

2019 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1121

2019 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Fort Union Room, State Capitol

HB 1121
1/25/2019
31515

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to early voting elections precincts

Minutes:

Attachments 1, 2, 3, 4

Chairman Kasper opened the hearing on HB 1121.

Rep. Brandy Pyle appeared in support of HB 1121. Attachment 1. (:15-2:39)

Rep. B. Koppelman: Are those 15 days calendar days? If so, does this extend how many days before the election, or does it just allow two more days within that window?

Rep. Pyle: It allows a Saturday within those 15 days. In statute right now it says a business day, but we are looking for clarification as to what a business day is. Thus, the one sentence change proposal.

Rep. Rohr: Did CSG talk about utility? In other words, they might be open on a Saturday and a Sunday, but do they have large numbers that would be cost effectiveness?

Rep. Pyle: I just went and took information as to what states allowed this option.

Rep. Vetter: Do you think it would be difficult to get election workers to work on a Saturday?

Rep. Pyle: We could get younger poll workers.

Michael Montplaisir, Cass County Auditor, appeared in support. Attachment 2. (5:34-9:13)

Rep. P. Anderson: Do you anticipate all the same voting places would be open on Saturday?

Mr. Montplaisir: We are not sure of that. We would not try to do early voting because of weddings in the spring and banquet rooms in motels are at a premium at that time. In the fall Saturday at the Fargodome would be difficult because of Bison football.

Rep. Hoverson: This isn't mandating this?

Mr. Montplaisir: This is an option.

Rep. Hoverson: If they can't get workers, it still is up to the auditor?

Mr. Montplaisir: Early voting is something that has to be planned quite far out in front. I don't think finding workers would be the problem. It would be finding locations.

Rep. Schauer: What kind of hours would you have on Saturday voting?

Mr. Montplaisir: We have been opening at 10 and closing at 7 for early voting. We have talked about opening at 9 for early voting, because by 10, we have quite a line waiting. I don't think Saturdays would be any different from the other days.

Rep. Karls: When you hire the poll workers for these early voting precincts, are the parties still allowed to pick the judges?

Mr. Montplaisir: Yes. We hire the clerks and the inspector. We expect the district party chairs to give us names for the judges.

Rep. C. Johnson: We are talking about 15 days total, so if we have two 6-day weeks that include Saturdays and 3 more days for your county, is this going to cause confusion with voters as to which 15 days we are talking about?

Mr. Montplaisir: I believe the current law allows us to open at least 15 days before the election. We are open the week before the election Monday through Friday. This would allow us to be open Monday through Saturday.

Neutral

Al Jaegar, Secretary of State, appeared in a neutral position. Attachment 3. (13:54-16:43)

Vice Chair Steiner: Has this been litigated before 2003?

Mr. Jaegar: There has been no litigation. Saturday is a business day.

Rep. Louser: Are business days in North Dakota including Saturday for contracts?

Mr. Jaegar: I would suggest you read the rest of this chapter. I gave you the most pertinent line for this discussion.

Chairman Kasper: You are saying it is in the statute now, but you don't object to the bill because the bill adds clarity.

Mr. Jaegar: Correct.

Rep. Hoverson: Do you still see a need for your bill?

Rep Pyle: It was mentioned. I just didn't know where it was in the century code. I do still feel there is a need for this.

Chairman Kasper closed the hearing.

Rep. Schauer made a motion for a DO PASS.

Rep. Schneider seconded the motion.

Rep. Rohr: I am not going to vote for this bill since it already exists in statute.

Rep. Schneider: I am going to vote for this bill. If we were confused by it, maybe the public needs the clarity too.

Rep. B. Koppelman: I am going to resist the motion as well. This will make the century code even longer.,

Rep. Johnston: I am going to resist the motion as well. It is in century code, and it can be found.

A roll call vote was taken. 6-8, 0 absent. Failed.

Rep. B. Koppelman made a motion for a DO NOT PASS.

Rep. Johnston seconded the motion.

Chairman Kasper: I will not dispute that it is in state law, but as Rep. Pyle pointed out, it was very difficult to find and it could cause problems. This is a clarification that simplifies things.

Rep. B. Koppelman: I am surprised that the Cass County auditor and the Burleigh County auditors came up with such different points of view, and you would think they would be able to research the century code.

Chairman Kasper: The Cass County auditor was aware of the fact that you could. He felt the clarification was helpful.

