



## All-Mail Elections: Nebraska and Nationally

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### **Current vote-by-mail programs in Nebraska**

Under current law, a county may conduct an election entirely by mail under two specific situations: (1) non-candidate special election, i.e. bond issue, (2) candidate elections by precinct in counties with population less than 10,000<sup>1</sup>. Counties seeking to make a precinct all-mail must submit an application with the Secretary of State to illustrate the need and advantage of switching to an all-mail precinct<sup>2</sup>. Applications are required to discuss the average distance voters travel currently, the condition of the roads, and accessibility of the polling location including compliance with the ADA. Counties applying also discuss cost-savings that would be realized by switching to all-mail. As part of their application, the county is required to submit a written plan for how the election will be conducted and how the county will notify voters that the election will be conducted by mail. As of 2015, fourteen counties have submitted applications for all-mail precincts.<sup>3</sup>

As introduced, LB 619 removes the population threshold requirement for candidate elections, allowing all counties, regardless of population, to apply for all-mail elections for any or all of its precincts. The application requirements, including the submission of a plan to the Secretary of State, are unchanged in the introduced

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<sup>1</sup> Neb.Rev.Stat. 32-906; Neb.Rev.Stat. 32-952

<sup>2</sup> Neb.Rev.Stat. 32-952 (3)

<sup>3</sup> Counties: Boone, Cedar, Cheery, Cuming, Dawes, Dixon, Hamilton, Harlan, Keya Paha, Merrick, Morrill, Otoe, Phelps, Stanton. A list of counties, applications, and approval is included Appendix A.

<sup>4</sup> In 2011, Cedar County Clerk faced strong opposition from voters in the 13<sup>th</sup> precinct of Cedar County and the Secretary of State refused to grant the application. When the clerk reapplied in 2013, he included letters of support from voters and the application was approved.

<sup>5</sup> The Secretary of State rejected the request from Hamilton County for Precincts 7 & 8, finding the average travel distance of 0-11 miles on paved or gravel roads reasonable.

<sup>6</sup> Nebraska Statute 32-952 (3)'s application was granted, the Secretary of State did acknowledge the availability of ADA compliant polling locations and one for the Cheery, Cuming, Dawes, Dixon, Hamilton, Harlan, Keya Paha, Merrick, Morrill, Otoe, Phelps, Stanton. A list of counties, applications, and approval is included Appendix A. [http://www.ncsl.org/research/elections-and-campaigns/all-mail-](http://www.ncsl.org/research/elections-and-campaigns/all-mail)



copy. In a review of all applications submitted to the Secretary of State from 2007 to 2015, the following trends were identified:

- Distance, lack of ADA compliance, and cost savings included and highlighted in county applications resulted in approval from the Secretary of State
- An application that noted opposition from voters<sup>4</sup>, reported polling places that were a reasonable distance from the average voter<sup>5</sup> and suitable for elderly and handicapped<sup>6</sup> was unlikely to be approved by the Secretary of State
- Cost saving summaries proved to be a crucial factor in obtaining approval by the Secretary of State. Cost savings evaluations specifically calculated the size of the precincts, ability to get poll workers, amount of money and time that could be saved doing mail-in only voting, rent for the polling locations. Clerks also included the high price of maintaining the AutoMark machines in their county, storage, and maintenance. Clerks reported that the price associated with these duties was not proportionate to the small amount of voters that showed up on Election Day.

### **All-Mail Elections – Nationally**

To date, thirty-seven states offer voters the option to vote by mail-in ballot, however only three states (Oregon, Washington, Colorado) have implemented mail-in only systems as an alternative to holding elections at polling sites. The states that have implemented the system have seen success in various ways, including increased voter turnout and more representative elections. Even with these benefits, many states have been cautious to implement mail-in only voting systems for fear of increased voter fraud, noting that once the ballot is out of the voter's hands, they have no control over what happens to it. These states have also expressed reservations over making the switch due to concerns over loss of tradition.

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<sup>5</sup> The Secretary of State rejected the request from Hamilton County for Precincts 7 & 8, finding the average travel distance of 0-11 miles on paved or gravel roads reasonable.

<sup>6</sup> While Merrick County's application was granted, the Secretary of State did acknowledge the availability of ADA compliant polling locations and but for the other factors cited in his approval the request would have been rejected.



## NCSL Evaluation of Conducting All-Mail Elections<sup>7</sup>

Possible Advantages	Possible Disadvantages
<b>Voter convenience and satisfaction</b> – Citizens can vote at home, and take all the time they need to study the issues. Voters often express enthusiasm for all-mail elections	<b>Tradition</b> – The civic experience of voting with neighbors at a local polling place no longer exists
<b>Financial savings</b> – Jurisdictions may save money because they no longer need to staff traditional polling places with poll workers <sup>8</sup>	<b>Security</b> – During all-mail elections (and absentee voting) coercion by family members or others might occur
<b>Turnout</b> – Because of convenience, turnout may increase. Although this has proven to be true for small elections, studies don't show a marked increase in turnout in larger general elections. <sup>9</sup>	<b>Financial considerations</b> – All-mail elections greatly increase printing costs for an election. Additionally jurisdictions must have appropriate equipment to read paper ballots, and changing from electronic equipment to equipment that can scan paper ballots can be expensive <sup>10</sup>
	<b>Slow vote counting</b> – All mail elections may slow down the vote counting process, especially if ballots with a valid postmark may be receive and counted in the days and weeks after the election <sup>11</sup>

<sup>7</sup> NCSL “All Mail Elections (AKA Vote-by-mail), Last accessed 3/8/17. <http://www.ncsl.org/research/elections-and-campaigns/all-mail-elections.aspx>

<sup>8</sup> Under Nebraska law, all buildings owned or leased by political subdivisions that receive federal or state funding must allow the county election official to rent the building at no cost for a polling place. Neb. Rev. Stat. 32-905. Poll workers make at least minimum wage. Neb.Rev.Stat. 32-227. They may remit their payment to the county or choose not to be paid.

