

**2021 HOUSE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1253**

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1253  
1/28/2021

Relating to election administration, and to provide a penalty

**Chairman Kasper** opened the hearing at 4:25 p.m.

<b>Representatives</b>	<b>Roll Call</b>
Representative Jim Kasper	P
Representative Ben Koppelman	P
Representative Pamela Anderson	P
Representative Jeff A. Hoverson	P
Representative Karen Karls	P
Representative Scott Louser	P
Representative Jeffery J. Magrum	P
Representative Mitch Ostlie	P
Representative Karen M. Rohr	P
Representative Austen Schauer	P
Representative Mary Schneider	P
Representative Vicky Steiner	A
Representative Greg Stemen	P
Representative Steve Vetter	P

### **Discussion Topics:**

- Modernizing terminology consistent with technology
- Remedies required by recent litigation
- Options for election administration

**Rep. Louser** introduced and testified in favor, #6800.

**Jim Silrum, Deputy Secretary of State**, testified in favor, #3801.

**Donnell Preskey, ND Association of Counties**, testified in favor, #3937.

**Kevin Ford, ITD**, testified in favor.

**Judy DeWitz, Protection & Advocacy Disabilities Advocate**, testified neutral, #3925.

**Zelda Gebhard, ND Association of the Blind**, testified neutral, #4048.

**Allan Peterson, Legislative Committee, ND Association of the Blind**, testified neutral, #4086.

**Additional written testimony:** #3920, #2317

**Chairman Kasper** adjourned at 5:28 p.m.

*Carmen Hart, Committee Clerk*



21.0471.05001  
Title.

Prepared by the Legislative Council staff for  
Representative Louser  
January 22, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1253

Page 1, line 2, after the second comma insert "a new section to chapter 16.1-13, section 44-02-03.1,"

Page 1, line 15, remove "16.1-13-10,"

Page 1, line 20, remove "and"

Page 1, line 20, after "16.1-16-07" insert ", and 44-02-03"

Page 1, line 22, replace "and" with "16.1-13-10,"

Page 1, line 22, after "16.1-13-24" insert ", and 54-03-01.13"

Page 1, line 23, after "administration" insert "and to remove obsolete language"

Page 2, line 9, remove "an"

Page 2, line 10, remove "individual who seeks nomination for election or election to public office, and includes"

Page 5, line 21, replace "question" with "factual dispute"

Page 59, remove lines 25 through 31

Page 60, remove lines 1 through 31

Page 61, replace lines 1 through 10 with:

**"SECTION 73. A new section to chapter 16.1-13 of the North Dakota Century Code is created and enacted as follows:**

**Death or disqualification of legislative candidate.**

If a candidate for an office of a member of the legislative assembly who has died or become disqualified for the office receives enough votes to be elected except for the death or disqualification, a vacancy in the office is deemed to exist, and must be filled according to section 44-02-03.1. If an individual elected to the legislative assembly dies or becomes disqualified after the election but before the individual's term of office begins, a vacancy in the office exists and must be filled according to section 44-02-03.1 as if the individual's term of office had begun. An individual is disqualified for an office of a member of the legislative assembly if the individual fails to meet the qualifications under law for the office."

Page 80, after line 25, insert:

**"SECTION 106. AMENDMENT.** Section 44-02-03 of the North Dakota Century Code is amended and reenacted as follows:

**44-02-03. Vacancy in state or district office - How filled.**

Any vacancy in a state or district office, except in the office of a member of the legislative assembly, must be filled by appointment by the governor. The governor may

not fill a vacancy in the office of a member of the legislative assembly. A vacancy in the office of a supreme court justice or district court judge must be filled as provided in chapter 27-25. If during a vacancy in the office of governor, the lieutenant governor and the secretary of state are impeached, displaced, resign, or die, or from mental or physical disease or otherwise become incapable of performing the duties of the office of governor as provided by sections 2 and 7 of article V of the Constitution of North Dakota, then the succession to the office of governor is the speaker of the house, president pro tem of the senate, attorney general, in the order named. Each succeeding person named shall hold the office of governor until the vacancy is filled by election or until any disability of the preceding person in the line of succession is removed.

**SECTION 107.** Section 44-02-03.1 of the North Dakota Century Code is created and enacted as follows:

**44-02-03.1. Vacancy in legislative assembly.**

1. If a vacancy in the office of a member of the legislative assembly occurs, the secretary of state shall notify the chairman of the legislative management of the vacancy. The secretary of state need not notify the chairman of the legislative management of the resignation of a member of the legislative assembly when the resignation was made under section 44-02-02.
2. Upon receiving notification of a vacancy, the chairman of the legislative management shall notify the district committee of the political party the former member represented, or the member-elect or deceased or disqualified candidate would have represented, in the district in which the vacancy exists. The district committee shall hold a meeting within twenty-one days after receiving the notification and select an individual to fill the vacancy. If the former member, member-elect, or deceased or disqualified candidate was elected as an independent candidate or if the district committee does not make an appointment within twenty-one days after receiving the notice from the chairman of the legislative management, the chairman of the legislative management shall appoint a resident of the district to fill the vacancy.
3. If a vacancy occurs because a member-elect died or became disqualified, or a candidate who died or became disqualified received a sufficient number of votes to be elected except for the death or disqualification, the term of an individual appointed to fill the vacancy begins on the first day of December of the year in which the vacancy occurs.
4. Except as provided in subsection 6:
  - a. If the office with the vacancy would not have been placed on the next general election ballot after the vacancy occurs had the member, member-elect, or candidate whose death, disqualification, or resignation created the vacancy been able and qualified to fulfill the term, the individual appointed to fill the vacancy shall serve until a successor is elected at and qualified following the next general election that is at least ninety-four days after the vacancy occurs.
  - b. If the office with the vacancy would have been placed on the next general election ballot after the vacancy occurs had the member,

member-elect, or candidate whose death, disqualification, or resignation created the vacancy been able and qualified to fulfill the term and:

- (1) The next general election is scheduled to take place less than ninety-four days after the vacancy occurs:

    - (a) The individual appointed to fill the vacancy shall serve until a successor is elected at and qualified following the next general election that is at least ninety-four days after the vacancy occurs; and
    - (b) The elected successor shall serve through November thirtieth of the following even-numbered year.
  - (2) The next general election is scheduled to take place at least ninety-four days after the vacancy occurs, the individual appointed shall serve until a successor is elected at and qualified following the next general election.
5. If a special election to fill the vacancy is called by the governor according to subsection 6, the individual elected at the special election shall serve for the remainder of the term of office which would have been served by the individual whose death, disqualification, or resignation created the vacancy.
  6. The qualified electors of a legislative district in which a vacancy in the office of a member of the legislative assembly occurs due to the death, disqualification, or resignation of a member of the legislative assembly during the member's term of office may petition for a special election to be called by the governor to fill the vacancy. The petition must include the signatures of qualified electors equal in number to at least four percent of the resident population of the legislative district as determined by the last federal decennial census and must be presented to the secretary of state within thirty days following an appointment being made according to subsection 2. If the secretary of state determines the petition contains the required number of signatures of qualified electors of the affected legislative district, the secretary of state shall notify the governor that a special election is required to be called to fill the vacancy. Upon receiving the notice, the governor shall issue a writ of election directed to the secretary of state commanding the secretary of state to hold a special election to fill the vacancy at a time designated by the governor. A special election under this section must conform to the applicable election deadlines found in title 16.1 and may be called to coincide with a regularly scheduled primary or general election provided the special election is called by the fifteenth day before the deadline for candidates to file for office before a regularly scheduled primary or general election. A special election under this section may not be scheduled to occur during the time from a general election through eighty days following the adjournment of the next ensuing regular session of the legislative assembly.
  7. The secretary of state must be notified of an appointment made by a district committee or the chairman of the legislative management according to this section. Upon notification, the secretary of state shall issue the

appointee a certificate of appointment and an oath of office for the appointee to complete and file with the secretary of state.

8. For purposes of addressing vacancies in offices of members of the legislative assembly, an individual is disqualified for an office if the individual fails to meet the qualifications under law for the office."

Page 81, line 3, replace "and" with "16.1-13-10,"

Page 81, line 3, after "16.1-13-24" insert ", and 54-03-01.13"

Renumber accordingly

ALVIN A. JAEGER  
SECRETARY OF STATE

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

January 28, 2021

TO: Chairman Kasper and Members of the House Government and Veterans Affairs Committee  
FR: Jim Silrum, Deputy Secretary of State on behalf of Secretary of State Al Jaeger  
RE: HB 1253 – Election Administration

This 107-section bill is a comprehensive election administration bill that creates one new subdivision and four new sections, amends 101 sections, and repeals four sections of the North Dakota Century Code (NDCC). All but two of the sections are found in Title 16.1, which is the Elections Title in the NDCC. The two sections not in Title 16.1 were included to allow the Secretary of State the authority to conduct background checks for cybersecurity purposes on the employees of the office whose work involves the personally identifying information such as dates of birth, driver's license numbers, social security numbers, and employer identification numbers of the people and businesses of North Dakota.

This bill essentially does three things. By far the largest number of amendments in the bill modernize terminology consistent with technology and terms used in other sections in the NDCC. The bill addresses remedies required by recent litigation. Lastly, the bill addresses options for election administration that will allow the state to step forward into the future appropriately and securely.

This written testimony will cover the details of the substantive portions of this bill by section, but there are many suggested amendments that simply change the wording in the NDCC to what represents more legally proper or modern terminology. The following is a list of those changes throughout the bill.

- The sections in Title 16.1 often use several different terms when referring to the hardware, firmware, and software that make up what is known in the election industry as a voting system. This bill amends these different terms to "voting system" for the sake of consistency.
  - "Electronic" is removed 93 times because all voting systems are electronic.
  - "Counting machine" is removed 24 times.
  - "Automatic tabulating equipment" is removed eight times.
- All ten references to a specific type of voting system hardware known as a "direct-recording electronic" (DRE) voting machine have been removed because all voters in North Dakota cast a paper ballot. The official ballot on a DRE is often only stored electronically.
- "Person" is amended to "individual" 62 times because "person" also refers to a corporation and corporations are not allowed to run for public office except for official county newspaper.
- Antiquated language is updated for the sake of clarity.
- Existing practice is codified, e.g., candidates may file documents electronically rather than by mail.
- Amending incorrect references to sections in the NDCC within other sections.
- Moving paragraphs following subsections to the paragraph before the subsections.

The remainder of the testimony only references those substantive changes not covered in the list above.

**Section 1** at the top of page 2 and section 106 at the bottom of page 80 include the amendments necessary so that the Secretary of State may engage the Bureau of Criminal Investigation to conduct background checks on office employees for reasons of cybersecurity.

**Section 2** on page 2: moves a definition for “candidate” from NDCC 16.1-08.1-01 to ch. 16.1-01 so that the definition applies throughout the Title. **Section 41** starting on page 33, line 6 and continuing through page 37, line 29, removes the definition from § 16.1-08.1-01.

**Section 4** on page 3 and **Section 83** on page 64: the amendments are to address a situation that has occurred in recent elections administered in Minot in which voters have come into the polls near to the time the polls would close and then have taken 90 minutes to 2 hours to mark and cast their ballots. This has held up the election results from that polling place. The solution offered provides a fair chance to the voter to either cast their ballot 30 minutes after the last voter received his or her ballot and the time of poll closing or to continue marking the ballot and securely cast it so that it will be counted by the members of the canvassing board six days after the election. This specificity is to ensure that voters living with disabilities are allowed enough time to mark and cast their ballot if they arrive to vote near the closing of the polls.

**Section 8** on page 5, lines 21 and 22: additional wording is added to NDCC § 16.1-01-08 to clarify that only a court may resolve a factual dispute regarding a candidate’s residency. In two separate lawsuits filed against the Secretary of State in 2020, the plaintiffs argued that the Secretary of State should have removed a candidate from the ballot because the candidate was not qualified to hold office due to residency. In both cases, the court made the necessary decision. Although there now exists court rulings on this section of law, the amendments are to pattern the law after the rulings for the sake of clarity. An amendment is being offered that changes “question” on line 21 with “factual dispute” as the proper legal term.

**Sections 9 and 10** on pages 6 and 7: two sentences are added to subsection 5 of NDCC 16.1-01-09 requiring sponsoring committees for initiative, referral, and recall petitions to provide a list including the names and contact information of those who circulated the submitted petition. In 2020, the Secretary of State requested these lists from sponsoring committees because of questions concerning the qualifications of the circulators. However, the sponsoring committees chose not to provide these lists because the law did not require them to do so.

**Section 11** on page 8, lines 15 and 16 and lines 22-24 change the penalty for willful destruction of ballots, ballot boxes, etc. when not authorized by law to do so or for a cyber attack to attempt to prevent voting from a class A misdemeanor to a class C felony. (An example of a cyber attack could be an attempt to disable the state’s power grid during an election.)

**Section 13** on page 10: the amendment appropriately instructs when Legislative Council is to begin the process for determining the fiscal impact of an initiated or referred measure. Under the current wording, Legislative Council could be required to determine the fiscal impact of a measure before it is certified for inclusion on a ballot.

**Section 14** on page 11, lines 2-4: the added language is to codify what should already be occurring. The Secretary of State is to provide documentation and training for those granted access to the Central Voter File and this training and documentation must be followed when using the system.

**Section 16** on page 11, line 26: requires new voters to be added into the Central Voter File by the County Auditors before the county canvassing boards meet on the sixth day after the election. On page 12, lines 1 and 2, the Secretary of State is to search the Central Voter File before the state canvassing board meets to determine if any voter voted more than once in the election. This expedited timeline is now possible because of the electronic pollbooks that are utilized statewide.

**Section 19** on page 13: County Auditors are required to post voting history in the Central Voter File before the end of the period during which an election may be contested. The contest period referenced in NDCC

§ 16.1-16-04 is five days after the certification of a recount or 14 days after the final certification of results if no recount is conducted. This is also possible through the utilization of electronic pollbooks.

**Section 21** starting at the bottom of page 14: the added language is to define what constitutes the “pollbook” when electronic pollbooks are used.

**Section 22** on page 16, lines 5 and 6: the added language instructs the County Auditor to inform the district party chair when an appointment of an election judge is made by the County Auditor because no names for election judges were received from that district party. This is already happening in most cases.

**Section 23** on page 17, lines 1-4 and **Section 54** on page 50, lines 1-6: the added subdivision requires the Secretary of State in a primary election to place the word “endorsed” near the name of a candidate who was endorsed by the candidate’s political party and “petition” near to the name of a candidate whose name was placed on the ballot under a party’s designation by circulating petitions.

**Section 33** on page 25 and **Section 35** on pages 26-28: currently, only those voters who qualify as military and overseas voters, may receive their absentee ballot by secure electronic delivery. The state has provided this service to our residents temporarily stationed far away from their North Dakota homes for nearly 30 years. As soon as the technology is finalized, it is time to offer that same option to voters living here in the state, however, with a slight twist. Under these amendments, a voter could request that their ballot be delivered to them electronically, they could mark the ballot in the privacy of their own home, come to their polling place during early voting or on election day, sign in at the election clerk’s table, take the marked ballot to the Express Vote ballot marking device where their electronic ballot will be converted into a paper ballot with their selections marked, and then cast the ballot in the voting system tabulator in the same manner as other voters who mark their ballots while at the polls.

The Secretary of State’s office believes this could reduce the number of absentee and mail ballots that are cast because it would allow the voter time to mark their ballot in privacy but allow them the experience of voting in a polling place in an efficient and secure manner. This is also necessary because of the frustrations some voters experienced with the service provided by the USPS during the 2020 election cycle. Although 96% of the election mail was delivered according to schedule, that meant that 4% was not. (Statistics provided by USPS.) Preventing any qualified elector from voting is not acceptable.

Additionally, those voters living with disabilities have often wondered when they would be allowed the same access to the ballot as military and overseas voters. We do not dispute the legitimacy of their question but recognize that no law could be written that would grant this ballot access expansion to only those living with disabilities. The option offered in these sections does not completely satisfy the voting desires of those living with disabilities, but it is a good first step forward.

**Section 35** on page 28, lines 17-19: the added subsection is to make it abundantly clear in law that an absentee ballot is never given to a voter without first receiving a valid application from a qualified elector.

**Sections 37** and **39** on pages 28 and 29: the added language outlines the process for the County Auditor to follow in contacting the applicant if the signature on the absentee ballot application does not match with the signature on the envelope containing the marked ballot. The Secretary of State faced a lawsuit filed during the late spring of 2020 because state law did not allow a voter whose ballot was rejected to have the opportunity to confirm the validity of the signatures so the ballot could be counted. The language to be added complies with the court’s ruling in the case.

**Section 38** on page 30, line 6: changes the “may” to “shall,” recognizing that all counties have been provided a high-speed digital scanner for the tabulation of the votes on the ballots submitted by absentee or mail ballot voters. The through-put on the high-speed scanners are at least 40 ballots per minute as opposed to the polling place scanner allows fewer than five ballots per minute, individually fed, rather than by the sheet feeder on the high-speed scanners.

**Section 45** on page 40, line 12: voters signing candidate petitions would be required to print as well as sign their names so the election official validating the signatures can read the names.

**Section 46** on page 41, lines 9-12: provides clarity that the Affidavit of Candidacy must be filed along with either the Certificate of Endorsement or petition before the candidate's name may be placed on the ballot.

**Section 48** at the bottom of page 43 and **Section 61** on page 52: the added language is for clarity that the documents filed by a candidate must meet all applicable requirements before the candidate's name can be placed on the ballot and what is to occur if a mistake was made in validating the documents after the filing deadline for the primary election. Before the filing deadline for the 2020 primary election, the Stark County Auditor failed to ensure that enough signatures were included on the petition for a candidate running for County Commission. The candidate also did not file the required Affidavit of Candidacy until after the primary election. Even though this should not have occurred, nothing was in law to remedy the situation, and this section addresses the situation should a similar one occur.

**Section 50** on page 45: the current wording of subsections 4-6 of NDCC § 16.1-11-18 are appropriately being moved to a new section being added to ch. 16.1-12. Ch. 16.1-11 deals with primary elections and ch. 16.1-12 deals with the period between the primary and general elections. The new section is found in **Section 70** beginning on page 56 and addresses a vacancy that occurs after the nominations have been made in the primary election.

**Section 63** at the bottom of page 52: adds clarity to ch. 16.1-11.1, Mail Ballot Elections, to ensure that the reader understands that the only difference between absentee voting and voting by mail is that the application is provided to the voter in vote by mail counties. In all other aspects, they are the same.

**Section 73** at the bottom of page 59: this section of the bill is being removed by amendment in favor of HB 1461 that deals with the topic of filling vacancies in the office of members of the legislative assembly. HB 1461 is sponsored by the majority leaders in both the House and Senate.

