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La Costa Rickford
Operator's Signature

10/3/03
Date

2003 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1250

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Sal Costa Rickford

Date

10/3/03

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1250

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 1-23-03

Tape Number	Side A	Side B	Meter #
1	x		0-49.4
Committee Clerk Signature <i>James R. Rourke</i>			

Minutes: Chairman Klein: called the hearing to order. All committee members were present.

Representative Schmidt: appeared in favor of HB 1250. And had short testimony presented.

(SEE ATTACHED TESTIMONY).

Chairman Klein: I have a question what it costs for a special election? What does that do to the tax payers?

Representative Schmidt: Democracy is never cheap and the cost of an election should never be a concern.

Representative Pam Guleson: appeared in favor of HB 1250 because of great belief and respect for the constitution upon which this nation was founded. Provided written testimony

(SEE ATTACHED TESTIMONY).

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Date

Page 2

House Government and Veterans Affairs Committee

Bill/Resolution Number HB 1250

Hearing Date 1-23-03

Charles Mertens, Devils Lake, ND: I was a former state representative and served 20 years in this body. I am in favor of HB 1250 and provide written testimony **(SEE ATTACHED TESTIMONY).**

Jason Stverak, Executive Director, ND Republican Party: appeared in opposition of HB 1250 and provided written testimony **(SEE ATTACHED TESTIMONY).**

Representative Wes Felter: appeared in opposition of HB 1250. Its important to remember what the people voted for. This was put on the ballot and the people spoke and said that they were taking away the governor appointment process and leaving it up to the legislature to delegate a new process for the replacement or the dealing of legislation vacancy. The other point I would like to make is that the appointment process is not something that is not used in the democratic process. The other place that it is used is in the US Senate, we had an example of that in ND when Burdick died. His wife replaced him, until a special election could take place. This process leaves the vote up to the people. The fact of the matter is that the people did have an opportunity to vote the appointed person who was overwhelmingly elected.

Ultimately the people through there vote will be the ones who approve of the selection of the various political parties.

Cory Fong, Secretary of States Office: I'm not here to testify in favor or opposition to this piece of legislation, but I do want to point out to the committee if you are going to take up this section of law that we do have some concerns or some amendments to the present law, that we feel are important if you are going to leave that law in the book which allows the district committee to make the appointment for the legislative council chairman. We need something in the law that provides a vehicle to the Sec. of State to make an official appointment and forward the oath

Page 3

House Government and Veterans Affairs Committee

Bill/Resolution Number HB 1250

Hearing Date 1-23-03

of office to the individual. I would be happy to help the committee to work on amendments to give us back ability.

Here ends the hearing.

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La Costa Rickford
Operator's Signature

10/2/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1250

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 1-31-03

Tape Number	Side A	Side B	Meter #
2		x	6.7-23.3
Committee Clerk Signature <i>Joseph Burke</i>			

Minutes: Chairman Klein: opened the hearing on HB 1250.

Representative Devlin: made a motion to **AMEND** HB 1250.

Representative Meier: **SECOND** the amendment on HB 1250.

Representative Devlin: made a motion to **DO PASS** as amended HB 1250.

Representative Grande: **SECOND** the motion.

VOTE: 11 YES 2 NO 1 ABSENT (Haas).

Representative Devlin: will carry the bill to the floor.

30430.0102
Title.0200

Adopted by the Government and Veterans
Affairs Committee
January 31, 2003

VK
1/31/03
log 2

HOUSE AMENDMENTS TO HOUSE BILL NO. 1250 GVA 2-03-03

Page 1, line 1, after "to" insert "create and enact a new subsection to section 16.1-11-18 of the North Dakota Century Code, relating to filling a vacancy in a nomination for a party office; and to", replace "sections" with "section", and remove "and 44-02-02"

Page 1, line 2, replace "and resignation of a member of" with a period

Page 1, remove line 3

Page 1, after line 4, insert:

"SECTION 1. A new subsection to section 16.1-11-18 of the North Dakota Century Code is created and enacted as follows:

A vacancy in a nomination after a primary election may not be filled under subsection 4 or 5 unless the individual nominated:

- a. Dies;
- b. Would be unable to serve, if elected, as a result of a debilitating illness;
- c. Ceases to be a resident of the state or an individual nominated for legislative office will not be a resident of the legislative district at the time of the election; or
- d. Ceases to be qualified to serve, if elected, as otherwise provided by law."

Page 1, line 7, remove "- Special"

Page 1, line 8, remove "election to fill" and after the boldfaced period insert:

"1."

