

**FISCAL NOTE**  
**Requested by Legislative Council**  
**03/25/2015**

Amendment to: SB 2327

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2013-2015 Biennium		2015-2017 Biennium		2017-2019 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2013-2015 Biennium	2015-2017 Biennium	2017-2019 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Bill would require to provide offender to information to Sec of State - No material fiscal impact to DOCR

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

n/a

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

n/a

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

n/a

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

n/a

**Name:** Al Jaeger

**Agency:** Secretary of State

**Telephone:** 701-328-2900

**Date Prepared:** 03/26/2015

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/23/2015**

Bill/Resolution No.: SB 2327

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n/a

**Name:** Dave Krabbenhoft

**Agency:** DOCR

**Telephone:** 701-328-6135

**Date Prepared:** 01/26/2015

**2015 SENATE JUDICIARY**

**SB 2327**

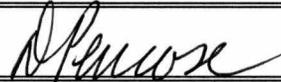
# 2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee  
Fort Lincoln Room, State Capitol

SB 2327  
2/2/2015  
23013

- Subcommittee  
 Conference Committee

Committee Clerk Signature



Minutes:

1,2

Ch. Hogue: We will open the hearing on SB 2327.

Sen. Kyle Davison: Sponsor, support (see attached 1).

Sen. Luick: What is the length of time is that a felon has to go through before they can vote again in the state.

Sen. Davison: I don't know.

Ch. Hogue: Thank you. Further testimony in support.

John Arnold, ND Voting Facilitator, Secretary of State: Support (see attached 2).

Sen. Grabinger: Is this going to put some additional burden on the DOCR to keep notifying you. Is there a way that we do this now that we're changing?

John Arnold: Currently, the rule of thumb that we tell the counties not to send absentee ballots to the State Pen. We are having more questions coming from the county jails of who is eligible to vote or not. We decided to look into getting the information from DOCR. We did reach out to DOCR before submitting this to make sure that they were okay with us. We didn't want to put an undue burden on them by creating this reporting requirement. We have been assured by them that they are okay with reporting this information to use. It sounds like they pretty much currently already have this data; they would just need to ship it to us.

Sen. Grabinger: You mentioned the county jails as an issue. These people that are released from the prison are still under the custody and control of the DOCR through parole. Once they are on parole, even though they are still under the control of DOCR they can vote.

John Arnold: That is correct. As soon as they are no longer incarcerated, they can vote again, that is under current state law.

Sen. Nelson: Regular people have to have their change of addresses almost a month ahead of time so that it can get into the polling book; but somebody getting out of prison only needs to have a change of address in 4 days, yet you are supposed to live in the precinct for 30 days. How does that work.

John Arnold: My answer to that is that I doubt that anybody incarcerated would say it's their union of acting intent to claim that that the penitentiary is their residence. They would maintain residence at their previous address assuming that once they are released they return to that address.

Sen. Nelson: Does that satisfy the law. I thought you actually had to be there for 30 days prior to the election.

John Arnold: Residency is an issue in determining that residency with the current union of acting intent. It is a question that election officials struggle with. Unfortunately, I don't have an answer.

Ch. Hogue: Thank you. Further testimony in support. Testimony in opposition. Neutral testimony. We will close the hearing.

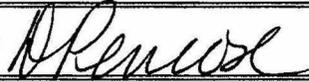
# 2015 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Fort Lincoln Room, State Capitol

SB 2327  
2/3/2015  
23062

- Subcommittee  
 Conference Committee

Committee Clerk Signature



**Minutes:**

Ch. Hogue: Let's take a look at SB 2327. This bill was brought forward at the request of the Secretary of State to receive a list of felons being released by the penitentiary and become eligible to vote.

Sen. Grabinger: I move a Do Pass.

Sen. Casper: Second the motion.

**6 YES 0 NO 0 ABSENT**

**DO PASS**

**CARRIER: Sen. Luick**

Date: 2/3/15

Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE  
ROLL CALL VOTE

BILL/RESOLUTION NO. 2327

Senate \_\_\_\_\_

**JUDICIARY**

Committee \_\_\_\_\_

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

- Recommendation:  Adopt Amendment
- Do Pass     Do Not Pass     Without Committee Recommendation
- As Amended     Rerefer to Appropriations
- Place on Consent Calendar

Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Sen. Grabinger    Seconded By Sen. Casper

Senators	Yes	No	Senators	Yes	No
Chairman Hogue	✓		Sen. Grabinger	✓	
Sen. Armstrong	✓		Sen. C. Nelson	✓	
Sen. Casper	✓				
Sen. Luick	✓				

Total (Yes) 6    No 0

Absent 0

Floor Assignment Sen. Luick

**REPORT OF STANDING COMMITTEE**

**SB 2327: Judiciary Committee (Sen. Hogue, Chairman) recommends DO PASS**  
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2327 was placed on the  
Eleventh order on the calendar.

**2015 HOUSE JUDICIARY**

**SB 2327**

# 2015 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

SB 2327  
3/11/2015  
24662

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to the reporting of incarcerated felons to the secretary of state.

