

MICHAEL C. HOWE
SECRETARY OF STATE

WEBSITE sos.nd.gov



PHONE (701) 328-2900
E-MAIL sos@nd.gov

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

**SENATE STATE & LOCAL
SENATOR KRISTIN ROERS, CHAIR**

**SENATE BILL 2157
FEBRUARY 2, 2023**

TESTIMONY PRESENTED BY

BRIAN NEWBY, SECRETARY OF STATE

Chairman Roers and members of the committee, for the record, Brian Newby, with the Secretary of State Elections Division.

The intent behind Senate Bill 2157 is admirable. We agree legislation is needed in this regard. Our office has been working collaboratively with the Attorney General's office and Representative Scott Louser on House Bill 1431, to address the issue of proving citizenship in the least burdensome way for all citizens who are eligible to vote. It is our preference that we work together for the best outcome on this issue, using House Bill 1431 as the vehicle for the citizenship effort. HB 1431 passed the North Dakota House 90-4 on Monday and is on its way to your chamber.

We did bring an amendment to SB 2157, that would make this legislation mirror HB 1431.

PROPOSED AMENDMENT TO SENATE BILL NO. 2157

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 16.1-01-04.1 of the North Dakota Century Code, relating to proof of citizenship.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-01-04.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-04.1. Identification verifying eligibility as an elector.

1. A qualified elector shall provide a valid form of identification to the proper election official before receiving a ballot for voting.
2. The identification must provide the following information regarding the elector:
 - a. Legal name;
 - b. Current residential street address in North Dakota; and
 - c. Date of birth.
3. a. A valid form of identification is:
 - (1) A driver's license or nondriver's identification card issued by the North Dakota department of transportation; or
 - (2) An official form of identification issued by a tribal government to a tribal member residing in this state.
- b. If an individual's valid form of identification does not include all the information required under subsection 2 or the information on the identification is not current, the identification must be supplemented by presenting any of the following issued to the individual which provides the missing or outdated information:
 - (1) A current utility bill;
 - (2) A current bank statement;

- (3) A check issued by a federal, state, or local government;
 - (4) A paycheck;
 - (5) A document issued by a federal, state, or local government; or
 - (6) A printed document containing all of the information required by subsection 2 issued by an institution of higher education for an enrolled student residing in the state and containing the institution's letterhead or seal, along with a student photo identification card issued by the institution and containing the student's photograph and legal name.
4. The following forms of identification are valid for the specified individuals living under special circumstances who do not possess a valid form of identification under subsection 3.
- a. For an individual living in a long-term care facility, a long-term care certificate prescribed by the secretary of state and issued by a long-term care facility in this state;
 - b. For a uniformed service member or immediate family member temporarily stationed away from the individual's residence in this state, or a resident of the state temporarily living outside the country, a current military identification card or passport; and
 - c. For an individual living with a disability that prevents the individual from traveling away from the individual's home, the signature on an absentee or mail ballot application from another qualified elector who, by signing, certifies the applicant is a qualified elector.
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 securely 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 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.

6. If an individual presents a nondriver identification card issued under subsection 2 of section 39-06-03.1 or an operator's license issued under section 39-06-14, but asserts valid citizenship, the individual may mark a ballot that must be set aside securely in a sealed envelope designed by the secretary of state. After the ballot is set aside, the individual may show satisfactory proof of citizenship 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 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 in or exclusion from the tally. After an individual has submitted satisfactory evidence of citizenship, the proper election official shall update this information in the central voter file. Satisfactory proof of citizenship under this subsection may be presented via paper or electronic means.
7. The secretary of state shall develop uniform procedures for the requirements of ~~subsection~~subsections 5 and 6 which must be followed by the election official responsible for the administration of the election. "

Renumber accordingly.