<sup>9</sup> Early/by-mail voting in Nebraska has hovered between 25-30% of ballots cast, with voter turnout fluctuating between 45-50% in midterms and 65-70% of registered voters in presidential elections. Fourteen counties had at least one all-mail precinct and, on average, about 70% of those counties had higher turnout than state turnout. Of course some of these fluctuations in turnout could be due to contested local elections and the numbers from 2016 are not conclusive. Participation in bond elections increased after allowing all-mail special elections. For example, turnout in a 2004 Lincoln special election was roughly 25% but for a 2014 LPS bond election the turnout of 35%.

<sup>10</sup> Nebraska does not currently use voting machines besides AutoMARKs for voters with disabilities or physical limitations. County election officials argue that printing costs would actually go down by switching to all-mail elections. County election officials also argue that poll worker error associated with split precincts can be reduced by switching to all-mail elections.

<sup>11</sup> Currently in Nebraska a ballot must be received by Election Day to be counted and LB 619 does not attempt to change this deadline. After recent postal closures, Nebraska's sole sorting center is in Omaha, increasing time in transit and causing delays in postal delivery to western parts of the state. Mail ballots are examined and rejected/accepted prior to Election Day (signature on envelope matches envelope, etc.). On Election Day counties will begin counting mail ballots around 2pm and run subsequent batches as ballots are delivered from the precincts. The Legislature will be looking at replacing current vote tabulators this session. The smaller counties use a precinct vote tabulator while larger counties use the larger DS650 or the newer DS850 that can process more ballots more quickly. Only the DS850 can



In reviewing those states with all-mail elections, three common threads emerge as issues to consider when determining whether to support a shift to all-mail elections as well as suggest additional policies that should be incorporated to allay concerns and opposition to all-mail elections:

1. Maintaining the security and integrity of voter registration data
2. Retaining the right to vote privately and independently
3. Balancing cost-savings and necessary investments

A concern with all-mail elections is outdated voter registration information or voters that need their ballot mailed to a different address. Currently Nebraska voters are required to submit an application to vote-by-mail and as part of that application may designate a different mailing address. With all-mail elections, ballots are mailed out on a set date, in Nebraska it is 35 days prior to the election. As part of the current application counties include their timetable for giving voters notice the election will be conducted by mail and thus notice to update their mailing address if necessary.

A tenet of federal election law is that every voter has the right to vote privately and independently. Under *HAVA* this requires a voting machine be provided for individuals with disabilities at every polling place. For elections conducted by mail, voting systems, like the AutoMARK machines may not be readily accessible – or at least guaranteed to be in a voter’s precinct.

Because all-mail elections shift resources and protections guaranteed under a precinct-based election model, investments need to be made to ensure basic protections and ensure accessibility. States considering all-mail elections should balance the cost-savings with necessary expenditures and investments. Below is a discussion on what the three all-mail states have done to address these issues:

### **Maintaining Security and integrity of voter registration data**

- **Automatic Voter Registration** – Of the three states that have implemented all-mail elections, only Oregon has implemented automatic voter registration. However, Washington is considering and likely to pass its own version of automatic voter registration called “point of service AVR”. This differs from

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handle folded ballots, but a new mid-size vote tabulator, DS450, should be able to handle folded ballots and process more ballots than the precinct counters while being significantly less expensive than the DS850 (estimated \$100,00 price tag).



Oregon's method of a subsequent postcard and an opt-out period in that Washington already incorporated the voter registration form into the electronic DMV form.

- **Mailing address** – All three states prominently place on the website opportunities for the voter to update their registration or mailing address. Both Washington and Colorado use a website and app called MyVote – essentially their online voter registration. Oregon also uses MyVote for address updates, but also has a form that an individual can fill out and return to their county election office to change their mailing address.

### **Retaining the right to vote privately and independently**

- **Vote Centers** – Of the three states, Oregon is the only one that does not have vote centers as an option. For individuals with a disability, the voter can use a screen reader or other technology to access a ballot at home or request an election worker come to their home with an electronic tablet and portable printer. Colorado and Washington both utilize vote centers. Washington is required to have at least one and in some Colorado counties they have over 10 with additional centers added just for Election Day. Both states require vote centers be open so many days leading up to the election, Washington requires they open the same time ballots go out, Colorado requires it shortly afterwards.
- **Secrecy sleeves** – All three states send ballots with a secrecy sleeve or envelope for the ballot return. The return envelope has the signature line and ballot declaration.

### **Balancing cost-savings and necessary investments**

- **Paid return postage** – It does not appear that any of the states put pre-paid postage on the return envelopes. However, it looks like Colorado's return ballot only requires first-class postage.
- **Notification of rejected ballots** – It could not be ascertained whether Colorado requires notification of rejected ballot with opportunity to remedy. In Oregon, the voter is mailed a card and provided instructions on how to remedy and the timeline to do so (up to two weeks after the election). In Washington, if the voter fails to sign the ballot declaration or it doesn't match records, the county elections department contacts the voter to notify of the issue and provide instruction to remedy.
- **Drop Boxes and Return Dates** – All three states heavily invested in increasing the number of drop boxes and in Oregon, a ballot can be returned to any state sanctioned drop box (Washington and Colorado require they be returned to a drop box within your county). For all three states, ballots



delivered via drop box or in person to the county election office must be received by close of Election Day. The same deadline applies to ballots returned via mail in Oregon and Colorado. Washington requires the ballot just be post-marked by Election Day.

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