## Minutes:

Testimony #1

**Chairman K. Koppelman:** Opened the hearing on SB 2327.

**Jim Silrum, Deputy Secretary of State:** (See Testimony #1) (1:16-3:57)

**Rep. G. Paur:** How does probation or parole affect ones voting rights?

**Jim Silrum:** I would defer the answer to someone who works for the DOCR. As long as an individual is under the supervision and control of the DOCR they would be required under this bill to notify us that this person is under their supervision and control and therefore we would mark them as ineligible and this person has been released. Whatever that agency considers under their supervision and control if what we would consider to be the case here.

**Rep. G. Paur:** But your bill says specifically incarcerated. Being on parole is not necessary incarcerated.

**Jim Silrum:** We have somebody in the room from DOCR that can answer that.

**Chairman K. Koppelman:** We are checking into that with the intern.

**Jim Silrum:** I think it is a matter of a definition issue and not necessarily a change needed to this bill.

**Rep. L. Klemin:** There is a citation in Chapter 12.1-33 on line 18 of this bill. Could you walk us through the process what happens after you enter this into the central voting file when there is an election?

**Jim Silrum:** Any time we receive information from another agency as we receive the list somebody in our office for each person on that list finds that voters record in the central

voters file and if at that time they were an active voter, it is changed to ineligible and the reason. That would stay on the record until we are notified they are no longer incarcerated. When such an individual would submit an absentee ballot application the local election official would pull up their record and it would say they are ineligible for that reason so they would not send a ballot to that individual.

**Rep. L. Klemin:** So there might be a situation where a person asked for an absentee ballot are they also checked?

**Jim Silrum:** If the person was sent an absentee ballot and they filled it out and return it. The third portion of this bill is about the supplemental reports and they would get them right before the election so that in the event the situation occurs that you describe and that person did in fact sent an absentee ballot they filled it out and returned the election board would be able to reject that due to reasons that this person is no longer eligible.

**Rep. L. Klemin:** You said when you get this report you go ahead and check the voter file; but what if he hadn't voted before. Do you create a file on him then?

**Jim Silrum:** That is a good question. The DOT sends us every new license and change on their licenses so the central voters file has a base that shows everyone that has any form of ID in the state.

**Rep. L. Klemin:** So maybe it should say the central voter file in here. Maybe if someone hadn't voted before he is an inactive voter and that person wouldn't have any effect on that person's ability to vote because it wouldn't be checked.

**Jim Silrum:** Although I say the central voter file is a subset of that it is all part of the same data base. It makes no difference. We consider the entire data base to be representative of the central voter file simply because at any point in any time any person who is a resident of the state; who is 18 years old or older and has lived in their precinct for 30 days whether they have voted or not they are eligible to vote within the state unless the court has taken that right away from them.

**Rep. L. Klemin:** What about a polling place. I notice somebody scans my driver's license when I go to vote and a person shows up with that driver's license what do you do?

**Jim Silrum:** Your polling place that you go to is the nicest polling place we have because it has electronic polling books. That has excess to far more information that does a paper poll book.

**Chairman K. Koppelman:** Under ND law voting rights are restored when they are released.

**Rep. Lois Delmore:** Are there any reports that come from DOOCR right now?

**Jim Silrum:** We do not receive reports from DOOCR right now. We do receive other reports from other agencies that indicate the incarcerations of people for federal offenses.

**Rep. Lois Delmore:** Right now we do not have a good gage on who is not eligible to vote because they are incarcerated. That hasn't been kept in any central file for you to keep track of as far as voter fraud. We are always worried about fraud in this state.

**Jim Silrum:** I disagree on that. If a person is incarcerated at the state pen an absentee ballot is never sent to the state pen. I am sorry I don't see the point.

**Rep. Lois Delmore:** Never is a pretty strong word to use. We have had a numbers are. Is that going to be a pretty big load for them to try and get you that information in a timely manner?

**Jim Silrum:** Before we ever wrote this bill and submitted it to Senator Davison to see if he would sponsor it on our behalf we had conversations with the DOCR and they did not have a problem with that.

**Rep. Lois Delmore:** You don't have any idea of what the numbers would be?

**Jim Silrum:** I do not, but I am sure DOCR would.

**Rep. Lois Delmore:** Would any of it be duplicated because you are already getting it from somewhere?

**Jim Silrum:** If it is duplicated it just provides us with additional information. It just saves us some work.

**Chairman K. Koppelman:** There is a fiscal note with no impact.

**Rep. Brabandt:** If you are incarcerated you lost your voting privileges for life.

**Jim Silrum:** I don't know the answer to that.

**Rep. G. Paur:** I don't understand if person is incarcerated he cannot vote while he is in prison and no absentee ballot would be sent to the person; why do we need this bill?

**Jim Silrum:** I think information sharing among agencies is a good thing and I see it as just a notation on the individual's record.

**Rep. G. Paur:** So it has not practical application outside of a notation on their record?

**Jim Silrum:** It does have practical application because the record of the individual; they are ineligible because they are under the supervision of the DOCR and therefore the local election officials; anybody who is responsible to whether or not a person cannot vote would know definitively yes this says you are not.