Page 1, line 10, remove the overstrike over "~~chairman of the legislative council~~" and remove "governor"

Page 1, line 11, remove the overstrike over "~~chairman of the legislative council~~" and remove "governor"

Page 1, line 13, remove the overstrike over "~~chairman of the legislative council shall notify the district committee of the~~"

Page 1, remove the overstrike over lines 14 through 21

Page 1, line 22, remove the overstrike over "~~next general election to serve for the remainder of the term of office for that office~~" and remove "governor, if"

Page 1, remove lines 23 and 24

Page No. 1

30430.0102

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La Costa Rickford
Operator's Signature

10/3/03
Date

HOUSE AMENDMENTS TO HOUSE BILL NO. 1250 GVA 2-03-03

Page 2, remove lines 1 through 6

Page 2, line 7, remove "fill the vacancy" and after the period insert:

"2. A district committee or the chairman of the legislative council making an appointment under this section shall notify the secretary of state of the appointment. Upon notification of an appointment, the secretary of state shall issue the individual appointed a certificate of appointment and oath of office to complete and file with the secretary of state."

Page 2, remove lines 8 through 30

HOUSE AMENDMENTS TO HOUSE BILL NO. 1250 GVA 2-03-03

Page 3, remove lines 1 and 2

Renumber accordingly

Page No. 2

30430.0102

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Operator's Signature

La Costa Rickford

Date

10/3/03

Date: 1-31-03
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1250

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken to Amend HB 1250

Motion Made By Devlin Seconded By Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman M.M. Klein	✓		B. Amerman		✓
Vice Chairman B.B. Grande	✓		L. Potter	✓	✓
W.R. Devlin	✓		C. Williams	✓	
C.B. Haas	✓		L. Winrich		✓
J. Kasper	✓				
L.R. Klemin	✓				
L. Meier	✓				
M. Sitte	✓				
W.W. Tieman	✓				
R.H. Wikenheiser	✓				

Total (Yes) 12 No 2

Absent 0

Floor Assignment

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

Roll Call Vote #: Dato: 1-31-03

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1250

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30430.0102

Action Taken D P as Amended

Motion Made By Devlin Seconded By Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman M.M. Klein	✓		B. Amerman		✓
Vice Chairman B.B. Grande	✓		L. Potter	✓	
W.R. Devlin	✓		C. Williams	✓	
C.B. Haas	A		L. Winrich		✓
J. Kasper	✓				
L.R. Klemin	✓				
L. Meier	✓				
M. Sitte	✓				
W.W. Tieman	✓				
R.H. Wikenheiser	✓				

Total (Yes) 11 No 2

Absent 1 (Haas)

Floor Assignment Devlin

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

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Operator's Signature J. Costa Rickford

Date 10/3/03

REPORT OF STANDING COMMITTEE (410)
February 3, 2003 8:53 a.m.

Module No: HR-20-1488
Carrier: Devlin
Insert LC: 30430.0102 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1250: Government and Veterans Affairs Committee (Rep. M. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). HB 1250 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new subsection to section 16.1-11-18 of the North Dakota Century Code, relating to filling a vacancy in a nomination for a party office; and to", replace "sections" with "section", and remove "and 44-02-02"

Page 1, line 2, replace "and resignation of a member of" with a period

Page 1, remove line 3

Page 1, after line 4, insert:

"SECTION 1. A new subsection to section 16.1-11-18 of the North Dakota Century Code is created and enacted as follows:

A vacancy in a nomination after a primary election may not be filled under subsection 4 or 5 unless the individual nominated:

- a. Dies;
- b. Would be unable to serve, if elected, as a result of a debilitating illness;
- c. Ceases to be a resident of the state or an individual nominated for legislative office will not be a resident of the legislative district at the time of the election; or
- d. Ceases to be qualified to serve, if elected, as otherwise provided by law."

Page 1, line 7, remove "- Special"

Page 1, line 8, remove "election to fill" and after the boldfaced period insert:

"1."

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Page 1, remove the overstrike over lines 14 through 21

Page 1, line 22, remove the overstrike over "~~next general election to serve for the remainder of the term of office for that office~~" and remove "governor, if"

Page 1, remove lines 23 and 24

Page 2, remove lines 1 through 6

(2) DESK, (3) COMM

Page No. 1

HR-20-1488

La Costa Rickford
Operator's Signature

10/3/03
Date

REPORT OF STANDING COMMITTEE (410)
February 3, 2003 8:53 a.m.

Module No: HR-20-1488
Carrier: Devlin
Insert LC: 30430.0102 Title: .0200

Page 2, line 7, remove "fill the vacancy" and after the period insert:

"2. A district committee or the chairman of the legislative council making an appointment under this section shall notify the secretary of state of the appointment. Upon notification of an appointment, the secretary of state shall issue the individual appointed a certificate of appointment and oath of office to complete and file with the secretary of state."

