Burning Questions at NCSL’s Policy and Elections Technology Conference

How can we use technology to make elections more fair, reliable, accurate and efficient? How do we pay for replacing our old voting machines? How do we ensure new technology is accessible to all voters, including those with physical or mental disabilities? Can any technological changes lead to higher voter turnout? Which is better, New Mexico red chili or green chili?

These are the key questions legislators, election administrators, and staff tackled at NCSL’s Policy and Elections Technology Conference in Santa Fe, N.M., in early June.

NCSL brought together over 150 legislators, legislative staff, elections administrators, vendors and academics to discuss the future of elections technology. Over three days in beautiful Santa Fe, attendees from 43 states brought their experiences at home to the table in pursuit of answers to questions affecting the most fundamental institution of our democracy: elections. A lively discussion began with an overview of voting technology from the 19th century to the present. Paper ballots, lever machines, electronic voting machines and now a trend (if not a wave) back to paper again has brought us full circle, according to Kim Brace of Election Data Services.

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And while a ballot, no matter what its medium, essentially still lists races and ballot questions, the technology to count them and the terminology to describe the process have evolved dramatically. Brian Hancock of the U.S. Election Assistance Commission (EAC) presented a glossary of key terms, as well as cautionary tales describing well-intentioned, but problematic, legislative and regulatory language addressing voting technology.

“You can’t talk technology without talking about people,” said NCSL’s Katy Owens Hubler in her overview of NCSL’s Elections Technology Project, which included visits to jurisdictions in eight states to see how they conduct elections. Next, Tammy Patrick of the Bipartisan Policy Center and David Becker of The Pew Charitable Trusts discussed the bipartisan Presidential Commission on Election Administration’s report and the importance of voter registration to the entire elections process. “Voter registration problems can lead to a cascade of other problems throughout the process,” said Becker. Many in the audience were shocked to learn that one in eight registrations is inaccurate and that 50 percent of voters don’t know they can update their information though their motor vehicle agencies. Some of the solutions Pew suggested are online voter registration, interagency data sharing such as between the DMV and voter registration databases and interstate data sharing such as through the Electronic Registration Information Center (ERIC).

Election technology vendors encouraged legislators and local officials to consider the effect of legislation on technology (and vice versa) and expressed a desire to work with them to fulfill their state’s needs. “If you know what you want, say it,” said moderator Doug Chapin of the University of Minnesota, referring to requests for proposals for voting technology. “We should be building things with you rather than for you,” offered Monica Crane Childers of Democracy Works.

Convenience voting, a term that covers early in-person voting, no-excuse absentee voting, all-mail elections and vote centers, is under consideration in many states, particularly those looking for options to increase voter turnout. Whether it’s e-poll books or connectivity at vote centers or polling places, technology plays an integral role in providing these options for voters. The question was asked—does all this convenience increase turnout? The answer was “not necessarily,” according to Michael McDonald of the University of Florida.

Even more important is the testing and certification process that makes sure the technology actually does what it’s supposed to do. There are a lot of cooks in that kitchen according to Merle King of the Center for Election Systems at Kennesaw State University and a lot of blueprints as well. Some are constitutional, statutory or in the administrative code. According to King, the key goal in establishing standards is to guard against the “supreme law of elections”—the law of unintended consequences.

Did you know that 43 percent of Americans do not read well? Whitney Quesenbery of the Center for Civic Design showed how simple and clear ballot design is crucial to the voting experience. “When they [voters] think elections are confusing, they tune out,” she said. Her solution: write laws that encourage the use of plain language, and encourage election officials to use good design principles (many of which are noted in the Field Guides to Ensuring Voter Intent booklets).

How do we evaluate our elections? Good data gathered throughout the process can help improve elections, according to Lonna Rae Atkeson of the University of New Mexico. How did the election go, administratively? What aspects of the election process need improvement? Did the equipment produce an accurate result? Legislators at the session were concerned that local election officials might be threatened by political scientists digging into their elections, but the panel helped explain that many officials welcome this outside view. Maggie Toulouse Oliver of Bernalillo County, N.M. summed it up when she said “there is no such thing as a perfect election, but we can make them better.”

To close out the conference, NCSL trekked up to the Roundhouse, also known as the New Mexico State Capitol, where a group of experts convened. They looked at the forces that are pushing change in election administration, such as the needs of military and overseas voters or voters with disabilities, ever-increasing technology expectations on the part of the electorate, security breaches that get front page coverage, the potential for emergency situations and an eye on the bottom line.

(continuation on page 3)
Beat the Heat at the Summit in Seattle

Summer is in full swing but that doesn’t mean you need to pack up and head to the beach right away—register for NCSL’s Legislative Summit, happening Aug. 3-6 in Seattle, Wash. We have some exciting sessions on the elections track, including a trip to the King County Elections office, where staff will be in the throes of processing truckloads of mail ballots for the Aug. 4 primary.

