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Operator's Signature

Deanna Ballin

Date

10/22/03

2003 SENATE GOVERNMENT AND VETERANS AFFAIRS
SB. 2394

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Deanna Waller
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10/22/03

Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2394

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 02/06/03

Tape Number	Side A	Side B	Meter #
Tape 1		x	145-end
Tape 2	x		0-550
Committee Clerk Signature <i>Lisa Nelson</i>			

Minutes:

Senator Karen Krebsbach, Chairman opens SB 2394. All senators present.

Cory Fong, Deputy Secretary of State in support of bill. (Testimony attached)

Senator Nelson : If you have to check in what about mail in and absentee ballots?

Fong: they must sign a provision that says they are not voting elsewhere.

Senator Wardner : We have a university in our community, how will that work if they have a Montana driver's license?

Fong: It would work if they provided any ID with a birth date, such as a school ID. In Section 1 there is a new subsection 5 that explains toward college students. Someone who has gone to school does not gain nor lose residency. They still have to make that determination.

Senator Wardner : If you are a college student and have lived in the state for 30 days and so leave in the summer, but do not vote anywhere else, do you have residency?

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Deanna Ballantyne
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10/22/03

Date

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Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2394

Hearing Date 02/06/03

Fong: they have to reestablish that they have lived there for 30 days, if they have gained residency and have met all the other provisions they have the right to vote.

Senator Krebsbach : And likewise with the military?

Fong: Correct.

Senator Dever : Regarding Section 16 in the sharing of information, only for election purposes, are you able to protect that information without exception from Nielson record laws?

Fong: that is a question to talk to legal council on, this will not be used for commercial purposes but, for election purposes only. It could not be sold or passed for any reason. This list is coming from the Dept. of Transportation and they are dealing with that right now also and we will have to look into that further.

Senator Nelson : the identifying number is going to be the same as the Department of Transportation?

Fong: We are trying different ideas right now and have not set a specific rule yet.

Senator Krebsbach : the information will come from poll books, is there a way an individual can get their name added to the central voters file prior to an election without having voted before?

Fong: The original concept is that we were going to use the poll books from 2000-2002, and also from the Dept. of Transportation. those person who are in those poll books are automatically designated in the DOT file. People who are not on that list and they would be able to still vote as they do today. That would put them into this system.

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10/22/03
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Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2394

Hearing Date 02/06/03

Senator Dever : Do all county auditors have the ability to transfer that information electronically now and will the information be keep in a manner that they can generate the precinct poll books from a file.

Fong: No they don't. that is why we are trying to establish this and that is why there is a hefty fiscal note. They would be able to develop their own poll books from the central voters system.

Senator Krebsbach : This 5 million you are getting I would suppose that you are budgeting here and there among all these bills, do you have an entire budget that we could see?

Fong: No but we will.

Mike Montplaisier, City Auditor of Fargo

Senator Nelson : I would like to ask how this would be incorporated and how big of a job this will be for county auditors since you have the biggest county?

Montplaisier: It is not going to be a easy task. Statewide we probably dont' have every good lists. We have 80,000 eligible voters in Cass County however we probably have over 150,000 in our data base. the reason is that they move from one precinct to another and end up on the list more than once. This list will help us.

Senator Dever : Post implementation, does this make your job easier?

Montplaisier: Yes, it will. If they move we will be able to move them on the list.

Senator Nelson : Will this speed up implementation of new voting machines?

Montplaisier: We bought 10 new scanners and plan on adding more, one for every precinct.

Corrine Hoffman, Director of Policy and Operations(Testimony attached)

Carol Two Eagles, (Testimony attached)

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10/22/03
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Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2394

Hearing Date 02/06/03

Donna Byzewski, Supervisor of corporate Guardianship program of Catholic Family Services, (Testimony attached)

Jack McDonald, ARC of ND : We also deal with corporate guardianship program and support Donna Byzewski's testimony.

Senator Dever : Section 9 appears under Section 8 in amendments and I think that has been corrected.

Tim Schuetzle, Prisons Division Director, ND Department of Corrections and Rehabilitation, (Testimony attached)

Senator Dever : A felon is unable to vote while in prison and is that restored then when they are discharged?

Schuetzle: Yes, that is automatically restored when they are no longer incarcerated.

Senator Nelson : When on parole, is it back or when they are totally out of your system?

Schuetzle: they can vote when they are on parole.

John Olson, ND State's Attorney's

we are opposed to Page 10 Sec 17 of the original bill.

Senator Dever : I believe that is taken care of in the amendment and if not we will take a closer look at that.

Olson: If the committee sees fit we would like that section omitted.

Ricahrd Riha, Burleigh County State's Attorney: He would like to see the section Mr. Olson is refering to omitted also.

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Donna Byzewski
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10/22/03
Date

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Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2394

Hearing Date 02/06/03

Cory Fong: We tried to address all these concerns with the amendment. We would be open to working with all parties in opposition. As for the state's attorneys, that can be worked out also.

Senator Fairfield : In Section 18, old section 19 what was the rational to put in that language?

Fong: We didn't try to do anything towards the state's attorneys we borrowed language from other state's and realized afterwards we have to lighten it up.

Senator Dever : You have covered most basis from one agency to another but, someone who has a ND driver's license and could have a photo ID could be an immigrant and not eligible to vote.

Fong: We can look at that.

Closed SB 2394

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Dennis Hall
Operator's Signature

10/22/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2394

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 02/13/03

Tape Number	Side A	Side B	Meter #
Tape 1		x	3670 to end
Tape 2	x		0-870
Committee Clerk Signature			

Minutes:

Senator Karen Krebsbach, Chairman reopens SB 2394. All senators present.

Cory Fong, Deputy Secretary of State has further amendments and had just completely revamped a new hog house amendment. It replaces the old hog house amendment (Testimony and new hog house amendment attached)

Senator Nelson : What does the health department have to do with marriage?

Fong: They receive all the marriage data from the recorders now, they get all the name changes.

Cory Fong continues to explain new amendment.

Senator Nelson : What is the last date near election is the update of Central Voters File made.

Fong: In Sec 14 of hog house, line 10 that is stated.

Senator Dever : Carol Two Eagles testified regarding on her feelings about this regarding to information given out about people would it be possible for us to keep confidential the information of citizens.

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10/22/03

Date

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Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2394

Hearing Date 02/13/03

Fong: I think from her testimony that she was mostly concerned about this information becoming public record for people to get a hold of information. That is covered in Section 16, Page 15, Line 3 it pertains to this in that section.

Senator Dever : Should there be a penalty for someone who does share that information.

Fong: Sec 17, subsection 9 covers that.

Senator Brown: Is party ID covered inhere?

Fong: No, not in the bill or the hog house.

Senator Nelson moves a adoption of new hog house amendments

Senator Fairfield seconds motion

6 Yes 0 No

Senator Brown moves for Do Pass as amended

Senator Wardner seconds

6 Yes 0 No

Carrier; Senator Krebsbach

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10/22/03

Date

FISCAL NOTE
Requested by Legislative Council
03/26/2003

Amendment to: SB 2394

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.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$5,000,000	\$0	\$0	\$0	\$0
Expenditures	\$0	\$30,000	\$0	\$100,000	\$0	\$500,000
Appropriations	\$0	\$0	\$0	\$5,000,000	\$0	\$0

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

The amendments do not change the content of this fiscal note from that when it was originally submitted except it was since learned that the state is eligible to receive an additional \$4,150,000 during the biennium, which is being addressed in SB 2002.

The purpose of this bill is to maintain county poll books in a centralized electronic database rather than in 53 different locations, which is intended to improve the administration of elections as provided for in the Help America Vote Act of 2002 (HAVA). This Act was passed by Congress and signed into law by the President of the United States in October of 2002. This is not a system of voter registration. Rather, it is a tool for improving efficiency at the polls; for maintaining accurate voter lists; and for assisting in the determination and prevention of voter fraud. The monies appropriated by Congress will be received and deposited in a dedicated election fund that is established in the agency's appropriation bill, SB 2002.

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.*

The \$5,000,000 was appropriated and the bill signed by the President of February 20, 2003. The line item authorization to receive and accept these funds is being established in SB 2002, which is the agency's appropriation bill. This section of SB 2002 has an emergency clause that will allow for the use of these federal funds before the end of the 2001-2003 biennium as well as continuing on into the 2003-2005 biennium. In addition, the federal government has identified these funds as "no year money." This means that the federal funds do not have to be expended by a specific time or by the end of any federal fiscal year.

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.*

The expenditure of any funds under this bill is contingent upon the receipt of the federal HAVA funding.

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*

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budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

The funds to be appropriated for the purpose of this bill are in SB 2002, which is the agency's appropriation bill. Therefore, there is no specific appropriation request connected with this bill.

Name:	Al Jaeger	Agency:	Secretary of State
Phone Number:	328-2900	Date Prepared:	03/27/2003

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Deanna Hall
Operator's Signature

10/22/03
Date

FISCAL NOTE
Requested by Legislative Council
02/19/2003

Amendment to: SB 2394

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.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$5,000,000	\$0	\$0	\$0	\$0
Expenditures	\$0	\$30,000	\$0	\$665,000	\$0	\$178,000
Appropriations	\$0	\$0	\$0	\$5,000,000	\$0	\$0

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

The purpose of this bill is to establish a centralized electronic voter file, which is intended to improve the administration of elections as provided for in the Help America Vote Act of 2002 (HAVA). This Act was passed by Congress and signed into law by the President of the United States in October of 2002. This is not a system of voter registration. Rather, it is a tool for improving efficiency at the polls; for maintaining accurate voter lists; and for assisting in the determination and prevention of voter fraud. The monies appropriated by Congress will be received and deposited in a dedicated election fund that is established in the agency's appropriation bill, SB 2002.

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.*

The \$5,000,000 was appropriated and the bill signed by the President of February 20, 2003. The line item authorization to receive and accept these funds is being established in SB 2002, which is the agency's appropriation bill. This section of SB 2002 has an emergency clause that will allow for the use of these federal funds before the end of the 2001-2003 biennium as well as continuing on into the 2003-2005 biennium. In addition, the federal government has identified these funds as "no year money." This means that the federal funds do not have to be expended by a specific time or by the end of any federal fiscal year.

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.*

The expenditure of any funds under this bill is contingent upon the receipt of the federal HAVA funding.

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.*

The funds to be appropriated for the purpose of this bill are in SB 2002, which is the agency's appropriation bill. Therefore, there is no specific appropriation request connected with this bill.

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Deanna Wallis
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10/22/03

Date

Name:	Al Jaeger	Agency:	Secretary of State
Phone Number:	328-2900	Date Prepared:	02/28/2003

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10/22/03

Date

FISCAL NOTE
Requested by Legislative Council
01/28/2003

Bill/Resolution No.: SB 2394

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.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$5,000,000	\$0	\$0	\$0	\$0
Expenditures	\$0	\$30,000	\$0	\$665,000	\$0	\$178,000
Appropriations	\$0	\$0	\$0	\$5,000,000	\$0	\$0

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

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

The purpose of this bill is to establish a centralized electronic voter file, which is intended to improve the administration of elections as provided for in the Help America Vote Act of 2002 (HAVA). This Act was passed by Congress and signed into law by the President of the United States in October of 2002. This is not a system of voter registration. Rather, it is a tool for improving efficiency at the polls; for maintaining accurate voter lists; and for assisting in the determination and prevention of voter fraud. The monies appropriated by Congress will be received and deposited in a dedicated election fund that is established in the agency's appropriation bill, SB 2002.

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.

It is anticipated that the \$5,000,000 will be appropriated by congress prior to the end of the state's 2001-2003 biennium. The line item authorization to receive and accept these funds is being established in SB 2002, which is the agency's appropriation bill. This section of SB 2002 has an emergency clause that will allow for the use of these federal funds before the end of the 2001-2003 biennium as well as continuing on into the 2003-2005 biennium. In addition, the federal government has identified these funds as "no year money." This means that the federal funds do not have to be expended by a specific time or by the end of any federal fiscal year.

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.

The expenditure of any funds under this bill is contingent upon the receipt of the federal HAVA funding.

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.

The funds to be appropriated for the purpose of this bill are in SB 2002, which is the agency's appropriation bill.

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Operator's Signature

10/22/03

Date

Therefore, there is no specific appropriation request connected with this bill.

Name:	Al Jaeger	Agency:	Secretary of State
Phone Number:	328-2900	Date Prepared:	02/03/2003

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10/22/03
Date

JB
2-14-03
10410

PROPOSED AMENDMENTS TO SENATE BILL NO. 2394

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact chapter 16.1-02 and two new sections to chapter 16.1-05 of the North Dakota Century Code, relating to providing a central voter file, verifying voter eligibility, and creating precinct maps and precinct locators; to amend and reenact sections 16.1-01-04, 16.1-05-06, and 54-09-08 of the North Dakota Century Code, relating to qualifications of voters, challenging voters, and fees received by the secretary of state; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-01-04 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-04. Qualifications of electors.

1. Every citizen of the United States who is: eighteen years or older; a resident of this state; and has resided in the precinct at least thirty days next preceding any election, except as otherwise provided in regard to residency in chapter 16.1-14, is a qualified elector.
2. Every For the purposes of this title, every qualified elector of the state may have only one voting residence, shown by an actual fixed permanent dwelling or establishment.
3. A person's voting Except as otherwise provided in this section, an individual's residence must be determined in accordance with the rules for determining residency as provided in section 54-01-26.
4. Pursuant to section 2 of article II of the Constitution of North Dakota, voting by ~~persons~~ individuals convicted and sentenced for treason or felony must be limited according to chapter 12.1-33.
5. For the purposes of this title, an individual may not be deemed to have gained or lost a residence solely by reason of the individual's presence or absence while enrolled as a student at a college, university, or other postsecondary institution of learning in this state.
6. For the purposes of this title, a member of the armed forces of the United States may not be deemed to have gained or lost a residence in this state solely by reason of the member being stationed on duty in this state.
7. For the purposes of this title, an individual may not be deemed to have lost residence in the individual's precinct or in the state by reason of the individual engaging in temporary government service or private employment outside the individual's precinct or outside the state.

SECTION 2. Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

16.1-02-01. Permanent central voter file. A permanent, centralized electronic data base of voters, to be known as the central voter file, is established with the offices of the secretary of state and county auditors linked together by a centralized statewide

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system. The county auditor is chief custodian of the central voter file records in each county. The secretary of state is responsible for maintaining the central voter file. The central voter file must be accessible by the secretary of state and all county auditors for purposes of preventing and determining voter fraud, making changes and updating the central voter file, and generating information, including pollbooks, reports, inquiries, forms, and voter lists.

16.1-02-02. Costs of creating and maintaining a central voter file. The creation of the central voter file and its maintenance through June 30, 2009, must be paid for with funds from the state's election fund, provided the election fund contains adequate funding to create and maintain the central voter file. The creation of the central voter file and its maintenance through June 30, 2009, may not be paid for from funds in the secretary of state's budget, the state's general fund, or from county funds. Beginning July 1, 2009, the office required to perform the functions and duties of this chapter shall bear the costs incurred and the secretary of state shall pay the costs of operating and maintaining the central voter file.

16.1-02-03. Secretary of state to establish the central voter file with department of transportation and county auditors.

