

2015 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1389

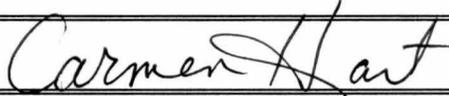
2015 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union, State Capitol

HB 1389
1/29/2015
22802

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to eligibility to vote

Minutes:

Attachments 1-3

Chairman Kasper opened the hearing on HB 1389.

Rep. Rick C. Becker was unable to appear today even though he was a sponsor of this bill.

Sean Johnson appeared in support of HB 1389. He wrote the bill. Attachment 1 (:30-10:05)

Rep. Laning Do you have any idea what it would cost to implement this program? How much time would it take if it is implemented?

Sean Johnson We are just switching words. DOT processes instantaneously. I would be very surprised if there would be a cost. The bill is silent as far as do we need to go back and change everybody's IDs or whatever else. I thought the legislature had better vision on that than I would. My personal opinion is once the bill enters into law from that point forward is when you do it.

Rep. M. Johnson The citizenship process takes years. In the meantime, these folks are subject to local laws. They are taxed. I truly believe that they deserve the opportunity to influence or at least have a voice heard through the election process. I am having a hard time with your dot connection between those that fought for those freedoms but to disallow it for those who are otherwise subject to the laws and rules of the state and the federal government.

Sean Johnson I am trying to find a question there. You have the authority right now as legislators to make that change in our North Dakota Century Code if you feel strongly about it. Our Century Code is what designates US citizens. There are also federal requirements that come into play here too. I think that what you are trying to say is that there are people that aren't US citizens here but they should be able to vote because they are paying taxes.

My concern is those individuals are still enjoying the protections provided by government, protections of police, firemen, medical, etc. By paying they are paying for some of the benefits that they enjoy alongside of the citizen. The only thing that our law really excludes them from doing is being able to influence an election. Citizenship has some rights that has to come with it, and voting is one of them.

Rep. B. Koppelman I had checked into some issues parallel to what you have presented here. How would you propose implementing this?

Sean Johnson I am not proposing we go back. I am proposing this point forward. I don't see this as a huge impact to the DOT. If you look at the requirements to receive an ID card or a driver's license that they have, it lists the obvious ones, but it also points out those certifications following Department of Homeland Security processes. The big one is the arrival and departure record which is the I94. That is when you show up at a port of entry. You sign in. Now they are tracking you. If you have that certification, that is all you need to get a driver's license. The output changes. When they receive that license, it will now say "non US citizen."

Rep. B. Koppelman Are you aware that when the Driver's License Department sends the information to the Secretary of State for the voter vault, they are able to identify whether or not a person is allowed to vote or not?

Sean Johnson That was not pointed out to me through the research that was done via direct questions. If you are not in the voter vault file but you show up with an ID that shows that you live in that precinct, you can vote. There still is a gap there.

Rep. Louser Non US citizens are currently ineligible to vote. Is the intent here to allow the poll worker to recognize when that is the case?

Sean Johnson That is what we are trying to do. We are not trying to change eligibility laws.

Rep. Louser What does poll worker training consist of?

Sean Johnson It consists of how to run the machines, etc. It also goes through a review of the law as it pertains to your duties as a poll worker. Checking IDs is one of them. That training does not reflect anything or discuss anything about temporary IDs. This bill wants to make it clearer in the letter of the law that if it says US citizen, the poll worker doesn't give them a ballot. The current law does not say if it says temporary, do not give them a ballot.

Rep. Amerman Right now when a non US citizen, it says temporary, and you want to put non US citizen on there. This driver's license or ID is going to be used for more than just voting. Do you see this non US citizen ID card raising some unintended consequences for the people that have to carry it?

Sean Johnson If you look at Page 2, Line 28, Paragraph 3, it does specify marking of the non US citizen. It shall not be construed as a sanction to deny the individual any right, privilege, or entitlement.

Rep. Wallman As a poll worker if you get an ID that says temporary, you are not trained to further question, or are you trained not to give a person a ballot that says temporary?

Sean Johnson You are allowed to ask if they are a US citizen. If they say yes, we have to take their word for it. That is a problem.