Page 2, remove lines 8 through 30

Page 3, remove lines 1 and 2

Renumber accordingly

2003 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1250

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Operator's Signature

10/3/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1250

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 02/27/03

Tape Number	Side A	Side B	Meter #
Tape 1	x		2440-3940
Committee Clerk Signature <i>Spadher</i>			

Minutes:

Senator Karen Krebsbach, Chairman opens HB 1250. All senators present with exception of Senator Fairfield.

Representative Schmidt sponsors the bill but is against it as is. He has an amendment to show what he would like it to read. (Testimony and amendment attached)

Senator Dever : The people you've talked to in your district can't the other two pick up the slack. I guess the obvious question on my mind is if you would vacate your position would people in your district be comfortable with Rep. Nelson picking up your slack.

Rep. Schmidt: They have felt that way. this was a big issue during my campaign. When people ask and since I represent the people I don't think political parties should appoint vacancies. Maybe we could turn it into a study.

Senator Dever : The SB 2405 does a lot of the same things but allows for people to go after a special election.

Page 2

Senate Government and Veterans Affairs Committee

Bill/Resolution Number HB 1250

Hearing Date 02/27/03

Rep. Schmidt: I think the person that is voted in 2nd or 3rd place should be told if something is to happen to the elected official you should be ready to serve in their absence.

Senator Nelson : So of you are looking at the bill as it is now you would like a Do Not Pass?

Rep. Schmidt: Yes

Senator Dever : Would the language in the bill be the same as the other bill Sb 2405, I guess I should ask the Secretary of State's office.

Cory Fong, Deputy Secretary of State, Yes, these bills have been amended to be the same.

Senator Krebsbach : Is there more in 2405 that 1250.

Cory Fong: Yes there is a provision for the governor to call a special election.

Closed HB 1250

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Operator's Signature

10/3/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1250

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 03/20/03

Tape Number	Side A	Side B	Meter #
Tape 1		x	2400-3100
Committee Clerk Signature			

Minutes:

Discussion by committee. Senator Brown is absent.

Senator Nelson: This is not what the sponsors originally wanted.

Senator Nelson moves a motion to adopt Rep. Schmidt's amendment.

Senator Fairfield 2nd.

5 yes 0 No 1 Absent

Senator Nelson moves for a Do pass

Senator Fairfield 2nd

2 Yes 3 No 1 Absent

Hold for later date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1250

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 03/21/03

Tape Number	Side A	Side B	Meter #
Tape 1	X		1850-2025
Committee Clerk Signature			

Minutes:

Committee discussion on HB 1250. Senator Brown is absent.

Senator Wardner moves for a Do Not Pass as amended

Senator Dever 2nd

3 Yes 2 No 1 Absent

Carrier: Senator Wardner

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10/3/03
Date

30430.0201
Title.0300

Prepared by the Legislative Council staff for
Representative Schmidt
February 26, 2003

JE
3-21-03
1st

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1250

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 16.1-13-10 and 44-02-02 of the North Dakota Century Code, relating to filling a vacancy in a legislative office and resignation of a member of the legislative assembly.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-13-10 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-10. Vacancy existing in office of member of legislative assembly - Special election to fill. If a vacancy in the office of a member of the legislative assembly occurs, the county auditor of the county in which the former member resides or resided shall notify the ~~chairman of the legislative council~~ governor of the vacancy. The county auditor need not notify the ~~chairman of the legislative council~~ governor of the resignation of a member of the legislative assembly when the resignation was made under section 44-02-02. Upon receiving notification of a vacancy, the ~~chairman of the legislative council~~ shall notify the ~~district committee of the political party that the former member represented in the district in which the vacancy exists.~~ The ~~district committee~~ shall hold a meeting within twenty one days after receiving the notification and select an individual to fill the vacancy. ~~If the former member was elected as an independent candidate or if the district committee does not make an appointment within twenty one days after receiving the notice from the chairman of the legislative council, the chairman of the legislative council shall appoint a resident of the district to fill the vacancy. If eight hundred twenty eight days or more remain until the expiration of the term of office for that office, the individual appointed to fill the vacancy shall serve until a successor is elected at the next general election to serve for the remainder of the term of office for that office.~~ governor, if there is a session of the legislative assembly between the time the vacancy occurs and the time of the holding of the next general election, shall issue a writ of election directed to the auditor of each affected county directing the auditor to notify the boards of election in the county or district in which the vacancy exists to hold a special election to fill the vacancy at a time designated by the governor. If there is no session of the legislative assembly between the time the vacancy occurs and the time of the holding of the next general election, the special election must be held at the same time as the general election. If the term of office of the member whose office is vacated expires before the next session of the legislative assembly, no election may be held to fill the vacancy.