**Section 88** on page 67 and **Section 91** at the bottom of page 69: the new voting system purchased by the state not only captures an image of the entire ballot cast by the voter, but the individual contests included on those ballot images are separated out as well for the purpose of adjudicating the legitimate write-in votes that were cast by the voters for each contest. This allows for the adjudication process to occur in the County Auditor's office by looking at these images when the election workers in the polling place return the election materials after the polls have closed and all their work has been completed. The counting of write-in votes used to take a considerable amount of time for the poll workers at the end of a very long day. That work can now be completed in a more efficient manner than in past elections.

The sections of the NDCC that are to be repealed by Section 107 are:

1. **NDCC § 16.1-06-10.1 – Electronic counting machines authorized - Sharing of machines.** This is a redundant section of law.
2. **NDCC § 16.1-07-11 – Submitting ballot to inspector of elections.** This is unnecessary because the appropriate contents are covered in NDCC § 16.1-07-12.1.
3. **NDCC § 16.1-07-13 – Registration of absent voters' ballots on electronic voting systems.** This is unnecessary because all ballots are tabulated by the state's voting system.
4. **NDCC § 16.1-13-24 – Voting on electronic voting system devices.** Unnecessary.

On behalf of the Secretary of State and his election team, we request the committee to vote for a Do Pass recommendation.



Testimony Prepared for the  
**House GVA**  
January 28<sup>th</sup>, 2021  
By: Donnell Preskey, NDACo



**RE: Support for HB 1253 – Election Reform**

Chairman Kasper and committee members, I'm Donnell Preskey with the North Dakota Association of Counties. In that capacity, I serve as Executive Director for the County Auditors Association which stands in support of this bill.

County auditors commend the Secretary of State's office and Representative Scott Louser for the diligent effort put forward in this bill to update our state's election law. Prior to the session, auditors identified several of the items included in this bill as ones to address.

Changes included in HB 1253 that we support are:

- Updating of outdated language.
- Outlines the procedure for signature verification to include specifying that process to include only written communication or an in person visit to the county office. This eliminates the many phone calls made by the county auditor's office.
- Eliminates the requirement to print 3 copies of reports from DS200's.
- Addresses questions regarding residency of a candidate.
- Addresses questions regarding candidate vacancies.
- Addresses time limit in polling place following closure of polls.
- Eliminates need to wrap write-in ballots as new equipment makes this unnecessary.

There are a few items we would like to bring to the committee's attention. Auditors are asking for you to omit, further adjust and consider items not included in HB 1253.

Auditors respectfully request the removal of adding the words "endorsed" and "petition" behind candidate names which is addressed in Sections 23 and 54. This is a separate issue from election reform and is more appropriate to be addressed in a separate bill.

Auditors are concerned with the shortening of the timeline to update voter history which is proposed in Section 16. Auditors understand the intent for this proposal; however, this process shouldn't be rushed and there are several tasks auditors need to accomplish to prepare for the county canvassing board meeting. It's also important to

recognize that even if an individual is identified for voting more than once; no adjustments can be made to the vote totals as there is no way to know how that individual voted *nor* can you determine which ballot should be discarded. Regardless, of when it is determined – the county auditor will forward the information to the state’s attorney for possible prosecution.

Auditors suggest addressing the timeline with the following:

In Section 16 on page 11 line 26 add **“Before the end of the contest period allowed under section 16.1 - 16 – 04.”** This would replace the “within forty-five days” currently in statute and the “Before the meeting of the county canvassing board” proposed in the current version of HB 1253. Our proposed language is less time than currently in statute, but more than the six days set out in this bill.

Auditors also recommend that language regarding the timeline in Section 16 and Section 19 be identical as the procedures outlined in Section 16 and 19 happen simultaneously.

Looking at the signature verification efforts. Auditors ask for you to consider the following additions:

#### **Section 33 – 16.1.07-06 Application form.**

To items:

**(g) An affirmation that... include a statement that the signature on the application will be compared to the signature on the affidavit on the absentee ballot envelope.**

**(h) The applicant’s signature. Add a statement to specify that no electronic signatures are allowed.**

#### **Section 35 – 16.1-07-08 Affidavit on envelope**

Subsection 3 on the affidavit under the Applicant’s signature **include a statement that the signature on the application will be compared to the signature on the affidavit on the absentee ballot envelope.**

Auditors request these changes to further enhance the signature verification procedures.

Mr. Chairman committee members we are willing to work with your committee on any of the changes recommended by the county auditors. Our county auditors are very committed to ensuring at the local level that our elections run appropriately and securely.

**HOUSE GOVERNMENT & VETERAN AFFAIRS COMMITTEE**  
**Representative Jim Kasper, Chairman**  
**House Bill 1253**  
**January 28, 2021**

Chairman Kasper, and members of the Committee.

I am Judy DeWitz, a Disabilities Advocate with the North Dakota Protection and Advocacy Project (P&A). P&A is an independent state agency that acts to protect persons with disabilities from abuse, neglect and exploitation, and one that advocates for the human, civil and legal rights of persons with disabilities.

The number of North Dakota voters who have been voting absentee or voting-by-mail has been growing in the last years. Many voters prefer to vote from home because it allows them to avoid the challenges of getting to the polls, waiting in line, and facing physical barriers at the polling space, including exposure to COVID-19. There are individuals with disabilities requesting the same benefits and rights that all voters have – the right to vote by mail.

Voters with sight issues, face the barrier of working with “print”. However, the tools needed to provide an accommodation currently, are not available to them when voting by mail. For some time, North Dakota organizations and individuals representing those who are blind, have discussed accommodations with the expectation that a resolution could be found.

It is understood that one possible solution might be HB 1253 which would allow voters to complete their ballot at home, on their own electronics. However, to cast their vote, the ballot would have to be transferred to a bar-code that would need to be delivered by the voter to their polling site. Many (or most) voters could not complete the transfer of that document. This system is not “vote-by-mail.” All voters need to have a secure way to cast a ballot by mail, including those with disabilities.

North Dakota does provide voting-by-mail to those out of the country/military, using a system that the voter can complete entirely at home. It is understood that this is not a complete solution, however, it is closer to the accommodations for voters who are blind than what is currently being offered.

Thank you. I am happy to answer any questions.

## Testimony for HB 1253

To: Representative Jim Kasper, Chair, and Members of the North Dakota House of Representatives Government and Veterans Affairs Committee, 67<sup>th</sup> North Dakota Legislative Session.

From: Zelda Gebhard, President and Legislative Liaison, North Dakota Association of the Blind (NDAB). Lobbyist 2020-2021 #1072  
Home address: 8169 66<sup>th</sup> St SE, Edgeley, ND 58433.  
H: (701) 493-2399; c: (701) 709-0262; Email: zelda@ndab.org

Re: Testimony offered for HB 1253, specifically for the need for accessible absentee voting.

Greetings Chairman Jim Kasper and members of the North Dakota House of Representatives Government and Veterans Affairs Committee.

I am testifying on behalf of myself as an individual who is legally blind and also as the president and volunteer lobbyist of the North Dakota Association of the Blind. We are a nonprofit membership organization. Our 250 members live in your neighborhoods and work in your communities.

We are neutral about HB 1253. I would like to speak specifically in regard to the portion that addresses the proposed changes to electronic delivery of an absentee ballot. Though the “absent” voter would be allowed to vote remotely on the device of their choosing, they would still be required to return the ballot via that instrument to the polling place to have their ballot marked and be casted in the “tabulation device” at the poll.

Individuals, such as I, who are blind or visually impaired are unable to drive to the polling place and in most communities in North Dakota there is no public transportation available. Transportation is the major barrier to us being able to vote and would remain so if these changes were approved because of the requirement to appear with our completed electronic ballot at the polling place.

We acknowledge the attempt that has been made to allow us greater accessibility to vote but do not feel this particular change in voting law would allow for any significant increase in accessibility.

We very much appreciate the availability of the ExpressVote in every polling place in ND. These accessible voting machines allow us to cast a secret ballot independently while at the polling place. Currently the only absentee voting allowed in ND is a paper ballot which I am sure all of you would agree, cannot be completed by someone with their eyes closed.

Therefore, I urge you to consider changes that would allow us to vote fully electronically in the secure and safe way that is currently an option for our military who reside out of state.

As you consider the many bills brought before you concerning voting in ND, I thank you for thoughtfully considering the needs and rights of all citizens of ND including those of with sight loss.

Thank you for your time.

\*See also NDAB Resolution 2021-04 listed below:

#### **NDAB Resolution 2021-04:**

#### **Equal Access to An Accessible Absentee Voting**

**WHEREAS**, federal and state law requires equal access to the ballot and voting experience, including the right to a private and independent, verifiable accessible absentee ballot; and

**WHEREAS**, technology to make an absentee ballot accessible is available and represents an economical way to make the voting experience available to persons with disabilities, many of whom experience difficulties in traveling from their residences to designated polling sites; and

**WHEREAS**, the State of North Dakota has received federal monies to conduct its state elections, a small portion of which could be used to acquire statewide accessible technology to make the absentee ballot accessible to qualified voters;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of the North Dakota Association of the Blind at its meeting on this Sunday, January 10, 2021, that:

1. Its members call upon the leaders and members of both houses of the North Dakota Legislature to recognize this protected right, consider and pass legislation if needed to make accessible absentee voting available to all qualified voters in North Dakota on an equal basis.
2. Respectfully urges the Governor of the State of North Dakota to sign any such legislation which meets the above goal; and
3. Strongly encourages responsible elements of State Government to certify one or more accessible absentee voting systems which meet the goal of this resolution and strive to make such system(s) available to qualified voters in North Dakota's 53 counties.

**Testimony for House Bill 1253**

**To: Committee Chair Jim Kasper and Members of the House Government & Veterans Affairs Committee, North Dakota 67th Legislative Assembly.**

**From: Allan Peterson, Legislative Committee, North Dakota Association of the Blind (NDAB).** Home address: 7009 Horseshoe Bend, Horace, ND 58047.  
Home: (701) 282-4644; cell: (701) 429-7209; Email address: allan.c.peterson@gmail.com

Re: Testimony for Access to an accessible absentee ballot

Greetings Chairman Kasper, and members of the House Government and Veterans Affairs Committee,

Thank you so much for the opportunity to speak with you about the right to vote by people who are blind, visually impaired, or otherwise print disabled.

I'm offering this testimony as an advocate for people who are blind and visually impaired and to help represent the advocacy goals of the North Dakota Association of the Blind (NDAB).

FYI: A resolution on accessible absentee voting adopted by the Board of the North Dakota Association of the Blind is being submitted with this testimony

Since 1982 I have fit the definition of someone that's "legally blind" and for the past 35 years haven't been able to read print. After losing my eyesight, I couldn't read the printed ballot and had to rely on a family member to mark the ballot for me. Although I have every confidence that my ballot was marked the way in which I had wanted it to be, I still greatly desired the opportunity to exercise every citizen's right to vote a secret independent ballot.

As a consequence of the problems that were experienced with the Presidential election in Florida in 2000, The Help America Vote Act (HAVA), was enacted by the U.S. Congress in response to these voting issues. This Act included provisions to supply voting systems for people with disabilities who with this equipment, could cast a secret ballot independently.

After the accessible voting machines became available at our polling sites here in North Dakota, I haven't missed the opportunity to vote in every election since 2002 using this equipment. I did vote in last fall's election at a polling site in Fargo using the accessible equipment installed on the ExpressVote machine. My voting experience, as a person who is blind, was featured on a local news program.

**Testimony for HB1253 (Allan Peterson) page 2**

Put simply, we are advocating that provision of a secret, independent accessible ballot be provided to absentee voters who are blind, visually impaired, or otherwise print disabled.

We can report to you that there are a number of states that have implemented technologies that do allow people who are blind to vote using an absentee ballot. Perhaps not surprisingly the methodology to do so isn't uniform from state to state.

Personally, as someone who has no functional eyesight, I could vote an absentee ballot if it were sent to me electronically because I use software that allows me to read what is on the computer screen. It is technology that I use every day.

If for example, were the Secretary of States Office to send me the ballot that's sent to our overseas uniformed military people, I could easily mark my ballot with my equipment and send it back to them electronically. Also, I could send the ballot electronically to the Cass County auditor's office and it could potentially be printed using a fax machine.

There a host of reasons why voting using an absentee ballot is more convenient to voters who are blind, visually impaired, or have print disabilities. It's been our experience that many poll workers are not familiar with how to instruct a voter who is blind or visually impaired on the use of the accessible features of the voting equipment.



**NDAB Resolution 2021-04:  
Equal Access to An Accessible Absentee Ballot**

WHEREAS, federal and state law requires equal access to the ballot and voting experience, including the right to a private and independent, verifiable accessible absentee ballot; and

WHEREAS, technology to make an absentee ballot accessible is available and represents an economical way to make the voting experience available to persons with disabilities, many of whom experience difficulties in traveling from their residences to designated polling sites; and

WHEREAS, the State of North Dakota has received federal monies to conduct its state elections, a small portion of which could be used to acquire statewide Accessible (technology to make the absentee ballot accessible to qualified voters;

NOW, THEREFORE, BE IT RESOLVED by the Board of the North Dakota Association of the Blind at its meeting on this Sunday, January 10, 2021, that:

1. Its members call upon the leaders and members of both houses of the North Dakota Legislature to recognize this protected right, and consider and pass legislation if needed to make an accessible absentee ballot available to all qualified voters in North Dakota on an equal basis.
2. Respectfully urges the Governor of the State of North Dakota to sign any such legislation which meets the above goal; and
3. Strongly encourages responsible elements of State Government to certify one or more accessible absentee voting systems which meet the goal of this resolution and

strive to make such system(s) available to qualified voters in all 53 of North Dakota's counties in time for the 2022 election cycle.

**House Government and Veterans Affairs Committee**

**HB 1253**

**By Dr. Gaylynn Becker**

**January 28, 2021**

=====

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

I am Gaylynn Becker of Bismarck, ND. I'm representing myself.  
I am here to testify in support of House Bill 1253.

The specificity delineated in the bill provides for better clarity on the  
procedures and requirements in holding elections as well as those running as  
a candidate for public office.

I ask that you pass HB 1253.

God bless you.

Brian Glaeske  
403 11th AVE S  
Fargo, ND 58103

Dear Members of the Government and Veterans Affairs committee,

I am writing to urge a that this bill passes with a Pass recommendation on HB 1253, but that the changes to section 16.1-01-03 are removed prior to the Pass recommendation.

Section 16.1-01-03 of this bill seems at odds with the HB 1161 that provides that any person in line at the time the polls close can cast vote. However, since it may take over 30 minutes for the last person in line to get receive their ballot this bill would seem to declare that the person is not able to vote.

However, I would say that changes to section 16.1.02-13 to allow for electronic poll books only requires a "secure connection". This is not sufficient. The poll book with PII should be protected via a VPN connection to a secure network with explicit

Once again, I find the legislator's of the State of North Dakota should be committed to making voting more accessible to more people instead of attempting to suppress votes. The silliness

Again, I am writing to urge that this commit recommend that this bill is Do Not Pass.

Sincerely, 

Brian Glaeske

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1253  
2/18/2021

Relating to election administration; and to provide a penalty

**Chairman Kasper** opened the committee work meeting at 5:55 p.m.

<b>Representatives</b>	<b>Roll Call</b>
Representative Jim Kasper	P
Representative Ben Koppelman	P
Representative Pamela Anderson	P
Representative Jeff A. Hoverson	P
Representative Karen Karls	P
Representative Scott Louser	P
Representative Jeffery J. Magrum	P
Representative Mitch Ostlie	P
Representative Karen M. Rohr	P
Representative Austen Schauer	P
Representative Mary Schneider	P
Representative Vicky Steiner	P
Representative Greg Stemen	P
Representative Steve Vetter	P

### Discussion Topics:

- Election administration
- Amendments

**Rep. Louser** explained **amendment 21.0471.05005**, #6981, and moved to **adopt**. **Rep. Vetter** seconded the motion. **Voice vote. Motion carries.**

**Rep. Schneider** explained **amendment 21.0471.05007**, #6982. **Rep. Schauer** moved to **adopt**. **Rep. Vetter** seconded the motion.

**Jim Silrum, Deputy Secretary of State**, appeared to answer committee questions.

**Voice vote was inconclusive on Rep. Schneider's** amendment. A **roll call vote** was taken.

<b>Representatives</b>	<b>Vote</b>
Representative Jim Kasper	N
Representative Ben Koppelman	N
Representative Pamela Anderson	Y
Representative Jeff A. Hoverson	Y
Representative Karen Karls	N
Representative Scott Louser	Y
Representative Jeffery J. Magrum	Y
Representative Mitch Ostlie	Y
Representative Karen M. Rohr	N

Representative Austen Schauer	Y
Representative Mary Schneider	Y
Representative Vicky Steiner	N
Representative Greg Stemen	Y
Representative Steve Vetter	Y

**Amendment 21.0471.05007 adopted.** 9-5-0.

**Rep. Steiner** explained **amendment 21.0471.05003**, #6983. **Rep. Louser** moved to **adopt**. **Rep. Stemen** seconded the motion. **Voice vote. Motion carries.**

**Rep. Louser** moved **Do Pass as amended**. **Rep. B. Koppelman** seconded the motion.

<b>Representatives</b>	<b>Vote</b>
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Pamela Anderson	Y
Representative Jeff A. Hoverson	Y
Representative Karen Karls	Y
Representative Scott Louser	Y
Representative Jeffery J. Magrum	Y
Representative Mitch Ostlie	Y
Representative Karen M. Rohr	Y
Representative Austen Schauer	Y
Representative Mary Schneider	Y
Representative Vicky Steiner	Y
Representative Greg Stemen	Y
Representative Steve Vetter	Y

**Motion passes.** 14-0-0. **Rep. Louser** is the carrier.

**Chairman Kasper** ended at 6:36 p.m.

*Carmen Hart, Committee Clerk*

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1253

Page 1, line 15, remove "16.1-13-10,"

Page 1, line 23, after "administration" insert "and the removal of obsolete language"

Page 2, line 9, remove "an"

Page 2, line 10, remove "individual who seeks nomination for election or election to public office, and includes"

Page 3, line 18, replace "may" with "shall"

Page 5, line 21, replace "question" with "factual dispute"

Page 59, remove lines 25 through 31

Page 60, remove lines 1 through 31

Page 61, remove lines 1 through 10

Page 64, line 30, replace "may" with "shall"

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1253

Page 27, line 13, after "3." insert "Any voter who is blind, visually impaired, or print disabled and wishes to cast an absentee ballot may mark the electronic ballot by electronic means. The voter then shall deposit the ballot electronically on the secure server that is used by covered voters as defined in section 16.1-07-18. Upon system notification that a ballot has been left by a qualified voter, an election official shall print the ballot, place the ballot in a secrecy envelope, attach the absent voter's application for the ballot, and securely store the enveloped ballot and the application with all other absentee ballots. When the absentee ballot election board meets to process and count absentee ballots, the ballot from the covered voter must be transferred onto a paper ballot and tabulated with all other valid absent voters' ballots.