Rep. Wallman If they say yes that they are a US citizen and they hand you an ID, is there nothing on the identification right now that would indicate to the poll worker that they are not a US citizen?

Sean Johnson No, just the word temporary.

Rep. Wallman When a poll worker sees the word temporary, is that an indication to them that this may be a non US citizen?

Sean Johnson It is not, because it is also not clearly spelled out in the portion of Century Code that addresses voter ID.

Neutral

Glenn Jackson, Director, Driver's License Division, DOT appeared in a neutral position. Attachment 2 (27:39-31:55) During this time he passed around examples of the different driver's licenses and a little further explanation.

Chairman Kasper Who designates permanent?

Glenn Jackson Customs or Citizenship & Immigration Service of the US

Chairman Kasper You received that when they asked for that ID?

Glenn Jackson That is correct.

Chairman Kasper You are verifying at this point certain documents?

Glenn Jackson That is correct. What we have agreed to do through conversation is starting this July we are going to do a checkbox so that when we notify the Secretary of State's Office through the voter file that this person is a permanent resident, they will know they are a permanent resident but not yet a citizen.

Rep. Laning I had to have a birth certificate to get my first driver's license. If this were implemented in this time forward, would you be able to implement something like this for just future applicants if they had to present a birth certificate or proof of citizenship?

Glenn Jackson We do currently require documents from your country that show who you are. We are just not scanning the documents. We are not keeping the documents, and we are not having to go through a questionnaire process about your background.

Rep. Louser If I moved from California to North Dakota, what do I need to present to get a driver's license in North Dakota?

Glenn Jackson Certified birth certificate from your home state and a current driver's license if you have one. We will take your birth certificate, get your social security number which you provide to us on the application form, run that through various systems that we interact with other states, and verify who you are. If everything checks out, we will issue a license.

Rep. Louser Would the non domicile federal requirement suffice for what this bill is proposing to do, and if so, maybe that is something that needs to be trained on for poll workers?

Glenn Jackson Non domicile we put on for commercial because we have to. Temporary we put on for everything else, because in the statute it says we will issue a temporary to someone who is here under a visa status. I am not sure if the simplest way to do this is to improve possibly the training and have examples of these licenses for the poll workers to see so they will know what a temporary is and that they are not a US citizen. My concern with this bill is that to do it the way it is phrased, we are going to have to verify everyone is a citizen, and that is going to have a huge impact on our processes in delivering service for our citizens.

Rep. Louser We are doing that by requiring a birth certificate now to get the original license in the first place. Correct?

Glenn Jackson That is correct, but we are not determining citizenship.

Chairman Kasper Someone comes from California and brings a birth certificate that says they were born in Manila and gives you a California driver's license, what would you do?

Glenn Jackson We have a lot of training so that we are aware of particular countries who are having problems with their birth certificates and have been reported as fraudulent. We know what the actual document looks like.

Chairman Kasper What I am trying to get to is a Manila birth certificate with a California driver's license moving to North Dakota does not verify citizenship from California and does not verify US citizenship. If you don't think it is fraudulent, are you still giving them a driver's license?

Glenn Jackson If everything checks out after going through our processes, we will issue them a North Dakota license.

Chairman Kasper We could have illegal aliens or whatever that are getting North Dakota driver's licenses without any verification at this point in time that they are really a citizen of California or the United States?

Glenn Jackson We have to go through more than just looking at a California driver's license and a Philippines birth certificate. They have to fill out an application to give us some information. We have to verify that information. If they are an immigrant, we have to verify that through DHS.

Chairman Kasper Is any of the verification to verify that they are a citizen of the United States in that case I have cited?

Glenn Jackson We don't verify per say they are a citizen. We do verify if they have a legal status or not, and if they don't have a legal status, that raises a question mark. That will cause us to ask further questions so we will continue to elevate that until we can find a solid answer.

Chairman Kasper Of course, we all know that California certainly has a different guideline for issuing driver's licenses in their state than we do in our state.

Vice Chair Rohr You are saying that when you look at or confirm or verify their legal status, it is not synonymous with US citizenship?

Glenn Jackson That is correct.

Vice Chair Rohr Could we get the definition or the documents that define legal status?

Glenn Jackson I would be happy to give those to you.