SECTION 2. AMENDMENT. Section 44-02-02 of the North Dakota Century Code is amended and reenacted as follows:

44-02-02. Resignations of officers - To whom made. The resignation of an officer must be in writing and must be made as follows:

1. The governor and lieutenant governor, to the legislative assembly, if it is in session, and if not, to the secretary of state.
2. Any other state or district officer, to the governor.
3. A member of the legislative assembly, to the presiding officer of the branch of which the individual is a member, when in session, and when not in session, to the ~~chairman of the legislative council~~ governor. When made to

2 of 2
the presiding officer, the presiding officer at once shall notify the chairman of the legislative council governor of the resignation.

4. An officer of the legislative assembly, to the branch of which the individual is an officer.
5. An elective county officer, by filing or depositing the resignation in the office of the county auditor, except that the resignation of the county auditor must be filed or deposited with the board of county commissioners. Any resignation under this subsection, unless a different time is fixed therein, takes effect upon the filing or deposit.
6. An officer of a civil township, to the board of supervisors of the township, except that a member of the board shall submit the member's resignation to the township clerk, and the township clerk forthwith shall give to the county auditor notice of the resignation of all officers whose bonds are filed with that officer.
7. Any officer holding office by appointment, to the body, board, court, or officer which appointed the officer."

Renumber accordingly

Date: 3/20/03
Roll Call Vote #:)

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1250

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30430.0201 Title.0300

Action Taken Amendment by Representative Schmidt

Motion Made By Nelson Seconded By Fairfield

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	✓		Senator April Fairfield	✓	
Senator Dick Dever, Vice Chr.	✓		Senator Carolyn Nelson	✓	
Senator Richard Brown					
Senator Rich Wardner	✓				

Total (Yes) 5 No 0

Absent 1

Floor Assignment _____

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

La Costa Rickford
Operator's Signature

10/13/03
Date

Date: 3/20/03
Roll Call Vote # 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1250

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30430.0201 Title.0300

Action Taken Do Pass as amended

Motion Made By Nelson Seconded By Fairfield

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.		✓	Senator April Fairfield	✓	
Senator Dick Dever, Vice Chr.		✓	Senator Carolyn Nelson	✓	
Senator Richard Brown		✓			
Senator Rich Wardner					

Total (Yes) 2 No 3

Absent 1

Floor Assignment

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

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Operator's Signature

10/3/03
Date

Date: 3/21/03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1250

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30430.0201 Title .0300

Action Taken Do Not Pass as amended

Motion Made By Wardner Seconded By Dever

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	✓		Senator April Fairfield		✓
Senator Dick Dever, Vice Chr.	✓		Senator Carolyn Nelson		✓
Senator Richard Brown					
Senator Rich Wardner	✓				

Total (Yes) 3 No 2

Absent 1

Floor Assignment Wardner

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

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10/2/03
Date

REPORT OF STANDING COMMITTEE (410)
March 24, 2003 8:42 a.m.

Module No: SR-52-5485
Carrier: Wardner
Insert LC: 30430.0201 Title: .0300

REPORT OF STANDING COMMITTEE

HB 1250, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (3 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1250 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 16.1-13-10 and 44-02-02 of the North Dakota Century Code, relating to filling a vacancy in a legislative office and resignation of a member of the legislative assembly.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-13-10 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-10. Vacancy existing in office of member of legislative assembly - Special election to fill. If a vacancy in the office of a member of the legislative assembly occurs, the county auditor of the county in which the former member resides or resided shall notify the ~~chairman of the legislative council~~ governor of the vacancy. The county auditor need not notify the ~~chairman of the legislative council~~ governor of the resignation of a member of the legislative assembly when the resignation was made under section 44-02-02. Upon receiving notification of a vacancy, the ~~chairman of the legislative council~~ shall notify the ~~district committee of the political party that the former member represented in the district in which the vacancy exists.~~ The district committee shall hold a meeting within twenty one days after receiving the notification and select an individual to fill the vacancy. If the former member was elected as an independent candidate or if the district committee does not make an appointment within twenty one days after receiving the notice from the chairman of the legislative council, the chairman of the legislative council shall appoint a resident of the district to fill the vacancy. If eight hundred twenty eight days or more remain until the expiration of the term of office for that office, the individual appointed to fill the vacancy shall serve until a successor is elected at the next general election to serve for the remainder of the term of office for that office. governor. If there is a session of the legislative assembly between the time the vacancy occurs and the time of the holding of the next general election, shall issue a writ of election directed to the auditor of each affected county directing the auditor to notify the boards of election in the county or district in which the vacancy exists to hold a special election to fill the vacancy at a time designated by the governor. If there is no session of the legislative assembly between the time the vacancy occurs and the time of the holding of the next general election, the special election must be held at the same time as the general election. If the term of office of the member whose office is vacated expires before the next session of the legislative assembly, no election may be held to fill the vacancy.

