the ability of overseas voters to fax their ballots back to their local election officials, once received and completed. Faxing ballots overseas is a great step forward in dramatically cutting the transmittal time of ballots, in fact cutting that time in half. A number of other states, including Nebraska's neighbor Colorado, have adopted laws that permit overseas ballots to be faxed back after receipt by fax. One of the biggest issues for overseas voters has been the question of reliability of the traditional postal systems of the world to return cast ballots by mail in a timely fashion.

The committee chose to expand this recommendation to include the wording of voted ballots to be sent electronically. This language will allow for the future use of technology such as the secure email transmission of ballots or ballots printed via the internet.

Final Vote

12 Yes: Secretary Gale, Ms. Olmer, Ms. Forslund, Ms. Kerr, Ms. Fiegenschuh, Mr. Hayes, Mr. Lautenbaugh, Mr. Carney, Mr. Sankey, Dr. Larson, Dr. Avery, Dr. Comer

2 No: Senator Schimek, Mr. Hill

RECOMMENDATION XIV

The Secretary of State should include a Personal Identification Number (PIN) field in the statewide voter registration system. The PIN could be used to verify a person's identity during either the voting or registration process as alternative voting methods become safe, reliable, secure, and voter verifiable. Additionally, the Legislature should adopt any necessary legislation to facilitate such use of a Personal Identification Number by the Secretary of State.

The passage of HAVA in 2002 reignited the debate about voter identification and security. Many states have adopted provisions that require first time voters, with some stipulations on registration method, provide identification before casting their ballot. States have also begun to address concerns over how to confirm the identity of those voters who are not required to provide identification. As elections have become closer in the United States, it has increased the incidence of voter fraud. The use of a PIN would allow a voter to protect their identity from such abuse.

The committee combined this concern with ways to prepare the state for future use of alternative voting methods, such as the internet or phone technologies. One step toward preparedness would be the implementation of a Personal Identification Number (PIN) for each registered voter. The PIN will provide an additional layer of security when verifying the identity of a voter. The committee felt that with the ongoing implementation of the new statewide voter registration system, this would be a pertinent time to include a field for PIN use in the system.

Concern was expressed by some committee members as to the possible disproportionate effect such an identification process may have on members of the citizenry. There is some evidence that members of minority communities or less affluent socioeconomic groups may be intimidated by having to provide any type of identification to vote.

The members know that the use of PINs may not occur until an unspecified date in the future, but they feel that the state will be ahead by taking this step at this time.

Final Vote:

11 Yes: Secretary Gale, Ms. Olivarez Huerta, Ms. Olmer, Ms. Forslund, Ms. Kerr, Ms. Fiegenschuh, Mr. Hill, Mr. Hayes, Mr. Lautenbaugh, Mr. Sankey, Dr. Comer

4 No: Senator Schimek, Mr. Carney, Dr. Larson, Dr. Avery

RECOMMENDATION XV

The Secretary of State's office should formally survey each county to determine whether the polling sites within that county are ADA compliant. The local election official should be required to certify the results of the survey to the Secretary of State.

The progress towards complete compliance began with the Voting Accessibility for the Elderly and Handicapped Act of 1984. This act required that polling places, for federal elections, be accessible to the disabled, or that an alternate means of casting a ballot be provided where no accessible space was available. States were also required to provide aids to the elderly and disabled for use in voter registration. The passage of the Americans with Disabilities Act (ADA) in 1990 required state and local governments to provide people with disabilities an equal opportunity to benefit from all of the programs, services and activities provided by that government.

The State of Nebraska added compliance with ADA into state statute in 1994. The Nebraska Secretary of State's office has undertaken several surveys of the polling places since 1988. The most recent survey was conducted during the spring of 2004.

Final Vote:

14 Yes: Secretary Gale, Senator Schimek, Ms. Olivarez Huerta, Ms. Olmer, Ms. Forslund, Ms. Kerr, Ms. Fiegenschuh, Mr. Hill, Mr. Hayes, Mr. Lautenbaugh, Mr. Carney, Mr. Sankey, Dr. Larson, Dr. Avery

ROLES OF CANDIDATES, PARTIES AND THE MEDIA

The committee recognized that the media, political parties and candidates have a strong impact on the public. In this topic, the committee explored ways for those entities to use their influence to increase interest and turnout.

