MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
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ROLL NUMBER

DESCRIPTION

2338

2001 SENATE POLITICAL SUBDIVISIONS

SB 2338

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2338

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date February 8, 2001

Tape Number	Side A	Side B	Meter #
1	x		23.9-55.2
		x	0.0-5.8

Committee Clerk Signature Mary Jo Wocken

Minutes:

The hearing was opened on SB 2338. SENATOR CHRISTENSON sponsor of the bill, also introduced the bill. I learned two very important things as a legislator, number one is that no good deed goes unpunished and number two, good intentions invariably come with a killer fiscal note. SB2338 is designed to address what is very much on our minds these days and that is the question of how to prevent a fiasco to catastrophe in Florida. Everyone has become aware and we need those some way to be very sure that the voting mechanism in any state election, any election anywhere, is valid and reliable and certainly invites the trust of the publica and everyone involved. So this bill was designed to make an option, to be in some ways, proactive for North Dakota to be sure that there was a means whereby, if the need arose, again a proactive concept, that monies would be available to any county entity that felt they needed to upgrade or in fact establish the most current date within there voting system. We do have at present, 7 or 8 counties that are still doing somewhat old fashioned sort of voting devices and I understand that money

isn't totally their issue. But the fact remains, that we want to have some mechanism whereby, if money should become an issue to a county that they would not have to run the risk of not being able to update and make available to their voters the most state of the art voting concept. Several things have emerged from my research on this bill and I want to share a few of those with the committee. Working with Mr. Fong, in the Secretary of States office had been very uplifting and enlightening and he has been very gracious on this issue. Usually, when a bill is presented it is to hopefully correct an idea or I say to be proactive. In this case, this one falls right in the middle of the cracks, wherever they happen to be. What happens is , we first of all have a fiscal note on the that makes this very prohibitive. Although I don't believe that that sum of money is necessarily a cap in concrete. However, what we want to do is be sure that the possibilities with this are not only could these new state of the art machines be purchased if the need arose, but also, it was suggested by the Secretary of States office that perhaps upgrading is an issue that we should deal with. It isn't simply a matter of the counties that don't have the optical scanning devices which would be able to purchase than at this time, but my understanding is, that the market in those devices to have very efficient voting devices is changing so quickly, and the upgrades are coming so fast, it changes on a daily basis. So were talking here, both the possibility of purchasing an updated, but also the ability to upgrade, which this bill does not specifically address. It was suggested that perhaps amendments could be added, to do that, but also further investigation indicated that we have a number of circumstances flowing around this bill right now. Number one, there is a bill in the House I believe, or a study resolution, dealing with looking at the voting devices in North Dakota and the possibility of changing them, upgrading them and what would be necessary. In other words, an in-depth study of exactly where we are. Mr. Fong also told me that currently in Washington,D.C., every congressperson is scrambling to get some sort of bill in,

that will do similar to this and that some federal regulation that will be voluntary, not mandatory are being generated and that very possibly if we were to put this into a study resolution, we would have an opportunity, to have access to those. So I guess, what I am trying to say indirectly, is another Christenson bill can crash and burn, however, like most of my bills, my intentions again are very good, if not expensive. I want to generate discussion within the committee on these particular issues and also to look at the possibility of being very supportive of a study resolution that could come out. One of the reasons the study resolution, could be very beneficial, is the interim between this and our next session. Probably we're going to see a plethora of ideas coming forth that we do need to look at before we could make a definitive decision on this. I suppose this is call a contradictory testimony. The idea really is very necessary. I think every person in this country must go into the voting booth however, we define that with the assurance that vote is valid and credible and will be counted. And we don't want North Dakota to any and other in that position. I want every citizen to feel that is the case. On the other hand, we also want to do it in a very methodical, well researched, and very thoughtful way so that when that decision does come we do have state of the art for everybody. I guess I am seeking for the generation of a discussion as much as I am for passage of this gill. I don't believe that we will want to consider this bill as a Do Pass, to be very honest with you and not to waste anyone's time, but again I do urge us to be involved in the idea of a study and to be very concerned with the idea of validating a North Dakotan vote. SENATOR MATHERN: I was thinking if we ran into what Florida did, we could put some people to work. From your research, could you tell me, about some of the outdated of balloting. I know in my precinct we use the #2 lead pencil, and its a punch effective but no its' a electronic scanner actually, added Senator Lee. SENATOR CHRISTENSON: There are a number of versions of these machines. Mr. Fong was discussing