SECTION 2. AMENDMENT. Section 44-02-02 of the North Dakota Century Code is amended and reenacted as follows:

44-02-02. Resignations of officers - To whom made. The resignation of an officer must be in writing and must be made as follows:

1. The governor and lieutenant governor, to the legislative assembly, if it is in session, and if not, to the secretary of state.
2. Any other state or district officer, to the governor.
3. A member of the legislative assembly, to the presiding officer of the branch of which the individual is a member, when in session, and when not in session.

REPORT OF STANDING COMMITTEE (410)
March 24, 2003 8:42 a.m.

Module No: SR-52-5485
Carrier: Wardner
Insert LC: 30430.0201 Title: .0300

session, to the ~~chairman of the legislative council~~ governor. When made to the presiding officer, the presiding officer at once shall notify the ~~chairman of the legislative council~~ governor of the resignation.

4. An officer of the legislative assembly, to the branch of which the individual is an officer.
5. An elective county officer, by filing or depositing the resignation in the office of the county auditor, except that the resignation of the county auditor must be filed or deposited with the board of county commissioners. Any resignation under this subsection, unless a different time is fixed therein, takes effect upon the filing or deposit.
6. An officer of a civil township, to the board of supervisors of the township, except that a member of the board shall submit the member's resignation to the township clerk, and the township clerk forthwith shall give to the county auditor notice of the resignation of all officers whose bonds are filed with that officer.
7. Any officer holding office by appointment, to the body, board, court, or officer which appointed the officer."

Renumber accordingly

2003 TESTIMONY

HB 1250

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HB 1250

ARTICLE IV
LEGISLATIVE BRANCH

Section 1. The senate must be composed of not less than forty nor more than fifty-four members, and the house of representatives must be composed of not less than eighty nor more than one hundred eight members. These houses are jointly designated as the legislative assembly of the state of North Dakota.

Section 2. The legislative assembly shall fix the number of senators and representatives and divide the state into as many senatorial districts of compact and contiguous territory as there are senators. The districts thus ascertained and determined after the 1990 federal decennial census shall continue until the adjournment of the first regular session after each federal decennial census, or until changed by law.

The legislative assembly shall guarantee, as nearly as is practicable, that every elector is equal to every other elector in the state in the power to cast ballots for legislative candidates. A senator and at least two representatives must be apportioned to each senatorial district and be elected at large or from subdistricts from those districts. The legislative assembly may combine two senatorial districts only when a single member senatorial district includes a federal facility or federal installation, containing over two-thirds of the population of a single member senatorial district, and may provide for the election of senators at large and representatives at large or from subdistricts from those districts.

Section 3. The legislative assembly shall establish by law a procedure whereby one-half of the members of the senate and one-half of the members of the house of representatives, as nearly as is practicable, are elected biennially.

Section 4. Senators and representatives must be elected for terms of four years.

Section 5. Each person elected to the legislative assembly must be, on the day of the election, a qualified elector in the district from which the member was chosen and must have been a resident of the state for one year immediately prior to that election.

Section 6. While serving in the legislative assembly, no member may hold any full-time appointive state office established by this constitution or designated by law. During the term for which elected, no member of the legislative assembly may be appointed to any full-time office which has been created, or to any office for which the compensation has been increased, by the legislative assembly during that term.

Section 7. The terms of members of the legislative assembly begin on the first day of December following their election.

The legislative assembly shall meet at the seat of government in the month of December following the election of the members thereof for organizational and orientation purposes as provided by law and shall thereafter recess until twelve noon on the first Tuesday after the third day in January or at such other time as may be prescribed by law but not later than the eleventh day of January.

No regular session of the legislative assembly may exceed eighty natural days during the biennium. The organizational meeting of the legislative assembly may not be counted as part of those eighty natural days, nor may days spent in session at the call of the governor or while engaged in impeachment proceedings, be counted. Days spent in regular session need not be consecutive, and the legislative assembly may authorize its committees to meet at any time during the biennium. As used in this section, a "natural day" means a period of twenty-four consecutive hours.

Neither house may recess nor adjourn for more than three days without consent of the other house.

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Section 8. The house of representatives shall elect one of its members to act as presiding officer at the beginning of each organizational session.

