

Election Reform Commission – Voting Items for Final Report For Action February 17, 2009

Section 1-1-402 (4), C.R.S., requires the Election Reform Commission to report to the General Assembly as follows:

1-1-402. Duties - scope of review - meetings - report. (4) The commission shall present a final report to the state, veterans, and military affairs committees of the senate and the house of representatives no later than March 1, 2009. The report shall include the commission's recommended changes to the state's election laws and an unbiased analysis of the fiscal impact and technical feasibility of the recommended changes.

Note: The following numbered items are drawn from the recommendations of the three subcommittees. For complete information, please refer to the subcommittee final recommendations documents.

REGISTRATION AND DATABASE SUBCOMMITTEE

Item #1 – SCORE System

- 1 The Commission encourages and supports the efforts of the Secretary of State and the county
- 2 clerk and recorders to continue making improvements to the system in the following areas:
- 3 a. Improve reporting capabilities.
- 4 b. Refinement/development of additional modules.
- 5 c. Resolution of technical issues.

Yes _____ No _____

Item #2 -- SSNs

- 6 The SCORE system should be expanded to allow for verification of social security numbers.
- 7 Specifically, the system should affirm voter ID information through coordination of SCORE and
- 8 the Social Security Administration database, similar to what is currently done with the
- 9 Department of Revenue's driver's license database.

Yes _____ No _____

Item #3 – Emergency Registration

1 The Commission recommends that section 1-2-217.5 (2) (c) be amended as follows:

2 **1-2-217.5. Change in residence before close of registration - emergency**
3 **registration at office of county clerk and recorder.** (2) The elector shall
4 declare under oath in the emergency registration affidavit that the elector wishes
5 to register to vote in the election in the precinct and county for which the
6 registration books are closed and that:

7 (c) The elector applied to register to vote prior to the close of registration in a
8 voter registration drive and is able either to show the receipt from the voter
9 registration application that the elector submitted to the voter registration drive ~~or~~
10 ~~to provide the location of the voter registration drive and the approximate date of~~
11 ~~registration; or~~

Yes _____ No _____

Item #4 – Proof of Citizenship

12 The Commission recommends legislation to require voters to provide proof of citizenship when
13 registering to vote.

Yes _____ No _____

Item #5 – Photo ID

14 The Commission recommends legislation to require voters to present photo identification when
15 registering to vote.

Yes _____ No _____

Item #6 – Voter registration form

- 1 The Commission recommends that the Secretary of State and the Colorado County Clerk's
2 Association work to redesign the Colorado voter registration form
3 (a) to clarify "check box" requirements, and
4 (b) to use separate form for administrative changes.

Yes _____ No _____

Item #7 – Assisted living facilities

- 5 The Commission recommends legislation to exempt persons living in assisted living or nursing
6 care facilities from identification requirements for voting. In addition, the Commission
7 recommends the use of Secretary of State's rules to ensure consistent application of regulations.

Yes _____ No _____

Item #8 – Voter registration drives

- 8 The Commission recommends the following amendments to the statutes governing voter
9 registration drives (sections 1-2-701 et seq.):
10 (a) Require every circulator who participates in a voter registration drive to go through
11 training;
12 (b) Increase the penalties for voter registration drive organizers in order to hold those that
13 conduct drives improperly to a higher level of accountability.

Yes _____ No _____

Item #9 – Verification period for UOCAVA and ID-deficient voters

- 1 The Commission recommends expanding the current eight-day post-election signature
2 verification period to allow for continued receipt of UOCAVA ballots, and for providing
3 identification to voters who are identification-deficient.

Yes _____ No _____

Item #10 – National voter registration database

- 4 The Commission recommends participating in the implementation of a national voter registration
5 database.

Yes _____ No _____

Item #11 – Governing board for SCORE

- 6 The Commission recommends legislation to establish a board of directors to provide oversight to
7 the operations and direction of SCORE.
8 (a) The board will consist of the Secretary of State and a specified number of county clerk
9 and recorders, who will serve specified terms.
10 (b) The board will be chaired by the Secretary of State.
11 (c) Board members and the chair will have equal voting weight.
12 (d) The chair will have veto authority over any vote taken.
13 (e) The board will meet no less than four times annually.