1. Before the primary election in 2004, the secretary of state shall establish the central voter file in cooperation with the department of transportation and county auditors.
2. The secretary of state shall establish the initial central voter file from records maintained by the department of transportation. Each county auditor shall compare the initial central voter file against all precinct pollbooks used in the auditor's county during and created from the general elections in 2000 and 2002 and any reasonably reliable updates made by the county auditor since the general elections in 2000 and 2002. Any individual contained in the initial central voter file who voted at either the general election in 2000 or 2002 must be designated as "active" in the initial central voter file. Any individual contained in the initial central voter file who did not vote at either the general election in 2000 or 2002 must be designated as "inactive" in the initial central voter file.
3. Each individual contained in the initial central voter file must be assigned a unique identifier. An individual's unique identifier must be created from unique information and data obtained from records maintained by the department of transportation and the pollbooks from the general elections in 2000 and 2002. If it is not possible to assign a unique identifier to an individual contained in the initial central voter file, a unique identifier must be randomly generated and assigned to the individual.
4. The secretary of state shall adopt rules for generating and assigning a unique identifier to each individual contained in the central voter file according to section 16.1-02-11 and subsection 3 of section 16.1-01-01.
5. When establishing the initial central voter file from the records maintained by the department of transportation and the pollbooks from the general elections in 2000 and 2002, the secretary of state and county auditors shall attempt to correct address errors and misspellings of names.

16.1-02-04. Precinct boundaries changed - Change to the central voter file. When the boundaries of a precinct are changed, the county auditor shall immediately update the voter records for that precinct in the central voter file to accurately reflect those changes.

3 of 10

16.1-02-05. Entry of new voters into the central voter file - Query of the central voter file for double voting - Verification by mail - Challenges - Post election verification.

1. Within sixty days following an election, the county auditor shall enter the name and required information of each individual who voted at the last election who is not already contained in the central voter file and update any required information requested and obtained at the last election for any individual contained in the central voter file.
2. The secretary of state, with the assistance of the county auditors, within seventy days following an election, shall query the central voter file to determine if any individual voted more than once during the preceding election. The secretary of state shall immediately notify the county auditor and state's attorney in each affected county for further investigation.
3. The county auditor shall mail to a random sampling of individuals contained in the central voter file a notice stating the individual's name and address as the name and address appear in the central voter file. The random sampling must be determined in the manner established by the secretary of state. The notice must request the individual to notify the county auditor if there is any mistake in the information.
4. Upon return of any nonforwardable mail from an election official, the county auditor shall ascertain the name and address of that individual. If the individual is no longer at the address recorded in the central voter file, the county auditor shall designate the individual as "challenged" in the central voter file. An individual designated as "challenged" shall comply with section 16.1-05-06 before being allowed to vote at the next election in that precinct. If a notice mailed at least sixty days after the return of the first nonforwardable mail is also returned by the postal service, the county auditor shall designate the individual as "inactive" in the central voter file.
5. Within ninety days after an election, the county auditor shall send the notice provided for under subsection 3 to each individual who was challenged on election day according to section 16.1-05-06. If a notice is returned as not deliverable, the county auditor shall attempt to determine the reason for the return. A county auditor who does not receive or obtain satisfactory proof of an individual's eligibility to vote shall immediately notify the state's attorney to conduct an investigation of the individual's eligibility to vote in that election.

16.1-02-06. Reporting deceased individuals and changes of names - Changes to records in the central voter file.

1. The state health officer shall provide for the regular reporting to the secretary of state the name, city, date of birth, and county of residence, if available, of each individual eighteen years of age or older who has died while maintaining residence in this state since the last report. Within thirty days after receiving a report, the secretary of state shall designate each individual included in the report as "deceased" in the central voter file. The secretary of state shall prepare and distribute a list of individuals designated as "deceased" to each county auditor.
2. The state health officer shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older whose name was changed by marriage since the last report. Within sixty days after receiving a report, the secretary of state shall make the name changes in the central voter file and notify by mail each individual whose

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name was changed that the individual's name has been changed accordingly in the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.

3. After receiving notice of death of an individual who has died outside the county, the county auditor shall designate that individual as "deceased" in the central voter file. Notice must be in the form of a printed obituary or a written statement signed by an individual having knowledge of the death of the individual.

16.1-02-07. Reporting individuals placed under guardianship and changes of names - Changes to records in the central voter file.

1. The state court administrator shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older who has been placed under a guardianship and as a result has been deprived of the legal right to vote since the last report. Within thirty days after receiving a report, the secretary of state shall designate each individual included in the report as "ineligible" in the central voter file. The secretary of state shall prepare and distribute a list of individuals designated as "ineligible" to each county auditor.
2. The state court administrator shall provide for the regular reporting to the secretary of state the name, address, and date of birth, if available, of each individual eighteen years of age or older whose legal right to vote has been restored by the court since the last report. Within thirty days after receiving a report, the secretary of state shall remove the "ineligible" designation of the individual in the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.
3. The state court administrator shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older whose name was changed by divorce or any order or decree of the court since the last report. Within sixty days after receiving the report, the secretary of state shall make the name changes in the central voter file and notify by mail each individual whose name was changed that the individual's name has been changed accordingly in the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.

16.1-02-08. Reporting incarcerations - Changes to records in the central voter file.

1. The director of the department of corrections and rehabilitation shall provide for the regular reporting to the secretary of state the name, address, date of birth, date of sentence, effective date of the sentence, and county in which the conviction occurred, if available, of each individual who has been convicted of a felony and incarcerated under the legal and physical custody of the department of corrections and rehabilitation since the last report. Within thirty days after receiving a report, the secretary of state shall designate each individual in the report as "ineligible" in the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.
2. The director of the department of corrections and rehabilitation shall provide for the regular reporting to the secretary of state the name, address, and date of birth, if available, of each individual previously convicted of and incarcerated for a felony whose civil rights have been

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restored as provided in chapter 12.1-33 since the last report. Within thirty days after receiving a report, the secretary of state shall remove the "ineligible" designation of the individual in the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.

16.1-02-09. Department of transportation to report updates to the secretary of state - Changes to records in the central voter file.

1. The department of transportation shall report regularly to the secretary of state any relevant changes and updates to records maintained by the department of transportation which may require changes and updates to be made to records of individuals contained in the central voter file.
2. The county auditor may change the designation of individuals contained in the central voter file whose change of address can be confirmed by the United States postal service. The secretary of state may provide each county auditor with periodic reports on any individual whose change of address can be confirmed by the United States postal service.
3. If an individual makes a written request to the county auditor for removal of the individual's record from the central voter file, the county auditor shall change the designation of the individual contained in the central voter file to "inactive".
4. If a qualified elector makes a written request to the county auditor for inclusion in the central voter file, the county auditor shall collect the required information from the individual and add the individual's name to the central voter file with the designation of "inactive".

16.1-02-10. Posting voting history - Failure to vote - Individuals designated "inactive". Within ninety days after each election, each county auditor shall post the voting history for each individual who voted in the election. After the close of the 2008 calendar year, the secretary of state shall determine if any individual has not voted during the preceding four years and shall change the status of each such individual to "inactive" in the central voter file. The secretary of state shall prepare a report to each county auditor which contains the name of each individual who has been designated as "inactive" in the central voter file. Although not counted in an election, a late absentee ballot from an individual may not be used to designate an individual as "inactive" in the central voter file.

16.1-02-11. Secretary of state to adopt rules for the purpose of maintaining the central voter file. The secretary of state shall adopt rules and procedures according to subsection 3 of section 16.1-01-01 for the purpose of implementing this chapter and for updating and maintaining the central voter file. The rules must:

1. Provide for the establishment and maintenance of a central voter file.
2. Provide for the generation and assignment of a unique identifier to each individual contained in the central voter file.
3. Provide procedures for entering data into the central voter file.
4. Provide for any additional information to be requested of and obtained from an individual which is to be maintained in the central voter file, not already provided by law, but necessary for the proper administration of the central voter file.

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5. Provide for the exchange of records maintained by the appropriate state and county agencies and officials for receiving regular reports regarding individuals and records of individuals contained in the central voter file.
6. Allow each county auditor and the secretary of state to add, modify, and delete information from the central voter file to ensure accurate and up-to-date records.
7. Allow each county auditor and the secretary of state to have access to the central voter file for review, search, and inquiry capabilities.
8. Provide security and protection of all information contained in the central voter file and to ensure that unauthorized access and entry is prohibited.
9. Provide a system for each county to identify the precinct to which an individual should be assigned for voting purposes.

16.1-02-12. Information contained and maintained in the central voter file.
The central voter file must contain the following information for each individual included in the file:

1. The complete name of the individual.
2. The complete residential address of the individual.
3. The complete mailing address of the individual, if different from the individual's residential address.
4. The unique identifier generated and assigned to the individual.
5. A designation showing whether the individual's ability to vote in a precinct has been inactivated as a result of death, incarceration, or because of a change in guardianship status, or because the individual is no longer a resident of the precinct according to section 16.1-01-04.
6. A designation showing whether the individual must be challenged according to section 16.1-05-06.
7. The county, legislative district, precinct name, and precinct number in which the individual resides.
8. Beginning in 2008, four years of an individual's voting history, if applicable.
9. Any other information requested of and obtained from the individual deemed necessary by the secretary of state for the proper maintenance of the central voter file.

16.1-02-13. Information contained in pollbooks generated from the central voter file.
The county auditor shall generate a pollbook for each precinct in the county from the central voter file by the fifteenth day before an election. Between the fifteenth day before the election and the day of the election, no changes or updates to records of individuals contained in the central voter file or a pollbook generated from the central voter file may be made, other than changes related to the status of an individual voting early or an individual requesting and returning an absent voter's ballot. The secretary of state shall prescribe procedures for generating pollbooks and for transporting the pollbooks to the election judges for use on election day. Pollbooks generated from the central voter file must contain the following information for each individual contained therein:

1. The complete name of the individual.

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2. The complete residential address of the individual.
 3. The unique identifier generated and assigned to the individual.
 4. A designation showing whether the individual's ability to vote in a precinct has been inactivated as a result of death, incarceration, or because of a change in guardianship status, or because the individual is no longer a resident of the precinct according to section 16.1-01-04.
 5. A designation showing whether the individual must be challenged according to section 16.1-05-06.
 6. The county, legislative district, precinct name, and precinct number in which the individual resides.
 7. Any other information requested of and obtained from the individual deemed necessary by the secretary of state for the proper maintenance of the pollbook.

16.1-02-14. Voter lists and reports to be made available for jury management. By February first of each year, the secretary of state shall transmit information from the central voter file to the state court administrator for the purpose of compiling the master list of jurors under chapter 27-09.

16.1-02-15. Voter lists and reports may be made available for election related purposes - Funds received. Except as otherwise provided by law, a voter list or a report generated from the central voter file may be made available to a candidate, political party, or a political committee for election-related purposes. Any information obtained by a candidate, political party, or political committee for election-related purposes from a list or report generated from the central voter file may not be sold or distributed for a purpose that is not election-related. Except for information identified in the central voter file under subsections 1, 2, 3, 5, 7, and 8 of section 16.1-02-12, which may be made available to a candidate, political party, or political committee for election-related purposes, information in the central voter file is an exempt record. Any funds received by the secretary of state to pay the cost of producing a report or list of voters contained in the central voter file must be deposited in the secretary of state's general services operating fund.

16.1-02-16. Violations - Penalties.

1. An individual may not intentionally:
 - a. Remove an individual from the central voter file or change a record of an individual contained in the central voter file in a manner or for a purpose not authorized by law; or
 - b. Add a name of an individual to the central voter file or add a record of an individual contained in the central voter file in a manner or for a purpose not authorized by law.
2. A deputy, clerk, employee, or other subordinate of a county auditor who has knowledge or reason to believe that a violation of this chapter has occurred shall immediately transmit a report of the knowledge or belief to the county auditor, together with any evidence of the violation. A county auditor who has knowledge or reason to believe that a violation of this chapter has occurred shall immediately transmit a report of the knowledge or belief to the state's attorney of the county where the violation is believed to have occurred, together with any evidence of the violation. The county auditor shall also immediately send a copy of the report to the secretary of state.

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3. An individual who intentionally violates any provision of this chapter is guilty of a class A misdemeanor, unless a different penalty is specifically provided by law.

SECTION 3. AMENDMENT. Section 16.1-05-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-05-06. Challenging right of person to vote - Identification or affidavit required - Penalty for false swearing - Optional poll checkers.

1. One poll challenger appointed by the district chairman of each political party represented on the election board is entitled to be in attendance at each polling place. Individual poll challengers may be replaced at any time during the hours of voting, but no more than one poll challenger from each political party is entitled to be in attendance at each polling place at any one time.
2. ~~The members~~ Any member of the election board and poll challengers may challenge the right of ~~anyone~~ an individual to vote ~~whom they know or have if the election board member has knowledge or has reason to believe the individual is not a qualified elector.~~ Members A poll challenger may request members of the election board or poll challengers may to challenge a voter if they know or have the right of an individual to vote if the poll challenger has knowledge or has reason to believe the individual is not a qualified elector of the precinct. A challenge may be based upon any one of the following:
 - a. The ~~person~~ individual offering to vote does not meet the age or citizenship requirements.
 - b. The ~~person~~ individual offering to vote has never voted in the precinct before, the name of the individual offering to vote does not appear in the pollbook generated from the central voter file, and the individual fails to provide reasonable evidence of residency in the precinct.
 - c. Except as provided in section 16.1-01-05, the ~~person~~ individual offering to vote physically resides outside of the precinct.
 - d. The ~~person~~ individual offering to vote does not meet the residency requirements provided in section ~~16.1-01-05~~ 16.1-01-04.
3. ~~A poll challenger or If after an election board member may request has requested that the person individual offering to vote provide an appropriate form of identification to address any of the voting eligibility concerns listed in subsection 2. If and the identification provided does not adequately resolve confirm the voter eligibility concerns of the poll challenger or election board member of the challenged individual, the challenged person individual may not vote unless the challenged person individual executes an affidavit, acknowledged before the election inspector, that the challenged person individual is a legally qualified elector of the precinct.~~
4. The affidavit must include:
 - a. The name and present address of the affiant and the address of the affiant at the time the affiant last voted.
 - b. The previous last name of the affiant if it was different when the affiant last voted.

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- c. A recitation of the qualifications for voting as set forth in section 16.1-01-04 and the rules for determining residence.
 - d. Notice of the penalty for making a false affidavit and that the county auditor may verify the affidavit.
 - e. A place for the affiant to sign and swear to the affiant's qualifications as a voter.
5. Written notice of the penalty for making a false affidavit and that the county auditor may verify the affidavits must also be prominently displayed at the polling place in a form prescribed by the secretary of state. ~~Any person~~ An individual who falsely swears in order to vote is guilty of a class A misdemeanor and must be punished pursuant to chapter 16.1-01.
6. ~~The county auditor shall verify randomly at least ten percent of the affidavits signed in the county and shall report all known or suspected violations to the state's attorney for investigation and possible prosecution.~~
7. In addition to the poll challenger, not more than two poll checkers appointed by the district chairman of each political party represented on the election board may be in attendance at each polling place, provided ~~such~~ the poll checkers do not interfere with the election process or with the members of the election board in the performance of their duties. The poll challengers and poll checkers must be qualified electors of the district in which they are assigned.
8. 7. No poll challenger or checker may be a member of the election board.
8. The district chairman shall notify the county auditor of each county contained in the legislative district before the third day before the day of the election of the names of individuals whom the district chairman has appointed to serve as poll challengers and poll checkers in the precincts in the legislative district.