**Rep. D. Larson:** Lots of time when campaigning we will just hand out an absentee ballots for people to be able to apply to vote. Would this be something even that would be sent to a home on behalf of somebody that filled out an application and then they could give it to

somebody in prison. I suppose that would be one way that they could get around that address portion.

**Jim Silrum:** You are exactly right.

**Chairman K. Koppelman:** In response to what Rep. Paur and Rep. Delmore just brought up with respect to fraud I think this is important because if John Doe is in prison and the election official would know not to send John Doe an absentee ballot at the prison address, but if John Doe that lives at 122 1<sup>st</sup> St. who is incarcerated someone shows up at the polls saying I am John Doe at 122 1<sup>st</sup> St. would that flag somehow at the polls as well?

**Jim Silrum:** If that polling location has electronic polling books and if that person is still marked as ineligible because of incarceration there was something that happened there because that person should not be able to show up.

**Chairman K. Koppelman:** No if someone is incarcerated and he is on the exempt list so he cannot vote, but someone shows up at the polls and gets an absentee ballot would there be a flag also saying that this person is supposed to be incarcerated and therefore they should not be able to vote.

**Jim Silrum:** You are absolutely right. Some quick research needs to be done and that is why we are very much in favor of voter ID that can actually reveal something to the election officials and the poll workers who are dealing with the people who appear to vote.

**Rep. Mary Johnson:** I think the procedure that the ballot is forwarded to the county and the county auditor finds that no this person is ineligible to vote and that ballot is included with all the other ballots that go through the canvassing board and those are checked out one by one. That is how it would be eliminated.

**Chairman K. Koppelman:** Except having the problem that when you vote and filled out an affidavit at the polling place it went in one place, but if your affidavit was in question there was no way to retrieve that ballot.

**Jim Silrum:** No the ballot would not be linked to the voter. I believe the discrepancy that exists you are talking about an individual that shows up at the polls. Rep. Johnson you are speaking about an absentee ballot. In that case being able to cast a ballot is put on the election judges representing both political parties and the election inspector at the polls. That is why we say it is so important for the district chairs of the district parties to make sure that they name the judges that are going to serve on the polls because that is a critical piece of responsibility.

**Rep. K. Wallman:** The section that defines qualified electors are; is lives in your district and is 18 years old. Does it say there that you are not a qualified elector if you are incarcerated and that you get your voting rights restored if you are on probation and once you are released from prison?

**Jim Silrum:** I am trying to remember and I can tell you whether or not it does specifically reference that there are parts of the law and this is also in the constitution.

**Rep. K. Wallman:** Before we put more work into DOOCR do you think it might be a good idea to put that section or language of if you are a convicted felon you are not eligible to vote in ND including you are not in prison. That would clear up if you are on parole you have your voting rights restored; and second if there is there a convicted felon in prison who things they have the right to vote it would make it clear they do not. Maybe we should make that information more readily available.

**Jim Silrum:** I won't say it is incorrect what you are suggestion, but there are other reasons a person's rights are revoked. If a court determines that someone through the disability with which they live is not competent their rights to voting is removed as well.

**Rep. L. Klemin:** Would it be correct if a person is released from prison the day before the election and goes to the polling place and they say you are an ineligible voter and he says no I am not, I am not incarcerated anymore. I got out yesterday, but you haven't lived in your district the last 30 days what is going to happen?

**Jim Silrum:** I think our understanding of that is just because you are going to be incarcerated the state pen does not become your place of residence. If you are appearing at the polling place at the resident before the election or if you are appearing at the polling location of the resident where you were incarcerated we would say you are still a resident there because you have not gained a new residence.

**Rep. L. Klemin:** I just got out of prison yesterday and I am at the poll and want to vote; what do you do?

**Jim Silrum:** This puts more work on us because it is our responsibility to make sure that every county has the most current information at the time of an election so we are going to have to be processing these lists the day before the election and making sure the counties have this information.

**Rep. L. Klemin:** Your information is only as good as the information you got from DOOCR so someone that just got out of prison after that last supplemental report was sent to your office isn't going to be shown as eligible. What do they do?

**Jim Silrum:** You are right. You pointed out a gap that exists. I would ask the committee a question. Should this bill be amended so that the supplemental reports reflect the most current information?

**Chairman K. Koppelman:** So that would just trigger a special report.

**Rep. P. Anderson:** When it says name and address is it last known address?

**Jim Silrum:** It would be their file in DOOCR as their residential address on file.

**Rep. G. Paur:** Do you have an estimate of how many instances there have been of an incarcerated felon voting?

**Jim Silrum:** I do not have a record of any instances of an incarcerated felony voting.

**Rep. Mary Johnson:** Would you just give us an idea if this would work?

**Jim Silrum:** Somebody is incarcerated at a penitentiary and their spouse applies for an absentee ballot on their behalf and has it sent to their home address and somehow it is processed; this situation would say there is an absentee ballot request that has come in from somebody who is listed in the central voter file as ineligible due to reasons of incarceration. We would advise the county auditors to not send the ballot to that individual but we would ask that county auditor to forward that on to the state's attorney to look into what is going on here because this should not be the case.