Rep. Schauer: If a man of 30 years can't find it, how are others going to be able to find out? This is the first time I heard that Saturday is a business day. I think clarification is good, and that is why I support this bill.

Rep. Vetter: There could have been a phone call made to legislative council, and this could have been figured out.

Vice Chair Steiner: I think this committee takes pride in transparency, and I think this takes us a step back when we have a do not pass.

Rep. B. Koppelman: Look how often we reference other sections of law. If we are going to come up with that practice, every bill is going to be significantly longer.

Chairman Kasper: In some cases you are absolutely correct, but in this case we are talking about one sentence or a few words. In this case, I don't think it applies.

Rep. Hoverson: I think a better fix would be to amend the existing code to say Saturday is included as a business day.

Chairman Kasper: This bill takes out the word business and reads "designate the days and the early voting precinct may be opened on Saturdays."

A roll call vote was taken. 8-6, 0 absent.

Rep. Johnston will carry the bill.

Attachment 4, an email by Jim Silrum, Deputy Secretary of State, provided additional information to the committee members.

Date: 1-25-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1121

House Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep Schauer Seconded By Rep Schneider

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	<u>X</u>		Rep. Pamela Anderson	<u>X</u>	
Vice Chair Vicky Steiner	<u>X</u>		Rep. Mary Schneider	<u>X</u>	
Rep. Jeff Hoverson		<u>X</u>			
Rep. Craig Johnson		<u>X</u>			
Rep. Daniel Johnston		<u>X</u>			
Rep. Karen Karls	<u>X</u>				
Rep. Ben Koppelman		<u>X</u>			
Rep. Vernon Laning		<u>X</u>			
Rep. Scott Louser		<u>X</u>			
Rep. Karen Rohr		<u>X</u>			
Rep. Austen Schauer	<u>X</u>				
Rep. Steve Vetter		<u>X</u>			

Total (Yes) 6 No 8

Absent 0

Floor Assignment _____

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

Schauer

Date: 1-25-19
Roll Call Vote #: 2

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1121**

House Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. B. Koppelman Seconded By Rep. Johnston

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper		X	Rep. Pamela Anderson		X
Vice Chair Vicky Steiner		X	Rep. Mary Schneider		X
Rep. Jeff Hoverson	X				
Rep. Craig Johnson	X				
Rep. Daniel Johnston	X				
Rep. Karen Karls		X			
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Karen Rohr	X				
Rep. Austen Schauer		X			
Rep. Steve Vetter	X				

Total (Yes) 8 No 6

Absent 0

Floor Assignment Rep. Johnston

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

REPORT OF STANDING COMMITTEE

HB 1121: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)
recommends **DO NOT PASS** (8 YEAS, 6 NAYS, 0 ABSENT AND NOT VOTING).
HB 1121 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

HB 1121

HB 1121 Testimony
Rep. Brandy Pyle
1.25.19
House GVA

#1
HB 1121
1-25-19

Good morning Chairman Kasper and members of the House GVA Committee. For the record I am Brandy Pyle and I represent District 22. I am here today to introduce House Bill 1121 for your consideration. House Bill 1121 allows counties who wish to open a voting precinct on a Saturday during the early voting time frame to do so.

This idea came about while watching the news and the county's facebook posts on the record number of early voters in the 2018 general election. Knowing how busy people's lives are with work, kids, and other commitments, fitting time to exercise our right to vote is sometimes put on the back burner. So the idea came as to why not on a weekend day?

The language in statute today reads: Early voting must be authorized during the fifteen days immediately before the day of the election. The county auditor shall designate the business days and times during which the early voting election precinct... but fails to define "business day" in that section.

Information from the Council of State Governments website, I found that early voting is allowed in 38 states and DC. 19 states and DC allow for a Saturday voting option. And only the state of Alaska allows voting on a Sunday.

As I craft legislation, I always look to empower others. Allowing the option of a Saturday does not mandate but empowers counties to utilize their resources in the best means that they see fit. This could possibly empower those who wish to participate in a clerk or a judge role but are unable to do so because of work or other commitments.

I believe that people should take pride in our election system. People around the world are envious of our right to vote. There is a sense of pride when a voter puts the ballot into the machine, grabs their "I voted" sticker. Countless people post pictures and messages of their act of patriotism. This past election I was able to show our exchange student our election process. A Saturday option has the potential for parents, grandparents to bring their kids to the polls to exercise their right to vote.