Opposition

Jim Silrum, Deputy Secretary of State, appeared in opposition. Attachment 3 (40:50-45:45) I firmly believe that voting in North Dakota in any election in the United States is reserved solely for those who are US citizens, those who have attained the age of 18 or older, and resided in their precinct for 30 days.

Chairman Kasper I don't think any person on this committee would disagree with that statement. The issue on this bill is how do we protect the integrity of that issue for the citizens of North Dakota who are citizens compared to those who may not be citizens and are voting illegally? There appears that there is some type of an opportunity to be able to vote without being a citizen of North Dakota.

Rep. Louser If the poll books say that somebody is not a US citizen and, therefore, not eligible to vote and they show up at the polls and respond yes to being a US citizen, what does the poll worker do? If they say yes, I am a US citizen and they are, they have gone through the process since the poll book says they are not, how do they prove they are?

Jim Silrum The administrative solution that we put forward indicates that because those who receive permanent resident licenses who are not citizens at the time they received those are in the process of becoming citizens, they may have changed their citizenship because they passed their requirements to become US citizens since the time they obtained a license in the state of North Dakota. They could indeed say yes and the poll worker would be instructed to take their word for that and the county auditor would change the designation of that individual as eligible rather than ineligible for future elections. If it is later discovered that the individual was not qualified to vote because they were not a US citizen, that is where the prosecution could come in play.

Rep. Louser In both scenarios the poll worker would ask the question and regardless of what the book says would provide the ballot?

Jim Silrum There are high consequences for saying yes just so they can cast one ballot.

Rep. Louser Is there a need to ask the question if we have something in the poll books, or is there a need for the poll book because they are going to get to vote anyway?

Jim Silrum When an individual who is not a US citizen gets a permanent license or identification from DOT and when they obtain their citizenship, they must go back to DOT and somehow to prove to them that their citizenship has changed.

Rep. Louser Are you saying it is better to go to the DOT or the Secretary of State once they have that evidence of citizenship?

Jim Silrum I think that should go to the election official rather than to the DOT. All other states have voter registration. Because of voter registration there is also what is called the Motor Voter Law. That means department of transportations, licensing agencies, welfare agencies, etc. work with individuals in the state and must become quasi voter registration, people who ask are you a registered voter. If we turn and make DOT into the repository of whether or not each of us is a citizen or not, I fear that puts us in the path of being in a voter registration state and then all of the applicable rules of voter registration on a federal level would apply here in North Dakota. I would like to avoid that, and that is why they should go to the election official.

Rep. Schneider Are you aware of any case in any county in the state where a noncitizen has tried to vote?

Jim Silrum In McKenzie County there was a doctor who was not a US citizen and voted, but he was prosecuted.

The hearing was closed.

Chairman Kasper We have had an in depth hearing on a number of issues, and I think they are important. We can begin to see how complicated some of these issues are and how difficult it is to try to get it right. As Sean has indicated and I support, the right to vote is one of the most dear privileges that our republic allows us to have, and we want to be

sure that only those who are truly eligible to vote can vote and those who are not eligible are made aware of the fact that they should not be voting and they are turned away.

The meeting was adjourned.

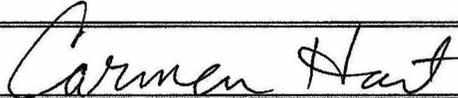
2015 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union, State Capitol

HB 1389
2/12/2015
23742

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to eligibility to vote

Minutes:

"Click to enter attachment information."

Chairman Kasper opened the meeting on HB 1389. The crux of the bill is on Page 1, Line 11. Section 2 was also pointed out. DOT doesn't get into verification of a non US citizen.

Rep. Steiner It raises an interesting issue, and maybe we should turn it into a study.

Rep. B. Koppelman I would support a study as well. The Secretary of State's Office and DOT are changing their protocols for what information they send between the two. If we put this into a study and it passes, it motivates those two agencies to make sure they follow through.

Chairman Kasper I will have the law clerk prepare an amendment that would turn this bill into a study which we will look at later.

The meeting was closed.