Yes _____ No _____

TECHNOLOGY AND AUDITING SUBCOMMITTEE

Item #12 – Voting system certification

1 The Commission recommends legislation to amend the statutes on voting system certification as
2 follows:

3

4 a. HB 08-1155. Extend the interim emergency certifications provided for in House Bill 08-
5 1155 through the 2013 election cycle.

6

7 b. VVPATs. Repeal the requirement that all DRE voting equipment have voter-verified
8 audit trails (VVPATs) by 2010.

9

10 c. Paper ballot/optical scan-based EVS. For all elections after 2013 election cycle, and for
11 all new electronic voting systems purchased and utilized before the 2013 election cycle, require
12 all counties to utilize a paper ballot/optical scan-based electronic voting system that has been
13 certified under the revised procedures recommended below.

14

15 d. Certification of paper ballot/optical scan-based system and modification of EVS whose
16 certifications have been extended (applies to all new EVS and modifications to certified EVS).

17 I. Repeal requirement that all EVS must be tested and certified as meeting current federal
18 standards.

19 II. Allow EVS whose certifications are extended through the 2012 general election [2013
20 election cycle?] to be modified subject to testing and certification by the Secretary of State
21 that the systems, as modified, meet all Colorado testing and certification requirements.

22 III. Change the testing and certification completion requirement in Section 1-5-617
23 (1)(c), C.R.S., from 90 days to 180 days.

24 IV. Allow the Secretary of State to utilize and rely upon testing done by another state's
25 secretary of state or chief election official, or by a federally certified testing lab, provided
26 that the Colorado secretary of state has complete access to all test documentation, test data,
27 and test reports, and provided that the Colorado Secretary of State make written findings and
28 certify (A) that he or she has reviewed the test documentation, data, and reports and finds that

1 the testing has been conducted in accordance with state-of-the-art engineering standards and
2 practices and (B) that the testing met each applicable Colorado requirement.

Yes _____ No _____

Item #13 – Post-election audits

3 The Commission recommends legislation to revise the statutory requirements for post-election
4 audits in section 1-7-514, C.R.S., to require a risk-based audit methodology instead of the current
5 fixed-percent audit. All aspects of each election (mail-in voting, early voting, election day
6 voting, other) should be subject to the same audit requirements. In addition, the Commission
7 recommends the following:

- 8 a. Require all voting systems to report votes in auditable batches.
- 9 b. Define the confidence level required, e.g. 90 percent or some lesser confidence level.
- 10 c. Require audit units to be randomly selected.
- 11 d. Require that the audit process to be transparent.
- 12 e. Require audit processes to be developed for each voting system in Colorado and
13 accomplished in a way that is easily understood by public officials charged with completing the
14 work.
- 15 f. Set out in statute the general requirements, standards, and procedures for a risk-based
16 audit.
- 17 g. Require the Secretary of State to implement risk-based election audits by notice and
18 comment rule-making, resulting in a new election rule giving guidance to the counties as to the
19 specific requirements, standards, and procedures to be followed.

Yes _____ No _____

UNIFORMITY AND SIMPLIFICATION SUBCOMMITTEE

Item #14 -- Mail ballot elections

1 The Commission recommends legislation to allow counties the option to conduct primary [and
2 general?] elections by mail, if the legislation contains the following requirements:

3

4 a. Minimum threshold. Before an all mail ballot election is allowed, the absentee voter
5 participation in the county must exceed 50 percent of all active voters in the previous presidential
6 or gubernatorial election.

7

8 b. Service centers. Counties conducting elections by mail must include a sufficient number
9 of service centers established by formula. The service centers must provide consistent services
10 to the voting public, and each must have secured computer access, be ADA-compliant, include a
11 sufficient number of DREs, a sufficient number of voting booths, the ability to distribute second
12 original ballots, have the ability to distribute replacement ballots, serve as ballot drop-off
13 locations, and provide the ability to register in an emergency manner. In addition, the legislation
14 must:

15 I. Require minimum hours of operation and number of days open prior to election day.

16 II. Require service centers to be available during early voting.

17 III. Public comment – Require designated election officials to determine the number,
18 location, and manner of operation of service centers, including poll watching activities, in
19 consultation with major and minor political parties. Require a public comment period.