SECTION 4. A new section to chapter 16.1-05 of the North Dakota Century Code is created and enacted as follows:

Poll clerks to check identification and verify eligibility - Poll clerks to request, correct, and update incorrect information contained in the pollbook.

- 1. Before delivering a ballot to an individual according to section 16.1-13-22, the poll clerks shall request the individual to show a driver's license issued by the state, another form of identification displaying a photograph of the individual and the individual's date of birth, or another appropriate form of identification prescribed by the secretary of state which displays the individual's date of birth. After verifying that the individual's name is contained in the pollbook generated from the central voter file, poll clerks shall verify the individual's residential address and mailing address, if different from the individual's residential address.
- 2. If the individual's name is not contained in the pollbook generated from the central voter file, the individual may be challenged according to section 16.1-05-06 and the individual's name must be recorded in the pollbook. The poll clerks shall request and obtain any additional information for the individual required to be included in the pollbook.
- 3. When verifying an individual's eligibility or when entering the name of an individual into the pollbook, poll clerks shall request, correct, and update

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any incorrect or incomplete information about an individual that is required to be contained in the pollbook generated from the central voter file.

4. Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct to the proper precinct and voting location.

SECTION 5. A new section to chapter 16.1-05 of the North Dakota Century Code is created and enacted as follows:

County auditor to provide election board members with precinct maps or precinct finder. The county auditor shall provide each precinct election board with an accurate precinct map or precinct finder to assist the election board member in determining whether an address is located in that precinct and for determining which precinct and polling location to which to direct an individual who may be attempting to vote incorrectly in that precinct.

SECTION 6. AMENDMENT. Section 54-09-08 of the North Dakota Century Code is amended and reenacted as follows:

54-09-08. Secretary of state's general services operating fund. The secretary of state's general services operating fund is a special fund in the state treasury. Moneys in the fund are to be used pursuant to legislative appropriations for the provision of services under section 16.1-02-15, subsection 6 of section 41-09-94, subsection 9 of section 54-09-04, and sections 54-09-10 and 54-09-11. At the close of each fiscal year, the secretary of state shall transfer any unobligated balance remaining in the fund exceeding seventy-five thousand dollars to the general fund."

Renumber accordingly

Date: 2/13/03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2394

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38365.0101 Title .0200

Action Taken amendments

Motion Made By Nelson Seconded By Fairfield

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	<input checked="" type="checkbox"/>		Senator April Fairfield	<input checked="" type="checkbox"/>	
Senator Dick Dever, Vice Chr.	<input checked="" type="checkbox"/>		Senator Carolyn Nelson	<input checked="" type="checkbox"/>	
Senator Richard Brown	<input checked="" type="checkbox"/>				
Senator Rich Wardner	<input checked="" type="checkbox"/>				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

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Deanna Waller
Operator's Signature

10/22/03
Date

Date: 2/13/03
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2394

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38365.0101 Title .0200

Action Taken DO Pass as amended

Motion Made By Brown Seconded By Wardner

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) 6 No 0

Absent 0

Floor Assignment Krebsbach

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

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Hallmark
Operator's Signature

10/22/03
Date

REPORT OF STANDING COMMITTEE (410)
February 14, 2003 1:45 p.m.

Module No: SR-29-2790
Carrier: Krebbsbach
Insert LC: 38365.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2394: Government and Veterans Affairs Committee (Sen. Krebbsbach, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2394 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 create and enact chapter 16.1-02 and two new sections to chapter 16.1-05 of the North Dakota Century Code, relating to providing a central voter file, verifying voter eligibility, and creating precinct maps and precinct locators; to amend and reenact sections 16.1-01-04, 16.1-05-06, and 54-09-08 of the North Dakota Century Code, relating to qualifications of voters, challenging voters, and fees received by the secretary of state; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-01-04 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-04. Qualifications of electors.

1. Every citizen of the United States who is: eighteen years or older; a resident of this state; and has resided in the precinct at least thirty days next preceding any election, except as otherwise provided in regard to residency in chapter 16.1-14, is a qualified elector.
2. Every For the purposes of this title, every qualified elector of the state may have only one voting residence, shown by an actual fixed permanent dwelling or establishment.
3. A person's voting Except as otherwise provided in this section, an individual's residence must be determined in accordance with the rules for determining residency as provided in section 54-01-26.
4. Pursuant to section 2 of article II of the Constitution of North Dakota, voting by persons individuals convicted and sentenced for treason or felony must be limited according to chapter 12.1-33.
5. For the purposes of this title, an individual may not be deemed to have gained or lost a residence solely by reason of the individual's presence or absence while enrolled as a student at a college, university, or other postsecondary institution of learning in this state.
6. For the purposes of this title, a member of the armed forces of the United States may not be deemed to have gained or lost a residence in this state solely by reason of the member being stationed on duty in this state.
7. For the purposes of this title, an individual may not be deemed to have lost residence in the individual's precinct or in the state by reason of the individual engaging in temporary government service or private employment outside the individual's precinct or outside the state.

SECTION 2. Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

16.1-02-01. Permanent central voter file. A permanent, centralized electronic data base of voters, to be known as the central voter file, is established with the offices

of the secretary of state and county auditors linked together by a centralized statewide system. The county auditor is chief custodian of the central voter file records in each county. The secretary of state is responsible for maintaining the central voter file. The central voter file must be accessible by the secretary of state and all county auditors for purposes of preventing and determining voter fraud, making changes and updating the central voter file, and generating information, including pollbooks, reports, inquiries, forms, and voter lists.

16.1-02-02. Costs of creating and maintaining a central voter file. The creation of the central voter file and its maintenance through June 30, 2009, must be paid for with funds from the state's election fund, provided the election fund contains adequate funding to create and maintain the central voter file. The creation of the central voter file and its maintenance through June 30, 2009, may not be paid for from funds in the secretary of state's budget, the state's general fund, or from county funds. Beginning July 1, 2009, the office required to perform the functions and duties of this chapter shall bear the costs incurred and the secretary of state shall pay the costs of operating and maintaining the central voter file.

16.1-02-03. Secretary of state to establish the central voter file with department of transportation and county auditors.

1. Before the primary election in 2004, the secretary of state shall establish the central voter file in cooperation with the department of transportation and county auditors.
2. The secretary of state shall establish the initial central voter file from records maintained by the department of transportation. Each county auditor shall compare the initial central voter file against all precinct pollbooks used in the auditor's county during and created from the general elections in 2000 and 2002 and any reasonably reliable updates made by the county auditor since the general elections in 2000 and 2002. Any individual contained in the initial central voter file who voted at either the general election in 2000 or 2002 must be designated as "active" in the initial central voter file. Any individual contained in the initial central voter file who did not vote at either the general election in 2000 or 2002 must be designated as "inactive" in the initial central voter file.
3. Each individual contained in the initial central voter file must be assigned a unique identifier. An individual's unique identifier must be created from unique information and data obtained from records maintained by the department of transportation and the pollbooks from the general elections in 2000 and 2002. If it is not possible to assign a unique identifier to an individual contained in the initial central voter file, a unique identifier must be randomly generated and assigned to the individual.
4. The secretary of state shall adopt rules for generating and assigning a unique identifier to each individual contained in the central voter file according to section 16.1-02-11 and subsection 3 of section 16.1-01-01.
5. When establishing the initial central voter file from the records maintained by the department of transportation and the pollbooks from the general elections in 2000 and 2002, the secretary of state and county auditors shall attempt to correct address errors and misspellings of names.

16.1-02-04. Precinct boundaries changed - Change to the central voter file. When the boundaries of a precinct are changed, the county auditor shall immediately

update the voter records for that precinct in the central voter file to accurately reflect those changes.

16.1-02-05. Entry of new voters into the central voter file - Query of the central voter file for double voting - Verification by mail - Challenges - Post election verification.

1. Within sixty days following an election, the county auditor shall enter the name and required information of each individual who voted at the last election who is not already contained in the central voter file and update any required information requested and obtained at the last election for any individual contained in the central voter file.
2. The secretary of state, with the assistance of the county auditors, within seventy days following an election, shall query the central voter file to determine if any individual voted more than once during the preceding election. The secretary of state shall immediately notify the county auditor and state's attorney in each affected county for further investigation.
3. The county auditor shall mail to a random sampling of individuals contained in the central voter file a notice stating the individual's name and address as the name and address appear in the central voter file. The random sampling must be determined in the manner established by the secretary of state. The notice must request the individual to notify the county auditor if there is any mistake in the information.
4. Upon return of any nonforwardable mail from an election official, the county auditor shall ascertain the name and address of that individual. If the individual is no longer at the address recorded in the central voter file, the county auditor shall designate the individual as "challenged" in the central voter file. An individual designated as "challenged" shall comply with section 16.1-05-06 before being allowed to vote at the next election in that precinct. If a notice mailed at least sixty days after the return of the first nonforwardable mail is also returned by the postal service, the county auditor shall designate the individual as "inactive" in the central voter file.
5. Within ninety days after an election, the county auditor shall send the notice provided for under subsection 3 to each individual who was challenged on election day according to section 16.1-05-06. If a notice is returned as not deliverable, the county auditor shall attempt to determine the reason for the return. A county auditor who does not receive or obtain satisfactory proof of an individual's eligibility to vote shall immediately notify the state's attorney to conduct an investigation of the individual's eligibility to vote in that election.

16.1-02-06. Reporting deceased individuals and changes of names - Changes to records in the central voter file.

1. The state health officer shall provide for the regular reporting to the secretary of state the name, city, date of birth, and county of residence, if available, of each individual eighteen years of age or older who has died while maintaining residence in this state since the last report. Within thirty days after receiving a report, the secretary of state shall designate each individual included in the report as "deceased" in the central voter file. The secretary of state shall prepare and distribute a list of individuals designated as "deceased" to each county auditor.

2. The state health officer shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older whose name was changed by marriage since the last report. Within sixty days after receiving a report, the secretary of state shall make the name changes in the central voter file and notify by mail each individual whose name was changed that the individual's name has been changed accordingly in the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.
3. After receiving notice of death of an individual who has died outside the county, the county auditor shall designate that individual as "deceased" in the central voter file. Notice must be in the form of a printed obituary or a written statement signed by an individual having knowledge of the death of the individual.

16.1-02-07. Reporting individuals placed under guardianship and changes of names - Changes to records in the central voter file.

1. The state court administrator shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older who has been placed under a guardianship and as a result has been deprived of the legal right to vote since the last report. Within thirty days after receiving a report, the secretary of state shall designate each individual included in the report as "ineligible" in the central voter file. The secretary of state shall prepare and distribute a list of individuals designated as "ineligible" to each county auditor.
2. The state court administrator shall provide for the regular reporting to the secretary of state the name, address, and date of birth, if available, of each individual eighteen years of age or older whose legal right to vote has been restored by the court since the last report. Within thirty days after receiving a report, the secretary of state shall remove the "ineligible" designation of the individual in the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.
3. The state court administrator shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older whose name was changed by divorce or any order or decree of the court since the last report. Within sixty days after receiving the report, the secretary of state shall make the name changes in the central voter file and notify by mail each individual whose name was changed that the individual's name has been changed accordingly in the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.

16.1-02-08. Reporting incarcerations - Changes to records in the central voter file.

1. The director of the department of corrections and rehabilitation shall provide for the regular reporting to the secretary of state the name, address, date of birth, date of sentence, effective date of the sentence, and county in which the conviction occurred, if available, of each individual who has been convicted of a felony and incarcerated under the legal and

physical custody of the department of corrections and rehabilitation since the last report. Within thirty days after receiving a report, the secretary of state shall designate each individual in the report as "ineligible" in the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.

2. The director of the department of corrections and rehabilitation shall provide for the regular reporting to the secretary of state the name, address, and date of birth, if available, of each individual previously convicted of and incarcerated for a felony whose civil rights have been restored as provided in chapter 12.1-33 since the last report. Within thirty days after receiving a report, the secretary of state shall remove the "ineligible" designation of the individual in the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.

16.1-02-09. Department of transportation to report updates to the secretary of state - Changes to records in the central voter file.

1. The department of transportation shall report regularly to the secretary of state any relevant changes and updates to records maintained by the department of transportation which may require changes and updates to be made to records of individuals contained in the central voter file.
2. The county auditor may change the designation of individuals contained in the central voter file whose change of address can be confirmed by the United States postal service. The secretary of state may provide each county auditor with periodic reports on any individual whose change of address can be confirmed by the United States postal service.
3. If an individual makes a written request to the county auditor for removal of the individual's record from the central voter file, the county auditor shall change the designation of the individual contained in the central voter file to "inactive".
4. If a qualified elector makes a written request to the county auditor for inclusion in the central voter file, the county auditor shall collect the required information from the individual and add the individual's name to the central voter file with the designation of "inactive".

16.1-02-10. Posting voting history - Failure to vote - Individuals designated "inactive". Within ninety days after each election, each county auditor shall post the voting history for each individual who voted in the election. After the close of the 2008 calendar year, the secretary of state shall determine if any individual has not voted during the preceding four years and shall change the status of each such individual to "inactive" in the central voter file. The secretary of state shall prepare a report to each county auditor which contains the name of each individual who has been designated as "inactive" in the central voter file. Although not counted in an election, a late absentee ballot from an individual may not be used to designate an individual as "inactive" in the central voter file.

16.1-02-11. Secretary of state to adopt rules for the purpose of maintaining the central voter file. The secretary of state shall adopt rules and procedures according to subsection 3 of section 16.1-01-01 for the purpose of implementing this chapter and for updating and maintaining the central voter file. The rules must:

1. Provide for the establishment and maintenance of a central voter file.

2. Provide for the generation and assignment of a unique identifier to each individual contained in the central voter file.
3. Provide procedures for entering data into the central voter file.
4. Provide for any additional information to be requested of and obtained from an individual which is to be maintained in the central voter file, not already provided by law, but necessary for the proper administration of the central voter file.
5. Provide for the exchange of records maintained by the appropriate state and county agencies and officials for receiving regular reports regarding individuals and records of individuals contained in the central voter file.
6. Allow each county auditor and the secretary of state to add, modify, and delete information from the central voter file to ensure accurate and up-to-date records.
7. Allow each county auditor and the secretary of state to have access to the central voter file for review, search, and inquiry capabilities.
8. Provide security and protection of all information contained in the central voter file and to ensure that unauthorized access and entry is prohibited.
9. Provide a system for each county to identify the precinct to which an individual should be assigned for voting purposes.

16.1-02-12. Information contained and maintained in the central voter file. The central voter file must contain the following information for each individual included in the file:

1. The complete name of the individual.
2. The complete residential address of the individual.
3. The complete mailing address of the individual, if different from the individual's residential address.
4. The unique identifier generated and assigned to the individual.
5. A designation showing whether the individual's ability to vote in a precinct has been inactivated as a result of death, incarceration, or because of a change in guardianship status, or because the individual is no longer a resident of the precinct according to section 16.1-01-04.
6. A designation showing whether the individual must be challenged according to section 16.1-05-06.
7. The county, legislative district, precinct name, and precinct number in which the individual resides.
8. Beginning in 2008, four years of an individual's voting history, if applicable.
9. Any other information requested of and obtained from the individual deemed necessary by the secretary of state for the proper maintenance of the central voter file.