2015 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Fort Union, State Capitol

HB 1389
2/19/2015
24139

- Subcommittee
 Conference Committee

Committee Clerk Signature

Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to forms of voter identification; relating to eligibility to vote

Minutes:

Attachment 1

Chairman Kasper opened the meeting on HB 1389. He presented and went over the amendment which is Attachment 1. The amendment turns this into a study.

Rep. B. Koppelman moved to adopt the amendment.

Rep. Steiner seconded the motion.

Rep. Wallman Did we also have a study that was going to look at voter registration?

Chairman Kasper Yes, that was Rep. Mock's study. That would be a separate issue.

Rep. Wallman If any of these pass, we look at everything?

Chairman Kasper All of these studies go to legislative management, and they will pick which studies they wish to proceed with during the interim and which ones they don't want. They might lump them together into one committee. I would suspect that might be of the charge of one committee that would study both.

Voice vote. Motion carries.

Rep. Steiner made a motion for a DO PASS AS AMENDED.

Rep. Karls seconded the motion.

Chairman Kasper Again, I want to point out this is a study.

A roll call vote was taken. 10 Yeas, 3 Nays, 1 Absent.

Rep. Steiner will carry the bill.

AK
2-19-15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1389

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study relating to verification of citizenship status for voting and for obtaining driver's licenses and nondriver photo identification cards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - VERIFICATION OF CITIZENSHIP STATUS FOR VOTING AND FOR OBTAINING DRIVER'S LICENSES AND NONDRIVER IDENTIFICATION CARDS. During the 2015-16 interim, the legislative management shall consider studying issues relating to verification of citizenship status for the purpose of voting, including absentee and mail ballot voting. The study also must address the process through which the department of transportation verifies citizenship status in the issuance of driver's licenses and nondriver identification cards and the feasibility and desirability of requiring the department of transportation to include on a driver's license or nondriver identification card of a noncitizen a notation indicating the individual is not a citizen of the United States. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly."

Renumber accordingly

Date: 2-19-15
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1389**

House Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: 15.0917.01001

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 B. Koppelman Seconded By Steiner

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper			Rep. Bill Amerman		
Vice Chair Karen Rohr			Rep. Gail Mooney		
Rep. Jason Dockter			Rep. Mary Schneider		
Rep. Mary C. Johnson			Rep. Kris Wallman		
Rep. Karen Karls					
Rep. Ben Koppelman					
Rep. Vernon Laning					
Rep. Scott Louser					
Rep. Jay Seibel					
Rep. Vicky Steiner					

*Vote
 to
 Motion
 Carries*

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 2-19-15
 Roll Call Vote #: 2

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1389**

House 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 Steiner Seconded By Karls

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Bill Amerman	X	
Vice Chair Karen Rohr	X		Rep. Gail Mooney	-	
Rep. Jason Dockter	X		Rep. Mary Schneider		X
Rep. Mary C. Johnson		X	Rep. Kris Wallman		X
Rep. Karen Karls	X				
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Jay Seibel	X				
Rep. Vicky Steiner	X				

Total (Yes) 10 No 3

Absent _____

Floor Assignment Steiner

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

REPORT OF STANDING COMMITTEE

HB 1389: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1389 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study relating to verification of citizenship status for voting and for obtaining driver's licenses and nondriver photo identification cards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - VERIFICATION OF CITIZENSHIP STATUS FOR VOTING AND FOR OBTAINING DRIVER'S LICENSES AND NONDRIVER IDENTIFICATION CARDS. During the 2015-16 interim, the legislative management shall consider studying issues relating to verification of citizenship status for the purpose of voting, including absentee and mail ballot voting. The study also must address the process through which the department of transportation verifies citizenship status in the issuance of driver's licenses and nondriver identification cards and the feasibility and desirability of requiring the department of transportation to include on a driver's license or nondriver identification card of a noncitizen a notation indicating the individual is not a citizen of the United States. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly."

Renumber accordingly

2015 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1389

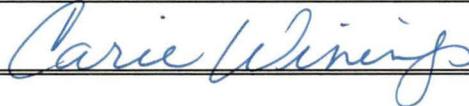
2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Missouri River Room, State Capitol

HB 1389
3/20/2015
Job # 25176

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide for a legislative management study relating to verification of citizenship status for voting and for obtaining driver's licenses and nondriver photo identification cards.