what he had just seen. I guess over the weekend in Washington, D.C., this had versions of these machines, but he said it is kind of like everybody is getting new versions of these machines, but he said it is kind of like everybody is getting in on the deal and then you have to be very careful that we don't get some questionable, perhaps not terribly workable, ideas. One of the things about this bill is that it does ask is that the Secretary of State would look at that county and the situation and I assume to validate the idea that this is a reliable company from which to purchase this machinery or whatever it happened to be. That there would be some safeguards on it, it wouldn't just simply be a matter of a shotgun technique. Any and every county could go out and purchase what looked like a good deal, but in fact maybe just didn't have the kind of validation that we needed. SENATOR MATTHERN: You mentioned, Senator Christenson there was a resolution, in the House. As you know of, has it passed or if there? SENATOR CHRISTENSON: I don't know if that is in the working stages and perhaps haven't submitted, it hasn't been heard yet, okay, thank you. SENATOR POLOVITZ: In your research, are you just looking at certain areas within the state, or are you going to look at every county? Is this what your thinking? SENATOR CHRISTENSON: In relationship to the study resolution, I would suggest that would look at every county and not in terms of criticism, but, simply, as a database from which we could work. I think, that probably most counties I would assume would be very interested in being involved, and at least being sure they had access or if they did need access, they would be able to have their voice heard. And certainly, were not voting a county harassment bill in any way. SENATOR POLOVITZ: It could be then, the possibility that there could be two or three counties that have 2 or 3 different methods which all would be good thought. SENATOR CHRISTENSON: I am quite sure that would be the case. One of the things that Mr. Fong did say, that there are counties that are at all levels of being current. He stated in the middle 1980's,

so obviously some people are probably approaching the idea of being outdated, needing replacement and what should we replace them with, and having that kind of data and others probably are just starting, and want to involve it in a big and new system. I would not want this to be a mandatory thing for any county. I would hope that they would voluntarily want to be sure that there voting mechanism was very valid for everyone concerned. SENATOR FLAKOLL: We're looking at about half a million dollars as far as the availability of the loans or whatever. I think in Cass County we have three machines and they are $45,000 a piece. Is that typical, or is that a question for Senator Aarvold? SENATOR CHRISTENSON: I've heard that there are various price ranges of machines, that it depends on the type of machine that you want. I'm certain the state of the art are going to run enormous amounts of money and $500,000 would seem like a small amount. In other cases, we have machines at $5000 and $6000 which of course are quite affordable. I would suspect that the study resolution would probably make the fiscal note a little more definitive and realistic. And then the process of setting up the loan if it needs to be done through the Bank of North Dakota. That would be part of the ongoing study that would be needed. We may find that in 2 years or 5 years this would be such a poultry amount it wouldn't help us again, that we may find it is far I access of what would actually be needed to upgrade. SENATOR FLAKOLL: I we would migrate this towards a study resolution and would we want also to look at any kind of, on-line type voting? I'm just asking for your opinion? SENATOR CHRISTENSON: We discussed that also and Mr. Fong seemed to be rather skeptical that that kind of voting is actually going to take place, at certainly in the near future. I assume the near future, he meant within the next 10-20 years. I think at this point, validation of signatures he said was a tremendous problem That you can certainly go on line, cast your vote, but then we're going to find some process to make that valid, because that obviously opens up all kinds of

possibilities that not one of us want to contemplate or deal with. But certainly, that would be part of the study. Obviously, we'd have to take them into account. SENATOR WATNE: I didn't hear the very first part of your testimony, bit is there anything, not that prohibits the counties from seeking this type of a loan? If not, is this bill just giving them a better interest rate? SENATOR CHRISTENSON: Actually, in visiting with some county people, they go there local banker is they are running short and they get a decent interest rate. This probably, however, would be a better interest rate for that kind of loan, which also generates another problem. Are we going to create some hostility and generate some bad feeling about this possibility. I have seen this from the beginning as a kind of last ditch effort to be sure that nobody goes without good voting quality machines or however we want to call them. So, if a local bank could not do that, or it could not be arranged, our counties have levies to cover election costs in some cases they cover comfortably, in other cases maybe they don't. Maybe the levy that is not really in that sense generating enough money to buy a lot of machines. I'm sorry I don't have definitive data in that way. But I do see this as a bottom line. That is it can be done some other way, I would certainly encourage counties to do that within there own jurisdiction.