I have other people here to testify with regards to their experience with election. Thank you committee for this opportunity and I stand for questions.

Written Testimony To
THE HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
January 24, 2019 by
Michael Montplaisir, Cass County Auditor
Cass County Government

#2
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REGARDING HOUSE BILL 1121

Mr. Chairman and members of the House Government and Veterans Affairs Committee, I am Michael Montplaisir, Cass County Auditor, and have been involved in the election process for the past thirty years. In 2004, we first tried using an Early Voting Precinct and it was a success from day one. If memory serves me correctly, we had about 500 voters the first day and it grew from there. What we learned from that first try was that we did not have room in the Courthouse to serve the public with an Early Voting Precinct. The law at that time required that the precinct be located in a "government controlled facility".

After a change in the law, we started using meeting space in a local motel for early voting where space and parking was adequate. Today we use four sites for early voting—three are located in motels and one in the Fargo Dome. We are open Monday through Friday at three of the sites and Wednesday through Friday at the rural site.

We have been considering extending early voting to a Saturday, which we believe will be very popular with our voters. After a call from Representative Brandy Pyle asking if we had every considered that option, we went back and re-read NDCC 16.1-07-15 and had concerns about the term "business days". House Bill 1121 would clarify that we would have the option of extending early voting to Saturdays. While we may not open all early voting precincts on Saturday, we would consider opening some early voting sites on the Saturday before the General Election to accommodate our residents that desire to voter prior to Election Day.

On the reverse side of this sheet is the history of early voting in Cass County. As you can see the percentage of voters who choose to vote before Election Day is growing and was 44% this past General Election.

I urge a Do Pass recommendation on House Bill 1121.

S:\AUDITOR\ELECTION\01 VOTING HISTORY

Primary Elections in Cass County

	2018	2016	2014	2012	2010	2008	2006	2004
Early Voting	3,932	4,971	3,105	6,145	2,133	1,927		
Absentee	839	1,410	696	1,566	473	1,275	1,441	694
Election Day	13,686	21,197	14,034	25,852	12,404	22,079	22,509	13,114
Total	18,457	27,578	17,835	33,563	15,010	25,281	23,950	13,808
ED Percentage	74.15%	76.86%	78.69%	77.03%	82.64%	87.33%	93.98%	94.97%
EV Percentage	21.30%	18.03%	17.41%	18.31%	14.21%	7.62%	0.00%	0.00%
ABS Percentage	4.55%	5.11%	3.90%	4.67%	3.15%	5.04%	6.02%	5.03%

General Elections in Cass County

	Presidential		Presidential		Presidential			
	2018	2016	2014	2012	2010	2008	2006	2004
Early Voting	24,419	23,158	13,048	18,280	10,925	20,744		4,693
Absentee	10,025	7,378	5,436	10,546	6,187	8,767	4,863	6,601
Election Day	43,781	51,255	35,906	45,384	31,662	42,558	35,720	55,859
Total	78,225	81,791	54,390	74,210	48,774	72,069	40,583	67,153
ED Percentage	55.97%	62.67%	66.02%	61.16%	64.92%	59.05%	88.02%	83.18%
EV Percentage	31.22%	28.31%	23.99%	24.63%	22.40%	28.78%	0.00%	6.99%
ABS Percentage	12.82%	9.02%	9.99%	14.21%	12.69%	12.16%	11.98%	9.83%
Early and Absentee Percentage	44.03%	37.33%	33.98%	38.84%	35.08%	40.95%	11.98%	16.82%

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CHAPTER 1-03 HOLIDAYS

#3
HB 121
1-25-19

1-03-01. Holidays.

Holidays are as follows:

1. Every Sunday.
2. The first day of January, which is New Year's Day.
3. The third Monday of January, which is Martin Luther King Day, in recognition of the life, legacy, and dream of Martin Luther King, Jr.
4. The third Monday in February, in recognition of the birthday of George Washington.
5. The Friday next preceding Easter Sunday and commonly known as Good Friday.
6. The last Monday in May, which is Memorial Day.
7. The fourth day of July, which is the anniversary of the Declaration of Independence.
8. The first Monday in September, which is Labor Day.
9. The eleventh day of November, which is Veterans' Day.
10. The fourth Thursday in November, which is Thanksgiving Day.
11. The twenty-fifth day of December, which is Christmas Day.
12. Every day appointed by the President of the United States or by the governor of this state for a public holiday.

