Commission Offers Elections Advice

Robert Bauer and Benjamin Ginsberg must be hoarse by now.

Both men have spent the past month touting the January report and recommendations of the Presidential Commission on Election Administration, a 10-member panel they co-chaired. They have presented their guidelines for helping to improve elections before members of the U.S. Senate and have discussed key points of the report with many of the country’s top elections administrators.

But perhaps the most important audience for the report is the state lawmakers who craft elections policy across the country. Bauer and Ginsberg spoke with The Canvass to discuss several of the commission’s 18 recommendations for improving elections, including online voter registration, ensuring safety at schools during elections and the certification of voting machines.

“Lawmakers do want to address the needs of their constituents and we hope that the report will provide ways to do that in areas where they need it,” said Ginsberg, who served as national counsel for Republican Mitt Romney’s presidential campaign and for both Bush-Cheney presidential campaigns. Bauer, who was the chief lawyer during President Barack Obama’s presidential re-election campaign and Obama’s former White House counsel, said it is important to note the commission’s bipartisan composition. The panel spent six months talking with state and local elections administrators as well as academics to glean the best practices on how to administer an efficient election, he said.

“This is not a report that emerges out of Washington and is directed toward Washington,” Bauer said. “It’s a report that really emerges from engagement on the ground and throughout the country and is meant to return there for discussion. For that reason, I think we ought to be able to open up with legislators the same type of bipartisan communication we had among ourselves and with those who testified and worked with us on the report.”

The report’s key recommendations call for:

- Modernizing the voter registration process through an expansion of online voter registration and more state-to-state collaboration on voter list accuracy.

- Improving access to the polls through the expansion of early voting and the selection of suitable polling sites.

- State-of-the-art tools to refine election administration. (cont. on page 2)
Commission Offers Elections Advice  (cont. from page 1)

- Reforms to the standardization and certification process for new voting technology.

The commission maintains that no voter should have to wait more than one-half hour to have an opportunity to vote. Its report noted that during the 2012 presidential election more than five million voters experienced wait times exceeding one hour.

**Online voter registration as a solution**

The report recommends that more states adopt online voter registration, citing its convenience for voters to register or update their information, the cost-savings for the states that already have it and the benefit of improving accuracy for voter lists, which helps make polls more efficient and reduces wait times.

Arizona was the first to implement the paperless registration system in 2002 and 18 other states since then have authorized online voter registration.

Bauer said legislators who have concerns about online voter registration should talk with their colleagues from other states where online voter registration is already in place. In November 2013, NCSL hosted a webinar that featured an analysis of online voter registration, including the security measures states have used for their systems.

Ohio Senator Frank LaRose (R) said he intends to point to the commission’s recommendation to expand online voter registration to help make a case for SB 175, a bill he sponsored this session.

“When I stand up in the caucus room or in committee to ask them to vote in favor of online voter registration, I’m going to highlight this presidential commission but I’m also going to highlight what other states have done,” he said, adding that online voter registration enjoys the support of many of Ohio’s elections experts including its current and former secretaries of state. “This study commission consists of some of the best minds that this country has in elections administration and so their recommendation should be taken very seriously.”

In addition to a call to expand interstate exchanges of voter registration information, the report also recommends integrating into voting lists data acquired through motor vehicle departments.

Those measures are employed by several states to keep accurate voter registration lists. A December 2013 report shows that a partnership among seven states to refine and share voter registration information enjoyed success; the program is facilitated by The Pew Charitable Trusts.

**Schools as polling places**

The commission also recommended that schools should be used as polling places. It offered examples of states that use in-service days on Election Day when student safety is a concern.

Ginsberg said the issue of keeping students and voters separate continues to resonate. The commission found about a quarter of all voters nationwide voted in schools during the past two presidential elections.

Legislators have taken notice of the issue recently as more school districts have asked to not serve as polling places. Many election administrators maintain schools offer ideal space for hosting voters because they are located at the heart of many neighborhoods or communities, are inexpensive and provide accessibility for voters with disabilities.