4."

Page 27, line 30, replace "4." with "5."

Page 28, line 5, replace "5." with "6."

Page 28, line 10, replace "6." with "7."

Page 28, line 17, replace "7." with "8."

Renumber accordingly



PROPOSED AMENDMENTS TO HOUSE BILL NO. 1253

Page 1, line 8, after "sections" insert "16.1-06-02,"

Page 1, line 20, after the fifth comma insert "16.1-16-04, 16.1-16-05,"

Page 16, after line 16, insert:

**"SECTION 23. AMENDMENT.** Section 16.1-06-02 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-06-02. Ballots prepared by county auditor or local official - Penalty.**

For a local election, the ballots must be printed and distributed under the direction of the auditor or clerk of the local subdivision. For all other elections, ballots must be printed and distributed under the direction of the county auditor, subject to the supervision and approval of the secretary of state as to the legal sufficiency of the form, style, wording, and contents of the ballots. If an auditor or clerk of a local subdivision, a county auditor, or the secretary of state causes or approves the printing of a ballot listing an individual as a candidate when the official knows or should know the individual does not meet the qualifications, or has not satisfied the requirements, to be a candidate, the official is guilty of an infraction."

Page 80, after line 15, insert:

**"SECTION 106. AMENDMENT.** Section 16.1-16-04 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-16-04. Time for commencement of action.**

Any

1. Except as provided in subsection 2, an action to contest an election must be commenced and the complaint must be filed in the district court of the contestee's county of residence within five days after final certification of a recount by the appropriate canvassing board or within fourteen days after the final certification by the appropriate canvassing board if no recount is to be conducted. However, if
2. If the grounds for the action are the illegal payment of money or other valuable thing subsequent to the filing of any statement of expenses required by this title or if the contestee does not or cannot meet the qualifications to hold the office as required by law, the action may be commenced at any time. If the grounds for the action are the failure of a contestee to satisfy the requirements for having the contestee's name listed on the ballot as a candidate, the action may be commenced within thirty days of the date the contestant knows or should know of the failure.
3. The contestee shall serve and file an answer within fourteen days after service of the contest summons and complaint.



**SECTION 107. AMENDMENT.** Section 16.1-16-05 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-16-05. Grounds for election contest.**

An election contest may be commenced for any of the following causes:

1. ~~If the~~The contestee does not or cannot meet the qualifications to hold the office as required by law.
2. ~~Because~~The existence of illegal votes or erroneous or fraudulent voting, count, canvass, or recount of votes.
3. The contestee was listed as a candidate on the ballot despite failing to meet the requirements to be listed on the ballot."

Renumber accordingly

February 18, 2021

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1 of 2

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1253

Page 1, line 8, after "sections" insert "16.1-06-02,"

Page 1, line 15, remove "16.1-13-10,"

Page 1, line 20, after the fifth comma insert "16.1-16-04, 16.1-16-05,"

Page 1, line 23, after "administration" insert "and the removal of obsolete language"

Page 2, line 9, remove "an"

Page 2, line 10, remove "individual who seeks nomination for election or election to public office, and includes"

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Page 27, line 13, after "3." insert "Any voter who is blind, visually impaired, or print disabled and wishes to cast an absentee ballot may mark the electronic ballot by electronic means. The voter then shall deposit the ballot electronically on the secure server that is used by covered voters as defined in section 16.1-07-18. Upon system notification that a ballot has been left by a qualified voter, an election official shall print the ballot, place the ballot in a secrecy envelope, attach the absent voter's application for the ballot, and securely store the enveloped ballot and the application with all the other absentee ballots. When the absentee ballot election board meets to process and count absentee ballots, the ballot from the covered voter must be transferred onto a paper ballot and tabulated with all the other valid absent voters' ballots."

4."

Page 27, line 30, replace "4." with "5."

Page 28, line 5, replace "5." with "6."

Page 28, line 10, replace "6." with "7."

2/19  
CA  
2 of 2

Page 28, line 17, replace "7." with "8."

Page 59, remove lines 25 through 31

Page 60, remove lines 1 through 31

Page 61, remove lines 1 through 10

Page 64, line 30, replace "may" with "shall"

Page 74, line 13, after "~~thereto~~" insert "to"

Page 80, after line 15, insert:

**"SECTION 105. AMENDMENT.** Section 16.1-16-04 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-16-04. Time for commencement of action.**

Any

1. Except as provided in subsection 2, an action to contest an election must be commenced and the complaint must be filed in the district court of the contestee's county of residence within five days after final certification of a recount by the appropriate canvassing board or within fourteen days after the final certification by the appropriate canvassing board if no recount is to be conducted. However, if
2. If the grounds for the action are the illegal payment of money or other valuable thing subsequent to the filing of any statement of expenses required by this title or if the contestee does not or cannot meet the qualifications to hold the office as required by law, the action may be commenced at any time. If the grounds for the action are the failure of a contestee to satisfy the requirements for having the contestee's name listed on the ballot as a candidate, the action may be commenced within thirty days of the date the contestant knows or should know of the failure.
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**SECTION 106. AMENDMENT.** Section 16.1-16-05 of the North Dakota Century Code is amended and reenacted as follows:

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2. ~~Because~~The existence of illegal votes or erroneous or fraudulent voting, count, canvass, or recount of votes.
3. The contestee was listed as a candidate on the ballot despite failing to meet the requirements to be listed on the ballot."

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**HB 1253: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1253 was placed on the Sixth order on the calendar.

Page 1, line 8, after "sections" insert "16.1-06-02,"

Page 1, line 15, remove "16.1-13-10,"

Page 1, line 20, after the fifth comma insert "16.1-16-04, 16.1-16-05,"

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2. If the grounds for the action are the illegal payment of money or other valuable thing subsequent to the filing of any statement of expenses required by this title or if the contestee does not or cannot meet the qualifications to hold the office as required by law, the action may be commenced at any time. If the grounds for the action are the failure of a contestee to satisfy the requirements for having the contestee's name listed on the ballot as a candidate, the action may be commenced within thirty days of the date the contestant knows or should know of the failure.
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2. ~~Because~~The existence of illegal votes or erroneous or fraudulent voting, count, canvass, or recount of votes.
3. The contestee was listed as a candidate on the ballot despite failing to meet the requirements to be listed on the ballot."

Renumber accordingly

21.0471.05005  
Title.

Prepared by the Legislative Council staff for  
Representative Louser  
February 12, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1253

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Page 64, line 30, replace "may" with "shall"

Re-number accordingly



Sixty-seventh  
Legislative Assembly

1 compensation, including money, goods, or services, for acting as an agent for an  
2 elector, ~~nor and a person may a person not~~ act as an agent for more than four electors  
3 in any one election. A voter voting by absentee ballot may not require the political  
4 subdivision providing the ballot to bear the expense of the return postage for an  
5 absentee ballot.

6 2. With the exception provided in section 16.1-07-24 for secure remote electronic casting  
7 of a ballot granted to a covered voter, the absent voter marking the ballot by electronic  
8 means shall return the instrument containing the vote selections made by the voter to  
9 the assigned polling place where, after being recorded in the pollbook by a poll clerk,  
10 the choices listed in the instrument will be converted into the official ballot. Upon  
11 confirmation by the voter the vote selections marked by the ballot marking device are  
12 correct, the voter shall cast the ballot in the tabulation device.

13 3. Any voter who is blind, visually impaired, or print disabled and wishes to cast an  
14 absentee ballot may mark the electronic ballot by electronic means. The voter then  
15 shall deposit the ballot electronically on the secure server that is used by covered  
16 voters as defined in section 16.1-07-18. Upon system notification that a ballot has  
17 been left by a qualified voter, an election official shall print the ballot, place the ballot in  
18 a secrecy envelope, attach the absent voter's application for the ballot, and securely  
19 store the enveloped ballot and the application with all other absentee ballots. When  
20 the absentee ballot election board meets to process and count absentee ballots, the  
21 ballot from the covered voter must be transferred onto a paper ballot and tabulated  
22 with all other valid absent voters' ballots.

23 4. If there is more than one ballot to be voted by an elector of the precinct and the voting  
24 system will be unable to tabulate one or more of the ballots, one of each kind must be  
25 included and a secrecy envelope and a return envelope must be enclosed with the  
26 ballot or ballots. The front of the return envelope must bear the official title and  
27 post-office address of the officer supplying the voter with the ballot and upon the other  
28 side a printed voter's affidavit in substantially the following form:

29 Precinct \_\_\_\_\_  
30 Name \_\_\_\_\_  
31 Residential Address \_\_\_\_\_

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1253

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Renumber accordingly



21.0471.05003  
Title.

Prepared by the Legislative Council staff for  
Representative Steiner  
February 1, 2021

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3. The contestee was listed as a candidate on the ballot despite failing to meet the requirements to be listed on the ballot."

Renumber accordingly

**2021 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1253**

# 2021 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee  
Room JW216, State Capitol

HB 1253  
4/8/2021

**Relating to election administration and the removal of obsolete language; provide a penalty.**

**Chair Vedaa** opened the hearing at 9:00 AM with Sen Vedaa, Meyer, Elkin, K Roers, Weber, Wobbema, and Marcellais present.

## **Discussion Topics:**

- Modernizing language
- Technology improvements
- Administration options
- Security for absentee voters
- Background check authority
- Proactive legislation

**Rep Louser – Dist. 5** introduced the bill

**Jim Silrum – Deputy Sec of State** – testified in support #11424

**Donnell Preskey – ND Association of Counties** – testified in support#11444

**Zelda Gebhard – Pres. ND Association of the Blind** – testified via Zoom - neutral #11268

**Janelle Olson** – Wiliston - testified in favor #11443

**Judy DeWitz – ND Protection and Advocacy** – testified in support #11442

**Allan Peterson – ND Association of the Blind** – testified via Zoom - Neutral #11440, #11439

## **Additional written testimony:**

**Mitchell S. Sanderson - neutral #11223**

**Julie Horntvedt – ND Disability Advocacy Consortium - support#11431**

Adjourned at 10:51 AM

*Pam Dever, Committee Clerk*

ALVIN A. JAEGER  
SECRETARY OF STATE

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

April 8, 2021

TO: Chairman Vedaa and Members of the Senate Government and Veterans Affairs Committee

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

RE: HB 1253 – Election Administration

This 112-section bill, with the proposed Senate amendments, is a comprehensive election administration bill that creates one new subdivision and four new sections, amends 106 sections, and repeals four sections of the North Dakota Century Code (NDCC). All but two of the sections are found in Title 16.1, which is the Elections Title in the NDCC. The two sections not in Title 16.1 will grant the Secretary of State the authority to conduct background checks for cybersecurity purposes on the employees of the office whose work involves the personally identifying information such as dates of birth, driver's license numbers, social security numbers, and employer identification numbers of the people and businesses of North Dakota.

This bill essentially does three things.

1. By far the largest number of amendments in the bill modernize terminology consistent with technology and terms used in other sections in the NDCC.
2. The bill addresses remedies required by recent litigation.
3. Lastly, the bill addresses options for election administration that will allow the state to step forward into the future appropriately and securely.

This written testimony covers the details of the substantive portions of this bill by section, but there are many suggested amendments that simply change the wording in the NDCC to what represents more legally proper or modern terminology. The following is a list of those changes throughout the bill.

- The sections in Title 16.1 often use several different terms when referring to the hardware, firmware, and software that make up what is known in the election industry as a voting system. This bill amends these different terms to "voting system" for the sake of consistency.
  - "Electronic" is removed 93 times because all voting systems are electronic.
  - "Counting machine" is removed 24 times.
  - "Automatic tabulating equipment" is removed eight times.
- Ten references to a specific type of voting system hardware known as a "direct-recording electronic" (DRE) voting machine have been removed because all voters in North Dakota cast a paper ballot. The official ballot on a DRE is often only stored electronically.
- "Person" is amended to "individual" 62 times because "person" also refers to a corporation and corporations are not allowed to run for public office except for official county newspaper.
- Antiquated language is updated for the sake of clarity.
- Existing practice is codified, e.g., candidates may file documents electronically rather than by mail.
- Amending incorrect references to sections in the NDCC within other sections.
- Moving paragraphs following subsections to the paragraph before the subsections.

The remainder of the testimony references those substantive changes not covered in the list above.

**Section 1** at the top of page 2 and **Section 111** on page 82 include the amendments necessary so that the Secretary of State may engage the Bureau of Criminal Investigation to conduct background checks on office employees for reasons of cybersecurity.

**Section 2** on page 2: moves a definition for “candidate” from NDCC 16.1-08.1-01 to ch. 16.1-01 so that the definition applies throughout the Title. **Section 43** on page 35, lines 3-15 removes the same definition from § 16.1-08.1-01 in the chapter that only deals with campaign disclosure.

**Section 4** on page 3 and **Section 85** on page 65: the amendment in Section 4 is to address a situation that has occurred in recent elections administered in Minot in which voters have come into the polls near to the time the polls would close and then have taken 90 minutes to 2 hours to mark and cast their ballots. This has held up the election results from the polling place. The solution offered provides a fair chance to the voter to either cast their ballot 30 minutes after the last voter received his or her ballot and the time of poll closing or to continue marking the ballot and securely cast it so that it will be counted by the members of the canvassing board six days after the election. This specificity is to ensure that voters living with disabilities are allowed enough time to mark and cast their ballot if they arrive to vote near the closing of the polls. This language had also been in Section 85 in the original bill, but it is only needed once in the Title and chapter 16.1-01 is the proper place for it to belong.

**Section 8** on page 5, lines 23 and 24: additional wording is added to NDCC § 16.1-01-08 to clarify that only a court may resolve a factual dispute regarding a candidate’s residency. In two separate lawsuits filed against the Secretary of State in 2020, the plaintiffs argued that the Secretary of State should have removed a candidate from the ballot because the candidate was not qualified to hold office due to residency. In both cases, the court made the necessary decision. Although there now exists court rulings on this section of law, the amendments are to pattern the law after the rulings for the sake of clarity.

**Sections 9 and 10** on pages 6 and 7: two sentences are added to subsection 5 of NDCC § 16.1-01-09 and subsection 7 of NDCC § 16.1-01-09.1 requiring sponsoring committees for initiative, referral, and recall petitions to provide a list including the names and contact information of those who circulated the submitted petition. In 2020, the Secretary of State requested these lists from sponsoring committees because of questions concerning the qualifications of the circulators. However, the sponsoring committees chose not to provide these lists because the law did not require them to do so.

**Section 11** on page 8, lines 17 and 18 and lines 23-26 change the penalty for willful destruction of ballots, ballot boxes, etc. when not authorized by law to do so or for a cyber attack to attempt to prevent voting from a class A misdemeanor to a class C felony. (An example of a cyber attack could be an attempt to disable the state’s power grid during an election.)

**Section 13** on page 10: the amendment appropriately instructs when Legislative Council is to begin the process for determining the fiscal impact of an initiated or referred measure. Under the current wording, Legislative Council could be required to determine the fiscal impact of a measure before it is certified for inclusion on a ballot.

**Section 14** on page 11, lines 1-12: this further amends the section of law that was added this session in HB 1256 relating to the prohibition on the use of private funds for the administration of elections. Although both the House and Senate passed that bill, the discussion in the Senate revealed some unintended consequences that the new law could establish. The amendment places some appropriate parameters on this law so that it does not prevent lunch being brought to poll workers as an example.

**Section 15** on page 11, lines 19-21: the added language is to codify what should already be occurring. The Secretary of State is to provide documentation and training for those granted access to the Central Voter File and this training and documentation must be followed when using the system.

**Section 17** on page 12, line 12: requires new voters to be added into the Central Voter File by the County Auditors before the county canvassing boards meet on the sixth day after the election. On lines 17 and 18, the Secretary of State is to search the Central Voter File before the state canvassing board meets to determine if any voter voted more than once in the election. This expedited timeline is now possible because of the electronic pollbooks that are utilized statewide.

**Section 20** on page 14: County Auditors are required to post voting history in the Central Voter File before the end of the period during which an election may be contested. The contest period referenced in NDCC § 16.1-16-04 is five days after the certification of a recount or 14 days after the final certification of results if no recount is conducted. This is also possible through the utilization of electronic pollbooks.

**Section 22** on page 15, lines 16-27: the added language is to define what constitutes the “pollbook” when electronic pollbooks are used.

**Section 23** on page 16, lines 21 and 22: the added language instructs the County Auditor to inform the district party chair when an appointment of an election judge is made by the County Auditor because no names for election judges were received from that district party. This is already happening in most cases.

**Section 24** on page 17, lines 10-13 provides for a penalty when an election official places a name on a ballot when that candidate does not meet the qualification to be included on the ballot.

**Section 25** on page 17 and **Section 56** on pages 50 and 51: the added language requires the Secretary of State in a primary election to place the word “endorsed” near the name of a candidate who was endorsed by the candidate’s political party and “petition” near to the name of a candidate whose name was placed on the ballot under a party’s designation by circulating petitions. In the original bill, this had been added in § 16.1-06-04, but the Senate amendments remove it since it is only needed once in the code.

**Section 35** on page 25, lines 23-25: on the absentee / mail ballot application form, language is added (by Senate amendment) next to the applicant’s signature to inform them that their signature on the application will be compared with the signature on the envelope of the returned ballot.

**Section 35** on page 26 and **Section 37** on pages 27-29: currently, only those voters who qualify as military and overseas voters, may receive their absentee ballot by secure electronic delivery. The state has provided this service to our residents temporarily stationed far away from their North Dakota homes for nearly 30 years. As soon as the technology is finalized, it is time to offer that same option to voters living here in the state, however, with a slight twist. Under these amendments, a voter could request that their ballot be delivered to them electronically, they could mark the ballot in the privacy of their own home, come to their polling place during early voting or on election day, sign in at the election clerk’s table, take the marked ballot to the Express Vote ballot marking device where their electronic ballot will be converted into a paper ballot with their selections marked, and then cast the ballot in the voting system tabulator in the same manner as other voters who mark their ballots while at the polls.

The Secretary of State’s office believes this could reduce the number of absentee and mail ballots that are cast because it would allow the voter time to mark their ballot in privacy but allow them the experience of voting in a polling place in an efficient and secure manner. This is also necessary because of the frustrations some voters experienced with the service provided by the USPS during the 2020 election cycle. Although 96% of the election mail was delivered according to schedule, that meant that 4% was not. (Statistics provided by USPS.) Preventing any qualified elector from voting is not acceptable.