**Rep. Mary Johnson:** This is just strictly a voting issue?

**Jim Silrum:** It actually creates more work for us.

**Rep. Mary Johnson:** It is all about voting?

**Jim Silrum:** The central voting file is a record of who has voted though out the state. State law does permit for candidates such as your selves, political parties or political committees to purchase the lists that can be provided from the central voter file that can then be used for a political purpose.

**Rep. K. Hawken:** Is this coming forward because we have so many people getting out of jail before an election; I find that hard to believe. How many are we looking at?

**Jim Silrum:** The only agenda that exists with this bill is that it is the Secretary of State's responsibility as the chief election official of the state to think about the process of voting and what would be the best. It is the responsibility of the legislature to set the policy and we respect and appreciate that. We believe this would be a good bit of communication that would be between DOCR and the Secretary of State.

**Rep. K. Hawken:** I don't believe we have much fraud in this state.

**Jim Silrum:** We do not suspect fraud in this state. What we do understand that every individual who is a qualified elector has the right to vote and to help us manage that central voter file is a great thing for elections.

**Rep. Lois Delmore:** We need to know if this bill is needed. We have no numbers and how detailed is the report going to be? Would there be something they could do on line?

**Jim Silrum:** The reports we would get would be generated through a simple program by DOCR to produce that list so it is not as if there is going to be a considerable amount of time. It is probably worth noting that when the central voter file chapter was created which was in the 2003 session it did contain a section of the law called for DOCR to send us these reports. Later it was appealed because it seems too much like voter registration.

The only thing that is different from this section now than when it was created it is better worded so that we can get the information we need so the data base can be updated as much as possible.

**Chairman K. Koppelman:** Is this the only place central voter file resides?

**Jim Silrum:** Central voter file is referenced in other places in the law. This section talks about just the statements that need to be given from DOCR to update the central voter file.

**Chairman K. Koppelman:** So central voter file is defined somewhere else as well?

**Jim Silrum:** It is defined within the chapter itself.

**Rep. L. Klemin:** This bill only affects absentee voters. We don't have vote by mail here, but in those areas that have that how would it affect that. Do they check that when someone sends in a mail ballot?

**Jim Silrum:** It would be handled in exactly the same way as absentee. There is only one small difference between absentee voting and vote by mail; in an absentee ballot county the county auditor is responsible for sending an application form to every voter in that county. From that point on it is exactly the same as absentee voting.

**Chairman K. Koppelman:** We have never passed a law to vote by mail. Some counties have taken upon themselves to say we are going to use this instead of having polling places other than the county courthouse. Am I right about that?

**Jim Silrum:** We have a specific chapter in 16.1-11.1 that is specifically related to vote by mail.

**Rep. Mary Johnson:** I am getting a feeling that the issue of voter fraud is not is not the objective of overcoming as it is maintaining completeness and accuracy in data bases. Are you truly trying to address as Rep. Larson provided in a scenario?

**Jim Silrum:** We are trying to do both. The first order of business is the absentee voter.

**Rep. K. Wallman:** It feels like a solution searching for a problem. This is one more area where the poll worker becomes the gate keeper for who is eligible.

**Jim Silrum:** I believe anything that helps the poll workers do their job on Election Day is a good thing. That is all this does.

**Steven Borgois, Business Analysis with ND DOCR:** The workload for us is nothing. We have different reports already that are set up for this instance and can do any reporting we need. That is zero cost to us since it is just a matter of computer data reports.

**Rep. Lois Delmore:** Do you have any numbers to give us a gage. Are we creating another process and do we need it?

**Steven Borgois:** I don't have the numbers now but I can get them. Releases were for the 2014 calendar year was around the 1300; as for duplication I don't believe the courts that they send to the Secretary of State's office would duplicate. The courts would send name changes and things like that where we can actually tell them who is on a specific felony incarcerated status. When they come on and when they leave the exact date. They are a little different.

**Rep. K. Wallman:** What is DOCR's understanding of incarceration and release?

**Steven Borgois:** We have a few different statuses at DOCR. We have an incarcerated status which we would call an inmate status. That is somebody we have full supervision and custody of and they are at the ND Pen and our Change River Correctional Center, Missouri River Correctional Center and if we have somebody setting at county jail. Their status changes when they come off an inmate status.

**Chairman K. Koppelman:** Section 12.1-33.03.1 makes it very clear that voting rights are restored when you are on parole or probation. They are only denied when you are incarcerated.

**Rep. L. Klemin:** These reports I would imagine the first report you send out would be a big report and after that it would only include the new names.

**Steven Borgois:** Yes that is right. Due to some of our offenders they get out of prison and get out on patrol, but then they reoffend then they come back they are revoked and their status changes.