16.1-02-13. Information contained in pollbooks generated from the central voter file. The county auditor shall generate a pollbook for each precinct in the county from the central voter file by the fifteenth day before an election. Between the fifteenth day before the election and the day of the election, no changes or updates to records of individuals contained in the central voter file or a pollbook generated from the central voter file may be made, other than changes related to the status of an individual voting early or an individual requesting and returning an absent voter's ballot. The secretary of state shall prescribe procedures for generating pollbooks and for transporting the pollbooks to the election judges for use on election day. Pollbooks generated from the central voter file must contain the following information for each individual contained therein:

1. The complete name of the individual.
2. The complete residential address of the individual.
3. The unique identifier generated and assigned to the individual.
4. A designation showing whether the individual's ability to vote in a precinct has been inactivated as a result of death, incarceration, or because of a change in guardianship status, or because the individual is no longer a resident of the precinct according to section 16.1-01-04.
5. A designation showing whether the individual must be challenged according to section 16.1-05-06.
6. The county, legislative district, precinct name, and precinct number in which the individual resides.
7. Any other information requested of and obtained from the individual deemed necessary by the secretary of state for the proper maintenance of the pollbook.

16.1-02-14. Voter lists and reports to be made available for jury management. By February first of each year, the secretary of state shall transmit information from the central voter file to the state court administrator for the purpose of compiling the master list of jurors under chapter 27-09.

16.1-02-15. Voter lists and reports may be made available for election related purposes - Funds received. Except as otherwise provided by law, a voter list or a report generated from the central voter file may be made available to a candidate, political party, or a political committee for election-related purposes. Any information obtained by a candidate, political party, or political committee for election-related purposes from a list or report generated from the central voter file may not be sold or distributed for a purpose that is not election-related. Except for information identified in the central voter file under subsections 1, 2, 3, 5, 7, and 8 of section 16.1-02-12, which may be made available to a candidate, political party, or political committee for election-related purposes, information in the central voter file is an exempt record. Any funds received by the secretary of state to pay the cost of producing a report or list of voters contained in the central voter file must be deposited in the secretary of state's general services operating fund.

16.1-02-16. Violations - Penalties.

1. An individual may not intentionally:

- a. Remove an individual from the central voter file or change a record of an individual contained in the central voter file in a manner or for a purpose not authorized by law; or
- b. Add a name of an individual to the central voter file or add a record of an individual contained in the central voter file in a manner or for a purpose not authorized by law.
2. A deputy, clerk, employee, or other subordinate of a county auditor who has knowledge or reason to believe that a violation of this chapter has occurred shall immediately transmit a report of the knowledge or belief to the county auditor, together with any evidence of the violation. A county auditor who has knowledge or reason to believe that a violation of this chapter has occurred shall immediately transmit a report of the knowledge or belief to the state's attorney of the county where the violation is believed to have occurred, together with any evidence of the violation. The county auditor shall also immediately send a copy of the report to the secretary of state.
3. An individual who intentionally violates any provision of this chapter is guilty of a class A misdemeanor, unless a different penalty is specifically provided by law.

SECTION 3. AMENDMENT. Section 16.1-05-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-05-06. Challenging right of person to vote - Identification or affidavit required - Penalty for false swearing - Optional poll checkers.

1. One poll challenger appointed by the district chairman of each political party represented on the election board is entitled to be in attendance at each polling place. Individual poll challengers may be replaced at any time during the hours of voting, but no more than one poll challenger from each political party is entitled to be in attendance at each polling place at any one time.
2. ~~The members~~ Any member of the election board and poll challengers may challenge the right of any person individual to vote whom they know or have if the election board member has knowledge or has reason to believe the individual is not a qualified elector. Members A poll challenger may request members of the election board or poll challengers may to challenge a voter if they know or have the right of an individual to vote if the poll challenger has knowledge or has reason to believe the individual is not a qualified elector of the precinct. A challenge may be based upon any one of the following:
 - a. The person individual offering to vote does not meet the age or citizenship requirements.
 - b. The person individual offering to vote has never voted in the precinct before, the name of the individual offering to vote does not appear in the pollbook generated from the central voter file, and the individual fails to provide reasonable evidence of residency in the precinct.
 - c. Except as provided in section 16.1-01-05, the person individual offering to vote physically resides outside of the precinct.

- d. The ~~person~~ individual offering to vote does not meet the residency requirements provided in section ~~16.1-01-05~~ 16.1-01-04.
3. ~~A poll challenger or if after an election board member may request has requested that the person~~ individual offering to vote provide an appropriate form of identification to address any of the voting eligibility concerns listed in subsection 2. ~~If and the identification provided does not adequately resolve confirm the voter eligibility concerns of the poll challenger or election board member of the challenged individual, the challenged person~~ individual may not vote unless the challenged ~~person~~ individual executes an affidavit, acknowledged before the election inspector, that the challenged ~~person~~ individual is a legally qualified elector of the precinct.
4. The affidavit must include:
- a. The name and present address of the affiant and the address of the affiant at the time the affiant last voted.
 - b. The previous last name of the affiant if it was different when the affiant last voted.
 - c. A recitation of the qualifications for voting as set forth in section 16.1-01-04 and the rules for determining residence.
 - d. Notice of the penalty for making a false affidavit and that the county auditor may verify the affidavit.
 - e. A place for the affiant to sign and swear to the affiant's qualifications as a voter.
5. Written notice of the penalty for making a false affidavit and that the county auditor may verify the affidavits must also be prominently displayed at the polling place in a form prescribed by the secretary of state. ~~Any person~~ An individual who falsely swears in order to vote is guilty of a class A misdemeanor and must be punished pursuant to chapter 16.1-01.
6. ~~The county auditor shall verify randomly at least ten percent of the affidavits signed in the county and shall report all known or suspected violations to the state's attorney for investigation and possible prosecution.~~
7. In addition to the poll challenger, not more than two poll checkers appointed by the district chairman of each political party represented on the election board may be in attendance at each polling place, provided ~~such~~ the poll checkers do not interfere with the election process or with the members of the election board in the performance of their duties. The poll challengers and poll checkers must be qualified electors of the district in which they are assigned.
8. Z. No poll challenger or checker may be a member of the election board.
8. The district chairman shall notify the county auditor of each county contained in the legislative district before the third day before the day of the election of the names of individuals whom the district chairman has appointed to serve as poll challengers and poll checkers in the precincts in the legislative district.

SECTION 4. A new section to chapter 16.1-05 of the North Dakota Century Code is created and enacted as follows:

Poll clerks to check identification and verify eligibility - Poll clerks to request, correct, and update incorrect information contained in the pollbook.

1. Before delivering a ballot to an individual according to section 16.1-13-22, the poll clerks shall request the individual to show a driver's license issued by the state, another form of identification displaying a photograph of the individual and the individual's date of birth, or another appropriate form of identification prescribed by the secretary of state which displays the individual's date of birth. After verifying that the individual's name is contained in the pollbook generated from the central voter file, poll clerks shall verify the individual's residential address and mailing address. If different from the individual's residential address.
2. If the individual's name is not contained in the pollbook generated from the central voter file, the individual may be challenged according to section 16.1-05-06 and the individual's name must be recorded in the pollbook. The poll clerks shall request and obtain any additional information for the individual required to be included in the pollbook.
3. When verifying an individual's eligibility or when entering the name of an individual into the pollbook, poll clerks shall request, correct, and update any incorrect or incomplete information about an individual that is required to be contained in the pollbook generated from the central voter file.
4. Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct to the proper precinct and voting location.

SECTION 5. A new section to chapter 16.1-05 of the North Dakota Century Code is created and enacted as follows:

County auditor to provide election board members with precinct maps or precinct finder. The county auditor shall provide each precinct election board with an accurate precinct map or precinct finder to assist the election board member in determining whether an address is located in that precinct and for determining which precinct and polling location to which to direct an individual who may be attempting to vote incorrectly in that precinct.

SECTION 6. AMENDMENT. Section 54-09-08 of the North Dakota Century Code is amended and reenacted as follows:

54-09-08. Secretary of state's general services operating fund. The secretary of state's general services operating fund is a special fund in the state treasury. Moneys in the fund are to be used pursuant to legislative appropriations for the provision of services under section 16.1-02-15, subsection 6 of section 41-09-94, subsection 9 of section 54-09-04, and sections 54-09-10 and 54-09-11. At the close of each fiscal year, the secretary of state shall transfer any unobligated balance remaining in the fund exceeding seventy-five thousand dollars to the general fund."

Renumber accordingly

2003 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2394

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Deanna Waller
Operator's Signature

10/22/03

Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2394

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 3-20-03

Tape Number	Side A	Side B	Meter #
1		x	20.7-end
2	x		0-38.1
3	x		3.0-20.7
3	x		27.4-end
3		x	0-9.6
Committee Clerk Signature <i>Opdy Renick</i>			

Minutes: Chairman Klein: called the hearing to order on SB 2394. All committee members were present.

Cory Fong, Deputy Secretary of State: appeared in support of SB 2394 and supplied amendments **(SEE ATTACHED TESTIMONY)**.

Representative Klein: on page 1, section 1, on line 18, what basically are the residence requirements?

Cory Fong: it says that you can only have one residence.

Representative Klein: will this address the problem we have with people that move into town and vote in the rural areas, and 10 years later they are still voting in that rural area?

Cory Fong: one area that I'm gong to point you to is line 16 on page 1, where it talks about 1 voting residence, and now we added as shown by a physical dwelling or establishment.

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10/22/03
Date

Page 2
House Government and Veterans Affairs Committee
Bill/Resolution Number SB 2394
Hearing Date 3-20-03

Representative Kasper: page 10 lines 3 and 4, where you state that the Secretary of State can obtain additional information that he or she deems proper, thats a pretty broad statement.

Ken Yantes, North Dakota Township Officers Association: appeared in support of SB 2394

Many of our people still own land that in what was their township for many years, and have not voted elsewhere just to keep their voting rights in the township, this violates the long time principle of residency as a voting requirement or at least puts it in a gray area.

Representative Klemin: can you give me an example of an establishment that is not a dwelling?

Ken Yantes: I don't think I can give you an exact description of what your asking for.

Ted Gladden, North Dakota Supreme Court: appeared in support of SB 2394 and provided a written statement (SEE ATTACHED TESTIMONY). The North Dakota judiciary through its district court use 2 source lists and a preparation of the mastery jury list that is prepared in each county by March 1, in each odd number of year, these 2 lists are the licensed drivers of North Dakota, and people who voted in the most recent general election. In most counties we must go through and manually extract the names of people who voted in the last general election and compare it the list of licensed drivers to see if they already had a chance to be selected for jury duty by being picked from the drivers list. This bill will simplify the creation of the master jury list. We will be able to prepare names electronically. This bill will assist the Judiciary and providing a accurate list of names in a more timely fashion.

Mervyn Packineau, Vice Chairman, Three Affiliated Tribes: appeared in opposition of SB 2394 and provided a written statement (SEE ATTACHED TESTIMONY).

Jennifer Ring, Executive Director of the ACLU of North Dakota: appeared in opposition of SB 2394. Our objection to the bill focuses on the fact that it is likely to be regressive in terms to the

Page 3
House Government and Veterans Affairs Committee
Bill/Resolution Number SB 2394
Hearing Date 3-20-03

voting rights act, and it will impact the Native American community in North Dakota more than it impacts the white community there for it will discourage Native American voting at a time when the Native American community is making strides to vote in greater numbers and obtain political power and participation in the system.

Phyllis Howard Tribal member, Three Affiliated Tribes: appeared in opposition of SB 2394 and provided a statement (SEE ATTACHED TESTIMONY).

Representative Haas: do all the residents of the reservation have a tribal I.D.?

Phyllis Howard: no, they are optional, not everyone does.

Tom Disselhorst, Attorney, Three Affiliated Tribes: appeared in opposition of SB 2394.

Carol Two Eagles: appeared in opposition of SB 2394.

Representative Grande: moved the Secretary of States AMENDMENTS as presented.

Representative Meier: SECOND the Secretary of States amendments.

All in favor 1-ABSENT (WINRICH).

Representative Klemm: moved to (2nd) AMEND page 13 line 23 (remove date of birth).

Representative Kasper: SECOND the motion to amend SB 2394.

All in favor 1-ABSENT (WINRICH).

Representative Devlin: moved to (3rd) AMEND page 1 line 16 (put a period after residence and take out underlined language (delete new language), according to Attorney Generals office).

Representative Potter: SECOND the motion to amend SB 2394.

VOTE on DEVLIN AMENDMENT: 5-YES 9-NO 0-ABSENT.

Motion failed to DEVLIN amendment.

Page 4
House Government and Veterans Affairs Committee
Bill/Resolution Number SB 2394
Hearing Date 3-20-03

Representative Klemin: moved to (4th) **AMEND** SB 2394 (line 16 page 1) (Delete word "or")
then on line 17, after establishment insert "abode".

Representative Haas: **SECOND** the motion on the 3rd amendment.

VOTE: 12-YES 2-NO 0-ABSENT.

Motion carried to amend SB 2394.

Representative Klemin: moved to (5th) **AMEND** page 9, line 11, and page 10, line 4, (replace
word "maintenance" with "administration" and change maintenance to administration).

All in favor (passed).

Representative Haas: made a **DO PASS AS AMENDED** by Klemin and Grande

VOTE: 9-YES 5-NO 0-ABSENT.

Representative Klein: will carry the bill to the floor.

Meeting adjourned.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2394

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 3-24-03

Tape Number	Side A	Side B	Meter #
1	x		0-10.1
Committee Clerk Signature <i>Joseph Reicke</i>			

Minutes: Chairman Klein: lets take up SB 2394. 13 committee members were present 1 absent (TIEMAN).

Representative Devlin: I would request to DIVIDE the ACTION (MINORITY REPORT).

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10/22/03

Date

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2394

- Page 2, line 27, replace "office" with "offices"
- Page 2, line 28, after "incurred" insert "in performing those duties"
- Page 3, line 1, replace "Before the" with "No later than the" and replace "2004" with "2006"
- Page 3, line 7, replace "2000 and 2002" with "the previous two election years"
- Page 3, line 9, replace "2000 and 2002" with "the previous two election years"
- Page 3, line 10, replace "2000 and 2002" with "the previous two election years"
- Page 3, line 12, replace "2000 and 2002" with "the previous two election years"
- Page 3, line 17, replace "2000 and 2002" with "the previous two election years"
- Page 3, line 24, replace "2000" with "the previous two election years"
- Page 3, line 25, remove "and 2002"
- Page 5, line 6, replace "city" with "address"
- Page 9, line 7, after the second comma, insert "city or township, school district, county commissioner district, if applicable"
- Page 9, after line 24, insert "3. The complete mailing address of the individual, if different from the individual's residential address."
- Page 9, line 26, remove lines 26 through 29.
- Page 10, line 1, after the second comma, insert "city or township, school district, county commissioner district, if applicable"
- Page 10, line 31, after the comma insert "except when the suspected violation may have been committed by the county auditor, in which case the report must be immediately transmitted to the state's attorney."
- Page 12, after line 4, insert "e. The individual offering to vote fails or refuses to provide an appropriate form of identification as requested under subsection 3."
- Page 12, line 8, after "identification" insert "is not" and after "provided" insert "or"
- Page 13, line 23, after the period insert "If an individual offering to vote fails or refuses to show an appropriate form of identification, the individual may be allowed to vote without being challenged according to section 16.1-05-06 by providing the election board with the individual's date of birth and provided a member of the election board or a clerk knows the individual and can personally vouch that the individual is a qualified elector of the precinct."