Additionally, those voters living with disabilities have often wondered when they would be allowed the same access to the ballot as military and overseas voters. On page 28, lines 8-19, the members of the House of Representatives agreed that it is now time to grant voters living with disabilities the access to the ballot that they have long desired. To make the language of the law more inclusive, the Senate amendment changes “Any voter who is blind, visually impaired, or print disabled” with “Any qualified elector living with a disability

that prevents the elector from reading or marking the ballot without assistance.” The greatest challenge for voters living with disabilities is to travel to a polling place. North Dakota has made the ballot accessible to these voters when they can make it to a polling location since 2006, it is now time to give these voters the same accessibility when voting at home.

**Section 37** on page 29, lines 26-28: the added subsection is to make it abundantly clear in law that an absentee ballot is never given to a voter without first receiving a valid application from a qualified elector.

**Sections 39 and 41** on pages 30-32: the added language outlines the process for the County Auditor to follow in contacting the applicant if the signature on the absentee ballot application does not match with the signature on the envelope containing the marked ballot. The Secretary of State faced a lawsuit filed during the late spring of 2020 because state law did not allow a voter whose ballot was rejected to have the opportunity to confirm the validity of the signatures so the ballot could be counted. The language to be added complies with the court’s ruling in the case.

**Section 40** on page 31, line 15: changes the “may” to “shall,” recognizing that all counties have been provided a high-speed digital scanner for the tabulation of the votes on the ballots submitted by absentee or mail ballot voters. The through-put on the high-speed scanners are at least 40 ballots per minute as opposed to the polling place scanner that allows fewer than five ballots per minute, individually fed, rather than by the sheet feeder on the high-speed scanners.

**Section 47** on page 41, line 19: voters signing candidate petitions would be required to print as well as sign their names so the election official validating the signatures can read the names.

**Section 47** on page 42, lines 1-8: provides clarity that the Affidavit of Candidacy must be filed along with either the Certificate of Endorsement or petition before the candidate’s name may be placed on the ballot.

**Section 50** on page 44 and **Section 63** on page 53: the added language is for clarity that the documents filed by a candidate must meet all applicable requirements before the candidate’s name can be placed on the ballot and what is to occur if a mistake was made in validating the documents after the filing deadline for the primary election. Before the filing deadline for the 2020 primary election, the Stark County Auditor failed to ensure that enough signatures were included on the petition for a candidate running for County Commission. The candidate also did not file the required Affidavit of Candidacy until after the primary election. Even though this should not have occurred, nothing was in law to remedy the situation. This would correct that oversight.

**Section 52** on pages 46 and 47: the current wording of subsections 4-6 of NDCC § 16.1-11-18 are appropriately being moved to a new section being added to ch. 16.1-12. Ch. 16.1-11 deals with primary elections and ch. 16.1-12 deals with the period between the primary and general elections. The new section is found in **Section 73** beginning on page 58 and addresses a vacancy that occurs after the nominations have been made in the primary election.

**Section 64** on page 54: the Senate amendments change the requirements in vote by mail counties that the applications for the ballot must be mailed to each active voter in the Central Voter File as well as those that are qualified to vote for the first time, e.g., individuals who will turn 18 before the election.

**Section 66** on page 54: adds clarity to ch. 16.1-11.1, Mail Ballot Elections, to ensure that the reader understands that the only difference between absentee voting and voting by mail is that the application is provided to the voter in vote by mail counties. All other aspects are the same.

**Sections 89 and 90** on page 67: the Senate amendments add a requirement for a polling place poll worker to deliver the election results from the polling place to the County Courthouse within three hours of the closing of the polls.



**Section 91** on page 68 and **Section 94** on page 71: the new voting system purchased by the state not only captures an image of the entire ballot cast by the voter, but the individual contests included on those ballot images are separated out as well for the purpose of adjudicating the legitimate write-in votes that were cast by the voters for each contest. This allows for the adjudication process to occur in the County Auditor's office by looking at these images when the election worker from the polling place returns the election materials after the polls have closed. The counting of write-in votes used to take a considerable amount of time for the poll workers at the end of a very long day. That work can now be completed in a more efficient manner than in past elections.

The sections of the NDCC that are to be repealed by **Section 112** are:

1. **NDCC § 16.1-06-10.1 – Electronic counting machines authorized - Sharing of machines.** This is a redundant section of law.
2. **NDCC § 16.1-07-11 – Submitting ballot to inspector of elections.** This is unnecessary because the appropriate contents are covered in NDCC § 16.1-07-12.1.
3. **NDCC § 16.1-07-13 – Registration of absent voters' ballots on electronic voting systems.** This is unnecessary because all ballots are tabulated by the state's voting system.
4. **NDCC § 16.1-13-24 – Voting on electronic voting system devices.** Unnecessary.

On behalf of the Secretary of State and his election team, we request the committee to vote for a unanimous **Do Pass** recommendation.

Testimony Prepared for the  
**Senate GVA**  
April 8, 2021  
By: Donnell Preskey, NDACo



**RE: Support for HB 1253 – Election Reform**

Chairman Vedaa and committee members, I'm Donnell Preskey with the North Dakota Association of Counties. In that capacity, I serve as Executive Director for the County Auditors Association which stands in support of this bill.

County auditors commend the Secretary of State's office and Representative Scott Louser for the diligent effort put forward in this bill to update our state's election law. Prior to the session, auditors identified several of the items included in this bill as items to address this legislative session. We provided testimony during the House hearing and offered recommendations in an effort to further improve this bill. While our recommendations weren't considered by the House GVA committee, Rep. Louser has included many of them in his amendments proposed to you today.

Changes included in HB 1253 that we support are:

- Updating of outdated language.
- Outlines the procedure for signature verification to include specifying that process to include only written communication or an in person visit to the county office. This eliminates the many phone calls made by the county auditor's office.
- Eliminates the requirement to print 3 copies of reports from DS200's.
- Addresses questions regarding residency of a candidate.
- Addresses questions regarding candidate vacancies.
- Addresses time limit in polling place following closure of polls.
- Eliminates need to wrap write-in ballots as new equipment makes this unnecessary.
- Statement clarifying signature on application affidavit will be compared to signature on ballot envelope affidavit.

Overall, HB 1253 is a good bill, and addresses many areas of election law. North Dakota County Auditors support a vast majority of this bill, there are a few more items we request your strong consideration on to further improve this important piece of legislation.

Working from the proposed amendments to HB 1253 document drafted by Rep. Louser, I have highlighted items we would like to see further amending.

**Section 14 Amendment**

We support the clarifying language addressing the intent of HB 1256 in this bill. Auditors are concerned about the unintended consequences of HB 1256, and how it could prohibit a

business or church donating the use of space for a polling location or how it could prohibit residents in a community from providing a meal to election workers on Election Day.

However, we oppose subsection 2 which establishes a penalty. HB 1256 did not include a penalty so this is new language. I'd also remind this committee that HB 1256 passed the Senate narrowly (24/22). A class A misdemeanor is a heavy penalty to place for a violation. That penalty is punishable up to 365 days in jail and \$3,000 fine. An "A misdemeanor" is the penalty for a 3<sup>rd</sup> DUI or Assault. The Legislature's message has been sent that they do not want counties to accept grant dollars for elections. A penalty is NOT necessary.

#### **Page 17 & 50 amendments – endorsement language**

Amendments are good additions, based on recommendations from Auditors to apply this to the statewide and legislative party races as this doesn't apply to local "non-party" races.

#### **Page 25 & 28 amendments – Signature verification**

This was one of the items Auditors identified as being a priority item this session to add language to the application affidavit and ballot affidavit clarifying to the voter the signatures will be compared. These changes will only further enhance the signature verification procedures. Auditors would like to see additional language added to specify that electronic signatures are not allowed.

#### **Section 64 Amendment – application for mail ballots**

I would like to draw your attention to the language highlighted in this section. We would urge you not to include the additional language highlighted in the amendment. Auditors do not have access to a list of individuals eligible to vote in the state for the first time. Therefore, we are requesting on the proposed amendment document to remove "and each qualified individual to vote in the state for the first time". That language is being proposed to be inserted in two places.

#### **Three-hour time limit to return results**

I'm sure you have recognized by now, that this language looks familiar. The senate soundly defeated a bill that set a three-hour time limit to deliver results to the county auditor with a vote of 14-32; which followed a do not pass recommendation from this committee. County Auditors again, oppose the changes suggested in the proposed amendments to HB 1253 attempting to put this in law.

I want to assure the committee that poll workers are very busy at the end of election night and that the results tabulation work happens simultaneously with the poll site clean up work. Poll workers divide up and conquer all the work at the end of the night with both the election results work and the clean up work ending at nearly the same time.

We do offer a recommendation, one that auditors believe will address the issue more appropriately. Recognizing that there has been one county with an issue of a voter who holds up the process by protesting to cast their ballot in a timely fashion, we propose the following:



**Page 3, line 22, after “mark the ballot” insert “for an additional one hundred fifty minutes.”**

You'll find this proposed amendment on my additional proposed amendments to HB 1253 page included in my testimony.

With that change you can remove the language that I have overstruck and highlighted on the Louser Proposed Amendment document for the references on Page 66.

What this change will do is:

- Provide clear direction to voter they have 30 minutes after polls close to complete their ballot if they want it to be cast and counted on Election night.
- At 30 minutes, if they haven't completed their ballot they are provided 2.5 additional hours to complete their ballot. The ballot will not be included in the Election night totals; but will be counted at canvassing.
- This change will provide clear direction to the inspector to gather the ballot at end of the three hours.
- Ensures all ballots delivered to the precinct are accounted for and delivered to the county auditor at the end of Election night.
- Provides clear direction on how to handle “protest voters”.
- Procedure will be outlined in Century Code.

Turning your attention back to the additional amendments the Auditors propose.

The time limit issue is addressed in the first amendment provided. The next eight amendments are all related to shortening the timeline for auditors to update voter history these are found in **Section 16 and 19 of the bill** (version .05008)

The changes in HB 1253 change the following deadlines for auditors:

- Section 16, subsection 1 shortens the time frame for an Auditor to enter voter information for voters who voted but were not in the central voter file – the time to complete this task would be reduced from **forty-five days to 3 business days** with using the language suggested of “before the meeting of the county canvassing board”.
- Section 16, subsection 2 shortens the time frame for the Secretary of State and Auditors to query the central voter file for individuals who voted more than once from **eighty-five days to 17 days**.
- Section 19 shortens the time frame for auditors to post the voting history of individuals from **75 days to 20 days**.

Auditors are puzzled on why this time frame should be adjusted. It's important for you to recognize that this is a part of the process that takes time, it shouldn't be rushed and there are several tasks auditors need to accomplish to prepare for the county canvassing board meeting. In addition, elections aren't the only responsibility of our county auditors. There has been no testimony supporting a reason for changing these dates.

Therefore, as you will see on the additional proposed amendments submitted with my testimony we are asking you to leave the dates as they currently are in century code.

It's also important to recognize that even if an individual is identified for voting more than once; no adjustments can be made to the vote totals as there is no way to know how that individual voted *nor* can you determine which ballot should be discarded. Regardless, of when it is determined – the county auditor will forward the information to the state's attorney for possible prosecution.

The final amendment we bring to you for your consideration relates to the appointment of judges. Section 22 lays out the process – district chairs are supposed to appoint judges from each party. When the county auditor doesn't get a response, they find individuals to fill those roles. Subsection 2 of Section 22 adds language that would require the auditor then to provide notice of the appointment to the district party chair. Auditors question the rationality in this when they are acting to fill those positions due to unresponsiveness from the chair.

Therefore, as you can see in the amendments we submitted, we are asking for that language to be removed.

Mr. Chairman, I appreciate your patience in allowing us to walk through the details and offer recommendations. The North Dakota County Auditor's Association respectfully requests you to take some time to review their suggested amendments and give them thorough consideration. I know this was a lot and may have been confusing as I was working from the proposed amendments from Rep. Louser and additional amendments we are offering. I am willing to work with a subcommittee to help expedite the process.

\*\*\* Suggestions for further amending Rep. Lousers .06006 amendment from ND County Auditors Association are highlighted below

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1253

Page 1, line 6, after the third comma insert "and"

Page 1, line 6, after the fourth comma insert "section 1 of House Bill No. 1256, as approved by the sixty-seventh legislative assembly, sections"

Page 1, line 14, after the third comma insert "16.1-11.1-02,"

Page 1, line 18, after the second comma insert "16.1-15-06,"

Page 10, after line 26, insert:

**"SECTION 14. AMENDMENT.** Section 1 of House Bill No. 1256, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

**SECTION 1.** A new section to chapter 16.1-01 of the North Dakota Century Code is created and enacted as follows:

**Use of nonpublic funds prohibited - Penalty.**

1. The state and political subdivisions may not solicit, accept, or use any grants or donations from private persons for elections operations or administration except:
  - a. The use of privately owned facilities for polling places;
  - b. Food for poll workers; and
  - c. Other nonmonetary donations that are not used to prepare, process, mark, collect, or tabulate ballots or votes.
- ~~2. An individual who knowingly violates subsection 1 is guilty of a class A misdemeanor.~~

Page 17, line 12, remove "Have printed on the ballot "The word 'endorsed' following or under a candidate's""

Page 17, remove lines 13 through 15

Page 17, line 16, remove "f."

Page 17, line 18, replace "g." with "f."

Page 17, line 22, replace "h." with "g."

Page 25, line 8, after "signature" insert ", a notification the signature on this affidavit will be compared to the signature on the affidavit on the envelope in which the absentee ballot must be placed""

Page 27, line 21, replace "voter who is blind, visually impaired, or print disabled" with "qualified elector living with a disability that prevents the elector from reading or marking the ballot without assistance""



Page 27, line 21, after "and" insert "who".

Page 28, after line 17, insert:

"The signature on this affidavit will be compared to the signature on the affidavit included in the application for the absentee ballot."

Page 50, line 9, after the period insert "The word 'endorsed' or 'petition' will appear after or under the name of a candidate for statewide or legislative district office. The word 'endorsed' in this context means the candidate was endorsed by the political party indicated. The word 'petition' in this context means the candidate circulated a petition for signatures to be included on the ballot."

Page 50, line 23, after the first "a" insert "statewide or legislative district"

Page 50, line 26, after "a" insert "statewide or legislative district"

Page 53, after line 17, insert:

**"SECTION 64. AMENDMENT.** Section 16.1-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11.1-02. Application for mail ballots.**

The county auditor shall mail an application form for a mail ballot to each individual active voter listed in the central voter file for the county and each qualified individual eligible to vote in the state for the first time on one date no sooner than the fiftieth day before the election and no later than the fortieth day before the election. The county auditor, for two consecutive weeks after the date on which the mail ballot applications are mailed, shall publish in the official newspaper of the county an application form for a mail ballot and a notice that additional mail ballot applications may be obtained from the election official. The application form for a mail ballot must be in substantially the form provided in section 16.1-07-06."

Page 53, line 28, replace "individual" with "active voter"

Page 53, line 29, after "mail" insert "and each qualified individual eligible to vote in the state for the first time"

Page 64, line 11, remove "A voter may take up to thirty minutes to mark and cast the ballot after"

Page 64, remove lines 12 through 20

Page 66, line 3, overstrike "After" and insert immediately thereafter:

"1. Within three hours after"

Page 66, line 3, overstrike "polls are closed" and insert immediately thereafter "official closing time of the polling place"

Page 66, line 4, after "system" insert "and deliver the report to the county auditor in the time frame provided in section 16.1-15-06"

Page 66, line 6, overstrike "shall" and insert immediately thereafter "must"

Page 66, line 7, after the period insert

"2."

Page 66, after line 18, insert:

**"SECTION 90. AMENDMENT.** Section 16.1-15-06 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-06. Canvass report and pollbooks sent to county auditor - Compensation for making returns.**

Immediately following

1. Following the canvass, except in cases of emergency or inclement weather, the inspector of elections, or one of the judges appointed by the inspector of elections, personally shall deliver the signed canvass report provided for in section 16.1-15-04 to the county auditor within three hours after the official closing time of the polling place. The report, carefully sealed under cover, accompanied by the pollbook provided for in sections 16.1-02-13 and 16.1-06-21 with the oaths of the inspector and poll clerks affixed thereto, must be delivered properly to the county auditor.
2. The individual making the return is entitled to receive compensation ~~therefor~~ in accordance with section 16.1-05-05. The compensation and mileage must be paid out of the county treasury on a warrant of the county auditor and is full compensation for returning all used or voided ballots to the proper official."

Renumber accordingly



DONNELL PRESKEY  
NDACo, ND County Auditors Association

ADDITIONAL PROPOSED AMENDMENTS TO HB 1253

Page 3, line 22, after "mark the ballot" insert "for an additional one hundred fifty minutes."

Page 11, line 26, remove the overstrike over "~~Within forty five days~~"

Page 11, line 26, remove "Before the meeting of the county canvassing board"

Page 12, line 1, remove the overstrike over "~~within eighty five~~"

Page 12, line 2, remove the overstrike over "~~days following an election~~"

Page 12, line 2, remove "before the meeting of the state canvassing board."

Page 13, line 20, remove the overstrike over "~~Within seventy five days after each election~~"

Page 13, line 20, remove "Before the end of the contest period allowed"

Page 13, line 21, remove "under section 16.1-16-04"

Page 16, line 5, remove "and provide notice of the appointment to the district party"

Page 16, line 6, remove "chair"

## Testimony for HB 1253

To: Committee Chair Shawn Vedaa & Members of the Senate Government & Veterans Affairs Committee, North Dakota 67th Legislative Assembly.

From: Zelda Gebhard, President and Legislative Liaison, North Dakota Association of the Blind (NDAB). Lobbyist 2020-2021 #1072  
Home address: 8169 66<sup>th</sup> St SE, Edgeley, ND 58433.  
H: (701) 493-2399; c: (701) 709-0262; Email: zelda@ndab.org

Re: Testimony offered for HB 1253, specifically for access to accessible absentee voting.

Good Morning, Chairman Kasper and members of the North Dakota House of Representatives Government and Veterans Affairs Committee.

I am testifying on behalf of myself as an individual who is legally blind, and also as the president and volunteer lobbyist of the North Dakota Association of the Blind. We are a nonprofit membership organization. Our 250 members live in your neighborhoods and work in your communities.

We are in favor of HB1253. We specifically support the amendment that provides an accessible option for electors with a disability, which prevents them from reading or marking a paper ballot, an option to vote absentee in an independent way.

We very much appreciate the availability of the ExpressVote in every polling place in ND. These accessible voting machines allow us to cast a secret ballot independently while at the polling place. Currently the only absentee voting allowed in ND is a paper ballot. This doesn't work for those of us with disabilities, like vision loss, who cannot read or mark the ballot.