RECOMMENDATION XVI

The Secretary of State's office should work with the major political parties of Nebraska to encourage the use of a caucus system for the selection of Presidential nominees, separate and distinct from the Nebraska primary in May. These caucuses should be held early enough in the primary/caucus season to encourage candidates to visit Nebraska thereby engaging Nebraska voters. The Legislature should adopt legislation necessary to facilitate this change.

The dwindling turnout during primary elections led the committee to look at ways to stimulate voter participation through increasing Nebraska's role in presidential nominations. By moving to a caucus system, Nebraska could move ahead in the primary/caucus schedule while not affecting the regularly held May primary. The adjusted date would serve as encouragement for possible presidential candidates to visit Nebraska during the primary season, which would allow for greater interaction with Nebraska voters.

The committee also discussed the idea of rotating regional primaries that had been endorsed by the National Association of Secretaries of State (NASS). This process would have primaries scheduled in regional groups that rotate in order to allow for states to hold greater influence on a rotating basis. This plan failed to be adopted by the national parties in 2000.

The committee felt that increased exposure to presidential candidates would benefit turnout in Nebraska. The media coverage drawn to races would increase political awareness and with it political participation.

Final Vote:

12 Yes: Secretary Gale, Senator Schimek, Ms. Olivarez Huerta, Ms. Olmer, Ms. Forslund, Ms. Fiegenschuh, Mr. Hayes, Mr. Lautenbaugh, Mr. Carney, Dr. Larson, Dr. Avery, Dr. Comer

3 No: Ms. Kerr, Mr. Hill, Mr. Sankey

Minority Reports

Minority report regarding Recommendation IX

The Recommendation adopted by the majority is that the State of Nebraska implements what is known as “Same Day Voter Registration”. This term is used interchangeably around the country with “Election Day Registration” (EDR). Nebraska currently has a “Pre-Election Day Registration” system; citizens must file a voter registration form with the proper county election office at least 10 days prior to an election to be registered to vote. “Same Day Registration” allows a qualified citizen to register and vote at the polls on Election Day.

This Recommendation generated considerable discussion and disagreement within the task force. In fact, the members of the task force voting on the final recommendation were almost equally divided. In many ways, the major focus was the difference of the point of view of those who are election officials and those who speak as academics. The four election officials on the task force believe that administering “Same Day Voter Registration” would greatly complicate elections for precinct poll workers, increase the opportunity for fraud and make county election administration far more difficult than any benefits to be gained; the academics on the task force believe that the six states that have this system have proved the benefits of increased voter participation, and that the resistance expressed by the election officials was simply institutional resistance to change, and that since other states had adapted to “Same Day Voter Registration” that Nebraska election officials would adapt as well if it were adopted.

The undersigned members of the task force respectfully disagree with the view of the majority on this recommendation, and hereby submit the following Minority Report to be contained within the Final Report:

1. Pre-election voter registration is not a new process in Nebraska, as statewide registration was adopted in 1968; for some 36 years the requirement of registration has worked well to assure the orderly processing of voters; election officials, political parties, media, and the general public have been broadly supportive of this system.

2. Pre-election voter registration insures that citizens vote in their proper precinct on proper precinct ballots which reflect the specific candidates responsible for that precinct. It also prevents people from voting who do not live in that precinct, or even potentially in that state. With “Same Day Voter Registration”, the precinct officials have no basis to know that the people are legally qualified to vote as they have no point of reference, as they have with pre-election voter registration.

3. Pre-election voter registration prevents people from voting who are not qualified, such as legal or even illegal aliens, felons, underage citizens or users of stolen identities; constrains the voters to affirm by their signature that they are one and the same as the citizen who swore to the accuracy of certain facts when they registered. The system has worked well; voters are processed smoothly and rapidly on election days, and there is widespread public confidence in the elections due to this registration requirement. There has been no clamoring for change by anyone.

4. Much research and knowledge of each county’s subdivisions goes into determining each ballot, and how citizens in each precinct are impacted by the various elections; the county election officials must create ballots in such a way that the precinct voters are voting for the candidates that impact their residence, and not some other neighborhood; so the ballots are designed to connect the neighborhoods to the offices up for election; pre-election voter registration has proved to be an effective way to connect voters with the offices “representing” them; if there was no such connection, then voters can pick and choose which precinct they want to vote in, which is more possible with “Same Day Voter Registration”; without a pre-election registration system that permits cross-checking to confirm proper connection of voters to residences, then errant voters can simply sign in on election day without any chance of cross-checking by election officials, allowing them to influence elections which do not impact them personally or their residences at all; this undermines the whole point of elections, which are based on the concept of elected officials “representing” the citizens

who vote for them; if there is no connection during the voting process, there is no way to say those officials are elected by those they “represent”.