Renumber accordingly

Page 1

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10/22/03
Date

Roll Call Vote #:

Date:

3-20-03

18th Amendment2003 HOUSE STANDING COMMITTEE ROLL CALL VOTE
SENATE BILL/RESOLUTION NO. 2394House GOVERNMENT AND VETERANS AFFAIRS Committee☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

More Amendments

Motion Made By

Rep. Grande

Seconded By

Rep. 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. Klemm					
L. Meier					
M. Sitte					
W.W. Tieman					
R.H. Wikenheiser					

Total (Yes)

13

No

0

Absent

(1)Rep. Winrich

Floor Assignment _____

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

As provided by Secretary of State.

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Operator's Signature

Deanna Walling

Date

10/22/03

Roll Call Vote #: 2nd amendment Date: 3-20-03
2003 HOUSE STANDING COMMITTEE ROLL CALL VOTE
SENATE BILL/RESOLUTION NO. SB 2394

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Move to amendment pag 13/line 23

Motion Made By

Rep. Klemin

Seconded By

Rep. Kasper

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)

13

No

0

Absent

(1)

Rep. Winrich

Floor Assignment _____

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

Remove date of birth.

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Operator's Signature

Deanna Hallmark

Date

10/22/03

Roll Call Vote #: 3-20-03
3rd amendment
2394

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTE
SENATE BILL/RESOLUTION NO.

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Move to Amend page 1 line 16

Motion Made By

Rep Devlin

Seconded By

Rep Potter

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

Total (Yes)

5

No

9

Absent

motion failed

Floor Assignment

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

Put a period after residence and take out
under lined language

(According to Atty. General's office)

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Operator's Signature

Deanna Waller

Date

10/22/03

Roll Call Vote #: 4th amendment Date: 3-20-03
2003 HOUSE STANDING COMMITTEE ROLL CALL VOTE
SENATE BILL/RESOLUTION NO. 2394

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Motion to Amend Line 16 page 1 (orabode)

Motion Made By

Rep. Klein

Seconded By

Rep. Haas

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

Total (Yes) 12 No 2

Absent _____

Floor Assignment _____

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

delete word (or)
line 17 after establishment insert (abode)

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Operator's Signature

Deanna Waller

10/22/03

Date

Roll Call Vote #: 5th amendment
Date: 3-20-03
2003 HOUSE STANDING COMMITTEE ROLL CALL VOTE
SENATE BILL/RESOLUTION NO. 2394

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Move to Amend page 9 line 11 - page 10 line 4

Motion Made By Rep. Klemin Seconded By Rep. 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			L. Winrich		
J. Kasper					
L.R. Klemin					
L. Meier					
M. Sitte					
W.W. Tieman					
R.H. Wikenheiser					

Total (Yes) 14 No 0

Absent all in favor (passed)

Floor Assignment _____

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

Replace word "maintenance" with administration
change maintenance to administration.

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Deanna Waller
Operator's Signature

10/22/03
Date

38365.0201
Title.0300

Adopted by the Government and Veterans
Affairs Committee
March 21, 2003

VR
3/24/03
102

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2394

Page 1, line 16, replace "or" with an underscored comma

Page 1, line 17, after "establishment" insert ", or any other abode"

Page 2, line 27, replace "office" with "offices"

Page 2, line 28, after "incurred" insert "In performing those duties"

Page 3, line 1, replace "Before" with "Not later than" and replace "2004" with "2006"

Page 3, line 7, replace "2000 and 2002" with "the two previous election years"

Page 3, line 9, replace "2000 and 2002" with "the two previous election years"

Page 3, line 10, replace "2000 and 2002" with "the two previous election years"

Page 3, line 12, replace "2000 and 2002" with "the two previous election years"

Page 3, line 17, replace "2000 and 2002" with "the two previous election years"

Page 3, line 24, replace "2000" with "the two previous election years"

Page 3, line 25, remove "and 2002"

Page 5, line 6, replace "city" with "address"

Page 9, line 7, after the second underscored comma insert "city or township, school district,
county commissioner district, if applicable."

Page 9, line 11, replace "maintenance" with "administration"

Page 9, after line 24, insert:

"3. The complete mailing address of the individual, if different from the
individual's residential address."

Page 9, line 25, replace "3." with "4."

Page 9, remove lines 26 through 29

Page 10, line 1, after the second underscored comma insert "city or township, school district,
county commissioner district, if applicable."

Page No. 1

38365.0201

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Deanna Waller
Operator's Signature

10/22/03
Date

2062

Page 10, line 4, replace "maintenance" with "administration"

Page 10, line 31, after the underscored comma insert "except if the suspected violation may have been committed by the county auditor, in which case the report must be immediately transmitted to the state's attorney."

Page 12, after line 4, insert:

"e. The individual offering to vote fails or refuses to provide an appropriate form of identification as requested under subsection 3."

Page 12, line 8, after "identification" insert "is not" and after "provided" insert "or"

Page 13, line 23, remove "which displays the individual's date of birth" and after the underscored period insert "If an individual offering to vote fails or refuses to show an appropriate form of identification, the individual may be allowed to vote without being challenged according to section 16.1-05-06 if the individual provides to the election board the individual's date of birth and if a member of the election board or a clerk knows the individual and can personally vouch that the individual is a qualified elector of the precinct."

Renumber accordingly

Roll Call Vote #:

Date: 3-20-03

last.

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTE
SENATE BILL/RESOLUTION NO. 2394

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass As Amended by Klemin and Grande & referred to

Motion Made By

Rep. Haas

Seconded By

Rep. Kasper

Approp.

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

Total (Yes) 9 No 5

Absent

Floor Assignment

Rep. Klein

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

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Operator's Signature

Deanna Wallin

Date

10/22/03

REPORT OF STANDING COMMITTEE-DIVIDED (430)
March 24, 2003 2:11 p.m.

Module No: HR-52-5574
Carrier: M. Klein
Insert LC: 38365.0201 Title: .0300

REPORT OF STANDING COMMITTEE (MAJORITY)

SB 2394, as engrossed: Government and Veterans Affairs Committee (Rep. M. Klein, Chairman) A MAJORITY of your committee (Reps. Grande, Haas, Kasper, M. Klein, Klemin, Meier, Potter, Tieman, Winrich) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee.

Page 1, line 16, replace "or" with an underscored comma

Page 1, line 17, after "establishment" insert ", or any other abode"

Page 2, line 27, replace "office" with "offices"

Page 2, line 28, after "incurred" insert "in performing those duties"

Page 3, line 1, replace "Before" with "Not later than" and replace "2004" with "2006"

Page 3, line 7, replace "2000 and 2002" with "the two previous election years"

Page 3, line 9, replace "2000 and 2002" with "the two previous election years"

Page 3, line 10, replace "2000 and 2002" with "the two previous election years"

Page 3, line 12, replace "2000 and 2002" with "the two previous election years"

Page 3, line 17, replace "2000 and 2002" with "the two previous election years"

Page 3, line 24, replace "2000" with "the two previous election years"

Page 3, line 25, remove "and 2002"

Page 5, line 6, replace "city" with "address"

Page 9, line 7, after the second underscored comma insert "city or township, school district, county commissioner district, if applicable."

Page 9, line 11, replace "maintenance" with "administration"

Page 9, after line 24, insert:

"3. The complete mailing address of the individual, if different from the individual's residential address."

Page 9, line 25, replace "3." with "4."

Page 9, remove lines 26 through 29

Page 10, line 1, after the second underscored comma insert "city or township, school district, county commissioner district, if applicable."

Page 10, line 4, replace "maintenance" with "administration"

Page 10, line 31, after the underscored comma insert "except if the suspected violation may have been committed by the county auditor, in which case the report must be immediately transmitted to the state's attorney."

Page 12, after line 4, insert:

(2) DESK, (2) COMM

Page No. 1

HR-52-5574

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Operator's Signature

Date

REPORT OF STANDING COMMITTEE-DIVIDED (430)
March 24, 2003 2:11 p.m.

Module No: HR-52-5574
Carrier: M. Klein
Insert LC: 38365.0201 Title: .0300

"e. The individual offering to vote fails or refuses to provide an appropriate form of identification as requested under subsection 3."

Page 12, line 8, after "identification" insert "is not" and after "provided" insert "or"

Page 13, line 23, remove "which displays the individual's date of birth" and after the underscored period insert "if an individual offering to vote fails or refuses to show an appropriate form of identification, the individual may be allowed to vote without being challenged according to section 16.1-05-06 if the individual provides to the election board the individual's date of birth and if a member of the election board or a clerk knows the individual and can personally vouch that the individual is a qualified elector of the precinct."

Renumber accordingly

The reports of the majority and the minority were placed on the Seventh order of business on the calendar for the succeeding legislative day.

REPORT OF STANDING COMMITTEE-DIVIDED (430)
March 25, 2003 12:28 p.m.

Module No: HR-53-5670
Carrier: Devlin
Insert LC: 38365.0203 Title: .0500

REPORT OF STANDING COMMITTEE (MINORITY)

SB 2394, as engrossed: Government and Veterans Affairs Committee (Rep. M. Klein, Chairman) A MINORITY of your committee (Reps. Amernan, Devlin, Sitte, Wikenheiser, Williams) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the Appropriations Committee.

Page 1, line 16, remove "shown by an actual fixed permanent dwelling or"

Page 1, line 17, remove "establishment"

Page 2, line 27, replace "office" with "offices"

Page 2, line 28, after "incurred" insert "in performing those duties"

Page 3, line 1, replace "Before" with "Not later than" and replace "2004" with "2006"

Page 3, line 7, replace "2000 and 2002" with "the two previous election years"

Page 3, line 9, replace "2000 and 2002" with "the two previous election years"

Page 3, line 10, after "either" insert "or", replace "election" with "elections", and replace "2000 or 2002" with "the two previous election years"

Page 3, line 12, after "either" insert "or", replace "election" with "elections", and replace "2000 or 2002" with "the two previous election years"

Page 3, line 17, replace "2000 and 2002" with "the two previous election years"

Page 3, line 24, replace "2000" with "the two previous election years"

Page 3, line 25, remove "and 2002"

Page 5, line 6, replace "city" with "address"

Page 3, line 7, after the second underscored comma insert "city or township, school district, county commissioner district, if applicable."

Page 9, line 11, replace "maintenance" with "administration"

Page 9, after line 24, insert:

"3. The complete mailing address of the individual. If different from the individual's residential address."

Page 9, line 25, replace "3." with "4."

Page 9, remove lines 28 through 29

Page 10, line 1, after the second underscored comma insert "city or township, school district, county commissioner district, if applicable."

Page 10, line 4, replace "maintenance" with "administration"

Page 10, line 31, after the underscored comma insert "except if the suspected violation may have been committed by the county auditor. In which case the report must be immediately transmitted to the state's attorney."

(2) DESK, (2) COMM

Page No. 1

HR-53-5670

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Deanna Walling
Operator's Signature

10/22/03
Date

REPORT OF STANDING COMMITTEE-DIVIDED (430)
March 25, 2003 12:28 p.m.

Module No: HR-53-5670
Carrier: Devlin
Insert LC: 38365.0203 Title: .0500

Page 12, after line 4, insert:

"a. The individual offering to vote fails or refuses to provide an appropriate form of identification as requested under subsection 3."

Page 12, line 8, after "identification" insert "is not" and after "provided" insert "or"

Page 13, line 23, remove "which displays the individual's date of birth" and after the underscored period insert "if an individual offering to vote fails or refuses to show an appropriate form of identification, the individual may be allowed to vote without being challenged according to section 16.1-05-06 if the individual provides to the election board the individual's date of birth and if a member of the election board or a clerk knows the individual and can personally vouch that the individual is a qualified elector of the precinct."

Renumber accordingly

The reports of the majority and the minority were placed on the Seventh order of business on the calendar for the succeeding legislative day.

2003 HOUSE APPROPRIATIONS

SB 2394

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Operator's Signature

10/22/03

Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2394

House Appropriations Committee

☐ Conference Committee

Hearing Date March 26, 2003

Tape Number	Side A	Side B	Meter #
3		x	39.5
Committee Clerk Signature <i>Chris J. Nye</i>			

Minutes:

REP. SVEDIAN Called the committee to order.

REP. MATT KLEIN Explained the bill and what it did.

REP. WALD Asked what the Department of Transportation sends to the Secretary of State's Office.

REP. KLEIN The Department of Transportation provides information on individual so they can cross check driver's license and registrations.

REP. WALD We still have people who drive possibly in a city election in Dickinson, but then for the general election, they go to where their farmstead was, will this system be able to check that.

REP. KLEIN I believe it will.

REP. BRUSEGAARD This isn't voter registration?

REP. KLEIN They tell me it is not, it is a central voter file, not voter registration.

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10/22/03
Date

Page 2

House Appropriations Committee

Bill/Resolution Number SB 2394

Hearing Date March 26, 2003

REP. SVEDIAN Is this just a good idea, or is this mandated by federal law.

REP. KLEIN This is mandated.

REP. SKARPHOL Will I be able to buy the voter file list for my legislative district?

REP. KLEIN Yes you can.

REP. MONSON What happens if you don't have a driver's license?

REP. KLEIN That is one of the things, we had a lot of problems with that from the Indian reservations. Many people came in and said, we don't need a driver's license to drive on the reservation, that is not a requirement to vote. You have an identification card which qualifies on the reservation.

REP. MONSON How are they going to access this data if they don't have a driver's license?

REP. KLEIN The poll books will be reconciled with the central voter file.

REP. KOPPLEMAN We are the only state in the nation without voter registration, so this bill is designed to make us compliant with the federal election reforms which are going on?

REP. KLEIN That is correct.

REP. AARSVOLD On the voter challenge, are these ballots set aside so they are counted, should that voter be determined to be ineligible?

REP. KLEIN I believe it is the same system we are using now. If you don't have any identification, you can be challenged, that will be separated until it is verified, that has not changed.

REP. SVEDIAN Related to the corrections in GVA, they didn't change the fiscal note?

REP. KLEIN Stated most of the corrections made were changes which came down later.

REP. KOPPLEMAN Made a motion for a DO PASS

Page 3
House Appropriations Committee
Bill/Resolution Number SB 2394
Hearing Date March 26, 2003

REP. THORESON Second the motion. **MOTION CARRIED 15-6-2.** Rep. Klein will carry
this bill.

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10/22/03
Date

2003 TESTIMONY

SB 2394

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Deanna Walker
Operator's Signature

10/22/03
Date

ALVIN A. JAEGER
SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 E BOULEVARD AVE DEPT 100
BISMARCK ND 58505-0600

E-MAIL: soe@state.nd.us
HOME PAGE: www.state.nd.us/sec



SECRETARY OF STATE

February 6, 2003

BUSINESS DIVISION
PHONE (701) 326-4264, FAX (701) 326-2882
CENTRAL INDEXING DIVISION
PHONE (701) 326-2882, FAX (701) 326-4214
ELECTIONS DIVISION
PHONE (701) 326-4146, FAX (701) 326-2882
LICENSING DIVISION
PHONE (701) 326-2885, FAX (701) 326-1880
GENERAL INFORMATION (701) 326-2900
TOLL FREE 1-800-362-0867

TO: Senator Karen Krebsbach and Members of the Senate Government and Veteran's Affairs Committee

FR: Cory G. Fong, Deputy Secretary of State

RE: Senate Bill No. 2394 -- Central Voter File

Senate Bill No. 2394 is intended to establish a centralized electronic voter database, to be known as the Central Voter File, that will link the Secretary of State's office with county auditors' offices. The central voter file would provide a tool for generating Election Day poll books, keeping accurate voting lists, and preventing and detecting voter fraud.