“The implementation of in-service training days on Election Day seems to be a way to first of all answer the safety concerns and secondly maybe even provide some additional quality poll workers,” Ginsberg said.

**Certification and testing**

The report also focused on the need to reform the process for setting standards for voting machines.

The responsibility to create voluntary guidelines for voting machine certification was given to the U.S. Election Assistance Commission (EAC) in the Help America Vote Act of 2002. The EAC has been without commissioners since 2011, and therefore has not been able to pass any new policy or adopt new standards. As a result, states and local jurisdictions have been struggling to maintain voting systems which may soon reach the end of their life cycle, and vendor development of state-of-the-art products is hampered because the standards and certification process is stalled.

The commission said the process for setting standards for voting machines cannot rely on the EAC but Ginsberg said states should find a way to reach some kind of uniformity in adopting the next generation of machines.

“The need to set standards probably has to be done on a national level simply because if you have different sets of standards it would be impossible for manufacturers to produce the actual systems that I think we all want implemented on one level or another,” he said. (cont. on page 3)
Elections Advice  (cont. from page 2)

Some states, however, have used state-specific standards for years. In the absence of federal guidelines, others may join them.

Reaction to the report

Bauer hopes the report also brings attention to the meager resources local elections administrators typically have, warning that budget requests for elections are “often shuffled to the bottom of the deck.”

The commission’s report drew criticism from the National Republican Lawyers Association, which said it had “concerns about the one-size-fits-all nature of these proposals.”

Ginsberg said the commission’s recommendations are offered for states to use as they see fit and provide a guide based on what has proven successful in some jurisdictions.

Nevada Senator Pat Spearman (D) is looking forward to her next legislative session so she can cite the report when she crafts new election law, especially her desire to help ease the voting process for military and overseas voters.

And she is hoping all of her colleagues will listen to its advice and not dwell on the presidential charge that produced it.

“There is never a time when we can justify not reading a piece of literature when it is trying to help improve elections,” she said. “I don’t care if Dr. Seuss’ name was on the front of it.”

—Michael D. Hernandez

All About E-Poll Books

Running accurate and efficient elections is a complex undertaking for elections administrators. When something comes along that makes the process easier, election administrators and the legislators who work with them are glad to give it a try.

Last month’s report from the Presidential Commission on Election Administration cited electronic poll books (or e-poll books) as one such advancement. “In the national survey of election officials, e-poll books were one of the most frequently identified innovations that respondents desired,” the report stated. They allow poll workers to quickly locate a voter’s information and issue the correct ballot, direct a voter who is at the incorrect polling place to the correct one and more easily deal with voter registration problems. E-poll books can even gather information about wait times and save money on printing paper poll books.

An e-poll book replaces the traditional paper poll book, the roster of eligible voters in a precinct or district. An e-poll book typically looks like a tablet or a laptop computer and allows poll workers to look up a voter as they would search on Google, rather than sift through an alphabetical list of names. E-poll books also make more data available to the poll worker than a traditional paper poll book. For instance, the poll worker can immediately see if the voter is in the correct polling location and if he or she has already voted.

Some e-poll books can scan driver’s licenses, speeding up the voter check-in process. Other e-poll books use an electronic signature pad that immediately captures the voter’s signature, just like a signature pad in the grocery store.

“[E-poll books] will help tremendously for the post-election process since voter records are automatically updated,” said Indiana Representative Peggy Mayfield (R), who authored legislation last year that addressed the use of e-poll books.

(Cont. on page 4)

One big number

13,445,285. That’s how many registered voters Texas tallied as of November 2013. The Lone Star State was the focus of an NCSL visit in January 2014 during which legislators, elections experts and elections administrators discussed voting-related technology.

Participants were treated to a field trip to learn how Burnet County runs its elections. The group reconvened at the statehouse in Austin to further consider issues such as funding, certification standards and the use of technology to assist voters and administrators.