5. Election officials predict the number of ballots needed for each precinct, based in large part upon the number of registered voters in their precincts; they might predict 100% turnout, or something less, based upon their sense of trends for that election, such as requests for absentee ballots. Ballots are expensive, and election officials must be good stewards of their public funds, so accurate projection of the number of ballots needed is very important. However, with “Same Day Voter Registration” there is no way to predict turnout for any particular precinct, as there is no precinct registration list. Since voters can potentially show up on Election Day and register to vote, the election officials almost need to predict the number of “eligible” voters for their precincts. Elections never bring out 100% of registered voters, much less eligible voters, but without a registration list for a guide, the number of ballots printed will have to be increased, with considerable increase in costs.

6. With the loss of the security against voter fraud by the adoption of “Same Day Voter Registration”, the state legislature, the state political parties and the active voters themselves, may then demand that the same day registrants must produce identification at the polls to be allowed to vote. This could lead to many more challenged voters than before, because many citizens may not remember to bring the critical documents needed to show proper identification, and must be turned away. They may or may not try to return. The disputes and discussions that will result at the polling precincts over the nature of various kinds of identification will place an enormous burden of discretion on the local poll workers, will cause heated disputes which disrupt the efficient and orderly processing of voters and may require security arrangements to handle identification disputes. A pre-election registration system works much more efficiently and effectively, and is less intrusive upon citizens than a new form of identification for voting.

7. There are only six states that currently practice “Same Day Voter Registration”, Idaho, Maine, Minnesota, New Hampshire, Wisconsin and Wyoming. Another state, North Dakota, has no registration system at all. Efforts to expand “Same Day Voter Registration” to other states have regularly been resisted by concerns about multiple registrations in several jurisdictions. With statewide computerized registration systems coming into all states under HAVA, it is argued that multiple voting fraud can be prevented. However, that is only going to be true where there is polling place access to the registration list. In Nebraska, the statewide interactive voter registration program is not designed for polling precinct access, but rather central county office access, so that local precinct ability to double-check will not be there. Providing lap top computers for 1500 precincts for use on Election Day is an impossible expense.

8. If the goal is to provide more options for voters to vote than just showing up on Election Day, and possibly encountering long lines or running out of ballots, then “Same Day Voter Registration” is not the answer. It simply still requires voters to show up on Election Day, and that is what voters are saying they do not want to do. In the state of Washington, some 50% of the voters vote by absentee ballot. In Florida absentee ballots are cast by some 33% of the voters. Nebraska should work harder to make this convenient alternative more available than just trying to squeeze more voters into the polling sites on Election Day.

Another alternative is “satellite voting” which is being recommended by this task force; it again gives voters other options besides going to their polling precinct on Election Day.

Signed by: Diane M. Olmer
Kay Forslund
Beth Fiegenschuh
John A. Gale
Jason Hayes
Scott Lautenbaugh

Minority report regarding Recommendation XI

This issue of amending the state constitution to remove the language that prohibits the right to vote to those declared to be “non compos mentis” received considerable discussion and debate. On one side, it was argued that neither the legislature nor the courts have attempted to address this question, and therefore the constitution has been more ignored than implemented. The proponents argue that the definition of “non compos mentis” is vague, and does not comport with the more progressive terms used in state law to deal with guardianships, emergency protective orders, persons committed to state mental institutions, nor competency to stand trial. Therefore, it is argued that this provision is useless, vague, outdated and ignored, and should be removed. In addition, several proponents argued that the provision itself casts a general chill on the right of the elderly to exercise their right to vote; persons in nursing homes, mental institutions, special care facilities, or group homes should not feel like they are somehow second class citizens who lack the capacity to exercise the right to vote, just because of this constitutional language. Any restrictions should be imposed for one citizen at a time pursuant to due process of law, and under court supervision.