Nothing in this section may be construed to prevent the holding of legislative sessions or the taking of final action on any legislative matter upon any of such holidays other than Sunday. Any action heretofore taken upon any legislative matter upon any such holiday is valid and legal for all purposes.

1-03-01.1. Closing of state offices - Christmas Eve.

State offices must be closed at twelve noon on December twenty-fourth, Christmas Eve day, unless it is a weekend or holiday pursuant to section 1-03-02.1.

1-03-02. When day following holiday shall be a holiday.

If the first day of January, the fourth day of July, the eleventh day of November, or the twenty-fifth day of December falls upon a Sunday, the Monday following shall be the holiday.

1-03-02.1. When holiday falls on a Saturday.

If any of the holidays enumerated in section 1-03-02 fall on a Saturday, the Friday immediately before shall be the holiday.

1-03-03. Sports on Memorial Day - Penalty.

No person, prior to the hour of two p.m. of the day set apart as Memorial Day, may engage in organized or commercial ball games, horseracing, sports, or any entertainment which will interfere with the proper observance of such day. Any violation of this section is an infraction.

1-03-04. Business days.

All days other than those mentioned in sections 1-03-01, 1-03-02, and 1-03-02.1 are to be deemed business days for all purposes. However, any bank may remain closed on any one business day of each week, as it may from time to time elect. Any day upon which a bank is so closed shall be, with respect to such bank, a holiday and not a business day. Any act authorized, required, or permitted to be performed at or by or with respect to such bank on such day, may be performed on the next succeeding business day, and no liability or loss of rights shall result from such delay.

Notice of intention on the part of any bank to remain closed on a business day of the week shall be posted in a conspicuous place in the lobby of the bank at least ten days prior to the establishment of such practice and similar notice shall be given when a bank elects to change the day of the week on which it remains closed. Any state bank establishing the practice, as hereinbefore provided, of closing one day a week shall give ten days' notice in writing to the commissioner of financial institutions, in addition to posting the notice in the lobby. However, any

bank may elect to remain closed on a business day of the week without any prior notice in the event of the following emergencies: any act of God, death of an officer, or a robbery.

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1-03-05. Act due on Saturday or holiday performed on next day.

Whenever an act of a secular nature, other than a work of necessity or mercy, is appointed by law or contract to be performed upon a particular day, that falls upon a Saturday or a holiday, the act may be performed upon the next business day with the same effect as if it had been performed upon the day appointed.

1-03-06. Mothers' Day.

The governor each year shall designate the second Sunday in May as Mothers' Day. The governor shall issue a proclamation requesting the people of the state to assemble on that Sunday in their churches, or at such other place or places as may be most convenient and proper, for the purpose of paying respect and tribute to our mothers.

1-03-07. Arbor Day.

In order to promote and encourage the planting of trees in this state, the first Friday in May of each year is hereby designated and established as "Arbor Day" for the state of North Dakota.

1-03-08. Bird Day.

To promote and encourage the conservation and enjoyment of one of nature's most attractive features, and to honor the birth and work of naturalist John James Audubon who made America's birds known to the world through his drawings and vivid prose, April twenty-sixth of each year is hereby designated as "Bird Day" in the state of North Dakota.

1-03-09. Martin Luther King Day.

Repealed by S.L. 1991, ch. 55, § 2.

1-03-10. Workers' Memorial Day.

The twenty-eighth day of April of each year is designated as Workers' Memorial Day in remembrance of American workers who have been killed, injured, or diseased on the job.

1-03-11. Gold Star Mothers' Day.

Each year the governor shall issue a proclamation designating the last Sunday of September as Gold Star Mothers' Day in honor of mothers whose sons or daughters served and died in the line of duty in the armed forces of the United States of America or its allies, or died as a result of injury sustained in such service.

1-03-12. Four Chaplains Sunday.

Each year the governor shall issue a proclamation designating the first Sunday of February as Four Chaplains Sunday in honor of the four United States army chaplains, George L. Fox, Alexander D. Goode, Clark V. Poling, and John P. Washington, who sacrificed their own lives to save the lives of other servicemen on the Dorchester, a United States army troop transport ship that was sunk off the coast of Greenland on February 3, 1943.

1-03-13. First Nations Day.

To recognize the indigenous peoples of the State of North Dakota and their contributions to the state and to the United States, the governor shall issue a proclamation each year designating the Friday before the second Monday in October as First Nations Day.

