

2021 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2160

2021 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Room JW216, State Capitol

SB 2160
1/22/2021

A BILL to the application process for an absent voter's ballot.

Chair Vedaa opened the hearing at 10:46 a.m. with Sen Vedaa, Sen Meyer, Sen Elkin, Sen K Roers, Sen Wobbema, Sen Weber, and Sen Marcellais present.

Discussion Topics:

- Applying for absentee ballots
- County auditor wishes
- Military voters overseas

Senator Clemens introduced the bill #2239

Erika White – Burleigh County Election Manager testified in favor #2189

Donnell Preskey ND Association of Counties - testified in favor of the bill

Jim Silrum – ND Secretary of State office testified opposed #2194

Additional written testimony:

Denise Morman # 2188
Whitney Oxendahl #2168

Adjourned at 11:20 AM.

Pam Dever, Committee Clerk

JANUARY 22, 2021

SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

SENATE BILL 2160

SEN DAVID CLEMENS

CHAIR VEDAA AND COMMITTEE, MY NAME IS DAVID CLEMENS FROM DISTRICT 16 IN WEST FARGO AND FARGO AND I AM HERE TO INTRODUCE SENATE BILL 2160.

WHAT THIS BILL DOES IS REMOVE THE LANGUAGE IN SECTION 1 THAT CURRENTLY ALLOWS VOTERS TO REQUEST ABSENTEE BALLOTS FOR THE ENTIRE CALENDER YEAR. THIS BILL CHANGES THAT SO VOTERS MUST REQUEST AN ABSENTEE BALLOT ONLY FOR THE ELECTION IMMEDIATELY AFTER THE DATE OF THE APPLICATION. IN SECTION 2 THE WORDS "TO THE PUBLIC" ARE REMOVED, BUT MILITARY AND OVERSEAS VOTERS CAN STILL RECEIVE THEIR BALLOTS WITHOUT ANY SPECIFIC REQUESTS. LANGUAGE WAS ALSO ADDED THAT STATES ALL OTHER ELECTORS MUST REQUEST AN ABSENTEE BALLOT.

I BELIEVE THIS BILL IS NECESSARY TO CONTROL THE NUMBER OF ABSENTEE BALLOTS GOING OUT WHICH INCREASES THE CHANCES OF VOTER FRAUD. THE STATE OF NORTH DAKOTA HAS MADE IT VERY CONVENIENT FOR CITIZENS TO VOTE WITH EARLY VOTING, MAIL IN VOTING AND VOTING AT THE POLLS. TO SIMPLY BLANKET THE STATE WITH BALLOTS IS NOT IN THE BEST INTEREST OF THE STATE. MANY ABSENTEE BALLOTS ARE NOT BEING USED AND THEREFORE WASTED, PARTLY DUE TO CONFUSION WHEN THE VOTER DID NOT REALIZE THEY WERE ORDERING BALLOTS FOR THE ENTIRE CALENDER YEAR.

THIS BILL CHANGES NOTHING IN THE PROCESS OF REQUESTING AN ABSENTEE BALLOT. FOR THOSE VOTERS THAT NEED AN ABSENTEE BALLOT FOR THE NEXT ELECTION, THE ABSENTEE BALLOT IS STILL AVAILABLE AS BEFORE.

I URGE FAVORABLE CONSIDERATION ON SB2160.

ANY QUESTIONS.

Written Testimony for the
Senate Government and Veterans Affairs
January 22, 2021
Erika White, Burleigh County Election Manager



RE: SUPPORT for SB 2160

Good morning, Chairman Vedaa, and members of the Committee. My name is Erika White and I am the Election Manager in the Burleigh County Auditor/Treasurer's Office. I would like to voice my support of SB 2160 this morning.

As you know, we had a vote by mail election in the June 2020 Primary Election. I'd like to take a few moments here to help you understand the process for mail and absentee ballot requests, which are similar to one another.

In Vote By Mail Counties, the county auditor is required to mail applications to all active voters within a certain number of days prior to the election. The responsibility is then on the voter to tell us, the county auditors/election officials, which election or elections they wish to receive a ballot as well as to provide us with the required personal information needed to process and verify the application. For absentee ballot requests, the same form is used and the same process is followed – voters need to indicate the election and provide the information to verify their identity.

Due to the unique nature of the June 2020 Election, the ND Secretary of State's Office sent out absentee applications to ALL voters within the Central Voter File on behalf of the counties. This list included inactive voters, as well as active voters. Inactive voters are defined as those who have not voted in the past 4 years. A significant portion of the voters who filled out the application for the June Primary checked the "All Statewide" box on the absentee application, not understanding what that box meant for local election officials. By checking this box, the voter was requesting not only a ballot for the June Election, but also for the November Election automatically without having to send in an additional application in the fall.

