

2021 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1239

2021 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1239 8:37 a.m.
1/29/2021

Relating to making scanned images of ballots available to the public; relating to elimination of electronic voting and requiring paper ballots; relating to electronic voting; and to provide a penalty

Chairman Kasper opened the hearing at 8:37 a.m.

Representatives	Roll Call
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:

- Having paper ballots and making the image available
- Public trust and transparency

Rep. Marvin Nelson introduced and testified in favor, #4199, #4198.

Paul Sorum, Fargo, testified in favor, #4127.

Jim Silrum, Deputy Secretary of State, testified in opposition, #3804.

Chairman Kasper closed the hearing at 9:06 a.m.

Carmen Hart, Committee Clerk

HB1239

Representative Marvin E. Nelson, District 9

House Government and Veterans Affairs, Representative Jim Kasper, Chairman

HB1239 tries to assure the public in the integrity of our elections.

It is to scan ballots, meaning we must have paper ballots, and then make the image available.

The system is to be operational by the next Presidential election in approximately 4 years.

I would note this has been done by a county in California, Humboldt, with about 135,000 residents.

Their software is public domain. I include a printout from the website explaining their project.

I would note, we will have another session before this has to be implemented if there is something that needs adjustment, we will have the chance.

THE ELECTIONS TRANSPARENCY PROJECT

ELECTIONS INTEGRITY THROUGH TRANSPARENCY

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BACKGROUND

THE ELECTIONS TRANSPARENCY PROJECT is a 501(c)(3) nonprofit corporation. We were born from the *Humboldt County Election Transparency Project (HCETP)*, a group recognized for the discovery of significant errors in the certified election results in the November 2008 Presidential Election in Humboldt County, California. Because of that discovery, the county Registrar-Recorder, Carolyn Crnich, decertified the original results and the California Secretary of State, Debra Bowen, decertified identical Diebold voting equipment throughout California.

The *HCETP* began verifying election results in Humboldt County, California in June of 2008 and we incorporated as a nonprofit of August 2014. Since 2008, in cooperation with the Humboldt County Elections Department, a core group of citizen volunteers and wider group of “election season” volunteers have been digitally scanning the ballots cast in each public, county-administered election in Humboldt County, California. We do this in order to create a set of images of all the ballots cast. We have been using regular, off-the-shelf Fujitsu scanners. The images are created using scanning equipment

that is entirely independent of the county’s regular voting equipment. During this ballot auditing process, each ballot is imprinted with a unique numeric identifier. This allows us to match an image with a individual ballot. This set of images is then made publicly available so that anyone can count the votes cast. You can read more about this process in the “[Overview](#)” section.

KEY CONCEPTS

The Elections Transparency Project is based on two simple ideas.

First, the people who vote in an election have the right to see the ballots that were cast, because that’s the best way to keep election results honest.

Second, allowing unlimited access to the ballots creates practical difficulties in keeping them secure, so having an independent group with the cooperation of the the elected registrar-recorder Kelly Sanders and the Elections Department to generate digitally-signed images of the ballots is a more practical alternative to allowing unlimited access to the paper ballot to each voter.

We’ve been doing this in Humboldt County, California for nearly a decade, complete with our own independent and open source software to count the votes from the ballot images. We believe it has helped the citizens of Humboldt County maintain high confidence that the elections office results accurately reflect the cast ballots.

Any citizen who wants a copy of the images is welcome to them and can ; they can then count votes from the images using whatever approach they think best. During the scanning process, each individual ballot is numbered just before it is scanned, so if there is ever a question of whether an image accurately reflects a ballot, the original ballot can always be produced. And

we have developed independent open source software to automate our independent count.

It's easy to modify digital images, but once they are digitally-signed it's as if they are in a tamper-proof package — any change to the images, no matter how tiny, would be easily detected by the signature-checking software.

And because at the time the ballots are scanned they've been shuffled from the order in which they were cast, there is no way that a voter can be identified from their ballot.

Ballots with distinguishing marks have their votes duplicated onto clean ballots by the elections office before the project is provided with ballots to scan, so even if a voter specially marked a ballot, that mark would not appear on scans. And ballots that are not anonymous — where a voter signs their name, for example — are already invalid under California law.

We believe our approach provides the best balance between practical security considerations and the need for voters to have proof that their elections are being counted accurately.