20

21 c. Election preparation. Designated election officials must meet with an election vendor to
22 determine whether the vendor has the ability to provide sufficient mail ballots in a timely
23 manner, and meet with the U.S. Postal Service to coordinate ballot mailing, receiving, and
24 tracking.

25

1 d. Voter eligibility. Legislation must include mandates of designated election officials
2 regarding who receives mail ballots. Retool Colorado's "active/inactive" voter registration
3 designations. Require the legislation to consider SCORE.

4
5 e. Unaffiliated voters. The legislation must establish deadlines for affiliating with a party
6 when conducting a mail ballot election.

7
8 f. Issuing/counting ballots. The legislation should allow designated election officials to send
9 ballots as early as 30 days prior to the election, and bulk mailing no later than 21 days prior. The
10 legislation should address how a voter requests a replacement ballot, and allow designated
11 election officials to begin counting ballots at least 22 days before the election.

12
13 g. Return of ballots. The legislation should require uniformity related to methods of
14 returning ballots. At a minimum, each polling location/service center must have a secure
15 receptacle for voters to cast or drop off their mail ballot, and the security of the receptacle must
16 be consistent with the security of paper or provisional ballots under current requirements. Also,
17 the legislation should consider stand-alone return boxes and certification for ballot collection
18 drives.

19
20 h. Postage. The legislation should require (or allow) counties to pay postage, with the State
21 reimbursing counties if it is a requirement.

22
23 i. Homeless voters. The legislation should address services for homeless voters, including
24 allowing such voters to list the county clerk's office as the mailing residence for obtaining a mail
25 ballot.

Yes _____ No _____

Issue #15 -- Healthcare facilities

1 The Commission recommends that the term "health care facilities" be defined in statute.

Yes _____ No _____

Issue #16 -- Training

2 The Commission recommends legislation to require the Secretary of State to produce an
3 elections manual addressing election officials' application of election laws and rules. The
4 election manual must be free and publicly available online, and in a downloadable and
5 searchable format. Legislation pertaining to the election manual must address the following:
6

7 a. Base line Secretary of State training. At a minimum, the manual must contain
8 instructions regarding:

9 I. all pre-election day matters and voter registration issues;

10 II. all election day issues, including voter identification requirements, treatment of
11 spoiled ballots, and poll watcher requirements; and

12 III. proper ballot counting for each approved voting module/system, including the
13 hand-counting method used in some Colorado Counties.

14

15 b. Distribution to election officials. The legislation should recommend that designated
16 election officials forward county-specific rules to the Secretary of State for inclusion in a
17 separate section of the election manual. The legislation must require the Secretary of State to
18 promulgate a rule requiring designated election officials or agents to, in cases of dispute, consult
19 the election manual prior to consulting local rules in any primary or general election. The
20 election manual must be distributed to each county's election official. The election manual must
21 be bound and its cover must bear the title "Official Election Manual" and the Colorado state seal.

22

23 c. Distribution to polling locations. Sections of the Election Manual relating to election
24 day laws and rules must be distributed to each polling location/service center. The legislation
25 should recommend that poll workers be trained to consult sections of the election manual
26 regarding any dispute prior to consulting local rules in any primary or general election. The

1 election manual must be distributed to each county's election official. The portion of the election
2 manual sent to polling locations must be bound and its cover must bear the title "Official
3 Election Manual for Poll Workers" and the Colorado state seal.

4
5 d. Video training. The legislation must recommend that the Secretary of State contract
6 for the professional production of a training video consistent with the contents of the election
7 manual. The video must be free and publicly available online, in a downloadable and viewable
8 format, and must be used in conjunction with any training provided at the local level.

Yes _____ No _____

Issue #17 -- Forms

9 The Commission recommends legislation to address election forms, including voter registration,
10 mail ballot application, combination, and provision ballot forms, with the following provisions:

11 a. The Secretary of State must dedicate resources to obtaining professional guidance for
12 the development of forms that minimize voter confusion and maximize ease of use. Require
13 Secretary of State to develop documents with professional guidance.

14 b. The legislation must require rule making regarding what constitutes approved and
15 acceptable forms certified for use and acceptance by eligible voters, campaigns, voter
16 registration drives, and designated election officials.