Section 9. If any person elected to either house of the legislative assembly shall offer or promise to give his vote or influence, in favor of, or against any measure or proposition pending or proposed to be introduced into the legislative assembly, in consideration, or upon conditions, that any other person elected to the same legislative assembly will give, or will promise or assent to give, his vote or influence in favor of or against any other measure or proposition, pending or proposed to be introduced into such legislative assembly, the person making such offer or promise shall be deemed guilty of solicitation of bribery. If any member of the legislative assembly, shall give his vote or influence for or against any measure or proposition, pending or proposed to be introduced into such legislative assembly, or offer, promise or assent so to do upon condition that any other member will give, promise or assent to give his vote or influence in favor of or against any other such measure or proposition pending or proposed to be introduced into such legislative assembly, or in consideration that any other member hath given his vote or influence, for or against any other measure or proposition in such legislative assembly, he shall be deemed guilty of bribery. And any person, member of the legislative assembly or person elected thereto, who shall be guilty of either such offenses, shall be expelled, and shall not thereafter be eligible to the legislative assembly, and, on the conviction thereof in the civil courts, shall be liable to such further penalty as may be prescribed by law.

Section 10. No member of the legislative assembly, expelled for corruption, and no person convicted of bribery, perjury or other infamous crime shall be eligible to the legislative assembly, or to any office in either branch thereof.

Section 11. The legislative assembly may provide by law a procedure to fill vacancies occurring in either house of the legislative assembly.

Section 12. A majority of the members elected to each house constitutes a quorum. A smaller number may adjourn from day to day and may compel attendance of absent members in a manner, and under a penalty, as may be provided by law.

Each house is the judge of the qualifications of its members, but election contests are subject to judicial review as provided by law. If two or more candidates for the same office receive an equal and highest number of votes, the secretary of state shall choose one of them by the toss of a coin.

Each house shall determine its rules of procedure, and may punish its members or other persons for contempt or disorderly behavior in its presence. With the concurrence of two-thirds of its elected members, either house may expel a member.

Section 13. Each house shall keep a journal of its proceedings, and a recorded vote on any question shall be taken at the request of one-sixth of those members present. No bill may become law except by a recorded vote of a majority of the members elected to each house, and the lieutenant governor is considered a member-elect of the senate when the lieutenant governor votes.

No law may be enacted except by a bill passed by both houses, and no bill may be amended on its passage through either house in a manner which changes its general subject matter. No bill may embrace more than one subject, which must be expressed in its title; but a law violating this provision is invalid only to the extent the subject is not so expressed.

Every bill must be read on two separate natural days, and the readings may be by title only unless a reading at length is demanded by one-fifth of the members present.

No bill may be amended, extended, or incorporated in any other bill by reference to its title only, except in the case of definitions and procedural provisions.

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The presiding officer of each house shall sign all bills passed and resolutions adopted by the legislative assembly, and the fact of signing shall be entered at once in the journal.

Every law, except as otherwise provided in this section, enacted by the legislative assembly during its eighty natural meeting days takes effect on August first after its filing with the secretary of state, or if filed on or after August first and before January first of the following year ninety days after its filing, or on a subsequent date if specified in the law unless, by a vote of two-thirds of the members elected to each house, the legislative assembly declares it an emergency measure and includes the declaration in the Act. Every appropriation measure for support and maintenance of state departments and institutions and every tax measure that changes tax rates enacted by the legislative assembly take effect on July first after its filing with the secretary of state or on a subsequent date if specified in the law unless, by a vote of two-thirds of the members elected to each house, the legislative assembly declares it an emergency measure and includes the declaration in the Act. An emergency measure takes effect upon its filing with the secretary of state or on a date specified in the measure. Every law enacted by a special session of the legislative assembly takes effect on a date specified in the Act.

The legislative assembly shall enact all laws necessary to carry into effect the provisions of this constitution. Except as otherwise provided in this constitution, no local or special laws may be enacted, nor may the legislative assembly indirectly enact special or local laws by the partial repeal of a general law but laws repealing local or special laws may be enacted.

Section 14. All sessions of the legislative assembly, including the committee of the whole and meetings of legislative committees, must be open and public.

Section 15. Members of the legislative assembly are immune from arrest during their attendance at the sessions, and in going to or returning from the sessions, except in cases of felony. Members of the legislative assembly may not be questioned in any other place for any words used in any speech or debate in legislative proceedings.

Section 16. Any amendment to this constitution may be proposed in either house of the legislative assembly, and if agreed to upon a roll call by a majority of the members elected to each house, must be submitted to the electors and if a majority of the votes cast thereon are in the affirmative, the amendment is a part of this constitution.

Sections 17 and 18. Repealed.

Section 19. Renumbered.

Sections 20 to 46. Repealed.

HB 1250

Testimony of Charles Mertens before the House Government and Veterans Affairs
Committee January 24, 2003.

Chairman Klein And Committee members:

For the record my name is Charles Mertens. My address is 718-7th Street, Devils Lake,
ND 58301. Phone 701 662 4518.