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January 28, 2021

Paul Sorum
5551 36th Ave S
Unit F
Fargo, ND 58104

RE: HB 1239 – Election Transparency

Chairman Kasper and Members
House Government and Veterans Affairs Committee
600 E Blvd Ave
Bismarck, ND 58505

Chairman Kasper:

House Bill 1239 is a simple step towards ensuring integrity in our elections in North Dakota.

Under present election law, there is no transparency at all. There is no option for voters or candidates to verify the outcome of an election.

This presents a serious concern. If election fraud occurs or if there is a clerical error in the election, it is completely undetectable by voters and candidates in this state. No one is allowed to view the ballots or images of ballots cast in any election in North Dakota, even if a recount is granted making election fraud and clerical errors in our elections are undetectable.

We must ask ourselves the question, if election fraud and clerical errors in our elections are undetectable, have they ever happened? Reasonable people would answer, “Very likely, yes.”

A second important question is the following: If the results of an election can not be verified, is it really an election? Clearly, the answer is “No.” If no one can verify the results of an election, why bother having elections? This urgent issue can be easily corrected by passing HB 1239.

I urge the Government and Veterans Affairs Committee to vote to restore election integrity by voting for a DO Pass recommendation on HB 1239.

Sincerely,

A handwritten signature in black ink that reads "Paul Sorum". The signature is written in a cursive style with a long horizontal flourish at the end.

Paul Sorum

ALVIN A. JAEGER
SECRETARY OF STATE

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STATE OF NORTH DAKOTA
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BISMARCK ND 58505-0500

January 29, 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 1239 – Displaying voted ballot images on Secretary of State’s website

This bill amends 18 sections of the North Dakota Century Code (NDCC), adds one section to the NDCC that will require a significant appropriation to accomplish, and repeals nine sections of the NDCC.

In many of the amended sections, the suggested amendments only change “voting system” to “counting system.” As you saw in HB 1253 that was heard in your committee yesterday, the proper terminology is voting system and efforts are suggested to ensure that the NDCC has the proper terminology when referring to the hardware, firmware, and software that are the components of a voting system.

Section 9 on page 7 adds a new section to the NDCC that would require all ballots used in an election to be able to be scanned so they can be read by the voting system purchased by the state in 2019. In the interests of transparency, this is a change in law that would impact all cities and school districts. It would prohibit these jurisdictions from running smaller elections in which the votes are counted by hand rather than a voting system.

Section 9 would also require that the scanned images of the ballots from any election be posted on the Secretary of State’s website. We have estimated that the space required to store the ballots on the web for each statewide election would be 4 TB and that would grow with each election. Even if the necessary appropriation were to be considered palatable, this should not be allowed for reasons of secrecy of the ballot. If a voter makes a mistake when voting and inappropriately writes their name on the ballot, the secrecy of that voter’s choices would be eliminated.

On behalf of the Secretary of State and his election team, we request the committee to vote for a Do Not Pass recommendation.

2021 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1239
11:20 a.m.
1/29/2021

Relating to making scanned images of ballots available to the public; relating to elimination of electronic voting and requiring paper ballots; relating to electronic voting; and to provide a penalty

Chairman Kasper opened the committee work meeting at 11:20 a.m.

Representatives	Roll Call
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:

- Scanning images of ballots

Chairman Kasper summarized the intent of the bill and indicated who testified and their positions.

Rep. Stemen made a motion for a **DO NOT PASS**. **Rep. B. Koppelman** seconded the motion.

Representatives	Vote
Representative Jim Kasper	Y
Representative Ben Koppelman	Y
Representative Pamela Anderson	N
Representative Jeff A. Hoverson	N
Representative Karen Karls	Y
Representative Scott Louser	Y
Representative Jeffery J. Magrum	N
Representative Mitch Ostlie	Y
Representative Karen M. Rohr	Y
Representative Austen Schauer	N
Representative Mary Schneider	N
Representative Vicky Steiner	Y

Representative Greg Stemen	Y
Representative Steve Vetter	Y

Motion passed 9-5-0. **Rep. Stemen** is the carrier.

Chairman Kasper adjourned at 11:29 a.m.

Carmen Hart, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1239: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)
recommends **DO NOT PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB
1239 was placed on the Eleventh order on the calendar.