Minutes:

Attachments 1

Chairman Dever: Opened the hearing on HB 1389.

Representative Becker, District 7: Testified as a sponsor and in support of the bill. This was brought to me by a constituent. The intentions of the bill as originally written are still the same even though the bill was hog housed and that is that we have a process by which we know the citizenship status of voters when they vote. If they are not a US citizen it would say non-US citizen. I did not testify in the House and I was not privy to much of the discussion. I have been told that there were some concerns from the Department of Transportation and the Secretary of State that we did not have processes in place to be able to do this and they needed to be worked out and that is why it was changed to a study. I suppose it still could be worked out but it would take some effort.

(1:25) Senator Nelson: Was your original intent for when they changed from a non-citizen to a citizen that there is no charge to them to upgrade their driver's license?

Representative Becker: I am not sure that was specifically addressed but I would assume that was the intent.

Chairman Dever: There are just a couple of states that allow illegal aliens to get a driver's license. Do you know if they are able to transfer that if they move to North Dakota?

Representative Becker: I do not know.

Senator Marcellais: Was there any discussion on tribal ID's?

Representative Becker: The original bill did address that they would have been one of the forms that would be accepted and frankly I am not sure what the preponderance of non-US citizen tribal ID holders would be but the tribal ID would be an accepted form of ID to vote.

(3:30) Jim Silrum, Deputy Secretary of State: See Attachment #1 in support of the bill.

(3:50) Chairman Dever: Did you support the original bill?

Jim Silrum: We did not.

Chairman Dever: So you feel that this is worth studying?

Jim Silrum: There is definite benefit to studying it. We did not support it because it is not just as simple as putting a designation on one's driver's license as to whether they are a US citizen or not. There are a lot of issues that go into that. I do not personally carry anything that says I am a US citizen nor do I have in my possession anything that says I am one. Putting that designation on DOT is another issue that we saw as being difficult.

Senator Marcellais: I have my old tribal ID and my new one - I was told that several were turned away at the polls to vote on the school board election. They came out with a new one that costs \$10 that has the 911 address on the card. I understood that you met with tribal council and explained what would be accepted yet I am getting blamed for the problem.

Jim Silrum: I heard two questions there. The section of law that describes voter ID says that an ID must contain the individual's name, DOB, and the residential address. Of those ID's that are acceptable are the Driver's License, the Non-Driver's ID, and the Tribal ID. However, if any of those do not contain one of those critical elements then they would not be included. The second question that I heard was about when we met with the tribal councils of the state. It was in response to a question that came to us from them saying that their ID's did not have residential addresses on them and we said that we understand that they are a sovereign nation and could determine what the ID's are. Therefore, if there are members of the tribe that do not have a license or ID that has residential address a letter could be provided for them with the information required and that would have to be acceptable at the polls. That was communicated from our office directly to your tribal chairman among others. Beyond that I cannot speak to whether or not that went any further.

Discussion: There was a brief discussion on that situation and Jim Silrum stated that he could provide the information on the meeting with the tribal chairman.

Glenn Jackson, Director, DOT Driver's License Division: Testified in support of the bill. We support the study although we were neutral on the original version of the bill. We did have concerns with the original bill. The bill was intended for us to put non-US citizen on the driver's license and that creates a situation where we would have to determine citizenship. We do not do that today. The enhanced driver's license bill that the Senate passed would allow us, for the people who want to get that bill, we would then go through that process. It is about a 30 minute interview process. We would in that case determine citizenship. But to

do that for every driver's license, for every person, would require every person to bring in all of the basic paperwork and we would have to do a questionnaire process that DHS would direct us to do so that we could validate and determine your citizenship before we could issue a renewal. That would make every renewal about a 30 minute process for the next six years and it would create cost for IT to build that out, and cost in staffing to have enough people to be able to provide that service. Currently what we do for those that have a temporary visa or anyone that has a less than a permanent residence or citizenship status, we issue them a temporary driver's license that states that it is temporary. The same thing goes for commercial drivers and those state non-domiciled according to federal rules. There are about 5000 of them in the state currently and they are not able to vote. To put non- US citizen on the driver's license would require us to research their citizenship and that would be a huge cost. We like the idea of having a study so that we can understand what we are really trying to address.