First I would like to thank the committee for the opportunity to appear in favor of HB
1250. I am sure many people would not consider this bill of great importance but that is
exactly why your job as legislators is so vital. Our form of government is a democratic-
republic. Basically that means you vote for the constituents you represent because they
are not here to listen to the testimony. We in America have fiercely guarded our form of
government and the peoples right to vote. Your very title REPRESENTATIVE implies
that you reflect the will of your electors.

HB 1250 would restore the right of the people to vote for their Legislators. It is
indeed proper that this hearing is before the Veteran Affairs committee. How many
veterans gave years of their lives fighting to protect the right to vote and to govern
ourselves? How many service men died to preserve our nation and its' democracy?

We will not lose our freedom in a war. We will not tolerate it. Freedom is lost a little
at a time. A philosopher once said, "Evil will prevail when good men do nothing". To
appoint our elected officials is the way a Benevolent Protectorate works. It most certainly
is not the method of a Democratic Republic. The greatest danger to our form of
government is apathy and cynicism. When people cannot vote for their legislators they
begin to lose interest and respect for our government.

Political parties have their place in our politics. With out the structure of an organized
party most of you would not be here. But political parties should never ever usurp the
rights of the people. To assume they know what is best for a district is a terrible mistake.
It disenfranchises most of the voters in the district. It also adds to the power of an
incumbent. The power of an incumbent is already a growing concern in our nation.
Political parties cannot resist an easy win. They are formed to win. Only you can correct
this grave mistake.

The service men that gave their lives for democracy and the thousands of veterans
that risked their lives for the right to vote would probably pick this bill HB 1250 as the
most important bill of the session. You represent them. You have to vote for them.

In this day and age of fax machines, computers and instant communication we can
certainly find a way to have a special election quickly and inexpensively. Walter
Mondale's name was put on a statewide ballot seven days prior to the election. If time
does not permit a change in the election laws certainly an interim committee could update
the process. Please restore our right to vote.

Thank you for your time. If you have any questions I will be glad to try to answer
them.

NORTH DAKOTA HOUSE OF REPRESENTATIVES
Government and Veterans Affairs Committee
Rep. Matthew M. Klein, Chairman
Friday, January 24, 2003

TESTIMONY IN OPPOSITION TO HB 1250

Submitted by:
Jason W. Stverak
Executive Director
North Dakota Republican Party

CHAIRMAN KLEIN AND MEMBERS OF THE COMMITTEE:

I wish to thank this committee for allowing me to present testimony in opposition to House Bill 1250 in its current form. The North Dakota Republican Party opposes this legislation because we believe it fails to provide a timely method for filling a vacancy in a legislative office during a legislative session.

The North Dakota Legislature is a diverse, citizen legislature. History has shown that the legislative assembly will experience vacancies from time to time. The best method of filling a legislative vacancy is obviously through an election of the people. However, when time does not allow for an election, constituents should not be without representation in the legislature when an unanticipated vacancy occurs.

The North Dakota Republican Party believes it is important to provide a mechanism to fill a legislative vacancy in a timely manner so constituents are not without representation during a legislative session. House Bill 1250 provides a vacancy in a legislative office may only be filled through an election, a process requiring roughly ninety (90) days under present law to complete. This procedure will all but assure a legislative district experiencing a vacancy shortly before or during a legislative session will be unrepresented if the vacancy occurs in the North Dakota Senate or underrepresented if the vacancy occurs in the North Dakota House of Representatives.

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Section 16.1-13-10, N.D.C.C., authorizes local district political parties to fill vacancies in a legislative office. Since its enactment in 2001, this provision has been employed twice in the same legislative district. I believe the process to fill both vacancies was conducted in a fair and open manner. I do not believe there are any concerns that the constituents of the respective district are in any way lacking in representation following this procedure.

Despite the good operation of section 16.1-13-10, N.D.C.C., we are no less concerned that the mechanism provided may be somehow abused at some time in the future. As an example, I ask the committee to consider the conduct of various district committees during the 2002 election cycle. Following the 2002 Primary Election, nine (9) different persons nominated under the provisions of section 16.1-11-01, N.D.C.C., as an official candidate for the state legislature withdrew and six (6) were replaced under the provisions of section 16.1-11-18(5), N.D.C.C. This mass exodus of candidates from the ballot appeared to be a coordinated effort, to have nothing more than a name on the ballot, with no concern for the choice of the people as expressed in the Primary Election. I am mindful that the present method of filling a legislative vacancy may be exploited in a similar fashion. Although HB 1250 is meant as a fix to this potential problem, the Republican Party is in opposition because it allows citizens to go unrepresented when a legislative vacancy occurs.