Here’s the agenda at a glance:

**Monday, Aug. 3**
- 9-11:30 a.m. Field Trip: King County Election Office
- 1:30-2:30 p.m. Oregon’s Automatic Voter Registration (and Other Registration Innovations)
- 2:40-3:45 p.m. Funding Campaigns: What Have the Courts Said?
- 4-5:00 p.m. When the Voters Decide: The Role of Ballot Measures in Making Law

**Tuesday, Aug. 4**
- 10-11:00 a.m. U.S. Census Bureau: Update on the Reengineering of the 2020 U.S. Census and the Redistricting Data Program
- 11:15 a.m.-12:15 p.m. Redistricting: A Mid-Decade Review
- 12:15-1:30 p.m. Increasing Independents: Looking at the Rise of Unaffiliated Voters (plus lunch)
- 1:45-2:45 p.m. Redistricting Working Session
- 1:45-2:45 p.m. Early Voting, Absentee Voting and Voting by Mail: Is Giving Voters More Options a Good Idea?
- 3-5:00 p.m. Internet Voting: Do Security Concerns Preclude Voting Over the Web?
Legislative Action Bulletin

- 11 states plus Washington, D.C. are in regular session; three states are in special session; two states (South Carolina and Maine) are in extended sessions
- 2,304 election-related bills have been introduced
- 210 bills have been enacted (and 11 have been vetoed)

March Madness in 2016?
Legislatures have the prerogative to decide if their states will hold a presidential preferential primary (PPP). Their preference governs the date of a PPP, too. It is not uncommon to see states move the date in the year before a presidential election—mostly to an earlier date. So far this year, five states have either created a PPP or moved the date, and four others have live legislation to do so.

ENACTED
Alabama (SB 240) moved the date to the first Tuesday in March. (Alabama SB 148 made changes to filing dates for presidential candidates in accordance with SB 240.)
Arkansas (SB 8) moved its general primary election to the fourth Tuesday in March. The PPP, if held, would be three weeks before that.
Florida (HB 7035) moved its PPP to the third Tuesday in March.
Idaho (SB 1066) chose the second Tuesday in March for its PPP and gives political parties the option to participate. (SB 1178 made an appropriation to cover the primary’s costs.)
Michigan (SB 44) also chose the second Tuesday in March.

BILLS STILL PENDING AND WORTH WATCHING
New York has many live bills to create a PPP. SB 5958 has passed out of the Senate; it would put the PPP on April 19, 2016.
Pennsylvania (HB 1318) would move the PPP to the third Tuesday in March.
Rhode Island (HB 6054) would move the PPP to the fourth Tuesday in March.
Washington (SB 5978) would move the PPP date to the second Tuesday in March and would require voters to affirm party affiliation before voting if the party plans to use PPP results, rather than caucus results, in convention delegate allocation. The bill has passed out of the Senate twice, but has been returned at the beginning of each special session. (Washington did not hold a PPP in 2012.)
Wisconsin (SB 63) would move its PPP to the third Tuesday in February.

More Pre-Election Day Voting Could Be Coming to New Jersey and Michigan
Recently, New Jersey and Michigan have seen major legislation introduced that would, each in its own way, provide more pre-Election Day voting options.
Michigan’s HB 4724 has the support of Secretary of State Ruth Johnson and would permit Michiganders to vote an absentee ballot without an excuse. Michigan is currently one of the 14 states that does not allow this or some other form of pre-Election Day voting for all its citizens. Current law allows people who are over 60 years of age, have a physical disability or meet several other requirements to “vote absentee.” Under the new law, people wanting an absentee ballot who don’t meet those criteria can apply in person, with photo ID as required by law, for an absentee ballot. The legislative analysis describes this in detail.
New Jersey’s AB 4613/SB 50 would establish early in-person voting in the Garden State, but that’s not all. Items dealing with voter registration are getting top billing (automatic registration for people who get a driver’s license or renew one, online voter registration and pre-registration for 17-year-olds). The bill also addresses issues related to mail ballots for absentee voters (ballot tracking for mail ballots, providing prepaid postage and defining who is a military and overseas voter), a few administrative issues (voter fraud reporting and challenges, and establishing an office to support voting by people with disabilities), plus how to fill Congressional vacancies, provisional ballot usage, lowering the threshold for requiring minority language support, providing false election information and more. For the legislative analysis, go to the bottom of the bill to where it says “STATEMENT.”
From the Chair

Senator Curt McKenzie chairs the State Affairs Committee in the Idaho Senate. He has represented the 13th Senate District since 2002. The Canvass spoke to him at the Policy and Elections Technology Conference in Santa Fe, N.M. on June 4.

- The policy we want is to make it accessible, accurate, familiar and easy for voters to participate in the elections process. I want to ensure the voters of Idaho have a voice.
- Implementing e-poll books can be very challenging. We are also looking at expanding early voting and at voter registration opportunities. We don’t have online registration in Idaho and are seeking more information on it. For me it’s an issue of how my constituents access government, and that’s increasingly through the Internet. I also think it’s important to have more accurate registrations, and it’s always a goal to make sure we keep up with our increasingly mobile voters. The ballot box is the gateway to democracy, and voter registration is the key to the gate.
- We are a state where counties oversee the elections process. The state works with the counties to ensure accurate and timely elections. I think we do a good job of working with our county clerks rather than dictating to them. We also look at best practices around the country to see how we can incorporate clean, good elections technology into the process. We certainly can improve when it comes to offering information and services online. Our rural counties will benefit from more technology and more options to choose from to suit their needs.