Therefore, I urge you to consider changes in our state law that would allow us to vote fully electronically in the secure and safe way that is currently an option for our military who reside out of state. This would fulfill the rights granted to us by federal legislation such as the Americans with Disabilities Act (ADA) and the Help America Vote Act (HAVA).

As you consider the many bills brought before you concerning voting in ND, I thank you for thoughtfully considering the needs and rights of all citizens of ND including those of us with sight loss.

\*See also NDAB Resolution 2021-04 listed below:

**NDAB Resolution 2021-04:**

**Equal Access to An Accessible Absentee Voting**

**WHEREAS**, federal and state law requires equal access to the ballot and voting experience, including the right to a private and independent, verifiable accessible absentee ballot; and

**WHEREAS**, technology to make an absentee ballot accessible is available and represents an economical way to make the voting experience available to persons with disabilities, many of whom experience difficulties in traveling from their residences to designated polling sites; and

**WHEREAS**, the State of North Dakota has received federal monies to conduct its state elections, a small portion of which could be used to acquire statewide accessible technology to make the absentee ballot accessible to qualified voters;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of the North Dakota Association of the Blind at its meeting on this Sunday, January 10, 2021, that:

1. Its members call upon the leaders and members of both houses of the North Dakota Legislature to recognize this protected right, consider and pass legislation if needed to make accessible absentee voting available to all qualified voters in North Dakota on an equal basis.
2. Respectfully urges the Governor of the State of North Dakota to sign any such legislation which meets the above goal; and
3. Strongly encourages responsible elements of State Government to certify one or more accessible absentee voting systems which meet the goal of this resolution and strive to make such system(s) available to qualified voters in North Dakota's 53 counties.

**SENATE GOVERNMENT & VETERAN AFFAIRS COMMITTEE**

**Senator Shawn Vedda, Chairman**

**House Bill 1253**

**April 8, 2021**

Chairman Vedda and Members of the Committee.

I am Janelle Olson. I live in Williston with my husband, Jeff, where we have both recently retired from careers in human services and medicine.

I grew up on a farm northwest of Williston and am the youngest of four daughters. Three of the four of us have a degenerative eye condition called Cone Rod Dystrophy, which caused the deterioration of our retinas, with the onset at about the age of eight. I have been legally blind for most of my life. Reading the print before you on this page has been impossible for me to do since my early teens.

One of my earliest grade school memories is my parents and my friend's parents coming in and out of our country school building on a designated day. Their collective mood to me as a child seemed to be solemn and serious. I was given the impression that whatever they were doing was important. I would learn they were coming to the school to cast their vote. It was my parents who instilled in me my civic duty to exercise my right and responsibility to vote and I take this very seriously and have passed this on to our son.

The election in 2006 was my Independence Day. For all the years I had voted prior, this was the first time I was afforded the right to cast a secret ballot using the AutoMARK, an accessible voting machine. Before, I had to take someone with me (usually my husband) or have the ballot read to me and marked by two judges, one from each political party. One read the candidates and one marked my ballot.

It will always be my first preference to vote in person using the accessible voting machine. I feel an enormous sense of satisfaction as I am putting my ballot into the counter knowing I and I alone know how I voted.

Due to COVID-19, in the 2020 election, Jeff and I requested absentee ballots. As we sat in our home, Jeff reading and marking my ballot, the years on the calendar had once again returned to the day where my vote was no longer mine and mine alone.

**I urge you to pass House Bill 1253 with the amendments. Its passage will afford me my right as a citizen to a private vote.**

**SENATE GOVERNMENT & VETERAN AFFAIRS COMMITTEE**

**Senator Shawn Vedaa, Chairman**

**House Bill 1253**

**April 8, 2021**

Chairman Vedaa and Committee Members.

I am Judy DeWitz, a Disabilities Advocate with the North Dakota Protection and Advocacy Project (P&A). P&A is an independent state agency that acts to protect persons with disabilities from abuse, neglect, and exploitation, and advocates for the human, civil and legal rights of persons with disabilities.

The number of North Dakota voters who have been voting absentee or voting-by-mail has been growing in the last years. Many voters prefer to vote from home because they can avoid the challenges of getting to the polls, waiting in line, and facing physical barriers at the polling space, including exposure to COVID-19. There are individuals with disabilities requesting the same benefits and rights that all voters have – the right to vote independently.

Qualified voters who are living with a disability that prevents them from reading or marking their ballot without assistance, need tools to provide them accommodations. At the present time, these are not available to them when voting by mail. In the past, organizations and individuals representing these voters, have discussed alternatives that might be used. One possible solution would be to allow voters to complete their ballot independently at home, allowing them access to the same system used by the military and overseas voters. It is understood that this may not be a complete solution, however, it is closer to the accommodations requested by these voters.

ADA and the Help America Vote Act (HAVA) state that voters with disabilities have the same right to a private and independent ballot as everyone else. Voters with disabilities must be able to mark, verify, and cast their ballots privately and independently, even if they choose to vote by mail.

Protection & Advocacy previously supported the language in the House amendment “Any voter who is blind, visually impaired or print disabled and wishes to cast an absentee ballot may mark the electronic ballot by electronic means.” However, we believe the **more inclusive language** should be, “Any qualified elector living with a disability that prevents the elector from reading or marking the ballot without assistance...” This provides an accommodation to other individuals with disabilities, for example, a neurological disorder such as Cerebral Palsy or an illness like dyslexia.

All voters, including those with disabilities, have the right to have a secure way to cast a ballot by mail.

Thank you. I am happy to answer any questions.

**NDAB Resolution 2021-04:  
Equal Access to An Accessible Absentee Ballot**

WHEREAS, federal and state law requires equal access to the ballot and voting experience, including the right to a private and independent, verifiable accessible absentee ballot; and

WHEREAS, technology to make an absentee ballot accessible is available and represents an economical way to make the voting experience available to persons with disabilities, many of whom experience difficulties in traveling from their residences to designated polling sites; and

WHEREAS, the State of North Dakota has received federal monies to conduct its state elections, a small portion of which could be used to acquire statewide Accessible (technology to make the absentee ballot accessible to qualified voters;

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1. Its members call upon the leaders and members of both houses of the North Dakota Legislature to recognize this protected right, and consider and pass legislation if needed to make an accessible absentee ballot available to all qualified voters in North Dakota on an equal basis.
2. Respectfully urges the Governor of the State of North Dakota to sign any such legislation which meets the above goal; and
3. Strongly encourages responsible elements of State Government to certify one or more accessible absentee voting systems which meet the goal of this resolution and

strive to make such system(s) available to qualified voters in all 53 of North Dakota's counties in time for the 2022 election cycle.



**Testimony for House Bill 1253**

**To: Committee Chair Shawn Vedaas & Members of the Senate Government & Veterans Affairs Committee, North Dakota 67th Legislative Assembly.**

**From: Allan Peterson, Legislative Committee, North Dakota Association of the Blind (NDAB).** Home address: 7009 Horseshoe Bend, Horace, ND 58047.  
Home: (701) 282-4644; cell: (701) 429-7209; Email address: allan.c.peterson@gmail.com

Re: Testimony for Access to an accessible absentee ballot

Greetings Chairman Vedaas, and members of the House Government and Veterans Affairs Committee,

Thank you so much for the opportunity to speak to you about the right to vote by people who are blind, visually impaired, or otherwise have a disability which prevents them from independently marking a paper ballot.

I'm offering this testimony as an advocate for people who are blind and visually impaired and to help represent the advocacy goals of the North Dakota Association of the Blind (NDAB).

FYI: A resolution on accessible absentee voting adopted by the Board of the North Dakota Association of the Blind is being submitted with this testimony

Since 1982 I have fit the definition of someone that's "legally blind" and for the past 35 years haven't been able to read print. After my loss of eyesight, I couldn't read the printed ballot and had to rely on a family member to mark the ballot for me. Although I have every confidence that my ballot was marked the way in which I had wanted it to be, I still greatly desired the opportunity to exercise every citizen's right to vote a secret independent ballot.

As a consequence of the problems that were experienced with the Presidential election in Florida in 2000, The Help America Vote Act (HAVA), was enacted by the U.S. Congress in response to these voting issues. This Act included provisions to supply voting systems for people with disabilities who with this equipment, could cast a secret ballot independently.

After the accessible voting machines became available at our polling sites here in North Dakota, I haven't missed the opportunity to vote in every election since 2002 using this equipment. I did vote in last fall's election at a polling site in Fargo using the accessible equipment installed on the ExpressVote machine. My voting experience, as a person who is blind, was featured on a local news program.

## Testimony for HB1253 (Allan Peterson) page 2

Put simply, we are advocating that provision of a secret, independent accessible ballot be provided to absentee voters who are blind, visually impaired, or otherwise have a disability which prevents them from casting a secret ballot independently.

We can report to you that there are a number of states that have implemented technologies that do allow people who are blind to vote using an absentee ballot. Perhaps not surprisingly the methodology to do so isn't uniform from state to state.

Personally, as someone who has no functional eyesight, I could vote an absentee ballot if it were sent to me electronically in an accessible format. I use software that allows me to read what is on the computer screen. This is technology that I use every day to communicate to send and receive Email messages, join meetings over the internet, and gather information over the worldwide web.

If for example, were the Secretary of States Office to send me the ballot that's sent to our overseas uniformed military people, I could easily mark my ballot with my equipment and send it back to them electronically. Also, I could send the ballot electronically to the Cass County auditor's office and it could potentially be printed using a fax machine.

There a host of reasons why voting using an absentee ballot is more convenient to voters who are blind, visually impaired, or have print disabilities. It's been our experience that many poll workers are not familiar with how to instruct a voter who is blind or visually impaired on the use of the accessible features of the voting equipment.

Access to a secret independent ballot is a fundamental right of every citizen in our nation which rightfully prides itself on its democratic principles. This right is also supported and reaffirmed in our nations' laws principal among them being the Help America Vote Act, the America with Disabilities Act, and the Vocational Rehabilitation Act.



**Senator,**

All ballots must have a QR code or barcode number on it. This will greatly reduce any copying of ballots.

All electronic ballot images taken by the ballot machine are open to the public record.

All envelopes and ballots must be kept for the two years.

No forced mail in ballots. All absentee ballots must have a copy of a state ID with them.

In person voting cannot be stopped by an EO!

Thank you,

--

**Mitchell S. Sanderson**

The ND Disabilities Advocacy Consortium (NDDAC) is a member organization that *advocates for public policy to ensure that people with disabilities have the supports and services they need to be as productive and independent as possible*. It addresses issues that may impact individuals of all ages with all types of disabilities.

Specific to HB 1253, NDDAC is pleased to support the proposed amendment to ND State law. While voting in ND has been made more accessible over the years for people with disabilities, including use of the current Express Vote machine, the last year with the pandemic has shined a bright light on the challenges for many individuals with disabilities of voting when a paper ballot is the only means available. The proposed language should make the process more amenable for those challenged with using a paper ballot. This may include individuals with sight impairments as well as other disabilities such as Cerebral Palsy, where it can be difficult to read and/or mark a ballot.

The NDDAC is appreciative of the Secretary of State's Office for its work on this important issue and the resulting proposed amendment. Thank you.

Sincerely,  
Julie Horntvedt, Chair

Website: [www.nddac.org](http://www.nddac.org)

# 2021 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee  
Room JW216, State Capitol

HB 1253  
4/9/2021

**A BILL relating to election administration; relating to election administration and the removal of obsolete language; and to provide a penalty.**

**Chair Vedaa** called to order at 11:30 AM with Sen Vedaa, Meyer, Elkin, K Roers, Weber, Wobbema, and Marcellais present.

### Discussion Topics:

- Committee Work- 21.0471.06007

Sen Roers moves amendment 21.0471.06007

Sen Weber seconds

**Roll Call vote: 5 -- YES 2 -- NO -0-ab Motion Passed**

Senators	Vote
Senator Shawn Vedaa	N
Senator Scott Meyer	Y
Senator Jay R. Elkin	Y
Senator Richard Marcellais	Y
Senator Kristin Roers	Y
Senator Mark F. Webber	Y
Senator Michael A. Wobbema	N

**Sen Roers** moves to further amend line 10, add Class A Misdemeanor not Infraction

**Sen Weber** seconds

**VOICE VOTE WAS TAKEN: Motion Passed**

**Sen Roers** moves **Do Pass as amended**

**Sen Wobbema** seconds

**Roll Call Vote: 7 -- YES 0 -- NO -0-ab Motion Passed**

Senators	Vote
Senator Shawn Vedaa	Y
Senator Scott Meyer	Y
Senator Jay R. Elkin	Y
Senator Richard Marcellais	Y
Senator Kristin Roers	Y
Senator Mark F. Webber	Y
Senator Michael A. Wobbema	Y

**Sen Vedaa will carry the bill**

Adjourned at 11:44 AM

*Pam Dever, Committee Clerk*

April 8, 2021

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1253

Page 1, line 6, after the third comma insert "and"

Page 1, line 6, after the fourth comma insert "section 1 of House Bill No. 1256, as approved by the sixty-seventh legislative assembly, sections"

Page 1, line 14, after the third comma insert "16.1-11.1-02,"

Page 10, after line 26, insert:

**"SECTION 14. AMENDMENT.** Section 1 of House Bill No. 1256, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

**SECTION 1.** A new section to chapter 16.1-01 of the North Dakota Century Code is created and enacted as follows:

**Use of nonpublic funds prohibited - Penalty.**

1. The state and political subdivisions may not solicit, accept, or use any grants or donations from private persons for elections operations or administration except:
  - a. The use of privately owned facilities for polling places;
  - b. Food for poll workers; and
  - c. Other nonmonetary donations that are not used to prepare, process, mark, collect, or tabulate ballots or votes.
2. An individual who knowingly violates subsection 1 is guilty of an infraction."

Page 11, line 26, remove the overstrike over "~~Within~~"

Page 11, line 26, replace "Before the meeting of the county canvassing board" with "twelve business days"

Page 13, line 20, remove the overstrike over "~~Within~~"

Page 13, line 20, after "~~seventy-five~~" insert "fifty calendar"

Page 13, line 20, remove the overstrike over "~~days after each election~~"

Page 13, line 20, remove "Before the end of the contest period allowed"

Page 13, line 21, remove "under section 16.1-16-04"

Page 17, line 12, remove "Have printed on the ballot "The word 'endorsed' following or under a candidate's"

Page 17, remove lines 13 through 15

Page 17, line 16, remove "f."

Page 17, line 18, replace "g." with "f."

Page 17, line 22, replace "h." with "g."

Page 25, line 8, after "signature" insert "a notification the signature on this affidavit will be compared to the signature on the affidavit on the envelope in which the absentee ballot must be placed"

Page 27, line 21, replace "voter who is blind, visually impaired, or print disabled" with "qualified elector living with a disability that prevents the elector from reading or marking the ballot without assistance"

Page 27, line 21, after "and" insert "who"

Page 28, after line 17, insert:

"The signature on this affidavit will be compared to the signature on the affidavit included in the application for the absentee ballot."

Page 50, line 9, after the period insert "The word 'endorsed' or 'petition' will appear after or under the name of a candidate for statewide or legislative district office. The word 'endorsed' in this context means the candidate was endorsed by the political party indicated. The word 'petition' in this context means the candidate circulated a petition for signatures to be included on the ballot."

Page 50, line 23, after the first "a" insert "statewide or legislative district"

Page 50, line 26, after "a" insert "statewide or legislative district"

Page 53, after line 17, insert:

**"SECTION 64. AMENDMENT.** Section 16.1-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11.1-02. Application for mail ballots.**

The county auditor shall mail an application form for a mail ballot to each ~~individual~~active voter listed in the central voter file for the county and each qualified individual eligible to vote in the state for the first time on one date no sooner than the fiftieth day before the election and no later than the fortieth day before the election. The county auditor, for two consecutive weeks after the date on which the mail ballot applications are mailed, shall publish in the official newspaper of the county an application form for a mail ballot and a notice that additional mail ballot applications may be obtained from the election official. The application form for a mail ballot must be in substantially the form provided in section 16.1-07-06."

Page 53, line 28, replace "individual" with "active voter"

Page 53, line 29, after "mail" insert "and each qualified individual eligible to vote in the state for the first time"

Page 64, line 11, remove "A voter may take up to thirty minutes to mark and cast the ballot after"

Page 64, remove lines 12 through 20

Page 66, line 6, overstrike "shall" and insert immediately thereafter "must"

Renumber accordingly

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2. An individual who knowingly violates subsection 1 is guilty of a class A misdemeanor."

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3 of 3

Page 66, line 6, overstrike "shall" and insert immediately thereafter "must"

Renumber accordingly



**REPORT OF STANDING COMMITTEE**

**HB 1253, as engrossed: Government and Veterans Affairs Committee (Sen. Vedaa, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1253 was placed on the Sixth order on the calendar.

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Page 1, line 6, after the fourth comma insert "the new section to chapter 16.1-01 of the North Dakota Century Code as created by section 1 of House Bill No. 1256, as approved by the sixty-seventh legislative assembly, sections"

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Re-number accordingly

**2021 CONFERENCE COMMITTEE**

**HB 1253**

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Government and Veterans Affairs Committee**  
Pioneer Room, State Capitol

HB 1253 AM  
4/21/2021  
Conference Committee

Relating to election administration; and to provide a penalty
---------------------------------------------------------------

**Chairman Kasper** opened the conference committee meeting at 10:01 a.m.

All members were present:

Chairman Kasper-P  
Rep. Louser-P  
Rep. Schneider-P

Chairman Vedaa-P  
Senator Meyer-P  
Senator Marcellais-P

**Discussion Topics:**

- Penalty severity
- Voter files

**Jim Silrum, Deputy Secretary of State**, appeared to give information and answer questions.

**Chairman Kasper** adjourned at 10:30 a.m.

*Carmen Hart, Committee Clerk*

# 2021 HOUSE STANDING COMMITTEE MINUTES

**Government and Veterans Affairs Committee**  
Pioneer Room, State Capitol

HB 1253 PM  
4/21/2021  
Conference Committee

Relating to election administration; and to provide a penalty

**Chairman Kasper** opened the conference committee at 2:34 p.m.

All members were present:

Chairman Kasper-P  
Rep. Louser-P  
Rep. Schneider-P

Chairman Vedaa-P  
Senator Meyer-P  
Senator Marcellais-P

**Discussion Topics:**

- Election integrity
- Central voter file

**Jim Silrum, Deputy Secretary of State**, gave additional information and answered questions, #11593.

**Brian Nybakken, Secretary of State Election Unit**, appeared, gave additional information, and answered questions.

**Chairman Kasper** adjourned at 3:00 p.m.

*Carmen Hart, Committee Clerk*

ALVIN A. JAEGER  
SECRETARY OF STATE

HOME PAGE [www.nd.gov/sos](http://www.nd.gov/sos)



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**SECRETARY OF STATE**

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

**Post-Election Deadlines  
Sections 17 and 20 of HB 1253**

In order to understand the deadlines the Secretary of State proposed in the original version of HB 1253, it is important to note that our starting point is the date by which an elected candidate takes office after the election.