The Republican Party opposes HB 1250 in its current form for the above reasons. I thank the committee for the courtesy of allowing me to testify.

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Chairman Klien - Members of the GVA Committee

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HB 1250 will reinstate the language that SB 22³90 removed. Language that has served North Dakota well. I introduced this bill because of the level of cynicism and apathy that prevails among the citizens of North Dakota. Many of these attitudes we can do nothing about. However, it is our responsibility as legislators to find a solution to correct these laws and to assist in dispelling many causes of voter dissatisfaction. HB 1250 will confirm our commitment to the people and send the right message, we want you to be involved in the political process. Appointing elected officials is simply wrong. We can dodge our responsibilities but we can never dodge the consequences of dodging these responsibilities.

Mr. Chairman and Committee members, we have an opportunity to change this and the people of North Dakota will thank you.

US CONSTITUTION – ARTICLE 4 §4. The United States shall guarantee to every state in this union a republican form of government, ...

Republican Government – Government in the republican form; a government of the people; a government by representatives chosen by the people.

Democratic Government- Government by the people, exercised either directly or through elected representatives.

I am appearing in favor of HB 1250 because of my deepseated respect and belief in the Constitution upon which this nation was formed. As we govern here today we have been sworn to uphold the Constitution of the State of North Dakota and as citizens of this nation it is our duty to embrace and defend the U. S Constitution and the rights that it guarantees to its citizens.

There is no right more basic to a free people than the right to vote for the selection of their representatives in local, state and national governments. Article 4 of the U.S Constitution guarantees to every state in this union a republican form of government. By its very definition, government in the republican form is a government by representatives chosen by the people. You recall that one of the great rallying cries of the American Revolution was, "Taxation without representation is tyranny!" Our patriotic forebears did not object to taxation, which they recognized as a legitimate and necessary power of government, but they did object to taxes being imposed upon them by a government which they had no voice in choosing. The current system of filling mid-term legislative vacancies removes the peoples voice from the process. It delegates the authority to select a legislator, who is supposed to represent all of the people in the Legislative District, to a non-elected sub-group of citizens, the political party with which the deceased, resigned or removed legislator was affiliated. The fault of this system is that citizens who are not affiliated with the former legislator's political party are shut out of the process of selecting a successor to represent them in the State Legislature.

Article IV of the North Dakota State Constitution, the Legislative Article, also appears to contemplate selection of all legislators, whether for a full or partial term, by election. The word "appointment" does not appear in any of the Constitutional sections dealing with the selection of legislators. Article IV, section 11 of the State Constitution provides that "The governor shall issue writs of election to fill such vacancies as may occur in either house of the legislative assembly." The word "shall" makes this provision mandatory, not optional. It is, in fact, the people's written instructions to their elected representatives and administrators. It contains the duties of their offices and the limitations on their

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powers imposed by the people, the ultimate source of political power. If the people intended to allow for the appointment of legislators when they approved Article IV of the State Constitution, it is not evident anywhere in the language of that Article.

It can be argued that vacancies on county commissions, city councils and other elected boards and commissions are often filled by appointment. At least, in those cases, the commissioners, mayors, council & board members who make the interim appointments are elected representatives of the people. A political party, by definition, excludes some of the population from its membership. Its leadership is not selected by a vote of all of the people, but by a limited group of activists. The selection of a political party to make this choice is arbitrary. Its logical to assume that the former legislator also was a member of other voluntary organizations. We could just as well delegate the authority to select a replacement to the former legislators church, veterans group, sportsmens club or any other group with which he or she may have had a relationship. Any way it is done, other than by election, cuts some or most of the people out of the process. And it is that premise of inclusion and participation that our Constitution is built upon.

Two years ago, this body weakened one of the most basic rights of the citizens of North Dakota - the right to elect their Representatives. HB 1250 is our opportunity to right that wrong. Thank you for your consideration of my views.

La Costa Rickford
Operator's Signature

10/3/03
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Madam Chairwoman, members of the GVA Committee:

I am the primary sponsor of HB 1250, which deals with filling of legislative vacancies. Coming into this session, I felt that SB 2230 which was passed last session needed to be repealed. SB 2230 allows appointments to be made to fill legislative vacancies. HB 1250 if passed would require a special election to be held in case of such vacancies. In the June 2000 Primary Election the people voted on an initiated measure to give the legislature the right to change how we filled such vacancies. I do not believe however that they intended for us to have political parties appoint replacements to fill these vacancies.

Under no circumstances should a political party have the authority to appoint an official to an elected position.

Taking the voters out of the process creates cynicism and apathy towards the political process as a whole.

Thank you for your consideration.

I will answer any questions at this time.