The undersigned members of the task force respectfully disagree and file this minority report:

1. The vast majority of states have some constitutional or legislative provision that address the issue of restricting the right to vote of citizens who no longer have sufficient mental capacity to care for themselves or their affairs or to understand certain basic notions of citizenship. Nebraska should retain its constitutional provision on this issue as well.
2. Even if currently dormant, this provision provides the under-girding for the legislature to act at such time as it becomes more clearly a public policy issue. If this general provision were to be removed by statutory initiative, courts in the future may hold that the public has declared this issue to be beyond legislative authority.

3. There are many instances where the competency of an individual is determined by a court or by a quasi-judicial body subject to court review, such as guardianships, conservatorships, mental health board commitments, persons found to be not guilty by reason of insanity by courts of law, persons found by courts not to be competent to stand trial. Should Irwin Charles Simants be allowed to vote? Should John Hinkley be allowed to vote? They were found “not guilty by reason of insanity” and are in mental institutions. These are questions that courts may need to address in the future.

There are also instances where competency is an issue in private arrangements such as voluntary mental health commitments, residents of group homes for the mentally retarded, persons committed to nursing homes or to Alzheimer’s facilities pursuant to powers of attorney for financial and medical care given to third persons.

In all of these areas, courts do not now determine the capacity of the persons to vote while under commitment, but it would be easy to see the day come when the legislature may want to grant such power to the courts or to preclude third party attorneys in fact from acting to assist their wards to vote, or by some administrative oversight by an appropriate public body.

4. In all statewide elections, persons voting by absentee ballot may have a third person pick up their absentee ballot and return it for them. In the recent November, 2004, general election, this option was exercised by thousands of persons. Were they all truly competent to exercise their right to vote and the third person was acting properly and lawfully, or was someone else guiding those voters through the process despite questions about their competence since they were already registered properly and it was an easy vote to get? Again these could be questions that the legislature needs to address.
5. Removing language from the constitution does not accomplish a meaningful step forward, as opposed to having the legislature itself start investigating this issue, creating their own definition under the law, and starting to authorize courts or

physicians to act in appropriate instances to declare persons not competent to cast a lawful ballot, and issuing certificates to the appropriate state or county officials to reflect that restriction.

Signed by: John A. Gale
Beth Fiegenschuh
Kay Forslund
Diane M. Olmer
Scott Lautenbaugh
Jason Hayes

HISTORY

In 1968 the first statewide elections were held following the mandate of voter registration across Nebraska. The turnout in that year's primary (58.65%) and general (80.77%) were the highest in Nebraska history. In the years following the voter turnout rate has declined, with Presidential year turnouts being higher than non-Presidential years. The lowest turnout numbers were seen for general elections in 2000 and 2002. The Presidential race in 2000 resulted in a 65% turnout in Nebraska. The 2002 election, which included a United State Senate race along with statewide constitutional offices, had a 45% general election turnout. The primary election turnout also reached a low in 2002 with only a 23% turnout. The 2004 elections saw a primary turnout of 23% and a 68% turnout for the general. The November 2004 general election had 792,396 voters, which was a record for the state.

The scene on the national stage is similar to that of Nebraska. Voter turnout nationwide for the 1968 Presidential general election was 60.8%. In 2000, the nationwide turnout was 51.3%. Nebraska has ranked above the national voter turnout average for each election.

In 1971, the ratification of the 26th Amendment moved the voting age from 21 to 18. This amendment granted the right to vote to 11.5 million 18-20 year olds. In 1972, the first Presidential election allowing 18 year olds to vote, 55% of the eligible 18-24 year olds cast ballots. In 2000 it is estimated that only 42% of the eligible 18-24 year olds cast a ballot in the Presidential election. In Nebraska, it is estimated that only 37% of our 18-24 year olds voting in the same election. This ranked Nebraska 36th out of the states for voting by youth. During the period of 1972-2000, there has been a 13 point decline in youth voting nationwide; in Nebraska that decline has been 16 points.

These historical factors, along with the national outcry for election reform following the 2000 election, have led to many studies into voter behavior.

- The 1999 National Assessment of Educational Progress found that one-third of America's high school students do not understand the basic fundamentals of government. Only 9% of the respondents were able to supply two reasons why it is important for citizens to be involved in a democratic society.