1-03-14. Vietnam Veterans' Day.

March twenty-ninth of each year is Vietnam Veterans' Day. Each year the governor shall issue a proclamation on March twenty-ninth in honor and remembrance of surviving and departed Vietnam veterans, including the one hundred ninety-eight individuals from North

Dakota whose names are listed on the Vietnam Veterans Memorial wall in Washington, District of Columbia, and those veterans who are or were missing in action or prisoners of war.

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1-03-15. Women Veterans' Month.

March of each year is Women Veterans' Month. Each year the governor shall issue a proclamation on March first in honor and remembrance of surviving and departed women veterans who have served honorably and with courage on behalf of the United States of America since the American Revolutionary War.

1-03-16. Firefighters memorial weekend.

Each year the governor shall issue a proclamation designating the dates of the national fallen firefighters memorial weekend as the North Dakota fallen firefighters memorial weekend and require that flags at state buildings be flown at half staff.

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Kasper, Jim M.

From: Silrum, Jim
Sent: Friday, February 1, 2019 8:27 AM
To: Kasper, Jim M.
Subject: Sundays are not Business Days, but Saturdays are According to law

Jim,

Early voting can already take place on Saturdays because of [NDCC 16.1-07-15 \(2\)\(a\)](#) says,

2. If the board of county commissioners establishes an early voting precinct according to this section, the following provisions apply:
 - a. Early voting must be authorized during the fifteen days immediately before the day of the election. The county auditor shall designate the business days and times during which the early voting election precinct will be open and publish notice of the early voting center locations, dates, and times in the official county newspaper once each week for three consecutive weeks immediately before the day of the election.

Please see from [NDCC 1-03-01](#), Sundays are considered holidays according to state law.

1-03-01. Holidays.

Holidays are as follows:

1. Every Sunday.
2. The first day of January, which is New Year's Day.
3. The third Monday of January, which is Martin Luther King Day, in recognition of the life, legacy, and dream of Martin Luther King, Jr.
4. The third Monday in February, in recognition of the birthday of George Washington.
5. The Friday next preceding Easter Sunday and commonly known as Good Friday.
6. The last Monday in May, which is Memorial Day.
7. The fourth day of July, which is the anniversary of the Declaration of Independence.
8. The first Monday in September, which is Labor Day.
9. The eleventh day of November, which is Veterans' Day.
10. The fourth Thursday in November, which is Thanksgiving Day.
11. The twenty-fifth day of December, which is Christmas Day.
12. Every day appointed by the President of the United States or by the governor of this state for a public holiday.

Nothing in this section may be construed to prevent the holding of legislative sessions or the taking of final action on any legislative matter upon any of such holidays other than Sunday. Any action heretofore taken upon any legislative matter upon any such holiday is valid and legal for all purposes.

Please also see that Business Days is defined in that same chapter in [NDCC 1-03-04](#).

1-03-04. Business days.

All days other than those mentioned in sections 1-03-01, 1-03-02, and 1-03-02.1 are to be deemed business days for all purposes. However, any bank may remain closed on any one business day of each week, as it may from time to time elect. Any day upon which a bank is so closed shall be, with respect to such bank, a holiday and not a business day. Any act authorized, required, or permitted to be performed at or by or with respect to such bank on such day, may be performed on the next succeeding business day, and no liability or loss of rights shall result from such delay.

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Notice of intention on the part of any bank to remain closed on a business day of the week shall be posted in a conspicuous place in the lobby of the bank at least ten days prior to the establishment of such practice and similar notice shall be given when a bank elects to change the day of the week on which it remains closed. Any state bank establishing the practice, as hereinbefore provided, of closing one day a week shall give ten days' notice in writing to the commissioner of financial institutions, in addition to posting the notice in the lobby. However, any bank may elect to remain closed on a business day of the week without any prior notice in the event of the following emergencies: any act of God, death of an officer, or a robbery.

Finally, please note that over the last number of years, the following counties have held Early Voting on Saturdays because the above sections allows them to do so.

1. Burleigh
2. Grand Forks
3. Morton

The other four counties that had early voting simply choose not to have early voting on Saturdays, but not because the law prohibited it.

Jim Silrum

Deputy Secretary of State
600 E Blvd Ave Dept 108
Bismarck ND 58505-0500
701-328-3660 – Desk

sos.nd.gov