17 c. The legislation must establish uniformity with regard to how forms are used inside
18 polling locations, particularly the management of provisional ballot forms and envelopes by
19 election judges and personnel.

Yes _____ No _____

Issue #18 -- Primary elections (Note: The subcommittee did not reach a consensus on this issue, but suggested that option (b) seems to be the cleanest, most viable solution)

1 The Commission recommends legislation to address the requirement that a county clerk and
2 recorder hold a primary election when there is no contested race in the primary. The
3 Commission recommends that a clerk and recorder be allowed to designate the winner of an
4 uncontested primary election by one of the following methods. (*Choose 'Yes' for only one item*)

5

6 a. Cancelling the primary election.

7 Yes _____ No _____

8

9 b. Holding a primary in a legal sense, but allowing the clerk and recorder to dispense
10 with collecting or tabulating votes.

11 Yes _____ No _____

12

13 c. Holding the primary, but limit all votes to a single polling location, thus creating a
14 single polling vote center.

15 Yes _____ No _____

Issue #19 -- Canvassing board procedures

16 The Commission recommends legislation to address the need for uniformity and simplicity with
17 regard to canvass board procedures. The legislation should include the following provisions:

18 a. Composition of canvass board. The legislation must explicitly require clerk and
19 recorders to tell county chairs the number of canvass board members necessary to complete
20 work, and require the county chairs to each appoint the same number of members.

21 b. Decision-making procedures. The legislation should specify proper procedure for
22 reaching decisions and provide for uniform application of how members are counted.

23 c. Duties of canvass board. In addition to current duties, the legislation should stipulate
24 one of the following:

1 I. Require the boards to ensure the number of ballots cast in each precinct does
2 not exceed the number of eligible voters in any precinct; or

3 II. Allow canvass boards to inspect and investigate where the number of votes
4 cast fail to align with the number of eligible voters.

5 d. Remedies for improper certification. The legislation should allow minor party and
6 unaffiliated candidates to bring objections to the canvass board process to the Secretary of State,
7 who will then investigate and resolve any procedural problems.

8 e. Remedies for failure to certify. The legislation should explicitly require canvass board
9 to either certify election returns or transmit to the Secretary of State non-certified results with an
10 explanation for the non-certification.

Yes _____ No _____

Issue #20 -- Online voter registration

11 The Commission recommends that legislation be adopted to allow on-line voter registration.

Yes _____ No _____

Issue #21 -- Future SCORE funding

12 The Commission recommends that legislation be adopted to provide a source of funding to
13 maintain the SCORE system after the existing fund source is exhausted. Such legislation should
14 address whether counties should uniformly be required to contribute funding to support SCORE.

Yes _____ No _____

Issue #22 -- Overhaul active/inactive statute

1 The Commission recommends that legislation be adopted to make a major re-haul of Colorado's
2 active/inactive statute.

Yes _____ No _____

Issue #23 -- Overhaul Title 1 in its entirety

3 The Commission recommends that the Secretary of State form an ongoing working group to
4 engage in serious work to re-haul Title 1 and that the Secretary of State, along with the
5 legislature, will continue to advocate for significant revisions guided toward bringing uniformity
6 and simplicity to the elections environment in the State of Colorado.

7

Yes _____ No _____

Issue #24 -- Tribal Identification

8 The commission recommends that legislation be adopted to expand the acceptable form of
9 identification required for voter registration to include tribal identification cards issued by a
10 federally recognized Indian tribe that certifies that the eligible elector is a member of the tribe
11 and is at least 18 years of age at the time of the election.

12

Yes _____ No _____

Issue #25 – Uniform Notice and Correction of Deficiencies

1 The commission recommends legislation to create uniformity across all counties with regard to
2 the following:

- 3 a. Which deficiencies in voter registration information can be cured and which deficiencies
4 are fatal to registration;
- 5 b. The manner in which voters are informed that identification is required to be included in
6 mail ballots; and
- 7 c. What types of locations are suitable for dropping off mail ballots on election day.

8

Yes _____ No _____

MISCELLANEOUS AND ADDITIONAL ITEMS

Issue #26 – Extension of Commission

- 1 The Commission recommends the creation of a permanent Election Reform Commission. [any
- 2 changes name of commission, scope of duties, etc.?)

Yes _____ No _____