The general concept behind Senate Bill No. 2394 has been discussed by the Secretary of State's office and county auditors as an attempt to improve the accuracy and functionality of precinct poll books and voter lists. While at the same time addressing the concerns and allegations of voter fraud that are sometimes raised by advocates of voter registration. The Interim Judiciary Committee, as a possible alternative to adopting voter registration, also raised the concept several years ago. However, the concept never gained momentum because of funding concerns.

Today, funding is less of a concern because of the recent passage of the Help America Vote Act of 2002, also known as HAVA. Provided that Congress appropriates the resources, the state of North Dakota stands to receive \$5 million, and possibly more, for purposes of improving election administration, replacing punch card voting equipment, better educating election workers and voters, improving voter accessibility, and purchasing new and advanced voting equipment.

The Secretary of State's office believes the costs associated with creating, implementing, and maintaining a central voter file, as envisioned in this legislation, could be paid for from federal HAVA moneys because it would significantly improve election administration in the state. The legislation specifies that creating and maintaining the central voter file through 2008 would be contingent upon the necessary funding being made available by Congress so that the Secretary of State's office, counties, and the legislature are not left holding the bag.

Before I explain the highlights of Senate Bill No. 2394, the Secretary of State's office is proposing significant amendments to the bill in the form of a hoghouse amendment. The concept and intent of the hoghouse amendment is exactly the same as the original introduced version. Only the technical mechanics of the legislation are being changed. My explanation of the bill will, therefore, be of the proposed hoghouse amendment versus the original introduced version of the bill.

If you want to choose your own future, VOTE! - Tuesday Zwetow - 2000-2002 Get Out the Vote Slogan Winner - Bismarck Vo Tech

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Operator's Signature

10/22/03

Date

SB 2394 - Central Voter File
Senate Government and Veteran's Affairs
February 6, 2003
Page two

The proposed hoghouse amendment accomplishes the following:

- Requires the Secretary of State to establish a centralized electronic voter database, known as a central voter file, created from records maintained by the Department of Transportation and compared against precinct poll books, maintained by the county auditors, from the 2000 and 2002 general elections. (Sections 2 and 4)
- Requires the central voter file to be developed in time for use at the 2004 Primary Election. (Section 4)
- Specifies that the central voter file must be funded from the state's election fund and not through the Secretary of State's budget, the general fund, or from county funds. (Section 3)
- Provides that during the creation of the central voter file, each individual contained in the central voter file would be assigned a unique identifier from existing data contained in the file. If it were impossible to assign a unique identifier to a voter contained in the initial central voter file, a randomly generated unique identifier would be assigned to the individual. (Section 4)
- Directs the county auditors to enter data into the central voter file in a timely manner following elections and on routine intervals for the purpose of ensuring the data and records maintained in the central voter file are up-to-date and accurate. (Section 6, 10, 11, 12, 13, and 17)
- Directs the county auditors to perform routine and random mailings to individuals contained in the central voter file to verify and confirm voter eligibility, ensure voting in the proper precinct, and prevent and detect voter fraud. (Section 6 and 17)
- Directs the Secretary of State and the county auditors to conduct routine inquiries of the central voter file following elections to prevent and eliminate excess names and determine voter fraud. (Section 6 and 17)
- Requires routine reporting to the Secretary of State concerning deaths, name changes, commitments, and incarcerations from the Department of Health, the State Court Administrator, and the Department of Corrections and Rehabilitation, which may require updates and changes be made to records contained in the central voter file. (Section 7, 8, and 9)
- Requires routine reporting by the Department of Transportation to the Secretary of State of updates that may require changes be made to records contained in the central voter file. (Section 10)
- Requires the central voter file to contain four years of voting history, if applicable, for each individual contained in the central voter file, beginning in 2008.

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Deanna Hall
Operator's Signature

10/22/03

Date

SB 2394 - Central Voter File
Senate Government and Veteran's Affairs
February 6, 2003
Page two

- Authorizes the Secretary of State to promulgate rules to create, implement, and maintain the central voter file in cooperation with the Department of Transportation and the county auditors. (Sections 2, 4, and 13)
- Establishes the content of information for the central voter file and poll books generated from the central voter file. (Sections 13 and 14)
- Requires the Secretary of State to submit data from the central voter file to the State Court Administrator for the purpose of facilitating jury management. (Section 15)
- Authorizes the Secretary of State to provide limited information from the central voter file, in the form of voter lists and reports, to the public for election related purposes only. Moneys generated by the Secretary of State for providing voter lists and reports would be deposited in the Secretary of State's general services account for the purpose of maintaining and enhancing the central voter file. (Section 16)
- Provides for penalties if the information in the central voter file is used, updated, or altered in a manner not authorized by the law. (Section 17)
- Provides a process for state's attorneys to investigate alleged violations of the law. (Section 18)
- Provides a "check in" process for all voters at the polls, which requires showing identification, either a North Dakota driver's license or a photo ID with date of birth. (Sections 19, 20, and 21)
- Provides that an individual offering to vote who is not contained in a precinct's poll book or is designated as challenged in the precinct's poll book is subject to be challenged and required to sign a voter's affidavit. (Section 19)
- Provides for provisional voting. (Sections 19 and 20)
- Requires a voter failing or refusing to show identification to be challenged and vote a provisional ballot. (Sections 19, 20, and 21)
- Clarifies and strengthens residence, as it pertains to voting. (Section 1)

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Operator's Signature

10/22/03
Date

PROPOSED AMENDMENTS TO SENATE BILL NO. 2394

1 Page 1, after line 8 replace the remainder of the bill with:

2 "SECTION 1. AMENDMENT. Section 16.1-01-04 of the North Dakota Century Code is
3 amended and reenacted as follows:

4 16.1-01-04. Qualifications of electors.

5 1. Every citizen of the United States who is: eighteen years or older; a resident of
6 this state; and has resided in the precinct at least thirty days next preceding any
7 election, except as otherwise provided in regard to residency in chapter 16.1-14,
8 is a qualified elector.

9 2. Every As it pertains to this title, every qualified elector of the state may have only
10 one voting residence, shown by an actual fixed permanent dwelling or
11 establishment.

12 3. A Except as otherwise provided in this section, a person's voting residence must
13 be determined in accordance with the rules for determining residency as
14 provided in section 54-01-26.

15 4. Pursuant to section 2 of article II of the Constitution of North Dakota, voting by
16 persons convicted and sentenced for treason or felony must be limited according
17 to chapter 12.1-33.

18 5. As it pertains to this title, a person may not be deemed to have gained or lost a
19 residence solely by reason of the person's presence or absence while enrolled
20 as a student at a college, university, or other postsecondary institution of learning
21 in this state.

22 6. As it pertains to this title, a member of the armed forces of the United States may
23 not be deemed to have gained or lost a residence in this state solely by reason of
24 the member being stationed on duty in this state.

Page 1

Deanna Hallmark
Operator's Signature

10/22/03
Date

PROPOSED AMENDMENTS TO SENATE BILL NO. 2394

1 7. As it pertains to this title, a person may not be deemed to have lost residence in
2 the person's precinct or in the state by reason of the person engaging in
3 temporary government service or private employment outside the person's
4 precinct or outside the state.

5 SECTION 2. A new section to chapter 16.1-02 of the North Dakota Century Code is
6 created and enacted as follows:

7 Permanent central voter file. A permanent, centralized, electronic data base of voters,
8 to be known as the central voter file is established with the offices of the secretary of state and
9 county auditors linked together by a centralized statewide system. The county auditor is chief
10 custodian of the central voter file records in each county. The secretary of state is responsible
11 for maintaining the central voter file. The central voter file shall be accessible by the secretary
12 of state and all county auditors for purposes of preventing and determining voter fraud, making
13 changes and updating the central voter file, and generating information, including pollbooks,
14 reports, inquiries, forms and voter lists.

15 SECTION 3. A new section to Chapter 16.1-02 of the North Dakota Century Code is
16 created and enacted as follows:

17 Costs of creating and maintaining a central voter file. The creation of the central
18 voter file and its maintenance through June 30, 2009, must be paid for with funds from the
19 state's election fund, provided the election fund contains adequate funding to create and
20 maintain the central voter file according to this chapter. The creation of the central voter file and
21 its maintenance through June 30, 2009, must not be paid for from funds in the secretary of
22 state's budget or the state's general fund or from county funds. Beginning July 1, 2009, the
23 office required to perform the functions and duties of this chapter must bear the costs incurred
24 and the secretary of state shall pay the costs of operating and maintaining the central voter file.

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SECTION 4. A new section to Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

Secretary of state to establish the central voter file with department of transportation and county auditors.

1. Before the primary election in 2004, the secretary of state shall establish the central voter file in cooperation with the department of transportation and county auditors.

2. The secretary of state shall establish the initial central voter file from records maintained by the department of transportation. The county auditors shall compare the initial central voter file against all precinct pollbooks used during and created from the general elections in 2000 and 2002 and any reasonably reliable updates made by county auditors since the general elections in 2000 and 2002. Those individuals contained in the initial central voter file who voted at either the general election in 2000 or 2002 shall be designated as active in the initial central voter file. Those individuals contained in the initial central voter file who did not vote at either the general election in 2000 or 2002 shall be designated as inactive in the initial central voter file.

3. Each individual contained in the initial central voter file must be assigned a unique identifier. An individual's unique identifier must be created from unique information and data obtained from records maintained by the department of transportation and the pollbooks from the general elections in 2000 and 2002. If it is impossible to assign a unique identifier to an individual contained in the initial central voter file, a unique identifier will be randomly generated and assigned to the individual.

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1 4. The secretary of state shall adopt rules for generating and assigning a unique
2 identifier to each individual contained in the central voter file according to section
3 12 of this Act and subsection 3 of section 16.1-01-01.

4 5. When establishing the initial central voter file from the records maintained by the
5 department of transportation and the pollbooks from the general elections in
6 2000 and 2002, the secretary of state and county auditors shall attempt to correct
7 address errors and misspellings of individuals' names.

8 SECTION 5. A new section to Chapter 16.1-02 of the North Dakota Century Code is
9 created and enacted as follows:

10 Precinct boundaries changed - Change to the central voter file. When the
11 boundaries of a precinct are changed, the county auditor shall immediately update the voter
12 records for that precinct in the central voter file to accurately reflect those changes.

13 SECTION 6. A new section to Chapter 16.1-02 of the North Dakota Century Code is
14 created and enacted as follows:

15 Entry of new voters into the central voter file - Query of the central voter file for
16 double voting - Verification by mail - Challenges - Post election verification.

17 1. Within sixty days following an election, the county auditor must enter the names
18 and required information of each individual who voted at the last election who is
19 not already contained in the central voter file and update any required information
20 requested and obtained at the last election for any individual already contained in
21 the central voter file.

22 2. To prevent fraudulent voting and to eliminate excess names, the secretary of
23 state, with the assistance of the county auditors, within seventy days following an

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1 election, shall query the central voter file to determine if any individual voted
2 more than once during the preceding election. The secretary of state shall
3 immediately notify the county auditors and state's attorneys in the affected
4 county or counties for further investigation according to section 18 of this Act.

5 3. To prevent fraudulent voting and to eliminate excess names, the county auditor
6 may mail to a random sampling of individuals contained in the central voter file a
7 notice stating the individual's name and address as they appear in the central
8 voter file. The random sampling shall be determined in the manner established
9 by the secretary of state. The notice must request the individual to notify the
10 county auditor if there is any mistake in the information.

11 4. Upon return of any nonforwardable mail from an election official, the county
12 auditor or the auditor's staff shall ascertain the name and address of that
13 individual. If the individual is no longer at the address recorded in the central
14 voter file, the county auditor shall designate the individual as challenged in the
15 central voter file. An individual designated as challenged in accordance with this
16 subsection shall comply with the provisions of section 16.1-05-06 before being
17 allowed to vote at the next election in that precinct. If a notice mailed at least
18 sixty days after the return of the first nonforwardable mail is also returned by the
19 postal service, the county auditor shall designate the individual as inactive in the
20 central voter file.

21 5. Within ninety days after an election, the county auditor shall send the notice
22 provided for under subsection 3 to each individual who was challenged on
23 election day according to section 16.1-05-06. If a notice is returned as not
24 deliverable, the county auditor shall attempt to determine the reason for the

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1 return. A county auditor who does not receive or obtain satisfactory proof of an
2 individual's eligibility to vote shall immediately notify the states attorney to
3 conduct an investigation according to section 18 of this Act and the secretary of
4 state.

5 SECTION 7. A new section to Chapter 16.1-02 of the North Dakota Century Code is
6 created and enacted as follows:

7 Reporting deceased individuals and changes of names - Changes to records in
8 the central voter file.

- 9 1. The state health officer shall provide for the regular reporting to the secretary of
10 state the name, address, date of birth, and county of residence, if available, of
11 each individual eighteen years of age or older who has died while maintaining
12 residence in this state since the last report. Within thirty days after receiving the
13 report, the secretary of state shall designate those individuals as deceased in the
14 central voter file. The secretary of state shall prepare and distribute a list of
15 those individuals to each county auditor.
- 16 2. The state health officer shall also provide for the regular reporting to the
17 secretary of state the name, address, date of birth, and county of residence, if
18 available, of each individual eighteen years of age or older whose name was
19 changed by marriage, divorce or any order or decree of the court since the last
20 report. Within sixty days after receiving the report, the secretary of state shall
21 make the name changes in the central voter file and notify by mail each individual
22 whose name was changed that the individual's name has been changed
23 accordingly in the central voter file. The secretary of state shall prepare and
24 distribute a list of those individuals to each county auditor.

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3. After receiving notice of death of an individual who has died outside the county,
the county auditor shall designate that individual as deceased in the central voter
file. Notice must be in the form of a printed obituary or a written statement
signed by an individual having knowledge of the death of the individual.

SECTION 8. A new section to Chapter 16.1-02 of the North Dakota Century Code is
created and enacted as follows:

Reporting individuals placed under guardianship - Changes to records in the
central voter file.

1. The state court administrator shall provide for the regular reporting to the
secretary of state the name, address, date of birth, and county of residence, if
available, of each individual eighteen years of age or older who was placed
under a guardianship and as a result has been deprived of the legal right to vote
since the last report. Within thirty days after receiving the report, the secretary of
state shall designate those individuals as ineligible in the central voter file. The
secretary of state shall prepare and distribute a list of those individuals to each
county auditor.
2. The state court administrator shall also provide for the regular reporting to the
secretary of state the name, address, and date of birth, if available, of each
individual eighteen years of age or older whose legal right to vote has been
restored by the court since the last report. Within thirty days after receiving the
report, the secretary of state shall remove the ineligible designation of the
individual in the central voter file. The secretary of state shall prepare and
distribute a list of those individuals to each county auditor.

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SECTION 9. A new section to Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

Reporting Incarcerations - Changes to records in the central voter file.

1. The director of the department of corrections and rehabilitation shall provide for the regular reporting to the secretary of state the name, address, date of birth, date of sentence, effective date of the sentence, and county in which the conviction occurred, if available, of each person who has been convicted of and incarcerated for a felony since the last report. Within thirty days after receiving the report, the secretary of state shall designate those individuals as ineligible in the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.