**Rep. L. Klemin:** We had another bill about 48 hours revoking their probation. How does that affect us?

**Steven Borgois:** I don't believe those folks would be included. That is a court ordered temporary hold so they would just be on hold and there is a certain amount of time they can set in that hold. Technically their status would be a parolee or probationer until they would go through the full revelations hearing through the court and have their legal status changed.

**Rep. Lois Delmore:** Are all felonies under your asps even though they might not be incarcerated in a penitentiary?

**Steven Borgois:** There could be somebody serving a felony sentence in Burleigh County jail that we never remanded to the DOCR so we wouldn't receive their record because they were ordered to service time by DOCR.

**Rep. Lois Delmore:** This may not cover all the felons in the state?

**Steven Borgois:** My understanding if someone is serving a felony sentence of a year plus it is going to be with the DOCR. If it is a 6 month felony sentence they maybe just sentenced to the county jail in the jurisdiction they committed their offense.

**Rep. P. Anderson:** So do you have an idea if you are convicted of a felon and you go to jail what is the average length of time you go to jail?

**Steven Borgois:** I would have to check. I would say three year sentence.

**Rep. Lois Delmore:** When we talk about address I was thinking in three years they don't have the same address.

**Steven Borgois:** When we do an intake we collect all that information.

**Rep. K. Wallman:** In Section 3 of the bill it says the supplemental report would come out five to seven days before a statewide election so that somebody who is no longer an inmate can vote in a general election, but local elections and special elections that information wouldn't be updated. There is a pretty good chance if 1300 voters are released each year they would go back to their home community and it may not be updated and they may be disenfranchised from voting. Is that a concern?

**Steven Borgois:** My opinion is just fulfill what is in the bill and gets the Secretary of State the information they need to make those changes.

Opposition: None

Neutral: None

Hearing closed.

**Rep. L. Klemin:** I think this should only apply for absentee ballots or vote by mail and maybe the bill should specifically refer to that somehow otherwise we are looking at disenfranchising somebody who shows up at the polling place to vote because he is shown as ineligible. We should try to amend this bill.

**Chairman K. Koppelman:** We will hold the bill.

# 2015 HOUSE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Prairie Room, State Capitol

SB 2327  
3/24/2015  
Job # 25360

- Subcommittee  
 Conference Committee

Committee Clerk Signature



Relating to the reporting of incarcerated felons to the secretary of state.

**Minutes:**

Proposed amendment #1

**Chairman K. Koppelman:** Reopened the meeting on SB 2327.

**Rep. L. Klemin:** (See proposed amendment #1). Went over the proposed amendment.

**Rep. K. Wallman:** The report comes out every Monday. Would it be changed in the voter file in a timely manner?

**Rep. L. Klemin:** I don't think we have to spell it out in that detail.

**Rep. K. Wallman:** The voter file gets information from the DOT and the county auditor's office to update the voter file?

**Rep. L. Klemin:** I don't know, but I can tell you that this language was prepared by the person in the Secretary of State's office that is responsible for elections.

**Rep. G. Paur:** I think it is unnecessary.

**Rep. L. Klemin:** I move the amendment.

**Rep. K. Wallman:** Second.

**Voice vote:** Carries.

**Rep. K. Karls:** I move a Do Pass as Amended.

**Rep. Maragos:** Second.

**Vote:** Yes 13, No 0, No 0

**Maragos:** Carrier.

**Chairman K. Koppelman** closes hearing.

March 13, 2015

SK  
3/24/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2327

Page 1, line 12, replace "no less than monthly" with "every Monday morning"

Page 1, line 13, replace "Within thirty days after receiving a report, the" with "The"

Page 1, line 19, replace "no less than monthly" with "every Monday morning"

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Page 1, remove lines 23 and 24

Page 2, replace lines 1 and 2 with "An individual who has been convicted of and incarcerated for a felony and whose civil rights have been restored as provided under chapter 12.1-33 must be allowed to vote if the individual meets the qualifications of an elector under section 16.1-01-04. The county auditor shall change the status of the individual's record in the central voter file as necessary."

Renumber accordingly

Date: 3-24-15  
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB2327

House JUDICIARY Committee

Subcommittee  Conference Committee

Amendment LC# or Description: 15.8178.01001

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations

Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Rep. Klemin Seconded By Rep. Wallman

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman			Rep. Pamela Anderson		
Vice Chairman Karls			Rep. Delmore		
Rep. Brabandt			Rep. K. Wallman		
Rep. Hawken					
Rep. Mary Johnson					
Rep. Klemin					
Rep. Kretschmar					
Rep. D. Larson					
Rep. Maragos					
Rep. Paur					

*Vote carried*

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 3-24-15  
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. SB2327

House JUDICIARY Committee

Subcommittee  Conference Committee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations

Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Rep. Karls Seconded By Rep. Maragos

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman	✓		Rep. Pamela Anderson	✓	
Vice Chairman Karls	✓		Rep. Delmore	✓	
Rep. Brabandt	✓		Rep. K. Wallman	✓	
Rep. Hawken	✓				
Rep. Mary Johnson	✓				
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. D. Larson	✓				
Rep. Maragos	✓				
Rep. Paur	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. Maragos

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2327: Judiciary Committee (Rep. K. Koppelman, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2327 was placed on the Sixth order on the calendar.

