

2015 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2353

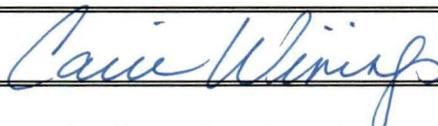
2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Missouri River Room, State Capitol

SB 2353
2/6/2015
Job # 23387

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to amend and reenact section 16.1-05-07 of the North Dakota Century Code, relating to casting of provisional ballots; and to provide a penalty.

Minutes:

Attachments 1 - 4

Senator Dever: Opened the hearing on SB 2353.

Senator Schneider, District 42: See Attachment #1 for testimony as sponsor and in support of the bill.

(4:05)Chairman Dever: Do you think that UND students were not aware of the certificate that was acceptable?

Senator Schneider: Some went to print it off and they could not print their certificate because they had not updated their address 30 days prior to the election. So, even those that tried to use the certificate were sometimes turned away. It is a cumbersome step. It put our university system in an uncomfortable position.

Chairman Dever: We heard a bill yesterday regarding the use of student ID's, would that be acceptable?

Senator Schneider: I think it would be an improvement. Certainly if you have a process whereby each year the student is required to update their address and their ID. That way before any fall or June election they would most likely have their ID updated just as a matter of course. I think that is definitely a beneficial change.

Chairman Dever: We had an individual in Bismarck who wrote a letter to the editor that indicated at the pole, he had an outdated driver's license and he said that he was told that he should go to the previous address on his driver's license and he informed them that he had not been at that address for 3 years. Our law says that when you change your address you are supposed to inform the DOT, and he had not done that. Is that a problem with the system or the or with the voter?

Senator Schneider: I think there is blame either way. I certainly think the fact that a pole worker was telling him to go vote at his previous address. That is a situation where the system is encouraging voter fraud.

Chairman Dever: I am not sure that would be voter fraud because my understanding is that you keep your current address until you take a different address. For voting purposes he had not done that.

Senator Schneider: Respectfully, I disagree. He was not a resident of that address and had not been for 3 years. It speaks to the need to improve this system.

Senator Poolman: We did hear the bill on changing the photo ID cards which would really eliminate this whole need for the certificate and all anyway, which I think is very beneficial. Part of our testimony was very interesting. It was pointed out that according to law right now those UND students are not supposed be voting in your district. They are supposed to be voting in their original place of residence - what it says on their driver's license. We have some work to do.

Senator Schneider: (Reads from code) They may be considered a resident because that is now their home and they have not lived at home for 2 ½ year. I think you can gain a residence in District 42 by moving there and spending your moments of repose in that district and whatever else the law says. That solely would be the modifier there I think.

Chairman Dever: So if we carry that argument on to voting, they should have a North Dakota driver's license with that address on it.

Senator Schneider: You could I guess. I think a lot of them do but some don't.

Senator Cook: I called my granddaughter at UND before the election and asked her if she was going to vote and I got the excuse that she was trying to go through do what she has to do to vote, but quite frankly she did not get it done. If you want to vote then you have to jump through the hoops you have to in order to get it done. You are an adult now. The real question is this, she has a Minnesota driver's license and she could have done what she needed to in order to vote at UND in North Dakota and there is nothing to prevent her from going back to Moorhead and voting there again. To me that is a potential of voter fraud that we have not even talked about and it exists out there all the time.

Senator Schneider: I think that any additional road blocks bring down voter turnout.

Senator Cook: The point is that she has a residence in Minnesota and if she is going to vote in North Dakota then she should have to do something in North Dakota that has some exercise of declaring North Dakota as her residence.

Senator Schneider: If she lives in MN and attends UND then she should be voting in MN only.

(12:05)Senator Marcellais: In my district there were a lot of voters turned away because the previous tribal ID address did not match with the records. Now the tribe is generating

ID's with the 911 address and there is a lot of confusion in tribal government as to what the official ID should be.

Senator Schneider: That is another problem. It is not just college students that are affected.

Chairman Dever: So, the county auditor will mail a postcard Wednesday, the day after the election, the voter will receive it on Thursday, county canvassing board meets the following Monday and if they have not receive that back, they destroy the ballot?

Senator Schneider: That is exactly correct. This is definitely a perfect solution but it would be a start.

Senator Nelson: One of the things that happens on those post cards is that a majority of these people live in apartment complexes and if you put the apartment complex street address on there and don't have the apartment # on there, it depends on the mail carrier as to whether or not they will deliver that.

Senator Schneider: That is a good point and things do get lost in the mail but fewer people would get turned away with this system than what were in 2014.

(15:25) Donnell Preskey, North Dakota Association of Counties: See Attachment #2 for testimony in opposition to the bill.

(18:23) Chairman Dever: I would imagine that auditors put in a pretty long day on Election Day and this would make it a long day the day after?

Donnell Preskey: Yes that was a number one concern brought up in our conference call last week when discussing this bill.

Senator Nelson: Can auditors be told to make sure the apartment #'s are there?