2. The director of the department of corrections and rehabilitation shall also provide for the regular reporting to the secretary of state the name, address, and date of birth, if available, of each person previously convicted of and incarcerated for a felony whose civil rights have been restored as provided in chapter 12.1-33 since the last report. Within thirty days after receiving the report, the secretary of state shall remove the ineligible designation of the individual in the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.

SECTION 10. A new section to Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

Department of transportation to report updates to the secretary of state - Changes to records in the central voter file.

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1. The department of transportation shall report regularly to the secretary of state any relevant changes and updates to records maintained by the department of transportation that may require changes and updates be made to individuals and records of individuals contained in the central voter file.
2. The county auditor may change the designation of individuals contained in the central voter file whose change of address can be confirmed by the United States Postal Service. The secretary of state may provide the county auditors with periodic reports on individuals whose change of address can be confirmed by the United States Postal Service.
3. If an individual makes a written request for removal of the individual's record from the central voter file, the county auditor shall change the designation of the individual contained in the central voter file to inactive.

SECTION 11. A new section to Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

Posting voting history - Failure to vote - Individuals designated inactive. Within ninety days after every election, the county auditor shall post the voting history for every individual who voted in the election. After the close of the 2008 calendar year, the secretary of state shall determine if any individuals have not voted during the preceding four years and shall change the status of those individuals to inactive in the central voter file. The secretary of state shall also prepare a report to the county auditors containing the names of all individuals who were designated as inactive in the central voter file. Although not counted in an election, a late absentee ballot from an individual may not be used to designate an individual as inactive in the central voter file according to this section.

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1 **SECTION 12.** A new section to Chapter 16.1-02 of the North Dakota Century Code is
2 created and enacted as follows:

3 Secretary of state to adopt rules for the purpose of maintaining the central voter
4 file. The secretary of state shall adopt uniform rules and procedures according to subsection 3
5 of section 16.1-01-01 for the purposes of implementing the provisions of this chapter and for
6 updating and maintaining the central voter file that are consistent with this chapter. The rules
7 shall:

- 8 1. Provide for the establishment and maintenance of a central voter file.
- 9 2. Provide for the generation and assignment of a unique identifier to each
10 individual contained in the central voter file.
- 11 3. Provide procedures for entering data into the central voter file.
- 12 4. Provide for any additional information to be requested of and obtained from
13 individuals that is to be maintained in the central voter file, not already provided
14 by law, but necessary for the proper administration of the central voter file;
- 15 5. Provide for the exchange of records maintained by the appropriate state and
16 county agencies and officials for receiving regular reports about individuals and
17 records of individuals contained in the central voter file.
- 18 6. Allow the offices of all county auditors and the secretary of state to add, modify,
19 and delete information from the central voter file to ensure accurate and up-to-
20 date records.
- 21 7. Allow the offices of all county auditors and the secretary of state to have access
22 to the central voter file for review, search, and inquiry capabilities.

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8. Provide security and protection of all information contained in the central voter file and to ensure that unauthorized access and entry is prohibited.

9. Provide a system for each county to identify the precinct to which an individual should be assigned for voting purposes.

SECTION 13. A new section to Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

Information contained and maintained in the central voter file. The central voter file shall contain the following information for each individual contained therein:

1. The complete name of the individual;

2. The complete residential address of the individual;

3. The complete mailing address of the individual, if different from the individual's residential address;

4. The unique identifier generated and assigned to the individual as provided by this chapter;

5. Designations showing whether the individual's ability to vote in the precinct has been inactivated as a result of death, incarceration, or because of a change in guardianship status, or because the individual is no longer a resident of the precinct according to section 16.1-01-04;

6. Designations showing whether the individual must be challenged according to section 16.1-05-06;

7. The county, legislative district, precinct name, and precinct number in which the individual resides; and

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8. Beginning in 2008, four years of an individual's voting history, if applicable.

9. Any other information requested of and obtained from the individual deemed necessary by the secretary of state for the proper maintenance of the central voter file following the adoption of rules according to section 12 of this Act and subsection 3 of section 16.1-01-01.

SECTION 14. A new section to Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

Information contained in pollbooks generated from the central voter file. The county auditor shall generate a pollbook for each precinct in the county from the central voter file by the fifteenth day before the election. Between the fifteenth day before the election and the day of the election, no changes or updates to individuals or records of individuals contained in the central voter file or a pollbook generated from the central voter file may be made, other than changes related to the status of an individual voting early or an individual requesting and returning an absent voter's ballot. The secretary of state shall prescribe procedures for generating pollbooks and for transporting the pollbooks to the election judges for use on election day. Pollbooks generated from the central voter file shall contain the following information for each individual contained therein:

1. The complete name of the individual;

2. The complete residential address of the individual;

3. The unique identifier generated and assigned to the individual as provided by this chapter;

4. Designations showing whether the individual's ability to vote in the precinct has been inactivated as a result of death, incarceration, or because of a change in

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1 guardianship status, or because the individual is no longer a resident of the
2 precinct according to section 16.1-01-04;

3 5. Designations showing whether the individual must be challenged according to
4 section 16.1-05-06;

5 6. The county, legislative district, precinct name, and precinct number in which the
6 individual resides; and

7 7. Any other information requested of and obtained from the individual deemed
8 necessary by the secretary of state for the proper maintenance of the pollbook
9 following the adoption of rules according to section 12 of this Act and subsection
10 3 of section 16.1-01-01.

11 SECTION 15. A new section to Chapter 16.1-02 of the North Dakota Century Code is
12 created and enacted as follows:

13 Voter lists and reports to be made available for jury management. On or before
14 February 1 of each year, the secretary of state shall transmit information from the central voter
15 file to the state court administrator for the purposes of compiling the master list of jurors
16 according to chapter 27-09.

17 SECTION 16. A new section to Chapter 16.1-02 of the North Dakota Century Code is
18 created and enacted as follows:

19 Voter lists and reports may be made available for election related purposes only -
20 Funds received.

21 Except as otherwise provided by law, voter lists or reports generated from the central
22 voter file may be made available to the public by the secretary of state for election related

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1 purposes only. Any information obtained by the public from lists or reports generated from the
2 central voter file may not be sold or distributed for purposes that are not election related.
3 Information from the central voter file that may be made available to the public for election
4 related purposes according to this section are identified under subsections 1, 2, 3, 5, 7, and 8 of
5 section 13 of this Act. Moneys received by the secretary of state to pay the cost of producing
6 reports or lists of voters contained in the central voter file must be deposited in the secretary of
7 state's general services operating fund according to section 54-09-08.

8 SECTION 17. A new section to Chapter 16.1-02 of the North Dakota Century Code is
9 created and enacted as follows:

10 Violations - Penalties.

- 11 1. An officer, deputy, clerk, or other election employee may not intentionally:
12 a. Fail to perform or enforce any of the provisions of this chapter except
13 subsection 2;
14 b. Remove an individual from the central voter file or change a record of an
15 individual contained in the central voter file in a manner or for a purpose
16 not authorized by law; or
17 c. Add a name or names of individuals to the central voter file or add a
18 record or records of an individual contained in the central voter file in a
19 manner or for a purpose not authorized by law.

20 An individual who violates this subsection is guilty of class A misdemeanor.

- 21 2. A deputy, clerk, employee, or other subordinate of a county auditor who has
22 knowledge or reason to believe that a violation of this chapter has occurred shall
23 immediately transmit a report of the knowledge or belief to the county auditor,
4 together with any possessed evidence of the violation. Any county auditor who

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1 has knowledge or reason to believe that a violation of this chapter has occurred
2 shall immediately transmit a report of the knowledge or belief to the state's
3 attorney of the county where the violation is believed to have occurred, together
4 with any possessed evidence of the violation. The county auditor shall also
5 immediately send a copy of the report to the secretary of state. A violation of this
6 subsection is a class A misdemeanor.

7 3. An individual who intentionally violates any provision of this chapter is guilty of a
8 class A misdemeanor, unless a different penalty is specifically provided by law.

9 **SECTION 18.** A new section to Chapter 16.1-02 of the North Dakota Century Code is
10 created and enacted as follows:

11 **Investigations - Prosecutions.** A states attorney who is notified of an alleged violation
12 of this chapter shall investigate. If there is probable cause for instituting a prosecution, the
13 states attorney may proceed by complaint. A state's attorney who chooses not to investigate an
14 alleged violation of this chapter shall notify the secretary of state and the county auditor and
15 provide the reason for not investigating.

16 **SECTION 19. AMENDMENT.** Section 16.1-05-06 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **16.1-05-06. Challenging right of person to vote - Identification or affidavit required**
19 **- Penalty for false swearing - Optional poll checkers.**

20 1. One poll challenger appointed by the district chairman of each political party
21 represented on the election board is entitled to be in attendance at each polling
22 place. Individual poll challengers may be replaced at any time during the hours of
23 voting, but no more than one poll challenger from each political party is entitled to
24 be in attendance at each polling place at any one time.

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- 1 2. ~~The members~~ Any member of the election board ~~and poll-challengers~~ may
2 challenge the right of ~~anyone~~ an individual to vote whom they know or have
3 reason to believe is not a qualified elector. ~~Members~~ A poll challenger may
4 request members of the election board ~~or poll-challengers may to~~ challenge a
5 voter ~~if the right of an individual to vote whom~~ they know or have reason to
6 believe is not a qualified elector of the precinct. A challenge may be based upon
7 any one of the following:
- 8 a. The ~~person~~ individual offering to vote does not meet the age or
9 citizenship requirements.
- 10 b. The ~~person~~ individual offering to vote has never voted in the precinct
11 before and the name of the individual offering to vote does not appear in
12 the pollbook generated from the central voter file, and the individual fails
13 to provide reasonable evidence of residency in the precinct.
- 14 c. Except as provided in section 16.1-01-05, the ~~person~~ individual offering to
15 vote physically resides outside of the precinct.
- 16 d. The ~~person~~ individual offering to vote does not meet the residency
17 requirements provided in section ~~16.1-01-05~~ 16.1-01-04.
- 18 3. ~~A poll-challenger or~~ If after an election board member ~~may request~~ has requested
19 that the ~~person~~ individual offering to vote provide an appropriate form of
20 identification, as provided under section 20 of this Act, to address any of the
21 voting eligibility concerns listed in subsection 2-4f, and the identification provided
22 does not adequately ~~resolve~~ confirm the voter eligibility concerns ~~of the poll~~
23 ~~challenger or election board member~~ of the challenged individual, the challenged
24 ~~person~~ individual may not vote unless the challenged ~~person~~ individual executes

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an affidavit, acknowledged before the election inspector, that the challenged person individual is a legally qualified elector of the precinct.

4. The affidavit must include:

- a. The name and present address of the affiant and the address of the affiant at the time the affiant last voted.
- b. The previous last name of the affiant if it was different when the affiant last voted.
- c. A recitation of the qualifications for voting as set forth in section 16.1-01-04 and the rules for determining residence.
- d. Notice of the penalty for making a false affidavit and that the county auditor may verify the affidavit.
- e. A place for the affiant to sign and swear to the affiant's qualifications as a voter.
- f. A space to insert the page number of the pollbook on which the challenged individual's name appears along with the statement of the reason for the challenge if the challenge results in the individual voting a provisional ballot according to subsection 5 and section 21 of this Act.

5. Any individual offering to vote who fails or refuses to provide an appropriate form of identification, as provided under section 20 of this Act, and who insists to being a qualified elector of the precinct must be allowed to vote a provisional ballot, as provided in section 21 of this Act, after completing and signing a voter's affidavit as provided in subsection 4.

6. 5. Written notice of the penalty for making a false affidavit and that the county auditor may verify the affidavits must also be prominently displayed at the polling

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1 place in a form prescribed by the secretary of state. Any person who falsely
2 swears in order to vote is guilty of a class A misdemeanor and must be punished
3 pursuant to chapter 16.1-01.

4 ~~6. The county auditor shall verify randomly at least ten percent of the affidavits~~
5 ~~signed in the county and shall report all known or suspected violations to the~~
6 ~~state's attorney for investigation and possible prosecution.~~

7 7. In addition to the poll challenger, not more than two poll checkers appointed by
8 the district chairman of each political party represented on the election board
9 may be in attendance at each polling place, provided such poll checkers do not
10 interfere with the election process or with the members of the election board in
11 the performance of their duties. The poll challengers and poll checkers must be
12 qualified electors of the district in which they are assigned.

13 8. No poll challenger or checker may be a member of the election board.

14 9. The district chairman shall notify the county auditor of each county contained in
15 the legislative district before the third day before the day of the election of the
16 names of persons who the district chairman has appointed to serve as poll
17 challengers and poll checkers in the various precincts in the legislative district.

18 SECTION 20. A new section to chapter 16.1-05 of the North Dakota Century Code is
19 created and enacted as follows:

20 Poll clerks to check identification and verify eligibility - Poll clerks to request,
21 correct, and update incorrect information contained in the pollbook.

22 1. Before delivering a ballot to an individual according to section 16.1-13-22, the
23 poll clerks shall request the individual show a driver's license issued by the state
24 or another appropriate form of identification displaying a photograph of the

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1 individual and the individual's date of birth. After verifying that the individual's
2 name is contained in the pollbook generated from the central voter file, poll clerks
3 shall verify the individual's residential address and mailing address, if different
4 from the individual's residential address.

5 2. If the individual's name is not contained in the pollbook generated from the
6 central voter file, the individual may be challenged according to section 16.1-05-
7 06 and the individual's name must be recorded in the pollbook and the poll clerks
8 must request and obtain any additional information for the individual required to
9 be included in the pollbook.

10 3. When verifying an individual's eligibility according to this section or when entering
11 a new individual into the pollbook, poll clerks shall request, correct, and update
12 any incorrect or incomplete information about an individual that is required to be
13 contained in the pollbook generated from the central voter file.

14 4. Poll clerks shall direct an individual who is attempting to vote in the incorrect
15 precinct to the proper precinct and voting location.

16 SECTION 21. A new section to chapter 16.1-05 of the North Dakota Century Code is
17 created and enacted as follows:

18 Provisional voting.

19 1. Upon the completion of the affidavit and the marking of the ballot by an individual
20 offering to vote who is challenged according to subsection 5 of section 16.1-05-
21 06, the election board member shall insert the marked ballot in an envelope, seal
22 the envelope, and mark the envelope with the word provisional. The election
23 board member shall attach the affidavit to the envelope containing the provisional
24 ballot. The affidavit must be numbered to correspond to the page number on

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1 which the challenged individual's name appears in the pollbook and must also
2 include a statement of the reason for the challenge. The provisional voter's
3 name must also be marked in the pollbook as a provisional voter.

4 2. A challenged individual who has completed an affidavit and whose ballot has
5 been designated as provisional according to this subsection has until the closing
6 of the polls in the precinct to provide an appropriate form of identification as
7 provided in section 20 of this Act to the election inspector supporting the
8 challenged individual's qualifications to vote in the precinct. At any time before
9 the closing of the polls in a precinct, if presented with an appropriate form of
10 identification as provided in section 20 of this Act, an election inspector may open
11 the provisional envelope containing the challenged individual's ballot and deposit
12 the challenged individual's provisional ballot into the ballot box.

13 3. Before the meeting of the county canvassing board, the county auditor, with the
14 assistance and advice of the state's attorney, shall review each completed
15 affidavit along with the corresponding statement of the reason for the challenge
16 and shall make a recommendation, in writing, based upon the qualifications of
17 electors in section 16.1-01-04 and the rules for determining residence in section
18 54-01-26 to the county canvassing board as to whether the challenged individual
19 is qualified to vote in the precinct and whether the challenged individual's
20 provisional ballot, or portions of the provisional ballot, should be accepted and
21 counted and canvassed by the county canvassing board or rejected.