1. Section 7 of Article IV says, "The terms of members of the legislative assembly begin on the first day of December following their election."
2. Section 5 of Article V says in part, "The terms of the governor and lieutenant governor begin on December fifteenth following their election."

Because December 1 is the earliest date by which a public official takes office, it makes good sense that the election should be finalized by that time so that the proper candidates are seated when the term of office begins. Although a weak argument could be made that legislators do not make significant decisions until the Legislative Assembly convenes, "on the first Tuesday after the third day in January or at such other time as may be prescribed by law but not later than the eleventh day of January," it is certainly true that the election should be finalized by December 15<sup>th</sup> when the Governor and Lt. Governor take office.

The other deadlines that were considered:

1. County Canvassing Board – NDCC § 16.1-15-17 – "On the sixth day following each election, the county canvassing board shall meet and, after taking the oath of office, shall proceed to open and publicly canvass the returns."
2. State Canvassing Board – NDCC § 16.1-15-35 – "Not later than seventeen days next following a primary, general, or special election, the state canvassing board shall meet at the office of the secretary of state for the purpose of canvassing and ascertaining the result of the election."
3. Contest of an election – NDCC § 16.1-16-04 – "Any action to contest an election must be commenced and the complaint must be filed in the district court of the contestee's county of residence within five days after final certification of a recount by the appropriate canvassing board or within fourteen days after the final certification by the appropriate canvassing board if no recount is to be conducted." (Approx. 30 days after the election)

The following are the deadlines listed in Sections 17 and 20 (highlighted area indicates deadlines passed in both the Senate and House versions of HB 1253):

Tasks to be done after an election	Section of Law	By Who	Current Deadlines	1253 from the House	Senate Amendments
Add new voters after election	16.1-02-05(1)	Counties	45 Days	6 Days	12 Bus. Days (14 Days)
Search for duplicate voting	16.1-02-05(2)	Secretary of State	85 Days	17 Days	17 Days
Post voting credit in Central Voter File	16.1-02-10	Counties	75 Days	Approx. 30 Days	50 Days

Election officials will comply with the deadlines prescribed in law. At the very least however, the deadlines should make sense. For example, it is not possible for the Secretary of State to determine whether anyone voted more than once in an election until the 53 counties have all posted voting credit in the Central Voter File. If the legislature gives the counties 50 days to post voting credit, then the deadline for the Secretary of State to determine voter fraud should be not less than 51 days.

The 2020 General Election was held on November 3<sup>rd</sup>, which is almost the earliest date in November that the election could be held. Even with such an early date, a 50-day deadline for posting voting credit would have allowed the counties until December 23<sup>rd</sup>, which was 8 days after the Governor and Lt. Governor took office. Since the state now has electronic pollbooks that allow for far greater efficiencies for election day and post-election work, is it wise to allow the completion of this work to be finalized so many days after 74 or 69 (depending on the election cycle) elected officials take office?

We appreciate that a small number of county auditors have brought forward concerns over the proposed deadlines. Although these concerns were not expressed when our office held a post-election debriefing with the counties in early December, we have already started looking into ways to make the electronic pollbooks more efficient for this post-election work with respect to voters. There will be nearly a 50% reduction in what the system considers as "new voters" based on what has been accomplished so far through our investigations. We will continue to work with the counties to make the system as efficient as possible so that everyone can work smarter rather than harder.

Finally, there were two counties from this past election that had to reconvene their County Canvassing Boards in April to resolve the discrepancies that existed between the number of ballots cast in relation to the number of people who voted in the election. It is fortunate that neither county had a single contest in which the wrong candidates were elected. If the opposite had been true and the contest was a legislative contest, the wrong individual would have been seated for nearly all of the legislative session, possibly impacting long-term North Dakota policy.

Regardless of what is ultimately decided and becomes law, the Secretary of State's office will do all it can to make sure this would never occur. Our sincere hope is that the counties will join us in this effort.

Respectfully submitted,

Jim Silrum  
Deputy Secretary of State  
April 21, 2021

HB 1253 Conference Committee



County	Address Updates	Voters Added	Voters Not Assigned a Precinct	Ballots Cast	Days to Complete Credits
Adams	52	5	8	1,278	10
Barnes	128	22	0	5,605	7
Benson	59	21	132	1,984	66
Billings	8	4	3	641	72
Bottineau	59	14	8	3,494	38
Bowman	56	4	4	1,670	62
Burke	9	28	54	1,157	63
Burleigh	1,859	303	163	51,145	69
Cass	4,662	839	1	86,897	133
Cavalier	23	6	12	2,039	9
Dickey	219	13	2	2,451	10
Divide	40	22	14	1,223	10
Dunn	56	30	53	2,350	10
Eddy	25	13	7	1,274	15
Emmons	68	1	4	2,021	10
Foster	57	8	13	1,789	9
Golden Valley	30	2	1	1,033	9
Grand Forks	2,409	253	85	31,142	2
Grant	25	16	12	1,398	29
Griggs	29	6	16	1,259	7
Hettinger	56	8	6	1,324	64
Kidder	19	29	4	1,477	9
LaMoure	40	11	7	2,237	10
Logan	23	0	0	1,090	14
McHenry	33	7	53	3,025	37
McIntosh	74	5	2	1,472	14
McKenzie	471	221	430	5,448	64
McLean	123	38	51	5,580	7
Mercer	125	42	107	4,703	65
Morton	891	123	54	16,702	17
Mountrail	187	98	97	4,183	62
Nelson	47	17	3	1,793	6
Oliver	50	20	58	1,074	7
Pembina	81	5	0	3,359	16
Pierce	44	1	6	2,143	10
Ramsey	140	12	29	5,430	63
Ransom	65	16	29	2,473	12
Renville	20	8	8	1,339	7
Richland	325	48	9	7,874	64
Rolette	297	70	218	3,843	12
Sargent	55	6	2	2,087	13
Sheridan	5	2	18	820	62
Sioux	134	34	124	1,011	112
Slope	5	5	2	431	62
Stark	1,045	156	71	15,129	16
Steele	20	8	7	1,100	29
Stutsman	410	54	41	10,044	63
Towner	26	4	9	1,188	63
Traill	32	0	28	4,173	62
Walsh	69	1	32	4,837	36
Ward	1,161	279	3	28,389	29
Wells	20	17	21	2,397	11
Williams	762	215	7	14,419	47



16,728	3,170	2,128	364,499
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# 2021 HOUSE STANDING COMMITTEE MINUTES

**Government and Veterans Affairs Committee**  
Pioneer Room, State Capitol

HB 1253 AM  
4/22/2021  
Conference Committee

Relating to election administration; and to provide a penalty
---------------------------------------------------------------

**Chairman Kasper** opened the conference committee meeting at 10:00 a.m.

All members were present:

Chairman Kasper-P  
Rep. Louser-P  
Rep. Schneider-P

Chairman Vedaa-P  
Senator Meyer-P  
Senator Marcellais-P

**Discussion Topics:**

- Post-election deadlines
- Class A misdemeanor

**Donnell Preskey, Executive Director, ND Association of Counties**, appeared to present information and answered questions, #11605.

**Jim Silrum, Deputy Secretary of State**, explained Rep. Kasper's amendments 21.0471.06009, #11604.

**Chairman Kasper** adjourned at 10:32 a.m.

*Carmen Hart, Committee Clerk*

**Information for: HB 1253 Conference Committee  
Donnell Preskey, NDACo**

HB 1253 is 98% great, solid election policy that our county auditors stand in support of. There are just a few items of contention.

**Section 14 – Use of nonpublic funds prohibited – penalty**

- Auditors appreciate the clarification provided in the amendments added in the Senate version to address the unintended consequences of HB 1256.
- Auditors have received the message that this is an action that will be prohibited; however feel the penalty for accepting a donation or grant is **too severe**.
  - Penalty for a class A misdemeanor is ~~365~~ days in jail and/or \$3,000 fine.
- Suggest an **Infraction**, which would be consistent with the penalty added in Section 24 (approves ballot printed with candidate when doesn't meet qualifications).

**Post-Election Deadlines – Sections 17 & 20**

- Section 17 (page 12, Line 10) is the deadline for auditors to update new voter information. The **House** moved the deadline from **45 days** to before the meeting of the county canvassing board. Equates to 6 days but really is only **3 business days** (Wed, Thursday, Friday).
- Auditors requested that deadline be adjusted as I heard from auditors that this extremely reduced timeline will not provide enough time to get the work done.
- The Senate version pushed the deadline to update new voter information to **12 business days**.
  - Cass County, McKenzie and Burleigh said it took them more than a week to add the new voter information and they were unable to start this until after canvassing.
    - **This is a high priority for county auditors – to keep the 12 business days deadline.**
  - Handout outlines Voter History and Voter Credit process along with the work of the County Canvassing Board.
    - Updating the voter history and voter credit has no impact on vote totals.
    - County Canvassing Board does not review individual voters, their primary role is to certify the vote totals and ensure the number of people who voted equals the number of ballots cast. County Canvassing Board does not look at voter history or new voter information.
      - **Therefore, the deadline to update the new voter information does not have be prior to the county canvassing board meeting.**

- Section 20 is the deadline for auditors to post voter history. The House version shortened the deadline from **75 days** to before the end of the contest period allowed under section... (which is 14 days after county canvassing board meets or approximately 30 days. The Senate increased the days to 50 days.
  - Discussions with Auditors indicate willingness that if you can meet our request for the 12 business day deadline in Section 17, they should be able to meet the deadline set forth in Section 20 by the House at approximately 30 days.
- As far as the deadline that deals with the search for duplicative voting in Section 17, this impacts the Secretary of State. Recognize that deadline should be after the deadline for auditors to post voter history – which does not seem to coincide with the dates set in either the House or Senate version.

County Auditors recognize there have been efficiencies with the new equipment and technology advances which can allow for these deadlines to be adjusted. We would just caution against drastic changes. Hope you can take our suggestions into serious consideration as these are recommendations from the folks doing the job.

- County offices differentiate not only in number of voters to process but size of office staff to handle the various tasks. At same time as election, Auditors are preparing tax statements.

### **3 hour-time limit to return results to the County Auditor**

- Clarify: amendment was offered in Senate to insert this language into 1253 but it was not adopted. Therefore, it has not been in either the House or Senate version of 1253.
- Auditors support the 30-minute deadline after polls close and feel this should address the issue. If not, we can work on clearer language next session.

## County Canvass Board (NDCC 16.1-15-15 through 16.1-15-24)

- County Canvassing Board meets 6 days after the Election to certify the official results of the election (**VOTE TOTALS**)
- Primary roles of the County Canvass Board:
  - Ensure the **number of ballots cast EQUALS the number of voters** in the poll books
  - Review and Process all out-standing absentee ballots and all Set Aside Ballots
  - Verify Final Vote Totals and Sign/Approve the Official Abstract of Votes
- **County Canvass Board does not review individual voters - their primary role is to certify the vote totals and ensure the number of people who voted EQUALS the number of ballots cast. County Canvass Board does not look at voter history or new voter information.**

## Voter History and Voting Credit:

- **UPDATING VOTER HISTORY AND VOTER CREDIT HAS NO IMPACT ON VOTE TOTALS.**
- After each election, Auditors post voting history/credit to each voter within the Central Voter File (CVF).
- The e-pollbook sends an import file to the Central Voter File.
  - If the information from the e-pollbook matches 100% perfectly with a voter in the CVF the system will automatically post credit to those voters with the “Click of a button” using the Batch Process button shown on the information provided by the Secretary of State.
- Some of the data received is not automatic such as new voters not previously listed in the CVF and records that don’t match with an existing voter 100% (address updates, driver’s license updates, etc...)
- Voices splits out the issue records to these two categories: Update a voter and Import New Voter
  - It’s important to note that updating and importing a new voter takes about 5 minutes each – not as simple as “clicking a button”. Burleigh County had over 1200 Import/Update voters in the General Election equating to 100 hours of work just to add and update these voters.
  - McKenzie County’s file of voters was 586 records– some of these were able to be batch processed, but most (approximately 300) required manual review. This occurs one record at a time – work did not begin until after the Canvass Board meeting. This equated to 25 hours of work to add and update these voters.
  - It’s extremely important to take time with these steps because it’s either a new voter or edits an existing voter – the data and updates need to be accurate.
  - If the street address imported to the system is not listed in the CVF we have to take extra steps and research to try and rectify the address. Researching the DOT website, tax rolls, parcel maps, etc.... to try and get the correct address.
  - McKenzie has had voters that have lived in McKenzie County their entire lives that were not in the CVF – have had a ND driver’s license for over 25 years



21.0471.06009  
Title.

Prepared by the Legislative Council staff for  
Representative Kasper  
April 21, 2021

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1253

That the Senate recede from its amendments as printed on pages 1687-1689 of the House Journal and pages 1393-1395 of the Senate Journal and that Engrossed House Bill No. 1253 be amended as follows:

Page 1, line 4, after "reenact" insert "section 15.1-09-15,"

Page 1, line 4, replace "sections" with "section"

Page 1, line 4, after the second comma insert "subsection 5 of section 16.1-01-04.1, sections"

Page 1, line 6, after the third comma insert "and"

Page 1, line 6, after the fourth comma insert "the new section to chapter 16.1-01 of the North Dakota Century Code, as created by section 1 of House Bill No. 1256, as approved by the sixty-seventh legislative assembly, sections"

Page 1, line 14, after the third comma insert "16.1-11.1-02,"

Page 1, line 18, after the seventh comma insert "16.1-15-17,"

Page 2, after line 6, insert:

**"SECTION 2. AMENDMENT.** Section 15.1-09-15 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-15. School district election - Declaration of winner.**

On the ~~sixth~~ninth day after the election, the school board shall meet to canvass all election returns and shall declare the result of an election and, in the case of a tie, within three days from the determination of a winner. However, if the election is held under an agreement with a city or county pursuant to sections 15.1-09-22 and 15.1-09-24, the returns must be canvassed and the winners declared as set out in the agreement. The individual receiving the highest number of votes for an office must be declared elected. The board shall record the result of the election."

Page 3, after line 30, insert:

**"SECTION 6. AMENDMENT.** Subsection 5 of section 16.1-01-04.1 of the North Dakota Century Code is amended and reenacted as follows:

5. If an individual is not able to show a valid form of identification but asserts qualifications as an elector in the precinct in which the individual desires to vote, the individual may mark a ballot that must be securely set aside in a sealed envelope designed by the secretary of state. After the ballot is set aside, the individual may show a valid form of identification to either a polling place election board member if the individual returns to the polling place before the polls close, or to an employee of the office of the election official responsible for the administration of the election before the meeting of the canvassing board occurring on the ~~sixth~~ninth day after the election. Each ballot set aside under this subsection must be presented to the



members of the canvassing board for proper inclusion or exclusion from the tally."

Page 10, after line 26, insert:

**"SECTION 14. AMENDMENT.** Section 1 of House Bill No. 1256, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

**SECTION 1.** A new section to chapter 16.1-01 of the North Dakota Century Code is created and enacted as follows:

**Use of nonpublic funds prohibited - Penalty.**

1. The state and political subdivisions may not solicit, accept, or use any grants or donations from private persons for elections operations or administration except:
  - a. The use of privately owned facilities for polling places;
  - b. Food for poll workers; and
  - c. Other nonmonetary donations that are not used to prepare, process, mark, collect, or tabulate ballots or votes.
2. An individual who knowingly violates subsection 1 is guilty of a class A misdemeanor."

Page 17, line 12, remove "Have printed on the ballot "The word 'endorsed' following or under a candidate's""

Page 17, remove lines 13 through 15

Page 17, line 16, remove "f."

Page 17, line 18, replace "g." with "f."

Page 17, line 22, replace "h." with "g."

Page 25, line 8, after "signature" insert ", a notification the signature on this affidavit will be compared to the signature on the affidavit on the envelope in which the absentee ballot must be placed""

Page 27, line 21, replace "voter who is blind, visually impaired, or print disabled" with "qualified elector living with a disability that prevents the elector from reading or marking the ballot without assistance""

Page 27, line 21, after "and" insert "who"

Page 28, after line 17, insert:

"The signature on this affidavit will be compared to the signature on the affidavit included in the application for the absentee ballot."

Page 50, line 9, after the period insert "The word 'endorsed' or 'petition' will appear after or under the name of a candidate for statewide or legislative district office. The word 'endorsed' in this context means the candidate was endorsed by the political party"

indicated. The word 'petition' in this context means the candidate circulated a petition for signatures to be included on the ballot."

Page 50, line 23, after the first "a" insert "statewide or legislative district"

Page 50, line 26, after "a" insert "statewide or legislative district"

Page 53, after line 17, insert:

**"SECTION 64. AMENDMENT.** Section 16.1-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11.1-02. Application for mail ballots.**

The county auditor shall mail an application form for a mail ballot to each individual active voter listed in the central voter file for the county and each qualified individual eligible to vote in the state for the first time on one date no sooner than the fiftieth day before the election and no later than the fortieth day before the election. The county auditor, for two consecutive weeks after the date on which the mail ballot applications are mailed, shall publish in the official newspaper of the county an application form for a mail ballot and a notice that additional mail ballot applications may be obtained from the election official. The application form for a mail ballot must be in substantially the form provided in section 16.1-07-06."

Page 53, line 28, replace "individual" with "active voter"

Page 53, line 29, after "mail" insert "and each qualified individual eligible to vote in the state for the first time"

Page 64, line 11, remove "A voter may take up to thirty minutes to mark and cast the ballot after"

Page 64, remove lines 12 through 20

Page 66, line 6, overstrike "shall" and insert immediately thereafter "must"

Page 70, after line 17, insert:

**"SECTION 97. AMENDMENT.** Section 16.1-15-17 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-17. Time of county canvassing board meeting - Oath required - Reconsideration of canvass - Penalty.**

On the ~~sixth~~ninth day following each election, the county canvassing board shall meet and, after taking the oath of office, shall proceed to open and publicly canvass the returns. If an election official is not prepared for the county canvassing board meeting such that the returns cannot be canvassed, the election official is guilty of a class A misdemeanor. After the initial meeting of the board as provided in this section, any two or more members may call a meeting of the board and upon approval of a majority of the members, the board shall recanvass the results of the election or any portion thereof and may correct any previous canvass or certification or both in regard to the election. Any correction of any previous certification of election results as provided in this section must be immediately dispatched to the secretary of state who shall call a meeting of the state canvassing board as provided in section 16.1-15-35 for the purpose of recanvassing and, if necessary, correcting any previous certification of the election results."