The Texas trip was the first of six state visits NCSL, with help from the MacArthur Foundation, will make to analyze elections-related technology issues. For more about the visit, read this blog post by NCSL’s Katy Owens Hubler.
All About E-Poll Books (cont. from page 3)

“Right now in Indiana after an election you literally have to scan each voter’s signature from the paper poll book.” With an e-poll book, the press of a button automatically uploads the signatures, saving time and labor costs. Mayfield notes, however, that if a signature is challenged, the electronic version can be difficult to read.

Iowa Senator Jeff Danielson (D) touts Iowa’s Precinct Atlas, an e-poll book developed by Cerro Gordo County, for all of the reasons Mayfield and the PCEA like them. He said it can provide poll watchers with live data on who has voted and who hasn’t. This allows political parties to focus their “get-out-the-vote” activities and increase turnout. “The great thing about a program like Precinct Atlas is that it isn’t partisan,” Danielson said. “It’s just basic good business. The universal goal is to make elections pure, accurate and efficient.”

As with any new technology, moving to e-poll books requires a learning curve, both for election administrators and for poll workers. Laptops start at $500 and with the additional costs of software and maintenance, significant start-up funds may be needed to use e-poll books.

Some e-poll books require access to the Internet. This can be a problem in rural counties that don’t have good Internet connectivity, and also raises concerns about hacking or cyber-attacks. The physical security of the e-poll books as well as the integrity of the data they contain must be a consideration when choosing to deploy them.

How common are e-poll books? Only two states, Maryland and Georgia, use e-poll books statewide, but 26 other states have at least some jurisdictions using e-poll books. Fifteen states specifically mention e-poll books in statute. They address functions that e-poll books should include, security measures that must be taken, and some even relate to a certification process.

The most comprehensive legislation regarding e-poll books is in Indiana. In 2013 Indiana passed two bills requiring that e-poll books must be capable of checking if a voter has already cast a ballot or voted absentee; real-time transmission of information; reading bar codes on driver’s licenses; and allowing a voter to sign the e-poll book electronically (§3-11-8-10.3). The bills also amended the election code to address the encryption of information contained on the e-poll books and specified that the secretary of state’s office must test and certify e-poll books (§3-11-18.1-12).

Election administrators and legislators alike appreciate the efficiency and cost-savings that e-poll books can bring to the election process. When balanced with security and cost concerns, they may be a good investment for election jurisdictions nationwide.

—Katy Owens Hubler

### Legislative Action Bulletin

**Quick facts**

- In session: 39 states, DC and Puerto Rico
- Adjourned: NM
- No sessions this year: MT, NV, ND, TX
- Active elections bills: 2093 bills (many carried over from 2013)
- Enactments in 2014: 8

Ohio’s enactments have gained the most attention so far this year: **SB 205** provides that absentee ballot request forms will be mailed out only for general elections, and then only if a state appropriation is made to cover the costs, and **SB 238** reduces the period that absentee ballots are available from 35 days to 29. (For a round-up of enactments from 2013, see NCSL’s webpage, 2013 Election Legislation Enactments, or listen to a 30-minute webinar, 2013: Voting Enactments.)

Online voter registration is the standout topic this year. Nineteen states already have it, and legislation from 2013 is still active in New York, North Carolina, Ohio, Pennsylvania and Massachusetts (where a bill is in conference).

These bills are new: **Florida** (HB 667/SB 784), **Idaho** (HB 488), **Iowa** (SB 3130), which calls for a study of online voter registration, **HB 2243 and SB 2278**, **Minnesota** (HB 2096), **Missouri** (HB 1360 and HB 1739), **Nebraska** (L 661), **New Jersey** (AB 571), **Tennessee** (HB 2103 and SB 2227) and **Wisconsin** (AB 753).

NCSL’s Elections Legislation Database provides data on these bills and more.
From the Chair

New York Senator Thomas O’Mara (R) chairs the Senate Committee on Elections. Since 2010, he has represented a portion of southwest New York that includes rural communities, towns near the Finger Lakes and the college enclave of Ithaca. O’Mara is an attorney and previously served three terms in the New York Assembly. The Canvass interviewed O’Mara on Feb. 20.

