

**Testimony of David T. Canon**  
**(on behalf of himself, Barry Burden, Kenneth Mayer and Donald Moynihan)**  
**Hearing concerning Senate Bill 6**  
**January 26, 2011**

Chairwoman Lazich and members of the Committee:

Thank you for giving us the opportunity to offer testimony today. I am part of a team of faculty at UW-Madison who have been researching election administration for the past two years. Among other activities, we have worked with federal and international election observers visiting the state, conducted a federally funded independent evaluation of the Government Accountability Board's new election data collection system, and conducted a recent survey of the state's 1,850 municipal and 72 county clerks. We regularly monitor developments in other states, and are in touch with colleagues around the country who are working to improve the administration of elections.

Integrity of the electoral process is vital to build trust in the election system.

We are here to provide some guidance, reflecting our own research and the work of the academic community, on some issues that the Committee should consider as it moves toward a final version of the legislation. We see three such issues. First, the law should have its intended effect of protecting valid votes and preventing illegal ones, but should not discourage legitimate voters from exercising their right to vote. Second, it is important to strike the right balance between costs and benefits. That is, the legislation should strive to achieve the greatest positive effect at the lowest cost to taxpayers. Third, it is vital that the law withstand the inevitable legal challenges that it will face

First – protecting legitimate voters. The current legislation is silent on the question of how closely the name on the photo ID must match the name on the voter registration lists. This is not a trivial problem, and could result in the unintentional exclusion of thousands of legitimate voters. For example, what does an election inspector do if a recently married or divorced woman's name no longer matches her license? It is estimated that 1/3 of women lack an ID that is both valid and reflects their current names. Likewise, what if an ID has a nickname such as "Rob" while the pollbook lists "Robert?"

In September 2008, the driver's licenses of the six members of the GAB, all retired judges who oversee Wisconsin elections, were matched against their registration records. Four of the six names did not match, and these judges could have been prevented from voting under the proposed bill.

Indiana deals with this problem by not requiring an exact match, and permitting minor variations in initials and nicknames that do not call into question the identity of the person presenting the ID. We suggest that Wisconsin follow this common sense approach.

Second, the cost of the bill could be substantial. The last time a voter ID bill passed the legislature, the LRB fiscal estimate was that issuing free IDs would cost \$2.3 million per year.

That version of the bill, moreover, allowed UW student IDs as valid; the current version does not, and would likely cost even more.

If the current bill becomes law, it would be the most restrictive such law in the country. It would not accept U.S. Passports, military IDs, or student IDs issued by the University of Wisconsin, all of which are at least as, or more, secure than the IDs issued by the Wisconsin DOT.

One way to reduce costs is to accept secure government-issued IDs as valid identification at the polls. Every other state with a Photo ID requirement, including Georgia and Indiana, accepts state-issued student IDs. UW IDs are very secure and nearly impossible to counterfeit. To get the ID a student must appear in person with sufficient documentation. The card includes a photo, signature, and two scannable bar codes. It is even used as a cash card by students.

These government-issued IDs are already be paid for by someone else. It just makes sense to avoid duplication of government services.

Third, we know that the law will face a legal challenge, and as it is currently written the bill has several vulnerabilities. First, the bill does not accept tribal IDs as valid for the various Native American peoples in the state. This would appear to violate Section 2 of the Voting Rights Act, which clearly designates Native Americans as a protected class of voters. In addition, we know from existing research that minority populations are less likely to have Photo IDs. A disproportionate impact on these populations could also make the law vulnerable.

In reviewing the legality of photo ID requirements, courts use a balancing test, comparing the need to protect the integrity of the electoral process against the burdens imposed on voters. Laws that place undue burdens are more likely to be struck down. We see the lack of any alternative forms of ID is one possible burden. Another is the difficulty faced by voters who need to obtain a photo ID. We know, for example, that Indiana has twice as many DMV offices as Wisconsin, per capita, and the offices are open more hours per week. Providing comparable access in Wisconsin would substantially increase the costs of implementation. If voters are required to travel long distances to offices that have limited hours, a court might strike down the law on that basis. Another amendment to the bill that would reduce the burden on voters and make it more likely to survive legal challenge would be to allow a signature affidavit for voters who fail to bring a photo ID to the polls. Six of the nine states that require photo IDs to vote allow this alternative procedure to protect the integrity of the process. Also, following the model of Idaho or Florida, which allow many alternative forms of identification, further reduces the burden on voters.

A final, but crucial, consideration is the implementation of the law. Wisconsin has the most decentralized election administration structure in the country. We know from our own work that implementing any change in voting practices can be difficult, as it involves communicating and training of nearly 2,000 election officials and 30,000 poll workers. DOT needs time to develop a system for providing IDs. Voters may need to update their IDs to reflect name changes. Those without ID will need time to get a birth certificate, potentially from a different state, and then apply for a DOT ID. Clerks and pollworkers need time to learn the law and conduct trainings. Delaying implementation avoids legal challenges based on “undue burdens.”

If photo ID is going to happen, it needs to be done right. Wisconsin has a proud tradition of high levels of voter participation and great public satisfaction with election administration. I hope that our input today helps to improve the voter ID bill to improve its effectiveness, protect the rights of legitimate voters, secure its legal integrity, and lower its costs.