Renumber accordingly

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1253 PM  
4/22/2021  
Conference Committee

Relating to election administration; and to provide a penalty

**Chairman Kasper** opened the conference committee meeting at 4:00 p.m.

All members were present:

Chairman Kasper-P  
Rep. Louser-P  
Rep. Schneider-P

Chairman Vedaa-P  
Senator Meyer-P  
Senator Marcellais-P

### Discussion Topics:

- Post-election deadline change
- Misdemeanor change

**Jim Silrum, Deputy Secretary of State**, explained and answered questions on proposed amendments 21.0471.06010, #11615.

**Donnell Preskey, ND Association of Counties**, commented on the proposed amendments.

**Senator Meyer** moved to adopt an amendment “to change the 14<sup>th</sup> day to 13<sup>th</sup> day.”  
**Rep. Schneider** seconded.

**Roll call vote. Motion passes 6-0-0.**

**Rep. Schneider** moved to adopt an amendment “to change the Class A misdemeanor to a Class B misdemeanor.” **Senator Meyer** seconded.

**Roll call vote. Motion fails 3-3-0.**

**Senator Meyer** moved to **Senate recede from senate amendments and amend 21.0471.06011.** **Senator Vedaa** seconded.

**Roll call vote. Motion passes. 5-1-0. House carrier-Rep. Louser. Senate carrier-Senator Vedaa.**

**Chairman Kasper** adjourned at 4:20 p.m.

**NOTE: NO STANDING COMMITTEE REPORT DUE TO RECONSIDERATION ON 4-26-21.**

*Carmen Hart, Committee Clerk*



April 22, 2021

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4/22/21  
193

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1253

That the Senate recede from its amendments as printed on pages 1687-1689 of the House Journal and pages 1393-1395 of the Senate Journal and that Engrossed House Bill No. 1253 be amended as follows:

Page 1, line 4, after "reenact" insert "section 15.1-09-15,"

Page 1, line 4, replace "sections" with "section"

Page 1, line 4, after the second comma insert "subsection 5 of section 16.1-01-04.1, sections"

Page 1, line 6, after the third comma insert "and"

Page 1, line 6, after the fourth comma insert "the new section to chapter 16.1-01 of the North Dakota Century Code, as created by section 1 of House Bill No. 1256, as approved by the sixty-seventh legislative assembly, sections"

Page 1, line 14, after the third comma insert "16.1-11.1-02,"

Page 1, line 18, after the seventh comma insert "16.1-15-17,"

Page 2, after line 6, insert:

**"SECTION 2. AMENDMENT.** Section 15.1-09-15 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-15. School district election - Declaration of winner.**

On the ~~sixth~~thirteenth day after the election, the school board shall meet to canvass all election returns and shall declare the result of an election and, in the case of a tie, within three days from the determination of a winner. However, if the election is held under an agreement with a city or county pursuant to sections 15.1-09-22 and 15.1-09-24, the returns must be canvassed and the winners declared as set out in the agreement. The individual receiving the highest number of votes for an office must be declared elected. The board shall record the result of the election."

Page 3, after line 30, insert:

**"SECTION 6. AMENDMENT.** Subsection 5 of section 16.1-01-04.1 of the North Dakota Century Code is amended and reenacted as follows:

5. If an individual is not able to show a valid form of identification but asserts qualifications as an elector in the precinct in which the individual desires to vote, the individual may mark a ballot that must be securely set aside in a sealed envelope designed by the secretary of state. After the ballot is set aside, the individual may show a valid form of identification to either a polling place election board member if the individual returns to the polling place before the polls close, or to an employee of the office of the election official responsible for the administration of the election before the meeting of the canvassing board occurring on the ~~sixth~~thirteenth day after the election. Each ballot set aside under this subsection must be presented to

the members of the canvassing board for proper inclusion or exclusion from the tally."

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2 of 3

Page 10, after line 26, insert:

**"SECTION 16. AMENDMENT.** Section 1 of House Bill No. 1256, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

**SECTION 1.** A new section to chapter 16.1-01 of the North Dakota Century Code is created and enacted as follows:

**Use of nonpublic funds prohibited - Penalty.**

1. The state and political subdivisions may not solicit, accept, or use any grants or donations from private persons for elections operations or administration except:
  - a. The use of privately owned facilities for polling places;
  - b. Food for poll workers; and
  - c. Other nonmonetary donations that are not used to prepare, process, mark, collect, or tabulate ballots or votes.
2. An individual who knowingly violates subsection 1 is guilty of a class A misdemeanor."

Page 17, line 12, remove "Have printed on the ballot "The word 'endorsed' following or under a candidate's""

Page 17, remove lines 13 through 15

Page 17, line 18, replace "g." with "f."

Page 17, line 22, replace "h." with "g."

Page 25, line 8, after "signature" insert ", a notification the signature on this affidavit will be compared to the signature on the affidavit on the envelope in which the absentee ballot must be placed"

Page 27, line 21, replace "voter who is blind, visually impaired, or print disabled" with "qualified elector living with a disability that prevents the elector from reading or marking the ballot without assistance"

Page 27, line 21, after "and" insert "who"

Page 28, after line 17, insert "The signature on this affidavit will be compared to the signature on the affidavit included in the application for the absentee ballot."

Page 50, line 9, after the period insert "The word 'endorsed' or 'petition' will appear after or under the name of a candidate for statewide or legislative district office. The word 'endorsed' in this context means the candidate was endorsed by the political party indicated. The word 'petition' in this context means the candidate circulated a petition for signatures to be included on the ballot."

Page 50, line 23, after the first "a" insert "statewide or legislative district"

Page 50, line 26, after "a" insert "statewide or legislative district"

Page 53, after line 17, insert:

**"SECTION 66. AMENDMENT.** Section 16.1-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11.1-02. Application for mail ballots.**

The county auditor shall mail an application form for a mail ballot to each ~~individual~~active voter listed in the central voter file for the county and each qualified individual eligible to vote in the state for the first time on one date no sooner than the fiftieth day before the election and no later than the fortieth day before the election. The county auditor, for two consecutive weeks after the date on which the mail ballot applications are mailed, shall publish in the official newspaper of the county an application form for a mail ballot and a notice that additional mail ballot applications may be obtained from the election official. The application form for a mail ballot must be in substantially the form provided in section 16.1-07-06."

Page 53, line 28, replace "individual" with "active voter"

Page 53, line 29, after "mail" insert "and each qualified individual eligible to vote in the state for the first time"

Page 64, line 11, remove "A voter may take up to thirty minutes to mark and cast the ballot after"

Page 64, remove lines 12 through 20

Page 66, line 6, overstrike "shall" and insert immediately thereafter "must"

Page 70, after line 17, insert:

**"SECTION 97. AMENDMENT.** Section 16.1-15-17 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-17. Time of county canvassing board meeting - Oath required - Reconsideration of canvass.**

On the ~~sixth~~thirteenth day following each election, the county canvassing board shall meet and, after taking the oath of office, shall proceed to open and publicly canvass the returns. After the initial meeting of the board as provided in this section, any two or more members may call a meeting of the board and upon approval of a majority of the members, the board shall recanvass the results of the election or any portion thereof and may correct any previous canvass or certification or both in regard to the election. Any correction of any previous certification of election results as provided in this section must be immediately dispatched to the secretary of state who shall call a meeting of the state canvassing board as provided in section 16.1-15-35 for the purpose of recanvassing and, if necessary, correcting any previous certification of the election results."

Renumber accordingly

08  
4/22/21  
3 of 3



**2021 HOUSE CONFERENCE COMMITTEE  
 ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1253 as (re) engrossed

**House Government and Veterans' Affairs Committee**

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

Motion Made by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

<b>Representatives</b>	4/21 am	4/21 pm	4/22 am	<b>Yes</b>	<b>No</b>		<b>Senators</b>	4/21 am	4/21 pm	4/22 am	<b>Yes</b>	<b>No</b>
Chairman Kasper	X	X	X				Chairman Vedaa	X	X	X		
Rep. Louser	X	X	X				Senator Meyer	X	X	X		
Rep. Schneider	X	X	X				Senator Marcellais	X	X	X		
<b>Total Rep. Vote</b>							<b>Total Senate Vote</b>					

Vote Count            Yes: \_\_\_\_\_            No: \_\_\_\_\_            Absent: \_\_\_\_\_

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

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

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

Emergency clause added or deleted

Statement of purpose of amendment



**2021 HOUSE CONFERENCE COMMITTEE  
ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1253 as (re) engrossed

**House Government and Veterans' Affairs Committee**

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

**AMENDMENT ROLL CALL VOTE-MOTION PASSES**

Motion Made by: Senator Meyer                      Seconded by: Rep. Schneider

<b>Representatives</b>					<b>Senators</b>				
	4/22 pm		Yes	No		4/22 pm		Yes	No
Chairman Kasper	X		X		Chairman Vedaa	X		X	
Rep. Louser	X		X		Senator Meyer	X		X	
Rep. Schneider	X		X		Senator Marcellais	X		X	
Total Rep. Vote			3		Total Senate Vote			3	

Vote Count          Yes: 6                      No: 0                      Absent: 0

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

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

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

Emergency clause added or deleted

Statement of purpose of amendment "Change 14<sup>th</sup> day to 13<sup>th</sup> day"

**2021 HOUSE CONFERENCE COMMITTEE  
 ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1253 as (re) engrossed

**House Government and Veterans' Affairs Committee**

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

**AMENDMENT ROLL CALL VOTE-MOTION FAILS**

Motion Made by: Rep. Schneider                      Seconded by: Senator Meyer

<b>Representatives</b>	4/22 pm			<b>Yes</b>	<b>No</b>		<b>Senators</b>	4/22 pm			<b>Yes</b>	<b>No</b>
Chairman Kasper	X				X		Chairman Vedaa	X				X
Rep. Louser	X				X		Senator Meyer	X			X	
Rep. Schneider	X			X			Senator Marcellais	X			X	
<b>Total Rep. Vote</b>				1	2		<b>Total Senate Vote</b>				2	1

Vote Count            Yes: 3                      No: 3                      Absent: 0

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

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

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

Emergency clause added or deleted

Statement of purpose of amendment "Change Class A misdemeanor to Class B misdemeanor"

**2021 HOUSE CONFERENCE COMMITTEE  
ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1253 as (re) engrossed

**House Government and Veterans' Affairs Committee**

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

Motion Made by: Senator Meyer Seconded by: Senator Vedaa

Representatives		4/22 pm		Yes	No	Senators		4/22 pm		Yes	No
Chairman Kasper		X		X		Chairman Vedaa		X		X	
Rep. Louser		X		X		Senator Meyer		X		X	
Rep. Schneider		X		X		Senator Marcellais		X			X
Total Rep. Vote				3		Total Senate Vote				2	1

Vote Count      Yes: 5      No: 1      Absent: 0

House Carrier Rep. Louser      Senate Carrier Senator Vedaa

LC Number 21.0471 . 06011 of amendment

LC Number 21.0471 . 08000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

21.0471.06010  
Title.

Prepared by the Legislative Council staff for  
Representative Kasper  
April 22, 2021

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1253

That the Senate recede from its amendments as printed on pages 1687-1689 of the House Journal and pages 1393-1395 of the Senate Journal and that Engrossed House Bill No. 1253 be amended as follows:

Page 1, line 4, after "reenact" insert "section 15.1-09-15,"

Page 1, line 4, replace "sections" with "section"

Page 1, line 4, after the second comma insert "subsection 5 of section 16.1-01-04.1, sections"

Page 1, line 6, after the third comma insert "and"

Page 1, line 6, after the fourth comma insert "the new section to chapter 16.1-01 of the North Dakota Century Code, as created by section 1 of House Bill No. 1256, as approved by the sixty-seventh legislative assembly, sections"

Page 1, line 14, after the third comma insert "16.1-11.1-02,"

Page 1, line 18, after the seventh comma insert "16.1-15-17,"

Page 2, after line 6, insert:

**"SECTION 2. AMENDMENT.** Section 15.1-09-15 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-15. School district election - Declaration of winner.**

On the ~~sixth~~sixteenth day after the election, the school board shall meet to canvass all election returns and shall declare the result of an election and, in the case of a tie, within three days from the determination of a winner. However, if the election is held under an agreement with a city or county pursuant to sections 15.1-09-22 and 15.1-09-24, the returns must be canvassed and the winners declared as set out in the agreement. The individual receiving the highest number of votes for an office must be declared elected. The board shall record the result of the election."

Page 3, after line 30, insert:

**"SECTION 6. AMENDMENT.** Subsection 5 of section 16.1-01-04.1 of the North Dakota Century Code is amended and reenacted as follows:

5. If an individual is not able to show a valid form of identification but asserts qualifications as an elector in the precinct in which the individual desires to vote, the individual may mark a ballot that must be securely set aside in a sealed envelope designed by the secretary of state. After the ballot is set aside, the individual may show a valid form of identification to either a polling place election board member if the individual returns to the polling place before the polls close, or to an employee of the office of the election official responsible for the administration of the election before the meeting of the canvassing board occurring on the ~~sixth~~sixteenth day after the election. Each ballot set aside under this subsection must be presented to

the members of the canvassing board for proper inclusion or exclusion from the tally."

Page 10, after line 26, insert:

**"SECTION 16. AMENDMENT.** Section 1 of House Bill No. 1256, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

**SECTION 1.** A new section to chapter 16.1-01 of the North Dakota Century Code is created and enacted as follows:

**Use of nonpublic funds prohibited - Penalty.**

1. The state and political subdivisions may not solicit, accept, or use any grants or donations from private persons for elections operations or administration except:
  - a. The use of privately owned facilities for polling places;
  - b. Food for poll workers; and
  - c. Other nonmonetary donations that are not used to prepare, process, mark, collect, or tabulate ballots or votes.
2. An individual who knowingly violates subsection 1 is guilty of a class A misdemeanor."

Page 17, line 12, remove "Have printed on the ballot "The word 'endorsed' following or under a candidate's"

Page 17, remove lines 13 through 15

Page 17, line 16, remove "f"

Page 17, line 18, replace "g." with "f."

Page 17, line 22, replace "h." with "g."

Page 25, line 8, after "signature" insert ", a notification the signature on this affidavit will be compared to the signature on the affidavit on the envelope in which the absentee ballot must be placed"

Page 27, line 21, replace "voter who is blind, visually impaired, or print disabled" with "qualified elector living with a disability that prevents the elector from reading or marking the ballot without assistance"

Page 27, line 21, after "and" insert "who"

Page 28, after line 17, insert:

"The signature on this affidavit will be compared to the signature on the affidavit included in the application for the absentee ballot."

Page 50, line 9, after the period insert "The word 'endorsed' or 'petition' will appear after or under the name of a candidate for statewide or legislative district office. The word 'endorsed' in this context means the candidate was endorsed by the political party



indicated. The word 'petition' in this context means the candidate circulated a petition for signatures to be included on the ballot."

Page 50, line 23, after the first "a" insert "statewide or legislative district"

Page 50, line 26, after "a" insert "statewide or legislative district"

Page 53, after line 17, insert:

**"SECTION 66. AMENDMENT.** Section 16.1-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11.1-02. Application for mail ballots.**

The county auditor shall mail an application form for a mail ballot to each ~~individual~~active voter listed in the central voter file for the county and each qualified individual eligible to vote in the state for the first time on one date no sooner than the fiftieth day before the election and no later than the fortieth day before the election. The county auditor, for two consecutive weeks after the date on which the mail ballot applications are mailed, shall publish in the official newspaper of the county an application form for a mail ballot and a notice that additional mail ballot applications may be obtained from the election official. The application form for a mail ballot must be in substantially the form provided in section 16.1-07-06."

Page 53, line 28, replace "individual" with "active voter"

Page 53, line 29, after "mail" insert "and each qualified individual eligible to vote in the state for the first time"

Page 64, line 11, remove "A voter may take up to thirty minutes to mark and cast the ballot after"

Page 64, remove lines 12 through 20

Page 66, line 6, overstrike "shall" and insert immediately thereafter "must"

Page 70, after line 17, insert:

**"SECTION 97. AMENDMENT.** Section 16.1-15-17 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-17. Time of county canvassing board meeting - Oath required - Reconsideration of canvass - Penalty.**

On the ~~sixth~~fourteenth day following each election, the county canvassing board shall meet and, after taking the oath of office, shall proceed to open and publicly canvass the returns. After the initial meeting of the board as provided in this section, any two or more members may call a meeting of the board and upon approval of a majority of the members, the board shall recanvass the results of the election or any portion thereof and may correct any previous canvass or certification or both in regard to the election. Any correction of any previous certification of election results as provided in this section must be immediately dispatched to the secretary of state who shall call a meeting of the state canvassing board as provided in section 16.1-15-35 for the purpose of recanvassing and, if necessary, correcting any previous certification of the election results."

Renumber accordingly

# 2021 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee  
Pioneer Room, State Capitol

HB 1253 AM  
4/26/2021  
Conference Committee

Relating to election administration; and to provide a penalty

**Chairman Kasper** opened the conference committee meeting at 11:06 a.m.

All members were present:

Chairman Kasper-P  
Rep. Louser-P  
Rep. Schneider-P

Chairman Vedaa-P  
Senator Meyer-P  
Senator Marcellais-P

**Discussion Topics:**

- Petition and endorsement wording

**Senator Meyer** moved to **reconsider**. **Senator Vedaa** seconded. **Voice vote. Motion carried.**

**Senator Meyer** explained why the bill was brought back to conference. (11:07-11:08)

**Chairman Kasper** adjourned at 11:13 a.m.

*Carmen Hart, Committee Clerk*



# 2021 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee  
Pioneer Room, State Capitol

HB 1253 PM  
4/26/2021  
Committee Conference

Relating to election administration; and to provide a penalty

**Chairman Kasper** opened the conference committee meeting at 2:01 p.m.

All members were present:

Chairman Kasper-P  
Rep. Louser-P  
Rep. Schneider-P

Chairman Vedaa-P  
Senator Meyer-P  
Senator Marcellais-P

## Discussion Topics:

- Returning to previous action

**Senator Meyer** moved the **Senate recede from Senate amendments and amend with 21.0471.06011**. **Senator Vedaa** seconded.