Excerpts:

- “We have two separate primary dates in New York now, one for state and local offices and the other for the federal offices. We are still debating when we should have a proper date … figuring that out has been a hot topic for us. It’s helped keep people focused on elections issues here.”
- “We are working on expanding the registration process to other types of licensing, not just motor vehicle licensing. We have legislation pending now to have the option to register to vote when you are applying for a hunting and fishing license.”
- “Most people, when they move, don’t get a hold of the Board of Elections and say, ‘Hey, we are moving.’ They register in the new place and they may be maintained in that former county for some period of time. Hopefully, with the technology today and with a centralized database that we develop, we can pick those cases out.”

Read the full interview with O’Mara.

The Election Administrator’s Perspective

Neal Kelley is registrar of voters for Orange County, Calif., the fifth largest jurisdiction in the U.S., which has about 1.6 million registered voters. A former entrepreneur and police officer, Kelley was appointed registrar of voters in 2006. The Canvass interviewed him on Jan. 22.

Excerpts:

- “We currently have about 700,000 of our voters vote their ballots through the mail and that number continues to grow. The electorate has really been moving on its own to voting by mail. We have done some promotion.”
- “We are the only county in California that prints all of our ballots and addresses all of our own sample ballots. Back in 2006 I got a little frustrated with some of the issues with vendors and I just wanted to bring that control in-house because if we control those issues, we reduce risk. We have gone to almost full automation on our outbound mail, our inbound mail and our extraction of ballots. So we have pretty much eliminated 90-plus temporary people and have nearly gone to full automation.”
- “The end of life for our voting system is definitely our most pressing issue. … We are going to be self-sustaining on that equipment (finding new parts and retrofitting old machines) and hope to keep it in operation through 2018.”

Read the full interview with Kelley.
Worth Noting

- The Internet was the preferred resource for election information for more than half of registered voters who took part in a recent poll by The Pew Charitable Trusts. About 58 percent of respondents in the Voting Information Project survey said they would first look online to find polling place or election information, with 15 percent preferring to call their local election office. Just 9 percent of those polled said they would search for election information in a newspaper.

- A fingerprint scan would be used to verify that a person in Oklahoma is registered to vote under a bill proposed by Representative David Perryman (D). HB 3150, which was introduced in the Oklahoma House, also would require the biometric identification technology to be used for any person who registers to vote or changes their voter registration information. The image of a person’s two index fingers and their photograph would be stored in a database of registered voters. Other countries have taken the biometrics plunge to register and verify voters, as India implemented a similar system that also relies on images of retinal scans.

- Planning for natural disasters is the job of election administrators with guidance from legislatures. A new set of guidelines is helping to spell out how to enhance the efficient administration of elections during natural disasters and emergencies. The report, "State Laws & Practices for the Emergency Management of Elections," comes from best practices and existing laws studied over nine months by the National Association of Secretaries of State. The study of election emergencies gained import after Hurricane Sandy disrupted the 2012 presidential election for a swath of communities in East Coast states.

- Seventeen-year-olds in Lowell, Mass., might be able to vote in municipal elections if a referendum reaches city voters. The Massachusetts Senate last month approved the measure, dubbed Vote 17, as an amendment to a package that would help modernize elections. The measure by Senator Eileen Donoghue was fueled by strong lobbying by youths in Lowell; it must receive approval from House members and the governor before it can reach Lowell voters for approval. Takoma Park, Md., is the only local jurisdiction NCSL knows of that currently allows people as young as 16 to vote in municipal elections. Youth voters are typically the weakest voting group for elections turnout.

From NCSL’s Elections Team

Keeping a sharp eye out for elections news is never performed alone. Everything from state and federal agencies with robust resources to enterprising blogs help keep us at the National Conference of State Legislatures informed about elections policy.

For that, we are grateful, and happy to share our list of Elections Resources. Please let us know if there is a resource we should add to the list or if any resource needs an update.

Thanks for reading,

Michael D. Hernandez, Katy Owens Hubler and Wendy Underhill