SENATOR AARVOLD: Co-sponsor of SB2338. I had the opportunity of discussing this matter with Senator Christenson a couple of weeks ago, and it peaked a memory in my mind. When I sat on election boards as a township officer and counted ballots by hand with X's in the squares and some time later on we went to punch cards in our area, and now we use the optical scanners in all three counties. In talking to my county auditor, the optical scanning system has just relieved an enormous amount of worry in her mind because she feels that the system is practically 100% reliable. It has built in safeguards, electronically monitor ballots that we inappropriately marked. They are kicked out and reviewed by hand so for the most part this system is virtually full proof.

She has supervised a good number of elections, both as the auditor and associate auditor before that, so I place great confidence in her opinion. Senator Aarvold was involved in a recount vote for his seat. The punch cards with the chads jarred his confidence in that system, as they had a confetti of "punches" which fell out during the recount. We had a number of ballots that had been disallowed for several reasons by the county auditor. Some of those were absentee ballots where someone had not understood the directions and made punches next to the name rather than in the punch card, so the punch card came back in tact, but the ballot by that name had punched in it. And it was a decision of the folds who were monitoring that recount that they were not valid ballots. But certainly, there was not doubt in anyone's mind what the intention of the voter was. They had made clear punches right next to the name on the sheet of paper that contained the names of the candidates. But they we disallowed. In addition, we found a number of punch cards that had not been fully indexed into the voting machine, there were two little pegs in the system, we have two little pegs that indexed into the punch card, and they didn't quite get pushed in far enough. So the punches were right above the little square that was to be punched out. Yet, when you examine that, it was apparent what the intent of the voter was. But because the index card had not gone quite far enough into the machine, and didn't punch the intended areas, it was disallowed. Absentee ballots, the same situation. It certainly jarred my confidence in the voting system we had, and undoubtedly, we did not respect the opinion of many of the voters in our district and recount. The optical system that is in place in most states I think is very reliable, if I can trust the opinion of the folks that are involved with this on a biannual basis. I would certainly encourage the committee to try and make available, to subdivisions who are still using that outdated equipment to bring them into a new setting, whereby, they can have the intent of there voters clearly identified. The people's voice would be heard. SENATOR POLOVITZ: Are there

any counties right now that are using that punch system? SENATOR AARVOLD: I'm told that Williams County has punch cards and I think this is another, Renville county. There are two counties I am told. AL JAEGER, Secretary of State. I'm not sure whether we're for or against or neutral on this bill. After hearing the testimonies, I'm not sure if your intent is to give this a Do Pass, or a Do Not Pass. Essentially, all I'm here to present is that we are aware of what the fiscal note says. If the bill, the way its written were to be considered on whatever merits, we have concerns where we have come in. We have amendments here, that I will share with you. The amendments deal on a couple of different areas. I think we only have one county that is using the punch card method and that's Williams County. We have a couple of I, think 5 or 6 counties that are using paper ballots. It seems to be working fine for them. The thing that I would caution, one, of the thing that is being quite evident coming out of Washington, is some kind of presumption that one size fits all. The way this particular bill, the way it is written, our concern with the amendments we have here is that it specifically identifies optical scanning equipment. Our amendments would say, "do not make a specific reference to a scanning a optical scanning equipment" because that is going to severely limit the choices that the counties have. So our amendments are more in the order of electronic systems of some type. Where they might go some day, I don't know, Internet or what have you. There are so many different ways. The thing that we as an association , really promote it causes some of these bills being introduced by the congressmen would cost literally millions of dollars. While, for about $ 3 million, this year and about $2.5 million next year, if they would just fund one central request form the Federal Election Commission, and that is to allow them to determine standards for equipment. Set those standards and then the vendors our there, the private enterprise would very easily and quickly take care and come up with all of the things because, as long as they can meet those standards