Donnell Preskey: I am not familiar with those laws.

(21:36) Kevin Glatt, Burleigh County Auditor: See Attachment # 3 for testimony in opposition to the bill.

(23:45) Jim Silrum, Deputy Secretary of State: See Attachment #4 for testimony in opposition to the bill. We did sit with the tribal council and told them that they are a sovereign nation and we cannot tell them what the ID's should look like. We were asked if they could provide a letter that states their name and address. We didn't see that this was a problem and we did not receive any complaints from the tribes.

(26:55) Senator Marcellais: Apparently there was some miscommunication then. I was not aware of a tribal letter going out to the tribal constituents that said that it was ok for them to vote.

Jim Silrum: Perhaps that was the case. I can tell you we sat with your tribal chairman and I went up specifically to meet with your tribal council about the matter. The offer stands. We encourage all of the tribes of the state to work with us to make sure their tribal ID's are as useful as they possibly can be for every Native American in the state.

Senator Marcellais: I will follow up on it and find out where the ball was dropped.

Jim Silrum: Thank you, I appreciate it.

Chairman Dever: Closed the hearing on SB 2353.

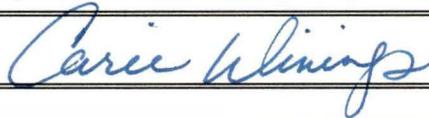
2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Missouri River Room, State Capitol

SB 2353
2/19/2015
Job # 24179

- Subcommittee
 Conference Committee

Committee Clerk Signature



Minutes:

No Attachments

Chairman Dever: Opened SB 2353 for committee discussion.

Senator Davison: Moved a Do Not Pass.

Senator Poolman: Seconded.

Senator Marcellais: The reason I am voting no on this is because the Secretary of State's office said that they went up to the tribal government in Turtle Mountain and had a meeting with them and I went and visited with the Indian Commissioner and they did go. It is common protocol for them to let you know when they are in your district and they did not do that.

A Roll Call Vote Was Taken: 5 yeas, 2 nays, 0 absent.

Motion Carried.

Senator Davison will carry the bill.

Date: 2/19
 Roll Call Vote #: 1

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2353**

Senate Government and Veterans Affairs 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 Davison Seconded By Poolman

Senators	Yes	No	Senators	Yes	No
Chairman Dever	✓		Senator Marcellais		✓
Vice Chairman Poolman	✓		Senator Nelson		✓
Senator Cook	✓				
Senator Davison	✓				
Senator Flakoll	✓				

Total (Yes) 5 No 2

Absent 0

Floor Assignment Davison

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

REPORT OF STANDING COMMITTEE

SB 2353: Government and Veterans Affairs Committee (Sen. Dever, Chairman)
recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING).
SB 2353 was placed on the Eleventh order on the calendar.

2015 TESTIMONY

SB 2353

TESTIMONY OF SENATOR MAC SCHNEIDER (DISTRICT 42 - GRAND FORKS)**SENATE BILL 2353****SENATE GVA COMMITTEE - FEBRUARY 6, 2015**

Mr. Chairman and members of the committee, my name is Mac Schneider and I represent Grand Forks' District 42 in the North Dakota Senate. I am the prime sponsor of SB 2353, legislation which would allow for casting of provisional ballots in North Dakota.

Let me reveal my bias up front: I believe the system for voting that our state had in place prior to 2013 is much preferable to a system that utilizes provisional ballots. I do not believe a credible argument can be made that voter fraud has ever changed the outcome of an election in our state's modern era. My preference is to go back to allowing citizens with an outdated ID or no ID to swear under penalty of law that they are who they say they are and live where they say they live and then permitting them to vote.

That said, I recognize reality and offer SB 2353 as an alternative that leaves the voter ID requirement in place but allows those without proper ID to cast a provisional ballot. Here's how it would work:

- 1) An individual who lacks an approved ID would be offered the opportunity to complete a provisional ballot application (containing the individual's full legal name, date of birth, and residential address in the precinct);
- 2) The poll clerks would then deliver to an individual a provisional ballot which would be identified as such;
- 3) All provisional ballots would be held separately from the other ballots cast at that voting location (thereby allowing for the possibility of invalidation of the ballot in case of fraud);
- 4) On the day after the election, the county auditor would mail a postcard to the address listed by each individual who cast a provisional ballot to confirm their residence;

5) The postcard would include a form whereby the individual would certify under oath that the individual had resided in the precinct for thirty days preceding the election and that he or she was qualified to vote in the precinct;

6) Only if the individual confirmed his or her qualification to vote by delivering the postcard and certification under oath to the county auditor in person or by mail before the meeting of the canvassing board would the provisional ballot be counted; and

7) If an individual fraudulently casts a provisional ballot, he or she would be referred to the state's attorney for prosecution for voter fraud.

I concede that provisional ballots wouldn't be as easy as a certain flaky-cruste desert. However, we also need to be honest with ourselves that a significant number (albeit a small percentage) of lawful voters were turned away from the polls last fall because of the voter ID law.