(13:53)Chairman Dever: Would you expect that a study would result in some approach to the issue as it was introduced?

Glenn Jackson: I am not sure. It would be good to have the legislative body have a say and a part of the discussion on how much it is going to cost and how we are going to implement this process.

Chairman Dever: Or the study might suggest that it creates more problems than it solves.

Chairman Dever: Closed the hearing on HB 1389.

Senator Poolman: Moved a Do Pass.

Senator Marcellais: Seconded.

A Roll Call Vote Was Taken: 7 yeas, 0 nays, 0 absent.

Motion Carried.

Senator Flakoll will carry the bill.

3/20

Date:
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1389

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 Poolman Seconded By Marcellais

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

Total (Yes) 7 No 0

Absent 0

Floor Assignment Flakoll

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

REPORT OF STANDING COMMITTEE

HB 1389, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1389 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

HB 1389

HOUSE BILL 1389
WRITTEN TESTIMONY
Sean M. Johnson
Representing Self

1389
#11
1-29-15

Chairman Kasper and the Honorable Members of the House Government and Veterans Affairs Committee:

My name is Sean Johnson, and I am a resident of Bismarck, ND. I live in the new District 7, where I volunteered to serve as a poll worker in the past two elections. While personal circumstances beyond my control regrettably prevented me from actually serving on Election Day in June and November, I have been fully trained to perform these duties and look forward to the opportunity to do so in the future.

I volunteered for this duty because I feel the right of the vote is sacred in our nation; I want to continue to do my part to ensure my fellow citizens enjoy a right that so many have sacrificed so much for, and so many who are not blessed with American citizenship can only dream about. I am a retired Soldier, and I have been privileged to know Americans who made the ultimate sacrifice defending this right. I have served alongside many more who have been willing to make that same sacrifice without mental reservation. Several of them had the unique honor of overseeing the first truly free election in Iraq, and to this day they beam with pride as they tell stories of Iraqi citizens who literally risked their lives to exercise the right to vote for the first time ever. They knew the risk, but they voted anyways, because they knew firsthand what it was like to be disenfranchised.

There are several in your Assembly who also have served, and have been willing to make that same sacrifice, including five of you on this committee (Representatives Amerman, Dockter, Kasper, Laning, and Seibel). Regardless of whether or not you have put on a uniform and swore an oath to protect and defend the Constitution of the United States against all enemies, foreign and domestic; it is likely clear to you already that the right of the vote is the center of gravity of our Republic. If it becomes unstable, then the rest of the body of that Republic will become unbalanced and eventually collapse. So central is this right to our Republic that we have amended the Constitution five times to better ensure our citizens are

enfranchised; indeed, more amendments relate to voting than any other matter in our founding document. The last voting amendment was the 26th ratified in 1971, when we figured out it was a pretty good idea that if you are old enough to defend the right of the vote, you are probably old enough to exercise that right too.

The states have been entrusted with assuring the process of voting both protects the rights of those enfranchised with the vote, while assuring the votes of the enfranchised are not cancelled out by those who have no right to vote in our elections. Striking this balance can be a challenge, but preserving the sanctity of the vote and purity of the voting process is a covenant that simply cannot be broken with our citizens; especially those who have sacrificed so much to defend it. At the end of the day, even one eligible voter who has their ballot cancelled out by an ineligible ballot cast by someone who should not vote is one eligible ballot too many.

That is why when a possible threat to the purity of the voting process is identified, the State has an obligation to act to preserve the sanctity of all ballots cast from eligible voters. Those who facilitate that process share in the obligation, and have a responsibility to the voters to both make known the existence of those threats, and bring forward solutions. That is why I proposed, and why you are considering, HB 1389.

North Dakota Century Code has established what makes a person an eligible voter in our state. Number one on that list is they must be a citizen of the United States. Among others is the residency requirement within a district. Century Code has spoken to the requirements of residency in a district, to include the acceptable forms of identification which can be used to validate that residency. Whether the ID forms authorized are or are not the right ones for residency verification is a debate left to another bill and another hearing, but suffice to say great efforts have been made in the area of verifying district residency. What HB 1389 seeks to address is the concerns over verification of US citizenship, and it is in this area that we have a very concerning gap. It is a gap I discovered during poll worker training when I asked how we were supposed to ascertain US citizenship with the allowed forms of ID. I was informed that, unfortunately, there really was no way to do that.