- The 32 Annual Phi Delta Kappa Gallup Poll of 2000 indicated that preparing students to become responsible citizens was the most important purpose of public schools.
- The 1999 New Millennium Report, issued by the National Association of Secretaries of State, found that:
 - Only 28% of young people vote because they believe it is their civic duty.
 - The vast majority distrusts politics and politicians and believes that government is run by a few big interests looking out for themselves, not for the benefit of all.
 - Since the 1972 presidential election, when the voting age was lowered to 18, there has been nearly a 20-percentage point decrease in voting among 19-24-year-olds.
 - A majority of youth, 55%, agrees that the schools do not do a very good job of giving young people the information needed to vote.
 - Only 21% of young people say that they often spoke with their parents about politics or current events when they were growing up.
 - Many youth are learning **not** to vote from their parents.

In November 1999, the Joan Shorenstein Center for Press, Politics and Public Policy at Harvard University undertook a national study that involved surveys of approximately 1,000 Americans once or twice a week. These studies ran until January of 2001 and a total of 97,797 respondents were involved. The study became known as the Vanishing Voter Study. These surveys found a high level of citizen disenchantment both in voters and non voters. Both groups report a high level of belief that “candidates will say almost anything in order to get elected”. Over 70% of each group agrees that candidates are “more concerned with fighting each other than with solving the nation’s problems.” The differences between voters and non-voters are evident in some aspects. Non-voters have historically been Americans with lower income and less education. These Americans have a greater tie to some governmental services, such as health care, education and welfare, but their non participation causes candidates to not address these issues.

The Vanishing Voter study looked at not only public interest, but other facets of the political process as well. The role of the media played a large part in their findings. A

reduction in network coverage of campaigns, including the debates and conventions, has lead to fewer Americans having access to that information. There has been a decrease in the amount of time and space the media dedicates to elections in the past forty years. Several studies have focused on the decline in youth voting since 1972. It should come as no surprise that the majority of students who are politically engaged were raised in households that were also politically engaged. The studies found that youth believe that they will have more impact on their community by volunteering rather than being involved in the political system.

Nebraska has a history of involvement in voter outreach programs, especially those targeting the youth of the state. Nebraska was the first state to institute a statewide mock student election when the program began, with the support of the Secretary of State's office, in 1996. The Lincoln Public School district began a program for their students in 1992. During the 2002 election year, 90,000 Nebraska students were enrolled in the program. This total ranked Nebraska third among the states for the National Student Parent Mock Election. In 2004, there were 108,508 students statewide from 480 schools that participated in the Secretary of State's program and the Lincoln Public Schools programs.

The Secretary of State also worked to produce a Vote in Honor of a Veteran videotape in 2003. The tape features a WWII veteran speaking to a high school class. It was distributed to every high school in Nebraska, as well as the county election officials and county Veterans Service officers. The use of this video continued in several counties during the 2004 election cycle and in honor of Veterans' Day. Moreover, the Secretary of State sponsored a Youth Poll Worker Savings Bond program for the 2004 election cycle. This program was adopted pursuant to recent state legislation, allowing 16 and 17 year olds to be poll workers. Some 83 participated, a good beginning. But, nonetheless, there is more work to be done by all interested groups to reverse the downward trend of voter turnout.

WITNESSES

Amy Bracht, Nebraska Secretary of State's Office

Sharon Hambek, Nebraska Secretary of State's Office

Christy Abraham, Office of Senator DiAnna Schimek

Alexia Scott Morrison, Nebraska Secretary of State's Office

Marlys Sanders, Restorative Justice Facilitator with the United Methodist Ministries

Scott Lautenbaugh, Representative of Nebraska Republican Party (written testimony)

Barry Rubin, Executive Director of the Nebraska Democratic Party

Allen Beermann, Executive Director of the Nebraska Press Association and Former Nebraska Secretary of State

Greg Jackson, Representative of the Nebraska Broadcasters Association

Doris Huffman, Executive Director of the Nebraska State Bar Foundation

SUMMARY OF INFORMATION REVIEWED

Testimony by Witnesses

Amy Bracht, Military and Overseas Voters

Ms. Bracht testified to the efforts of the Nebraska Secretary of State's office in conjunction with the Legislature to reach the goal of allowing all military and overseas personnel to cast their vote through a smooth and efficient process. She explained the use of the Federal Postcard Application for military and overseas voters and noted that the Nebraska Secretary of State's office had recently created brochures for military and overseas civilian voters. She further discussed the new legislation allowing ballots to be faxed overseas to voters.