Page 1, line 12, replace "no less than monthly" with "every Monday morning"

Page 1, line 13, replace "Within thirty days after receiving a report, the" with "The"

Page 1, line 19, replace "no less than monthly" with "every Monday morning"

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Page 2, replace lines 1 and 2 with "An individual who has been convicted of and incarcerated for a felony and whose civil rights have been restored as provided under chapter 12.1-33 must be allowed to vote if the individual meets the qualifications of an elector under section 16.1-01-04. The county auditor shall change the status of the individual's record in the central voter file as necessary."

Renumber accordingly

**2015 CONFERENCE COMMITTEE**

**SB 2327**

# 2015 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Fort Lincoln Room, State Capitol

SB 2327  
4/8/2015  
25929

Subcommittee  
 Conference Committee

Committee Clerk Signature



## Minutes:

Sen. Luick: We will call to order the conference committee on SB 2327. All members of the committee are present. Please explain your amendments.

Rep. Maragos: We change the reporting from every 30 days to every Monday. We felt this was reasonable because elections are always held on Tuesday, so if it updated on a Monday most everybody that has their voting rights restored to them, will be able to vote. It will go into the central voter file. We had testimony from DOOCR, that they did it anyway, so it wouldn't be a big issue for them, no extra cost. We thought it was an appropriate change to make and would hope that the Senate would accede to our change.

Sen. Nelson: Did you consult the Secretary of State's office to see if that timeframe will work because those poll books are out well before that week. For instance, in Fargo we have open voting 2 weeks before the elections.

Rep. Maragos: I believe they were in all the way on the discussions and everything seemed to be as the Secretary of State wanted it. I assume that since the Secretary of State as the chief elections officer of the state, I think they signed off on this bill as we amended. The answer to your question is yes.

Rep. Anderson: If it is updated every Monday, it would be updated then for early voting as well.

Sen. Nelson: My concern is from a response I got from the Cass County auditor yesterday when we were talking about updating student addresses when we discussed the bill and the amount of time that was needed to get that done and he wanted the 30 day timeframe in there and I think that's probably

why we had it monthly in there in the first place, that at least you would have something within a month of the election. I don't have any problems with Monday, I'm concerned about the logistics of it; if it can be done but now according to the bill we passed yesterday, if you say you've been there for 30 days, that's it.

Rep. Anderson: They testified that on the average stay of a felon is 3 years. Let's say they get out, who knows if they have the same address. Do they have to wait for 30 days at a new address to be able to vote or can they just go and vote the next day.

Rep. Maragos: They have to be at that address for 30 days. That is the law; no matter whether you are in jail or not. If you have moved and haven't been at the address you're now in for 30 days I believe you have to go back to the old address.

Sen. Luick: We would like some clarification from the Secretary of State's office, Jim Silrum.

Jim Silrum, Deputy Secretary of State: I realize that some questions have already been asked; I can address those or answer what you would like.

Sen. Luick: As I understand it, when the felon is out of their incarcerated position, the day after they have been taken out of that facility, they are eligible to vote again, is that correct.

Jim Silrum: That is correct.

Sen. Nelson: Yes, they are eligible to vote again, but they have to be a resident of somewhere for 30 days. They've been a resident of the State, but they haven't been in my district or my precinct. Quite a few come into my district because of the facilities that are there.

Jim Silrum: It must be remembered that an individual does not lose a voting residence until another one is gained. Therefore, a person is incarcerated. They were living at an address prior to being incarcerated. They go into the prison, that doesn't mean that the penitentiary becomes their new residential address. Their old address is still their residential address. If their intent is that the old residential address is their residence, they can vote after they are released at the precinct according to that address, the address they were at before being incarcerated. If they chose to have a new address, they cannot

vote in that new address until they have lived there for 30 days. Even in that 30 day period, just like if any of us were to move right before an election, even though we wouldn't be qualified to vote in our new precinct, we would still be qualified to vote in our old precinct. Therefore, the person does not have to wait 30 days to re-establish some sort of residency, which would prevent them from voting. They would have to go back to the address of the precinct they had before.

Sen. Nelson: That's where my confusion is because we tell people you have to have lived there for the previous 30 days.

Jim Silrum: The rules pertaining to qualifications of electors and the rules pertaining to the residency in the state, qualifications of electors is 16.1-01-04. The residency is 54-01-26, and they are interrelated sections of law because one builds off of the other. Simply put, a person can only have one residence and provided they meet the qualifications of being 18 years of age or older, a US citizen, a resident of the state of ND, and have resided in that precinct for 30 days prior to the election, they are a qualified elector there. It goes on to say that one does not lose their residential address at which they are a qualified until another address is gained. That's the critical piece here. It's easier to look at it if we're just thinking about yourself. The election is in early November, you move to a new location in late October. You physically live in a new address but because you have not yet lived there for 30 days, you still qualify back at the old address where you lived. That's essentially what we're saying here with an inmate. They were residing at an address before incarceration; they are incarcerated for however long the time is; then they are released and if they move to a new location, in your district because that's where they all like to congregate; they move to that new address. Thirty (30) days after residing then they would be qualified in your district. But until that time, they would be qualified at the address at which they lived prior to being incarcerated.