Read the full interview with Senator McKenzie.

The Election Administrator’s Perspective

Alysoun McLaughlin is the deputy director of the board of elections in Montgomery, the most populous county in Maryland and part of the Washington, D.C. metropolitan area. The Canvass spoke to her at the Policy and Elections Technology Conference in Santa Fe, N.M. on June 4.

- Maryland is a top-down state. Before 2000, counties selected their own systems. Then the state moved to a statewide system, to a statewide definition of a vote and to paper ballots instead of direct recording electronic machines (DREs). Now in 2016 we are moving to a second statewide system for voting equipment. The most challenging and most fun aspect of that is that we really are modernizing. We used to have paper voter registrations, and now we are getting registration data year-round through our DMV and through ERIC [Electronic Registration Information Center] which is leading to up-to-date voting records. Voting technology is not just about casting and counting ballots. What really needs to happen is office automation and better management of voter data to achieve efficiencies.
- We’re working to use technology to achieve our business needs rather than letting the tech drive us. Our operations are getting more sophisticated, and we are developing and harnessing the capability to analyze data and target resources efficiently.
- Legislation comes in bite-size chunks. All governmental levels need to come together to create a coherent business model for election administration. When government makes changes they need to do it in the context of making it understandable to voters. If they don’t know their voting options, they can’t take advantage of them.
- Elections are a year-round activity—intergovernmental agreements for public safety, equipment, facilities for early voting and training—the list goes on. We don’t bite—talk to us. We love to talk about what we do. Come visit and see for yourself.

Read the full interview with Deputy Director McLaughlin.
Ask NCSL

Do any state health exchanges offer voter registration services?

A number of states offer (or soon will offer) voter registration services on the websites of their state health insurance exchanges or marketplaces: California, Colorado, Connecticut, Kentucky, Maryland, Massachusetts, Nevada, New York, Rhode Island, Vermont and the District of Columbia. New Mexico had legislation this year to do the same, while Washington Governor Jay Inslee issued an executive order making its Health Benefits Exchange also serve as a voter registration assistance agency. California was the first state to officially designate its exchange as a voter registration agency under the National Voter Registration Act. The NVRA requires certain state agencies to offer voter registration and allows states to designate others as they see fit. ProjectVote has dug extensively into state choices on voter registration and health exchanges.

Worth Noting

- There’s nothing better than a clever nickname. Election Academy has dubbed the “Cal-i-rado” (alternately the “Colo-rado” model as California Secretary of State Alex Padilla has announced his intention to have California adopt the “Colorado model” of mailing all voters a ballot combined with vote centers and 24 hour drop boxes.
- Paying for new voting equipment was a hot topic at the Santa Fe conference, and electionlineWeekly has a great roundup of what’s going on around the country with jurisdictions implementing new systems.
- Check out The Pew Charitable Trusts’ blog post on vote-by-mail rates since 2000. Of note is that one in five mail ballots were returned by hand rather than by mail in 2014.
- In case you missed it, the American Civil Liberties Union put out a report earlier this year on the accessibility of online voter registration for those with disabilities.
- Farewell Iowa straw poll. The Iowa GOP voted to end its tradition of polling members ahead of the first-in-the-nation caucuses after waning interest from the declared candidates. See NCSL’s Web page for 2016 primary dates.
- “It’s like setting up 90 wedding receptions in the same day”—Eric Barraza, Election Technology Administrator for Santa Fe County, summing up the workload of election administrators nationwide.
- It’s not that often that an election administration issue generates as much controversy as Hillary Clinton’s comments on early voting and automatic registration. Rick Hasen responded to Clinton’s comments in Slate, which resulted in its own uproar. Check them out and Doug Chapin’s comments at Election Academy and decide for yourself.
- Indianapolis, Ind. is linking its past with its present as it recently made President Benjamin Harrison’s house a polling place in the city. It’s the only official presidential site used as a polling place in the country (h/t to Mindy Moretti).

NCSL’s elections team owes a big debt to the elections program at William & Mary Law School. Usually we’re all about election administration and technology, but with the help of W&M legal interns, we’ve been able to expand our research into new nooks and crannies. For instance, we’ve added more information about candidates and campaigns—an area of interest to legislators and all potential elected officials. With the help of legal intern Mark Listes, we can now provide comparative information about what’s required to run for a state legislative office (filing fees, petitions, qualifications …). And Brian Cruikshank, also of William & Mary Law School, is bringing our campaign finance resources up to date. Thanks to both Mark and Brian!

Thanks for reading, and please stay in touch.

—Wendy Underhill and Dan Diorio

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