The most typical forms of ID at the polls is the state drivers license or ID card. Many assume you have to be a US citizen to be issued this identification, but that is incorrect. Indeed,

a non-US Citizen can be in compliance with many processes overseen by various agencies within the US Department of Homeland Security to be in America legally, and compliance with some of those processes also makes you eligible to receive a drivers license or ID card from the State of North Dakota.

On those forms of ID are all the elements of information needed to demonstrate residency and thus eligibility to vote in a district; specifically your residence. There currently is no designation on that same ID which clearly spells out that a non-US citizen is just that; a person ineligible to vote in our elections. All that is stamped on that ID is the word “temporary”, which does not intuitively lead any poll worker to know the bearer should not be voting. Even current Century Code is silent on the meaning of the word “temporary”, and the requirement for a poll worker to not provide a ballot to a person with an ID designated in this manner. Indeed, I discovered that a “temporary” ID was issued to non-US citizens only through research done by a legislator as part of drafting this bill.

There are more ID’s designated “temporary” out there than you can likely imagine. According to the ND Department of Transportation, they have issued **3,046** of these types of ID’s. There currently exists plenty of room for more.

According to the 2014 US Census Bureau American Community Survey, close to **21,500** people in our state are foreign born. By their definition, a foreign born person is either not a US Citizen or US National at birth, and includes both naturalized citizens or those who are not US citizens. Even if one makes a conservative estimate that 20% of that number are not citizens, the number is close to **4,300**. The ND University System’s Fall Enrollment Report indicated **1,318** undergraduate and graduate students are not US citizens. We also cannot effectively measure how much of a magnet our state has become due to our economic prosperity, but it is no secret that we have attracted many from other nations due to the prospect of work. This impact is not just felt in the oil patch either, as many reside in the east as well.

Even a fraction of these numbers can impact an election should non-US citizens slip through the existing gap in our verification system, especially in a state that does not have registration. Our last race for the US Senate was decided by only **2,936 votes**, and whether you

like the results of that election or not, this thin margin demonstrates that close elections do occur in our state, and every election matters.

Every eligible vote also matters; and every eligible vote cancelled out by an ineligible one can bring us closer to an election which truly does not reflect the intent of eligible voters as a collective. Regardless of if votes cast by those who may be ineligible impact an election result or not, one eligible voters ballot cancelled out by an ineligible one is one too many, especially when the verification gap exploited by an ineligible voter to cast that ballot is known – as it is with this one.

By passing HB 1389, we make a very simple change to ID's which may be used to validate eligibility to vote. In the case of state licenses and ID cards (which is most of them), we simply replace the ambiguous word "temporary" with the clear designation "non-US Citizen" for those who are not US citizens. For other acceptable ID's, those magic words "non-US Citizen" are made prominent. In all cases it will be clear to poll workers that the bearer is not an eligible voter, and to not issue them a ballot. In all cases the rights and privileges a bearer of such an ID has regardless of their citizenship status remains intact. Overall, our state will have taken another positive step towards further preserving the sanctity of the vote for all eligible voters, ensuring the preferences they cast on a ballot are not cancelled out.

Please recommend DO PASS on HB 1389.

HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
January 29, 2015; 8:00 AM, Ft. Union Room

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1389

1-29-15

North Dakota Department of Transportation
Glenn Jackson, Director, Driver's License Division

HB1389

Good Morning Mr. Chairman, members of the committee, I am Glenn Jackson, Director of the Driver's License Division at the North Dakota Department of Transportation (DOT). Thank you for giving me the opportunity to address you today.

HB1389 requires the DOT to determine citizenship of applicants before issuing a license or identification card. This process is very different than the current licensing process we follow. A fiscal note was not requested from the DOT for this bill. However, it is important the committee understands the impact of this process change on the DOT.