Sharon Hambek, Nebraska Student Vote Program

Ms. Hambek testified on the Nebraska Student Vote program, which was the first statewide program in the nation. The goal of the program is to promote informed voting by the providing students with a newspaper each week so that they can follow issues and candidates. She further outlined other youth civic education programs of her office, namely Vote in Honor of a Veteran, Capitol Forum, and the Youth Poll Worker Program.

Christy Abraham, Felon Voting Rights and Disenfranchisement

Ms. Abraham testified on the provisions in Nebraska for a felon to regain the right to vote. She spoke of the roles of the Board of Pardons as well as the Legislature and Department of Corrections.

Alexia Scott Morrison, Felon Voting Rights and Disenfranchisement

Ms. Scott Morrison testified on the national trends in the laws regarding felon voting rights. She testified regarding the numbers of citizens who are affected by these laws on a nationwide basis as well as the percentage of the felon population who are members of minority communities.

Marlys Sanders, Felon Voting Rights and Disenfranchisement

Ms. Sanders testified to both her personal and professional experiences. She expressed concern that the continued restriction on voting prolongs the punishment for an ex-offender who has completed their sentence.

Alexia Scott Morrison, Preliminary results from the Nebraska Annual Social Indicators Survey

Ms. Scott Morrison testified as to the preliminary results to the questions submitted on the survey of 1800 Nebraskans regarding voting patterns, education and motivation. Several of the survey questions were broken down by age grouping to see the differentiation in response by demographics.

Scott Lautenbaugh, Efforts of the Nebraska Republican Party

Mr. Lautenbaugh submitted written testimony regarding the efforts of the Nebraska Republican Party to promote voter registration and turnout. He noted that the party has conducted an extensive absentee ballot program since the change in the law to allow for no excuse absentee. The party has also purchased media time on both the radio and television to promote candidates as well as turnout.

Barry Rubin, Efforts of the Nebraska Democratic Party

Mr. Rubin testified as to the efforts of the Nebraska Democratic Party to promote voter registration and turnout. He noted that the party is working to increase the technology they use to reach voters. He also discussed the effort to recruit candidates, especially those of minority communities, to run for office.

Allen Beermann, Efforts of the Nebraska Press Association and its members

Mr. Beermann testified to the statewide newspaper circulation and readership. He noted the number of the daily and weekly papers that do candidate endorsements, but noted that these endorsement varied by outlet. He relayed that the print media in the state is paid to print sample ballots and the title and text of the constitutional amendments. The Nebraska Press Association also prints the amendments with additional commentary at their cost. He discussed his thoughts on the reasons for low voter turnout.

Greg Jackson, Efforts of the Nebraska Broadcasters Association and its members

Mr. Jackson testified to data that he had collected from the radio stations statewide. He also spoke to how the change in ownership regulations has led to very few companies owning the majority of the stations. He also noted how many of the top stations do not do political talk or news because they do not believe that the listeners want to hear it.

Information from Studies

Nebraska Statewide Voter Turnout

2004 General – 66% - 792,396 voters
2004 Primary – 23% - 228,412 voters
2002 General – 45%- 448,375 voters
2002 Primary – 23%- 243,010 voters
2000 General – 65%- 625,557 voters
2000 Primary – 31%- 324,903 voters
1996 General – 68%- 686,749 voters
1996 Primary – 31%- 300,586 voters

Youth Voter Turnout

- **NASS New Millennium Voters Project Study – 1998**
 - In 1998, fewer than one in five 18 to 24 year olds voted
 - The single factor that most determines whether a young person will vote is whether his or her parents vote. Age and education are also factors.
 - The two main reasons that young people give for not voting are: they do not think that their vote will make a difference (26%), and they do not have enough information (25%).

- **Harvard University – Institute of Politics – October 2003 Study**
 - One possible method to generate additional student involvement in a political campaign is the use of online communication tools, such as the blog. A majority of students (58% of Democrats and 53% of Republicans) say that the ability to communicate directly with a favored campaign makes them more likely to become involved with that campaign. (A blog is internet lingo for a weblog; an interactive communication tool often used as a daily diary. The campaigns of Governor Howard Dean and General Wesley Clark have used these tools very effectively.)
 - As in the April survey, more than four in five (82%) college students report that they will definitely (56%) or probably (26%) vote in the general election for President. Democrats (87%) and Republicans (87%) are expected to vote in roughly equal numbers, with Independents (80%) slightly less likely than their peers to vote.