and they would be tested, and received something like a UL label, they would [illegible] business. So, that would be $5.5-6 million dollars is not pocket change for me, in the scheme of the federal government, if some of these bills they are introducing this is definitely pocket change and most of us were sitting there frustrated when we were hearing these grandiose proposals when we think there is one that would be done, in terms of funding. I definitely don't think you want to restrict it to any particular device and if the Secretary of States' office is involved, what we would hope is on the national level that impact with standards do get adopted in that would be Our guideline in terms of whether or not a system should be replaced. If the punch card system in Williams County is tested and proven to be reliable, I don't think it would move us to replace it. On the other hand, in Slope County, if I go and tell them to fix the paper ballot method, in particular have somebody from Washington, D.C., make some proclamation that every precinct in the country is going to have some kind of Internet loading or electronic thing. The people in Slope county can do it at a cost that is quite acceptable to them, and its accurate, they think that is most appropriate way to go. SENATOR FLAKOLL: Two questions, Mr. Jaeger? Do you think, the general public feel the scanning system is efficient and timely? What's up in a couple of years? AL JAEGER: Everyone had their own unique way. North Dakota only way, all kinds of methods work here. Also the Internet stuff maybe in the future.

BOB HUMAN: Bank of North Dakota. I do not have a problem with the bill. They support of putting the money in a group fund, and not in favor of taking the proceeds out of the Bank of North Dakota and put them into the general fund.

Hearing Closed SB2338

SENATOR COOK: give us some time within a two year time frame to study voting machines and regulators, and voting usage.

SENATOR WATNE: I wouldn't support this, I will wait to see the results of the study.

Senator Lee moved for a Do Not Pass

Senator Watne 2nd

Roll call vote 8 yes, 0 no 0 absent

Carrier: Senator Flakoll

Committee Discussion followed.

FISCAL NOTE

Requested by Legislative Council
01/24/2001

Bill/Resolution No.: SB 2338

Amendment to:

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Senate Bill 2338 will primarily affect Bank of North Dakota (BND) by appropriating the initial $500,000 funding of the revolving loan program proposed in the bill from BND's accumulated and undivided profits (capital).

SB 2338 proposes that principal and interest received on loan payments made from the fund will revolve back to the fund. Consequently, the only revenue will be the repayment of principal, any remainder of interest paid that is not paid to BND as administrative fees and any interest earned on the cash balance in the fund.

SB 2338 proposes to pay BND a servicing fee for administering the fund from the interest payments received on loans from the fund. Consequently, any and all resulting expenses of the fund will be covered by interest payments received by the fund.

There are no estimates of activity in the proposed fund at this time available to BND to project the revenue or expense effect of SB 2338. The most substantial fiscal effect to BND is likely to be the appropriation of its capital to fund the program.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

See narrative.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

See narrative.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

See narrative.

Name:	Eric Hardmeyer	**Agency:**	Bank of North Dakota
Phone Number:	328-5674	**Date Prepared:**	01/30/2001

ALVIN A. JAEGER
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February 9, 2001

TO: Senator Dwight Cook & Members of the Senate Political Subdivisions Committee
FR: Cory Fong, Secretary of State's Office
RE: **HB 2338 – Loans for Voting Equipment – Proposed Amendments**

Proposed Amendments to House Bill No. 2338

Page 1, line 6, replace "purchase of optical" with "purchase or upgrade of electronic voting devices"

Page 1, line 7, remove "vote-scanning devices"

Page 1, line 16, replace "purchase of optical vote-scanning" with "purchase or upgrade of electronic voting"

Page 1, line 17, after "purchase" insert "or upgrade"

Page 1, line 19, replace "optical vote-scanning" with "electronic voting"

Page 2, line 2, replace "purchase of optical vote-scanning" with "purchase or upgrade of electronic voting"

Renumber accordingly

Date: February 8, 2001
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2338

Senate Political Subdivisions Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Sen. Lee Seconded By Sen. Watne

Senators	Yes	No	Senators	Yes	No
Senator Cook	✓		Senator Christenson	✓	
Senator Lyson	✓		Senator Mathern	✓	
Senator Flakoll	✓		Senator Polovitz	✓	
Senator Lee	✓				
Senator Watne	✓				

Total (Yes) 8 No 0

Absent 0

Floor Assignment Sen. Flakoll

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

REPORT OF STANDING COMMITTEE (410)
February 8, 2001 1:19 p.m.

Module No: SR-23-2731
Carrier: Flakoll
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2338: Political Subdivisions Committee (Sen. Cook, Chairman) recommends **DO NOT PASS** (8 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2338 was placed on the Eleventh order on the calendar.