**Roll call vote. 5-1-0. House carrier is Rep. Louser. Senate carrier is Senator Vedaa.**

**Chairman Kasper** adjourned at 2:03 p.m.

**NOTE: NO STANDING COMMITTEE REPORT DUE TO RECONSIDERATION ON 4-28-21.**

*Carmen Hart, Committee Clerk*

April 22, 2021

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4/22/21  
193

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1253

That the Senate recede from its amendments as printed on pages 1687-1689 of the House Journal and pages 1393-1395 of the Senate Journal and that Engrossed House Bill No. 1253 be amended as follows:

Page 1, line 4, after "reenact" insert "section 15.1-09-15,"

Page 1, line 4, replace "sections" with "section"

Page 1, line 4, after the second comma insert "subsection 5 of section 16.1-01-04.1, sections"

Page 1, line 6, after the third comma insert "and"

Page 1, line 6, after the fourth comma insert "the new section to chapter 16.1-01 of the North Dakota Century Code, as created by section 1 of House Bill No. 1256, as approved by the sixty-seventh legislative assembly, sections"

Page 1, line 14, after the third comma insert "16.1-11.1-02,"

Page 1, line 18, after the seventh comma insert "16.1-15-17,"

Page 2, after line 6, insert:

**"SECTION 2. AMENDMENT.** Section 15.1-09-15 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-15. School district election - Declaration of winner.**

On the ~~sixth~~thirteenth day after the election, the school board shall meet to canvass all election returns and shall declare the result of an election and, in the case of a tie, within three days from the determination of a winner. However, if the election is held under an agreement with a city or county pursuant to sections 15.1-09-22 and 15.1-09-24, the returns must be canvassed and the winners declared as set out in the agreement. The individual receiving the highest number of votes for an office must be declared elected. The board shall record the result of the election."

Page 3, after line 30, insert:

**"SECTION 6. AMENDMENT.** Subsection 5 of section 16.1-01-04.1 of the North Dakota Century Code is amended and reenacted as follows:

5. If an individual is not able to show a valid form of identification but asserts qualifications as an elector in the precinct in which the individual desires to vote, the individual may mark a ballot that must be securely set aside in a sealed envelope designed by the secretary of state. After the ballot is set aside, the individual may show a valid form of identification to either a polling place election board member if the individual returns to the polling place before the polls close, or to an employee of the office of the election official responsible for the administration of the election before the meeting of the canvassing board occurring on the ~~sixth~~thirteenth day after the election. Each ballot set aside under this subsection must be presented to

the members of the canvassing board for proper inclusion or exclusion from the tally."

off  
4/20/21  
2 of 3

Page 10, after line 26, insert:

**"SECTION 16. AMENDMENT.** Section 1 of House Bill No. 1256, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

**SECTION 1.** A new section to chapter 16.1-01 of the North Dakota Century Code is created and enacted as follows:

**Use of nonpublic funds prohibited - Penalty.**

1. The state and political subdivisions may not solicit, accept, or use any grants or donations from private persons for elections operations or administration except:
  - a. The use of privately owned facilities for polling places;
  - b. Food for poll workers; and
  - c. Other nonmonetary donations that are not used to prepare, process, mark, collect, or tabulate ballots or votes.
2. An individual who knowingly violates subsection 1 is guilty of a class A misdemeanor."

Page 17, line 12, remove "Have printed on the ballot "The word 'endorsed' following or under a candidate's""

Page 17, remove lines 13 through 15

Page 17, line 18, replace "g." with "f."

Page 17, line 22, replace "h." with "g."

Page 25, line 8, after "signature" insert ", a notification the signature on this affidavit will be compared to the signature on the affidavit on the envelope in which the absentee ballot must be placed""

Page 27, line 21, replace "voter who is blind, visually impaired, or print disabled" with "qualified elector living with a disability that prevents the elector from reading or marking the ballot without assistance""

Page 27, line 21, after "and" insert "who"

Page 28, after line 17, insert "The signature on this affidavit will be compared to the signature on the affidavit included in the application for the absentee ballot."

Page 50, line 9, after the period insert "The word 'endorsed' or 'petition' will appear after or under the name of a candidate for statewide or legislative district office. The word 'endorsed' in this context means the candidate was endorsed by the political party indicated. The word 'petition' in this context means the candidate circulated a petition for signatures to be included on the ballot."

Page 50, line 23, after the first "a" insert "statewide or legislative district""

Page 50, line 26, after "a" insert "statewide or legislative district""



Page 53, after line 17, insert:

**"SECTION 66. AMENDMENT.** Section 16.1-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11.1-02. Application for mail ballots.**

The county auditor shall mail an application form for a mail ballot to each ~~individual~~active voter listed in the central voter file for the county and each qualified individual eligible to vote in the state for the first time on one date no sooner than the fiftieth day before the election and no later than the fortieth day before the election. The county auditor, for two consecutive weeks after the date on which the mail ballot applications are mailed, shall publish in the official newspaper of the county an application form for a mail ballot and a notice that additional mail ballot applications may be obtained from the election official. The application form for a mail ballot must be in substantially the form provided in section 16.1-07-06."

Page 53, line 28, replace "individual" with "active voter"

Page 53, line 29, after "mail" insert "and each qualified individual eligible to vote in the state for the first time"

Page 64, line 11, remove "A voter may take up to thirty minutes to mark and cast the ballot after"

Page 64, remove lines 12 through 20

Page 66, line 6, overstrike "shall" and insert immediately thereafter "must"

Page 70, after line 17, insert:

**"SECTION 97. AMENDMENT.** Section 16.1-15-17 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-17. Time of county canvassing board meeting - Oath required - Reconsideration of canvass.**

On the ~~sixth~~thirteenth day following each election, the county canvassing board shall meet and, after taking the oath of office, shall proceed to open and publicly canvass the returns. After the initial meeting of the board as provided in this section, any two or more members may call a meeting of the board and upon approval of a majority of the members, the board shall recanvass the results of the election or any portion thereof and may correct any previous canvass or certification or both in regard to the election. Any correction of any previous certification of election results as provided in this section must be immediately dispatched to the secretary of state who shall call a meeting of the state canvassing board as provided in section 16.1-15-35 for the purpose of recanvassing and, if necessary, correcting any previous certification of the election results."

Renumber accordingly

08  
4/22/21  
3 of 3

**2021 HOUSE CONFERENCE COMMITTEE  
 ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1253 as (re) engrossed

**House Government and Veterans' Affairs Committee**

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

Motion Made by:   Senator Meyer                        Seconded by:   Senator Vedaa  

Representatives	4/26	4/26	Yes	No		Senators	4/26	4/26	Yes	No
	am	pm					am	pm		
Chairman Kasper	X	X	X			Chairman Vedaa	X	X	X	
Rep. Louser	X	X	X			Senator Meyer	X	X	X	
Rep. Schneider	X	X	X			Senator Marcellais	X	X		X
Total Rep. Vote			3			Total Senate Vote			2	1

Vote Count            Yes:   5                        No:   1                        Absent:   0  

House Carrier   Rep. Louser                        Senate Carrier   Senator Vedaa  

LC Number   21.0471   .   06011   of amendment

LC Number   21.0471   .   08000   of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

# 2021 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1253  
4/28/2021  
Conference Committee

Relating to election administration; and to provide a penalty

**Chairman Kasper** opened the conference committee meeting at 10:37 a.m.

All members were present:

Chairman Kasper-P  
Rep. Louser-P  
Rep. Schneider-P

Chairman Vedaa-P  
Senator Meyer-P  
Senator Marcellais-P

### Discussion Topics:

- Deleting the petition and endorsement wording

**Senator Vedaa** moved to **reconsider**. **Rep. Schneider** seconded. **Voice vote**. **Motion carried**.

**Jim Silrum, Deputy Secretary of State**, appeared to answer questions.

**Senator Meyer** moved the **Senate recede from Senate amendments and amend 21.0471.06012**. **Senator Vedaa** seconded.

**Roll call vote-6-0-0**. **Motion passes**. **House carrier** is **Rep. Louser**. **Senate carrier** is **Senator Vedaa**.

**Chairman Kasper** adjourned at 10:47 a.m.

*Carmen Hart, Committee Clerk*

W 10/10  
10/3

April 28, 2021

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1253

That the Senate recede from its amendments as printed on pages 1687-1689 of the House Journal and pages 1393-1395 of the Senate Journal and that Engrossed House Bill No. 1253 be amended as follows:

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Page 1, line 4, replace "sections" with "section"

Page 1, line 4, after the second comma insert "subsection 5 of section 16.1-01-04.1, sections"

Page 1, line 6, after the third comma insert "and"

Page 1, line 6, after the fourth comma insert "the new section to chapter 16.1-01 of the North Dakota Century Code, as created by section 1 of House Bill No. 1256, as approved by the sixty-seventh legislative assembly, sections"

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Page 1, line 18, after the seventh comma insert "16.1-15-17,"

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On the ~~sixth~~<sup>thirteenth</sup> day after the election, the school board shall meet to canvass all election returns and shall declare the result of an election and, in the case of a tie, within three days from the determination of a winner. However, if the election is held under an agreement with a city or county pursuant to sections 15.1-09-22 and 15.1-09-24, the returns must be canvassed and the winners declared as set out in the agreement. The individual receiving the highest number of votes for an office must be declared elected. The board shall record the result of the election."

Page 3, after line 30, insert:

**"SECTION 6. AMENDMENT.** Subsection 5 of section 16.1-01-04.1 of the North Dakota Century Code is amended and reenacted as follows:

5. If an individual is not able to show a valid form of identification but asserts qualifications as an elector in the precinct in which the individual desires to vote, the individual may mark a ballot that must be securely set aside in a sealed envelope designed by the secretary of state. After the ballot is set aside, the individual may show a valid form of identification to either a polling place election board member if the individual returns to the polling place before the polls close, or to an employee of the office of the election official responsible for the administration of the election before the meeting of the canvassing board occurring on the ~~sixth~~<sup>thirteenth</sup> day after the election. Each ballot set aside under this subsection must be presented to



the members of the canvassing board for proper inclusion or exclusion from the tally."

Page 10, after line 26, insert:

**"SECTION 16. AMENDMENT.** Section 1 of House Bill No. 1256, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

**SECTION 1.** A new section to chapter 16.1-01 of the North Dakota Century Code is created and enacted as follows:

**Use of nonpublic funds prohibited - Penalty.**

1. The state and political subdivisions may not solicit, accept, or use any grants or donations from private persons for elections operations or administration except:
  - a. The use of privately owned facilities for polling places;
  - b. Food for poll workers; and
  - c. Other nonmonetary donations that are not used to prepare, process, mark, collect, or tabulate ballots or votes.
2. An individual who knowingly violates subsection 1 is guilty of a class A misdemeanor."

Page 17, line 12, remove "Have printed on the ballot "The word 'endorsed' following or under a candidate's""

Page 17, remove lines 13 through 15

Page 17, line 18, replace "g." with "f."

Page 17, line 22, replace "h." with "g."

Page 25, line 8, after "signature" insert "a notification the signature on this affidavit will be compared to the signature on the affidavit on the envelope in which the absentee ballot must be placed"

Page 27, line 21, replace "voter who is blind, visually impaired, or print disabled" with "qualified elector living with a disability that prevents the elector from reading or marking the ballot without assistance"

Page 27, line 21, after "and" insert "who"

Page 28, after line 17, insert:

"The signature on this affidavit will be compared to the signature on the affidavit included in the application for the absentee ballot."

Page 50, line 23, remove "Immediately following or under the name of a candidate who received a party"

Page 50, remove lines 24 through 28

Page 50, line 29, remove "11."

Page 53, after line 17, insert:

**"SECTION 66. AMENDMENT.** Section 16.1-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11.1-02. Application for mail ballots.**

The county auditor shall mail an application form for a mail ballot to each ~~individual~~active voter listed in the central voter file for the county and each qualified individual eligible to vote in the state for the first time on one date no sooner than the fiftieth day before the election and no later than the fortieth day before the election. The county auditor, for two consecutive weeks after the date on which the mail ballot applications are mailed, shall publish in the official newspaper of the county an application form for a mail ballot and a notice that additional mail ballot applications may be obtained from the election official. The application form for a mail ballot must be in substantially the form provided in section 16.1-07-06."

Page 53, line 28, replace "individual" with "active voter"

Page 53, line 29, after "mail" insert "and each qualified individual eligible to vote in the state for the first time"

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Page 64, remove lines 12 through 20

Page 66, line 6, overstrike "shall" and insert immediately thereafter "must"

Page 70, after line 17, insert:

**"SECTION 97. AMENDMENT.** Section 16.1-15-17 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-17. Time of county canvassing board meeting - Oath required - Reconsideration of canvass.**

On the ~~sixth~~thirteenth day following each election, the county canvassing board shall meet and, after taking the oath of office, shall proceed to open and publicly canvass the returns. After the initial meeting of the board as provided in this section, any two or more members may call a meeting of the board and upon approval of a majority of the members, the board shall recanvass the results of the election or any portion thereof and may correct any previous canvass or certification or both in regard to the election. Any correction of any previous certification of election results as provided in this section must be immediately dispatched to the secretary of state who shall call a meeting of the state canvassing board as provided in section 16.1-15-35 for the purpose of recanvassing and, if necessary, correcting any previous certification of the election results."

Renumber accordingly

**2021 HOUSE CONFERENCE COMMITTEE  
 ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1253 as (re) engrossed

**House Government and Veterans' Committee**

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

Motion Made by:   Senator Meyer        Seconded by:   Senator Vedaa  

Representatives					Senators				
	4/28		Yes	No		4/28		Yes	No
Chairman Kasper	X		X		Chairman Vedaa	X		X	
Rep. Louser	X		X		Senator Meyer	X		X	
Rep. Schneider	X		X		Senator Marcellais	X		X	
<b>Total Rep. Vote</b>			<b>3</b>		<b>Total Senate Vote</b>			<b>3</b>	

Vote Count      Yes:   6        No:   0        Absent:   0  

House Carrier   Rep. Louser        Senate Carrier   Senator Vedaa  

LC Number   21.0471   .   06012   of amendment

LC Number   21.0471   .   09000   of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**REPORT OF CONFERENCE COMMITTEE**

**HB 1253, as engrossed:** Your conference committee (Sens. Vedaa, Meyer, Marcellais and Reps. Kasper, Louser, Schneider) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1687-1689, adopt amendments as follows, and place HB 1253 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1687-1689 of the House Journal and pages 1393-1395 of the Senate Journal and that Engrossed House Bill No. 1253 be amended as follows:

Page 1, line 4, after "reenact" insert "section 15.1-09-15,"

Page 1, line 4, replace "sections" with "section"

Page 1, line 4, after the second comma insert "subsection 5 of section 16.1-01-04.1, sections"

Page 1, line 6, after the third comma insert "and"

Page 1, line 6, after the fourth comma insert "the new section to chapter 16.1-01 of the North Dakota Century Code, as created by section 1 of House Bill No. 1256, as approved by the sixty-seventh legislative assembly, sections"

Page 1, line 14, after the third comma insert "16.1-11.1-02,"

Page 1, line 18, after the seventh comma insert "16.1-15-17,"

Page 2, after line 6, insert:

**"SECTION 2. AMENDMENT.** Section 15.1-09-15 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-15. School district election - Declaration of winner.**

On the ~~sixth~~thirteenth day after the election, the school board shall meet to canvass all election returns and shall declare the result of an election and, in the case of a tie, within three days from the determination of a winner. However, if the election is held under an agreement with a city or county pursuant to sections 15.1-09-22 and 15.1-09-24, the returns must be canvassed and the winners declared as set out in the agreement. The individual receiving the highest number of votes for an office must be declared elected. The board shall record the result of the election."

Page 3, after line 30, insert:

**"SECTION 6. AMENDMENT.** Subsection 5 of section 16.1-01-04.1 of the North Dakota Century Code is amended and reenacted as follows:

5. If an individual is not able to show a valid form of identification but asserts qualifications as an elector in the precinct in which the individual desires to vote, the individual may mark a ballot that must be securely set aside in a sealed envelope designed by the secretary of state. After the ballot is set aside, the individual may show a valid form of identification to either a polling place election board member if the individual returns to the polling place before the polls close, or to an employee of the office of the election official responsible for the administration of the election before the meeting of the canvassing board occurring on the ~~sixth~~thirteenth day after the election. Each ballot set aside under this subsection must be presented to the members of the canvassing board for proper inclusion or exclusion from the tally."

Page 10, after line 26, insert:

**"SECTION 16. AMENDMENT.** Section 1 of House Bill No. 1256, as approved by the sixty-seventh legislative assembly, is amended and reenacted as follows:

**SECTION 1.** A new section to chapter 16.1-01 of the North Dakota Century Code is created and enacted as follows:

**Use of nonpublic funds prohibited - Penalty.**

1. The state and political subdivisions may not solicit, accept, or use any grants or donations from private persons for elections operations or administration except:
  - a. The use of privately owned facilities for polling places;
  - b. Food for poll workers; and
  - c. Other nonmonetary donations that are not used to prepare, process, mark, collect, or tabulate ballots or votes.
2. An individual who knowingly violates subsection 1 is guilty of a class A misdemeanor."

Page 17, line 12, remove "Have printed on the ballot "The word 'endorsed' following or under a candidate's""

Page 17, remove lines 13 through 15

Page 17, line 18, replace "g." with "f."

Page 17, line 22, replace "h." with "g."

Page 25, line 8, after "signature" insert ", a notification the signature on this affidavit will be compared to the signature on the affidavit on the envelope in which the absentee ballot must be placed""

Page 27, line 21, replace "voter who is blind, visually impaired, or print disabled" with "qualified elector living with a disability that prevents the elector from reading or marking the ballot without assistance""

Page 27, line 21, after "and" insert "who"

Page 28, after line 17, insert:

"The signature on this affidavit will be compared to the signature on the affidavit included in the application for the absentee ballot."

Page 50, line 23, remove "Immediately following or under the name of a candidate who received a party""

Page 50, remove lines 24 through 28

Page 50, line 29, remove "11."

Page 53, after line 17, insert:

**"SECTION 66. AMENDMENT.** Section 16.1-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11.1-02. Application for mail ballots.**

The county auditor shall mail an application form for a mail ballot to each ~~individual~~active voter listed in the central voter file for the county and each qualified individual eligible to vote in the state for the first time on one date no sooner than the fiftieth day before the election and no later than the fortieth day before the election. The county auditor, for two consecutive weeks after the date on which the mail ballot applications are mailed, shall publish in the official newspaper of the county an application form for a mail ballot and a notice that additional mail ballot applications may be obtained from the election official. The application form for a mail ballot must be in substantially the form provided in section 16.1-07-06."

Page 53, line 28, replace "individual" with "active voter"

Page 53, line 29, after "mail" insert "and each qualified individual eligible to vote in the state for the first time"

Page 64, line 11, remove "A voter may take up to thirty minutes to mark and cast the ballot after"

Page 64, remove lines 12 through 20

Page 66, line 6, overstrike "shall" and insert immediately thereafter "must"

Page 70, after line 17, insert:

**"SECTION 97. AMENDMENT.** Section 16.1-15-17 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-17. Time of county canvassing board meeting - Oath required - Reconsideration of canvass.**

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Renumber accordingly

Engrossed HB 1253 was placed on the Seventh order of business on the calendar.