- **CIRCLE (Center for Information & Research on Civic Learning & Engagement) Study for 1500 Youths in January 2002**
 - Strong majorities of young people feel their vote will count (88% Caucasian, 81% African American and 84% Hispanic), though young African Americans are least likely to feel their vote will make a difference.
 - Young women are more likely than young men to feel their vote will count, irrespective of race or ethnicity.

- **CIRCLE Study of Young Voters following the 2000 Presidential Election**
 - Number of 18-25 year old American citizens eligible to vote: 26.9 million, 16.13% of the total number of American citizens eligible to vote
 - Number of people in this group who claim to have voted: 9.9 million (42.4%)

- Number of 18-25 year old American citizens who say they are registered to vote: 16.12 million, or 59.9% of those eligible.

- **CIRCLE November 2004 Press Release “Turnout of Under-25 Voters Up Sharply”**

- Turnout rate of 18-24 year old voters rose by 5.8 percentage points, as 1.8 million more people in this age group voted than in 2000.
- 8 million under-30 voters, or 42%, voted for the first time. They represented 64% of the 13 million first-time voters.

- **CIRCLE September 2002 Study “The Civic and Political Health of the Nation: A Generational Portrait”**

- Despite the widely held view that young people are the most avid consumers of television programming, older Americans are actually more likely to turn to television for daily news. Almost half, 49.7 percent, of older Americans (ages 26 and above) say they watch television news every day of the week – almost twice the proportion of young Americans.
- Over one third of young Americans (37.7%) get news from radio four or more days a week, and a little less than one quarter (22.9%) listen to radio news on a daily basis. Almost sixty percent (58.6%) of older Americans get news from radio at least four days a week, and almost half of the population over 25 (45.1%) says it listens to radio news everyday of the week.
- While 20.6% of young Americans say they go to the Internet for news at least four days a week, a comparable number of older Americans, 19.9%, say the same thing. Similarly, while 9.5% of young Americans use the Internet for news every day, an even greater percentage of old Americans, 11.7%, are daily Internet news consumers.

Nationwide Voter Turnout

- **US Census Bureau, Report on the 2000 Election**
 - People most likely to go to the polls were older individuals, homeowners, married couples and people with more schooling and higher incomes.
 - Most states with same day registration or no registration requirement had higher voting rates than the national average.

Conclusion

The Vote Nebraska Initiative Task Force hereby acknowledges and extends their thanks for the professional staff support of Alexia Scott Morrison and Tyanne Hoyt of the Election Division of Secretary of State John Gale's office, and of Christy Abraham, counsel for the Government, Military and Veterans Affairs Committee of the Nebraska Legislature, of which Senator DiAnna Schimek is the chair.

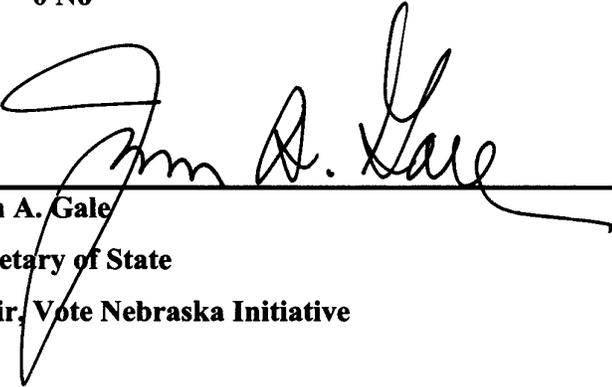
Having concluded the task assigned, the Task Force respectfully submits this Final Report to the Nebraska Legislature in the hopes that it will assist in the development of new initiatives and legislation to further accomplish the goals of voter education and voter turnout.

Respectfully submitted:

Final Vote:

12 Yes: Secretary Gale, Senator Schimek, Ms. Olmer, Ms. Forslund, Ms. Kerr, Ms. Fiegenschuh, Mr. Hill, Mr. Hayes, Mr. Carney, Mr. Sankey, Dr. Larson, Dr. Comer

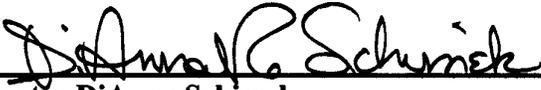
0 No



John A. Gale

Secretary of State

Chair, Vote Nebraska Initiative



Senator DiAnna Schimek

Vice Chair, Vote Nebraska Initiative