Verification of US Citizenship is a responsibility of the Citizenship & Immigration Service of the U.S. Department of Homeland Security (DHS). In order to verify citizenship for each applicant, the DOT will be required to work with DHS to establish processes the DHS deems satisfactory to enable the DOT to make this determination.

Based upon this change in process, the DOT must prove the applicants citizenship, which means we will verify and scan documents including some form of identification allowed by the DHS, such as a passport, birth certificate, certificate of citizenship, certificate of naturalization, etc. In addition, to prove residency, we will request and scan some type of document like a utility bill or mortgage document that ties the individual to a physical address. This application process requires a full interview of the applicant which is required by DHS. This process could take up to half an hour to complete.

The amount of time required to process these documents pushes us in two alternative directions.

1. Based upon the need to gather, confirm and process this application, additional staff will be needed to meet these demands while continuing to provide service with current wait times.
2. Alternatively, if we do not acquire additional staff, our customer wait times will significantly increase.

Thank you Mr. Chairman, I would be happy to answer any questions.

ALVIN A. JAEGER
SECRETARY OF STATE

PAGE www.nd.gov/sos



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January 29, 2015

#3
1389
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1-29-15

TO: Chairman Jim Kasper and members of the House Government and Veteran's Affairs Committee

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

RE: HB 1389 – Prohibiting Non-U.S. Citizens from Voting

The Secretary of State's office stands in support of the concept behind this bill, but our testimony is in opposition to the bill because it is unnecessary and would be a large expenditure of tax dollars for a relatively small impact. We also believe it is unnecessary because of an administrative solution that has been developed between the Secretary of State and the Department of Transportation.

The administrative solution in its simplest form is as follows:

1. Each time the Department of Transportation issues a new license or nondriver's identification card, the name of the form of identification used by the individual to obtain that license or ID will be entered into the database.
2. That new information will be transmitted to the Secretary of State's office for inclusion in the Central Voter File database.
3. Individuals who used a form of identification that indicated the individual was not a citizen of the United States at the time the license or ID was issued will have their status marked by the Secretary of State as ineligible to vote for the reason of not being a U.S. citizen.
4. The Secretary of State will also change the format for all pollbooks used within the state to include a question that will be asked of each voter appearing to vote, "Are you a U.S. citizen?"
5. This will allow those individuals who have become a U.S. citizen since the time the license or ID was issued to change the individual's status in the Central Voter File.
6. If a voter is subsequently found to have not been a citizen at the time of voting, that information will be turned over to the appropriate State's Attorney and, if applicable, to the U.S. attorney for investigation and prosecution.

The Department of Transportation currently estimates there to be a very small number of residents of the state who obtained a license or ID at a time prior to that individual becoming a citizen. Many of these individuals have gone on to become citizens of our country. Therefore, since we will be able to identify all new residents going forward who aren't citizens and update the records of those who have obtained citizenship with a simple administrative process that is relatively inexpensive, we do not see the need for this bill.

Finally, if any of us were asked to provide a document that proves we are a U.S. citizen, what document could any of us provide? Any document provided could only state that at the time the document was issued, we were citizens, but it cannot guarantee that for any time beyond that point in time.

We request your consideration for a do not pass recommendation.

February 18, 2015

#1 1389
2-19-15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1389

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study relating to verification of citizenship status for voting and for obtaining driver's licenses and nondriver photo identification cards."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - VERIFICATION OF CITIZENSHIP STATUS FOR VOTING AND FOR OBTAINING DRIVER'S LICENSES AND NONDRIVER IDENTIFICATION CARDS. During the 2015-16 interim, the legislative management shall consider studying issues relating to verification of citizenship status for the purpose of voting, including absentee and mail ballot voting. The study also must address the process through which the department of transportation verifies citizenship status in the issuance of driver's licenses and nondriver identification cards and the feasibility and desirability of requiring the department of transportation to include on a driver's license or nondriver identification card of a noncitizen a notation indicating the individual is not a citizen of the United States. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fifth legislative assembly."

Renumber accordingly

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March 20, 2015

TO: Chairman Dick Dever and members of the Senate Government and Veteran's Affairs Committee

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

RE: HB 1389 – US Citizenship Study

The Secretary of State's office supports the study of this issue.