Rep. Maragos: Then the presumption is that the incarcerated individual is still at the same address from which he left prior to being incarcerated. The day he is let out of prison, if he doesn't go back to the prior address, he goes to a new address and then has to wait the 30 day time limit.

Jim Silrum: Yes.

Rep. Anderson: What happens if someone else lives at the address or doesn't it matter.

Jim Silrum: I might need more information on that. Different people can be living at the same address. Are you saying that they've been incarcerated for three years but someone else lives at that prior address? Honestly that happens quite often, simply because, as I said before, you don't lose an address for voting until a new address is gained. Therefore, somebody who is a missionary in Papua New Guinea, from North Dakota, probably doesn't maintain their physical domicile here, because it's too expensive on a missionary's salary to do that; but because they haven't gained another address for voting elsewhere, even though someone is still living at that address, they are still a qualified elector at that address.

Sen. Casper: Domiciled is determined by intent. It's an operation of law that's done that way because the State does not tell you where you live. You tell the state where you live. It's an individual matter. In legal concepts, at least for particularly for domicile for revenue and court, it's usually determined by a set of facts. For instance, I intended to live there, I was getting mail there. Maybe it's still on your driver's license. There are 8-10 things that could possibly be there in case law. But essentially it's almost one of those things where it is pretty gray. At the end of the day, it's better case law as an operation of law has come to the conclusion that it's better that the individual determine it than anybody else. It's not perfect, but it is what it is.

Sen. Nelson: This happens every Monday morning. So it's Nov. 3<sup>rd</sup> on Tuesday, so you're going to get the list by Nov 2<sup>nd</sup> from the penitentiary. Can you really get all that information into the Central Voters File so that by 7:00 am on Election Day everybody has an accurate voter file at the polls?

Jim Silrum: We will have to work within those parameters. A weekly update on this, and our office does all of these updates from DOCR. We get the list; we update the central voter file. For all of those that occur up to prior Monday, to the Monday before the election, that's going to be in the central voter file, that's going to be there when the counties produce their poll books; whether that's for early voting or whatever. On the one that comes the day before the election, we will put those into the system, and then we're going to have to establish a procedure that sends a notice out to all counties that have an individual who has been released from custody and tell that county please update your poll workers with this information. We're only talking about a small subset because it is only a week's worth of names. That is called a supplemental list and we have supplemental lists for a lot of things. For example, after the poll books are printed on the Friday before the election,

there are absentee ballots come in Saturday or Monday, and we provide supplemental lists to the poll workers so that same individual doesn't come in and vote in person as well as vote absentee.

Rep. Maragos: Unless there are any other concerns by the Senate conferees, I would move that the Senate accede and pass the bill.

Rep. Anderson: Second the motion.

Sen. Nelson: My question dealt with page 2, line 3-7, whether or not they were necessary or not.

Jim Silrum: It is the stuff you added about the incarcerated, the auditor has to change the status in the books, and poll workers are supposed to tell them that they can vote. That seems like that is standard procedure. Why do we have to have it added here?

Jim Silrum: To add complete clarification to the poll worker as to what they should do with somebody who has been previously incarcerated. We asked the House Judiciary Comm. for these amendments. If, an individual shows up at a polling place in order to vote and let's say that our office goofed up and we forgot to take this individual off the disqualified list because of reasons of incarceration. The very fact that they are there either means they have escaped from prison to come and vote, or they are there legitimately and our office goofed up. Just to make sure that they don't look at this and say, this says you are disqualified from voting for reasons of incarceration if they are physically standing before them, they are free from prison and they are no longer incarcerated.

Rep. Maragos: It seems to me that as I look at the original Senate bill that came over to us, all we deleted off the page that Sen. Nelson is looking at as the director of DOOCR. We just removed that language and then started at an individual. All we did was to remove that language.

Sen. Nelson: My questions were answered by Jim Silrum.

Jim Silrum: This was our bill. We came to the Senate with this request. When it reached the House, an amendment was requested but then we wrote the amendment. As Rep. Maragos alluded to, we are completely on board with this.

Sen. Luick: We have a motion on the floor. We will take roll call vote.