Our office, along with other Auditors across the state, heard complaints at the end of September when the General Election absentee ballots were mailed to voters. Many of the complaints stemmed from the “All Statewide” box on the application which lead to confusion and distrust amongst the voters. Auditors across the state **DO NOT** send ballots to voters unless they are requested and an absentee/mail ballot application is completed and on file.

This bill does something we normally don’t see as county election officials. This bill as presented would DECREASE the amount of work for us and would assist the Auditors across the state with the absentee application process. We see various address changes and marriages between the Primary and General Elections which requires us to remove the voter from the absentee queue. We also clean-up the queue between the elections to remove deceased voters who have applied for an absentee ballot in the Primary Election and sadly pass away prior to the General Election. This bill puts additional responsibility on the VOTER to apply for a ballot for EACH election in a calendar year.

While I support this bill, I have one concern – the last sentence on page 2. “All other electors must request an application for an absent voter’s ballot.” I believe the change to Section 2 directly contradicts the vote by mail process outlined in NDCC 16.1-11.1. This section of code allows counties to conduct vote by mail elections while having at least one physical in-person polling location open in the county. This process requires vote by mail counties to mail applications to all active voters prior to an election. The direct mailing of the application is a vital step in the vote by mail process in those counties. Prior to the 2020 election cycle, 33 counties in North Dakota conducted vote by mail elections.

Thank you for your time today and urge a DO PASS recommendation for SB 2160 with modifications for the vote by mail process.

CHAPTER 16.1-11.1 MAIL BALLOT ELECTIONS

16.1-11.1-01. Counties may conduct mail ballot elections - Polling places - Records.

1. The board of county commissioners of a county may conduct an election by mail ballot. The mail ballot election must include city elections administered by the county auditor and may include any other election administered by the county auditor pursuant to an agreement with the governing body of a political subdivision within the county. The board shall designate one or more polling places in the county to be open on the day of the election for voting in the usual manner. The county auditor shall place a notice at all polling places in the county used at the last statewide election which states the location of the polling places open for the election. The county auditor shall keep a record of each mail ballot provided to qualified electors and provide to the election board at each polling place open on the day of the election a list of every person who applied for a mail ballot.
2. The board of county commissioners of a county may conduct an election partially by mail ballot. If the board of county commissioners chooses to conduct an election partially by mail ballot, the commission may use mail ballots for any precinct in which fewer than four hundred votes were cast for the office of governor at the last general election at which that office was on the ballot.

16.1-11.1-02. Application for mail ballots.

The county auditor shall mail an application form for a mail ballot to each individual listed in the central voter file for the county 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.

16.1-11.1-03. Mail ballot distribution.

The county auditor shall mail an official mail ballot with a return identification envelope, voter's affidavit, and instructions according to section 16.1-07-08.

16.1-11.1-04. Voting by electors.

Upon receipt of a mail ballot, an elector shall mark it, sign the return identification envelope, and comply with the instructions provided with the ballot. The elector may return the completed ballot to the county auditor by mail or, before five p.m. on the day before the election, to any other place of deposit designated by the auditor. If the elector returns the ballot by mail, the elector shall provide the postage, and the ballot must be postmarked no later than the day before the election.

16.1-11.1-05. Replacement ballots.

An elector may obtain a replacement ballot if a mail ballot is destroyed, spoiled, lost, or not received by the elector. The elector seeking a replacement ballot shall make the elector's request of the county auditor or appropriate election officer no later than four p.m. on the day before the election. After submission to the appropriate election officer, a voter's marked mail ballot may not be returned to the voter for any reason other than to complete any missing information required on the affidavit on the back of the return envelope.

16.1-11.1-06. Canvass of votes - Mail ballot precinct.

The county auditor shall appoint a mail ballot precinct election board for the purpose of counting mail ballots in the same manner as prescribed in section 16.1-07-12.1. The board may begin scanning the ballots at any time beginning on the day before election day and the closing of the polls on election day. Results from the mail ballot precinct may be counted, canvassed, or

released under chapter 16.1-15 as soon as any precinct within the county, city, or legislative district closes its polls on the day of the election. The county auditor shall designate a location for the closing, counting, and canvassing process under chapter 16.1-15, which location must be open to any person for the purpose of observing. The board shall comply with the requirements of sections 16.1-15-04 through 16.1-15-12 as applicable. A county conducting a mail ballot election constitutes one voting area, and ballots need not be sorted according to precinct or ward unless necessary for the administration of the election.

16.1-11.1-07. Counting of mail ballots.

A mail ballot may be counted only if:

1. The ballot is returned in the return identification envelope with a postmark or official date stamp of at least the day before the election and received prior to the meeting of the canvassing board;
2. The envelope is signed by the elector to whom the ballot is issued; and
3. The signature has been verified by the election board with the signature on the elector's mail ballot application form.

16.1-11.1-08. Election laws applicable.

When applicable, all election procedures provided in this title must be followed.