As noted by the Grand Forks Herald editorial board, "[a] good number . . . were college students." I agree with the Herald's conclusion: "[W]hen a problem goes beyond one or two individual complaints such as 'We've had more than a dozen people turned away in the last hour,' as on UND student leader declared, then the blame lies with the system - not the voter."

I also agree with the Bismarck Tribune's editorial board that "[n]o eligible, valid voter should be disenfranchised on Election Day."

That happened over and over again in my district and across the state, Mr. Chairman. It shouldn't happen again. If not with provisional ballots, we need to fix what's broken about the current system.

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Testimony to the
Senate GVA Committee
2/6/2015
Prepared by:
North Dakota Association of Counties

SB 2353: Relating to Casting Provisional Ballots

Chairman Dever and committee members, I'm Donnell Preskey with the North Dakota Association of Counties. In my role with the NDACo I serve as Executive Director for the Auditors Association. As you know, the Auditors are responsible for conducting our Primary and General Elections in the 53 counties. Auditors appreciate the effort being made this legislative session to make improvements to the law as it relates to voting requirements. Auditors feel there are other voter identification bills being considered that will remedy the problem they witnessed during the last election which should lead to less voters being turned away from the polls. In their view, provisional ballots are unnecessary. It's their opinion provisional ballots are used in situations where you have voter registration. As you know, North Dakota is the only state without voter registration. Even on the Secretary of State's website under the Frequently Asked Questions it states: "Since North Dakota does not have voter registration, provisional ballots are not necessary."

Secondly, auditors say provisional ballots would be administratively very difficult to administer. When Cass County had affidavits they would see over 4,000 affidavits in a big election. Now imagine collecting 4,000 provisional ballots, mailing postcards to those people, then verifying and processing them one by one as the postcards are returned. Auditors say the timeline outlined in this bill is unrealistic.

Auditors expect a costly process if this bill passes. Again in Cass County they already print about 100 different ballot styles for the Primary Election and about 35 for General Elections. Auditor Mike Montplaisir says they would have to double that because of the need of a ballot supply for each with PROVISION

#2
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BALLOT printed on the ballot, a supply of applications, envelopes for the provisional ballots, additional ballot boxes and changes in programming to account for provisional ballots. This proposal basically creates another absentee process for counties.

Provisional ballots would be an additional burden and expense for something that will only be counted if everything falls into place. For those reasons, Auditors request a Do Not Pass recommendation on SB 2353.

**TESTIMONY TO THE
SENATE GOVERNMENT and VETERANS AFFAIRS COMMITTEE
Prepared by Kevin J. Glatt, Burleigh County Auditor/Treasurer
2/6/15**

SENATE BILL 2353

Mr. Chairman and members of the committee, this testimony is in opposition to SB2353.

- Will require additional costs for printing of "provisional ballots"
3552 votes cast at largest precinct in Burleigh County
Do I print an additional 250/500/750/1000?
- Day after election shall mail postcard to address -
Day after is usually reserved for posting "final" results and answering
questions from candidates, parties, media, etc.
- 4 day turnaround for mail is very optimistic.
- This bill will require counties to establish an entirely new set of procedures and
costs to implement -- for little benefit as most people will not return the post cards
in a timely manner.

#4

ALVIN A. JAEGER
SECRETARY OF STATE

PAGE www.nd.gov/sos



PHONE (701) 328-2900

FAX (701) 328-2992

E-MAIL sos@nd.gov

SECRETARY OF STATE

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

February 6, 2015

TO: Senator Dever, Chairman, and Members of the Senate Government and Veterans Affairs Committee

FR: Jim Silrum, Deputy Secretary of State

RE: SB 2353 – Relating to the Authorization of Provisional Ballots

The Secretary of State's office stands opposed to this bill due to the administrative nightmare it could cause immediately after the election in some of the state's county auditor's offices. If the postcards required in this bill are similar to voter affidavits of the past, Cass County, for example, could see thousands of postcards being sent out by Wednesday morning. The individuals receiving these cards would more than likely be forced to return the postcard in person to make sure it arrives on time. This could cause for long lines at the auditor's office on the following Monday morning when auditors should be preparing for the meeting of the canvassing board to be held that day. It would also add unnecessary costs for special "provisional" ballots and for the mailing of postcards to those individuals who were required to mark one of these ballots due to their failure to obtain a free ID from the state.

Under the leadership of Secretary Jaeger, this office has been opposed to the idea of provisional ballots. Even when this idea was presented by legislators of the party other than that of the sponsors of this bill, we provided testimony opposing those bills for the same reasons. Our argument was then and remains today, if individuals are to be asked to show identification, this should be requested of each of us prior to the ballot being delivered.

Every qualified elector has the right to vote and also to know that the others casting ballots are also qualified. Showing ID before being given a ballot is the most efficient and fair method to accomplish this for all voters in every election in North Dakota.

We request your consideration for a do not pass recommendation.