**6 YES 0 NO 0 ABSENT**

**SENATE ACCEDES TO HOUSE AMENDMENTS.**

**CARRIER: Sen. Luick**

**CARRIER: Rep. Maragos**

Date: 4/8/15  
 Roll Call Vote #: 1

## 2015 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 2327 as (re) engrossed

### Senate Judiciary Committee

- Action Taken**
- SENATE accede to House Amendments
  - SENATE accede to House Amendments and further amend
  - HOUSE recede from House amendments
  - HOUSE recede from House amendments and amend as follows
  
  - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Rep. Maragos Seconded by: Rep. P. Anderson

Senators	4/8			Yes	No	Representatives	4/8			Yes	No
<u>Sen. Luick</u>	✓			✓		<u>Reps. Maragos</u>	✓			✓	
<u>Casper</u>	✓			✓		<u>M. Johnson</u>	✓			✓	
<u>Nelson</u>	✓			✓		<u>P. Anderson</u>	✓			✓	
<b>Total Senate Vote</b>				<b>3</b>	<b>0</b>	<b>Total Rep. Vote</b>				<b>3</b>	<b>0</b>

Vote Count      Yes: 6      No: 0      Absent: 0

Senate Carrier Sen. Luick      House Carrier Rep. Maragos

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted: \_\_\_\_\_

Statement of purpose of amendment: \_\_\_\_\_

**REPORT OF CONFERENCE COMMITTEE**

**SB 2327:** Your conference committee (Sens. Luick, Casper, Nelson and Reps. Maragos, M. Johnson, P. Anderson) recommends that the **SENATE ACCEDE** to the House amendments as printed on SJ page 1067 and place SB 2327 on the Seventh order.

SB 2327 was placed on the Seventh order of business on the calendar.

**2015 TESTIMONY**

**SB 2327**

**Senate Bill 2327**  
**Sen. Kyle Davison Testimony**  
**February 2<sup>nd</sup>, 2015**

For the record, I am Senator Kyle Davison from District 41 in south Fargo. I am here to introduce and support SB 2327.

SB 2327 purpose is to ensure the secretary of state has the up to date information regarding incarcerated felons from the department of corrections and rehabilitation in a timely fashion. It also requires the secretary of state to update the central voters vault within thirty days of receiving the report. This bill will keep those who aren't qualified to vote from voting and those felons who've served their time the opportunity to vote again.

Again, I ask for your support for SB 2229 and would be pleased to answer any questions.

# 2-1

ALVIN A. JAEGER  
SECRETARY OF STATE  
HOME PAGE [www.nd.gov/sos](http://www.nd.gov/sos)



PHONE (701) 328-2900  
FAX (701) 328-2992  
E-MAIL [sos@nd.gov](mailto:sos@nd.gov)

**SECRETARY OF STATE**  
STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0500

February 2, 2015

TO: Senator David Hogue and members of the Senate Judiciary Committee

FR: John Arnold, North Dakota Voting Facilitator, on behalf of Secretary of State, Al Jaeger

RE: SB 2327 – Reporting of Felons Incarcerated to the Secretary of State

This bill creates a requirement for the Department of Corrections and Rehabilitation (DOCR) to notify the Secretary of State of individuals who are incarcerated for a felony conviction and then when these individuals are released from custody. The Secretary of State will use this information to update the status of the individual in the Central Voter File regarding eligibility to vote.

Section 1, page 1, lines 7 through 14: This creates the DOCR reporting requirement to the Secretary of State listing the individuals incarcerated for felony convictions, specifies that the report is to be provided not less than monthly, and that the Secretary of State shall mark individuals on the list as being ineligible to vote in the Central Voter File.

Section 1, page 1, lines 15 through 21: This creates the DOCR reporting requirement to the Secretary of State listing the individuals released from incarceration, specifies that the report is to be provided not less than monthly, and that the Secretary of State shall remove the ineligible status in the Central Voter File since the voting rights of these individuals is restored upon release.

Section 1, page 1, line 22 through page 2, line 2: This details the supplemental reports to be provided between five and seven days before a statewide election so that pollbooks can be up to date.

We request your favorable consideration and a do pass recommendation.

71  
SB2327  
3-11-15  
PHONE (701) 328-2900  
FAX (701) 328-2992  
E-MAIL sos@nd.gov

ALVIN A. JAEGER  
SECRETARY OF STATE  
HOME PAGE [www.nd.gov/sos](http://www.nd.gov/sos)



SECRETARY OF STATE  
STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0500

March 11, 2015

TO: Representative Kim Koppelman and members of the House Judiciary Committee

FR: Jim Silrum, Deputy Secretary of State, on behalf of Secretary of State, Al Jaeger

RE: SB 2327 – Reporting of Felons Incarcerated to the Secretary of State

This bill creates a requirement for the Department of Corrections and Rehabilitation (DOCR) to notify the Secretary of State of individuals who are incarcerated for a felony conviction and then when these individuals are released from custody. The Secretary of State will use this information to update the status of the individual in the Central Voter File regarding eligibility to vote.

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Section 1, page 1, line 22 through page 2, line 2: This details the supplemental reports to be provided between five and seven days before a statewide election so that pollbooks can be up to date.

Through our conversations with the Department of Corrections and Rehabilitation, we have come to understand that the agency does not have any concerns about this bill.

We request your favorable consideration and a do pass recommendation.

①

15.8178.01001  
Title.

Prepared by the Legislative Council staff for  
Representative Klemm

March 13, 2015

# 1 p1  
Mar. 24, 2015

PROPOSED AMENDMENTS TO SENATE BILL NO. 2327

Page 1, line 12, replace "no less than monthly" with "every Monday morning"

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Renumber accordingly