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 22, 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: SB 2160 – Absentee ballot application

Since 1997, state law has permitted any qualified voter of the state to apply for an absentee ballot without an excuse. A Senator during that 1997 Legislative Assembly is remembered as saying during a floor speech on SB 2151, that 'we need to stop asking our voters to lie on the application form if they desire to vote absentee but will not be absent from their precinct on election day.' Put another way, a farmer should not have to climb down from his or her tractor on election day just to go and vote.

In SB 2506 during the 1991 Legislative Assembly, language was added to this section to allow military and overseas voters to apply for an absentee ballot for all statewide elections in a year with one application. In SB 2336 during the 2005 Legislative Assembly, that same option was extended to all voters.

Section 1 of this bill removes the option for voters like those of us gathered for the hearing to use one absentee ballot application for all statewide election each year. However, the change in the wording is problematic because if the bill were passed the law would say, "The application form must be only for the election immediately after the date of the application." This would mean if a voter submitted an application in early June with the intent of voting absentee in November for the general election, they would receive a June election ballot and not a general election ballot as they desired.

In HB 1253 this session, our recommendation will be that a voter select on the form which election or elections during the year in which they want to vote absentee. Gone would be the checkbox for "All Statewide Elections," but they would make a conscious choice for each election. That would be our preference. If the Committee chooses otherwise the language in this bill should be changed by amendment to this Section to say, "The application form must be for one election as indicated by the voter." If the Committee wishes to have this bill survive, I would be happy to write up the necessary amendment.

In **Section 2** of this bill on page 2, lines 1 and 2, a new sentence is being added to NDCC § 16.1-07-07 that states, "All other electors must request an application for an absent voter's ballot." This is problematic because it is in direct contradiction with NDCC 16.1-11.1-02, which is in the Chapter dealing with Mail Ballot Elections. For counties administering elections by mail, that section says: (underline for emphasis only)

16.1-11.1-02. Application for mail ballots.

The county auditor shall mail an application form for a mail ballot to each individual listed in the central voter file for the county 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.

On behalf of the Secretary of State and his election team, I request the committee to give this bill a do not pass recommendation.

Ladies and Gentlemen

I am writing today in opposition of SB 2158.

It is very concerning to me to hear that the senate is attempting to remove the Director of Horse Racing in the State of North Dakota.

This would mean the end of horse racing in our state. The director is a very important position and requires someone with a working knowledge of the industry. The director must have direct, important daily contacts throughout the nation. Our current director has built the ND horse industry up substantially in his time, and if that position is cut, it would immediately go backwards and very shortly thereafter cease to exist all together.

The SD lawmakers have basically destroyed their live horse racing industry when they intervened with what were thriving meets in Aberdeen and Ft. Pierre. The economic impacts are being felt by both cities.

As horse breeders, in the industry for 45 years, our family purchases hay, grain, and supplies from local farmers and vendors. We keep our local veterinarians very happy as well.

The ramifications of losing this industry are more far reaching than you can imagine.

We have supported both the Belcourt and Fargo racetracks throughout the years. Last year during a nationwide pandemic, the average daily attendance was 1,000 spectators per day. These people are not just horse people they are your average Joe constituent, that loves coming out for a day of entertainment at the horse park. We have met with now Senator John Hoeven at the track and would love for more of our government servants to come out and see how enjoyable the sport of Kings can be in ND.

While it may seem like a trivial matter to those of you sitting in this room today, this is years of blood, sweat, tears and passion for many horse breeders, trainers, and owners in this state. You are deciding today if we will continue to carry on with the horse industry.

Thank you for the chance to address the members of the Senate Government and Veterans Affairs Committee. I am writing in opposition to SB 2160.

The first obstacle I see with the amendment is the task of educating voters. There would need to be money set aside to educate voters that this change would be occurring. In 2020, many North Dakotans voted by absentee ballot and would need to know how to vote differently in future elections.

Another aspect is that people might think they are signed up to receive an absentee ballot for both the primary and general elections and then have to scramble to get an absentee ballot for the general when the expected ballot does not arrive in the mail. This could affect elderly voters, voters with disabilities, and voters with young children (me).

I hope you will vote not to recommend SB 2160, because it could affect individuals wanting to vote absentee and missing deadlines.

Thank you for your time,

Whitney Oxendahl

2021 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Room JW216, State Capitol

SB 2160
1/28/2021

Relating to the application process for an absent voter's ballot

Chair Vedaa called to order at 11:28 a.m. with Sen Vedaa, Meyer, Elkin, K Roers, Wobbema, Weber, and Marcellais present.

Discussion Topics:

- Committee Work

Sen Meyer: I move a **Do Not Pass**.

Sen K Roers: I second the motion.

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 K Roers will carry the bill.

Adjourned at 11:30 a.m.

Pam Dever, Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2160: Government and Veterans Affairs Committee (Sen. Vedaa, Chairman)
recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB
2160 was placed on the Eleventh order on the calendar.