22 4. The county canvassing board shall review each recommendation made by the
23 county auditor and may consider each completed affidavit, including the
24 statement of the reason for the challenge, and accept or reject each provisional

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- 1 ballot, or portions of each provisional ballot, in writing, based upon the 311
2 qualifications of electors in section 16.1-01-04 and the rules for determining
3 residence in section 54-01-26. The county canvassing board shall count those
4 provisional ballots, or portions of those provisional ballots, deemed acceptable by
5 the board.
- 6 5. That portion of a challenged individual's provisional ballot that the challenged
7 individual is authorized to vote shall be counted.
- 8 6. Provisional ballots, or portions of provisional ballots, rejected by the county
9 canvassing board must be preserved and retained with all corresponding
10 materials for further review and consideration in case of a recount or an election
11 contest. The decision of the county canvassing board, as it pertains to the
12 counting of provisional ballots, or portions of provisional ballots, is final, subject
13 only to the recount and contesting provisions of chapter 16.1-16.
- 14 7. An election board or county canvassing board shall take precautions to ensure
15 that secrecy is maintained when opening and counting provisional ballots, or
16 portions of provisional ballots, and shall proceed in the same manner as
17 prescribed for opening and counting absent voter's ballots in section 16.1-07-12.
- 18 8. An otherwise properly completed provisional ballot may not be rejected because
19 an election official failed to comply with any of the procedures required by this
20 section.
- 21 9. The county auditor shall report all known or suspected violations to the state's
22 attorney for investigation and possible prosecution.
- 23 10. Within thirty days following the day of the election, the county auditor shall
24 establish a listing of all challenged voters who voted provisional ballots at the

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1 election in the county and whether or not the challenged voter's ballot, or portions
2 of the provisional voter's ballot, counted. A challenged voter may contact the
3 county auditor to determine how that challenged voter's ballot was counted.

4 **SECTION 22.** A new section to chapter 16.1-05 of the North Dakota Century Code is
5 created and enacted as follows:

6 County auditor to provide election board members with precinct maps or precinct
7 finder. The county auditor shall provide each precinct election board with an accurate precinct
8 map or precinct finder to assist election board members in determining whether an address is
9 located in that precinct and for determining which precinct and polling location to direct an
10 individual who may be attempting to vote incorrectly in that precinct.

11 **SECTION 23. AMENDMENT.** Section 16.1-15-17 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **16.1-15-17. Time of county canvassing board meeting - Oath required -**

14 **Reconsideration of canvass.** Not earlier than the third day following each election, but not
15 later than six days after each election, and provided the county auditor, with the assistance and
16 advice of the state's attorney, has reviewed and made recommendations for all provisional
17 ballots cast in the county at the election, the county canvassing board shall meet and, after
18 taking the oath of office, shall proceed to open and publicly canvass the returns. After the initial
19 meeting of the board as provided in this section, any two or more members may call a meeting
20 of the board and upon approval of a majority of the members, the board shall recanvass the
21 results of the election or any portion thereof and may correct any previous canvass or
22 certification or both in regard to the election. Any correction of any previous certification of
23 election results as provided in this section must be immediately dispatched to the secretary of
24 state who shall call a meeting of the state canvassing board as provided in section 16.1-15-35

PROPOSED AMENDMENTS TO SENATE BILL NO. 2394

1 for the purpose of recanvassing and, if necessary, correcting any previous certification of the
2 election results. A county auditor may apply to the secretary of state not later than two days
3 following an election for an extension, not to exceed three days, to conduct the meeting of the
4 county canvassing board at a later date if the number of provisional ballots cast in the county at
5 the election is greater than can reasonably be reviewed within six days following an election.

6 **SECTION 24. AMENDMENT.** Section 54-09-08 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **54-09-08. Secretary of state's general services operating fund.** The secretary of
9 state's general services operating fund is a special fund in the state treasury. Moneys in the
10 fund are to be used pursuant to legislative appropriations for the provision of services under
11 section 16 of this Act, subsection 6 of section 41-09-94, subsection 9 of section 54-09-04, and
12 sections 54-09-10 and 54-09-11. At the close of each fiscal year, the secretary of state shall
13 transfer any unobligated balance remaining in the fund exceeding seventy-five thousand dollars
14 to the general fund."

15 Renumber accordingly

**SENATE BILL 2394
GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
February 6, 2003**

**CORINNE HOFMANN
PROTECTION AND ADVOCACY PROJECT**

Chairman Krebsbach and Members of the Committee, my name is Corinne Hofmann. I am Director of Policy and Operations for the Protection and Advocacy Project [P&A]. While we do not oppose this bill generally, we have serious concerns about Section 9 on page 6 of the bill.

This section requires the clerk of district court to report the name, address, and date of birth of each person over 18 who, in the preceding month, was placed under a guardianship or adjudged legally incompetent. These individuals are deemed ineligible to vote.

Our primary concern is that people placed under either a full or limited guardianship cannot be deprived of the right to vote unless the court makes a specific finding to that effect. This is outlined in section 30.1-28-04 (3) of the guardianship statutes. If this finding is made, the information is placed in the Letters of Guardianship. Many people with guardianships have the right to vote, and do vote. As worded, this section would prohibit anyone with a guardianship from voting.

The second concern relates to the reference to commitments in the title of Section 9. As we read this section of the bill, we were not sure if the requirement for the clerk of district court to report those adjudged legally incompetent referred to those subject to mental health commitments. If this is the case, this section is inconsistent with section 25-03.1-33, which states that a determination that a person requires treatment, a court order for hospitalization or for alternative treatment, or an admission to a hospital is not a finding that the person is legally incompetent or unable to give or withhold

- 1 -

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Corinne Hofmann
Operator's Signature

10/22/03
Date

consent. Individuals with mental illness subject to a commitment order retain the right to vote.

Likewise, the procedures outlined in chapter 25-03.3 of the state statutes, pertaining to commitment of sexually dangerous individuals, do not lead to an adjudication of legal incompetence.

Under the criminal statutes of our state, an individual can be judged as unfit to stand trial when he or she lacks capacity to understand the proceeding or is unable to assist in their own defense. (See NDCC 12.1-04-04) The court will defer proceedings until the defendant has regained fitness or, if the court determines the defendant will not regain fitness, the charges are dismissed and the court can refer the person for further action. I question the validity of denying the right to vote to this population without further action by the district court.

As outlined in section 12.1-04-08 of the statutes, the court may refer the person for further action, which may include civil commitment under the mental health commitment laws, determination of incapacity and appointment of a guardian under the guardianship statutes, or treatment of the person in the community by the human service center or some other public or private provider. (See NDCC 12.1-04-08). The laws previously mentioned regarding guardianship and mental health commitment would then become relevant.

We believe the language of Section 9 will lead to confusion, unnecessary restriction of people's right to vote, and potential law suits. We cannot support Senate Bill 2394, without amendments to this section. P&A would be very willing to work with the committee on amendments, if the committee would find that helpful.

This concludes my testimony and I would be happy to answer any questions the committee might have. Thank you.

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Deanna D. Ballinger
Operator's Signature

10/22/03
Date

Inflammatory? No - It reflects what we with stalkers face if this passes "as is" -

TESTIMONY OF CAROL TWO EAGLES ON SB 2394. February 6, 2003.

Hau mitakuyapi. Hello my relatives. For the record, my name is Carol Two Eagles and I stand in passionate and unapologetic opposition to SB 2394.

This is not a harmless bill that will "merely" make life easier for auditors and polls staffs. It is Orwellian and it assaults the foundations of the Constitution that frames the government of the country we live in.

Today, I am sad, outraged, furiously angry, unnerved, feel threatened, and profoundly disappointed; and SB 2394 is the reason. I *know* that the people who sponsored & authored this bill *did not intend* to do that to anyone, *or* to threaten the foundations of the Constitution, the First Amendment, Rights (not privileges) to privacy, or the concept of 'innocent until proven guilty of a crime', but that is what this bill does. There are really no words in any of the 9 languages I speak to accurately describe what I feel because of SB 2394. Thus it will take more words.

SB 2394 stirs every passion I have relative to the Constitution and the First Amendment and to attacks on it. Virtually every section of this bill goes past attacking First Amendment rights to privacy, liberty, and security; it shatters them.

The only bill I know of that has gone further is the federal Total Information Awareness Act; and I see this bill as a shadow of it. Terrorism has been around for a long time. It will never be eradicated. Least of all by tracking everyone & destroying the Constitutional Rights that have protected us for over 200 years. The cause of freedom is never promoted or furthered by restricting freedom. SB 2394 is over-reaction to terrorism. It is excessive and unnecessary.

If this bill were to become law, it will disenfranchise every voter who has a stalker; and we are legion. I ran a Safe House for 2 years, and men have as many stalkers as women do although they often won't admit it; and often, those stalkers are more violent.

In my own case, my primary stalker is a police officer. I caught him running a theft ring in 7 counties in another state quite by accident, and I turned him in. I was "guaranteed" permanent anonymity - which lasted about 30 hours. That was before bills like this, and the TIAA, which destroys our Constitutional Right to prohibition of unreasonable search-&-seizure. Regardless of the source of a stalker, the most important protection we who have stalkers have is privacy.

That means you don't make state or national databases, identification numbers, or tracking systems. You do not take the position that everyone is a criminal first, without any regard for the concept of innocent until proven guilty of a crime.

With a bill like this, privacy is a myth and so is the Constitution. How many veterans died protecting the Constitution, the Bill of Rights, including Rights - not privileges - to privacy? Hundreds of thousands. And hundreds of thousands more have been permanently crippled in the same pursuit. Let us consider the hundreds of thousands of people involved when we add the veterans to those with stalkers.

It is a fact, not a mythconception, that stalkers abound. That they terrorize their victims. That they maim, cripple, and devastate lives. And that they get away with it.

"My" stalker found me 5 times, before I found a way to stymie him. But I have no proof he isn't going to show up in the next few minutes, complete with his gun, and try for me again. If a bill like SB2394 becomes law, I might as well advertise where I am & invite the creep to take his best shot while I stand there & let him, & so might every one of the hundreds of thousands of men, women, and children who are in the same boat. We don't thank you for that for one instant.

Most people with stalkers live in some state of terror. I live in a state of mad-as- anything, and constant awareness. I have a network of very sensitive microphones and monitors hidden around any area I live in, which can relay every sound to me when I'm indoors. Adaptability being what it is, I know the ordinary sounds, and tune them out. But I respond to every non-ordinary sound, and check it out. My attitude is "cautious but hostile."

It's easier to apologize for being defensive, even to punching someone who surprises me, than it is to heal the injuries a stalker intends to inflict. And "we didn't mean to do that to you with this bill/law" is no excuse; because that is what *will* happen, not what "might" happen, if you pass it.

I keep a dog with very sensitive hearing, and her job is to warn me of any non-ordinary activity outside, without barking. I have a number of friends who are police officers, because they keep track of such scum within their ranks, regardless of state, so- so long as I don't advertise my whereabouts on my drivers license or in the voting records, I have an iota less to worry about. Not everyone with a stalker is so "lucky" as to have police who are friends. Most people with stalkers are pretty much on their own, & I never depend on the idea that if I should have to dial 911, I will get help quickly enough. Since I currently cannot afford a phone, this is especially important.

I have taken self-defense courses, and when I dated a marine drill instructor some years back, he taught me so that I could disarm him on occasion. It is contrary to the concept of civilization that I or anyone should have to take such training, though, in order to have any sense of security.

For those who think I have an "Attitude", I reply, "I earned it." I wish I hadn't had to, but that's how life is. I make a lousy doormat. Most people, especially females, don't respond as I do, however. They curl up in a ball & cry, or hide & live in terror. I doubt it's any different for men.

Despite all of my precautions, despite 'guarantees' from the law & the police, I have had to face my stalker's gun at point-blank range 3 times. I have taken it away from him three times. I have had to dive out of the way of his speeding car 3 times. There is *no* feeling quite like standing on top of a cement stairs and seeing the front end of a car curl around those stairs just 2" below your toes. You really don't want to have this thrill. And with this bill, you want to make it easier for him to try again. The law of averages being what it is, I can't expect to continue to be so lucky.

I'm not extra-ordinary in this matter, except possibly in that I have been successful in surviving so many attempts. Most people, women in particular, do not have the attitude it takes to handle this kind of repeated stalking attack. They just curl up and hide. This bill, if it were to become law, would make such people much more vulnerable than they already are. And there almost always are children to include.

As someone who ran a Safe House for abused people for two years, I can tell you with authority that men have as many stalkers as women do. They just don't report it because they don't want to be thought "unmanly". The hells they go through as a result are incredible. It is outrageous.

When the Total Information Awareness Act was passed, I thought Congress had lost its collective mind. I'm still not convinced they haven't. I discussed this at length with the ACLU, and in every case was assured there was nothing to worry about in North Dakota because North Dakota does not have to follow the federal law, because of something about its existing voting laws. Obviously, they weren't skeptical or cynical enough. I'm ashamed of them in this matter, too.

SB 2394 creates a part of a national people identification and tracking system. It is George Orwell's Big Brother-ism. It shatters Right to Privacy. It is totally unneeded.

I find its perspective insulting because SB 2394 takes the perspective that people are criminals first and citizens second. Repeatedly, in various sections of this bill. It completely ignores the Constitutional mandate about 'innocent until proven guilty'.

Examples include: Section 1 line 19. Residence or residency?; Section 2 lines 14 - 21; Section 4 all; Section 5 all; Section 6 lines 10 - 13; lines 16 - 23; Section 7 all; Section 8 all; Section 11 line 11 - where shall the auditor post this voting history and for what purpose? Who has real reason to need it? (No one except the auditor, whose responsibility it is to keep track of such things already.) and all of Section 11; Section 12 all; Section 13 all - This section in particular exposes people with stalkers and increases their vulnerability; Section 14 all; Section 15 all violates Right to Privacy; Sections 16 & 17 are already in law & are unnecessary; Section 18 makes minorities vulnerable to Voting Rights Act violations; Section 19 gives a primary example of taking the perspective that citizens are criminals first and last; Section 20 makes minorities vulnerable to Voting Rights Act violations; Section 21 already exists in law and is unnecessary.

I am certain that lawyers in such organizations as the ACLU can and will find more.

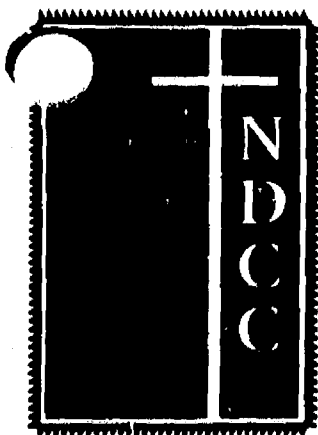
I have not ever been so insulted and threatened by a bill on so many levels and fronts, other than the TIAA. In the case of the TIAA, I believe that if the people who proposed it were not in public office, they would be diagnosed as paranoid and put in therapy. I cannot account for the "mindset" of Congress for passing that monstrosity at all.

We haven't even thought about the witness protection act people, I note, and I'm not going to go into that any further except to note that I know from personal experience how easy it is to find someone in that program if a person or group really wants to. The answer is certainly not to expose those people to further danger through bills like this.

Please kill this bill with a unanimous "Do Not Pass". Election law & procedure *may* need a *bit* of tweaking, but this is not tweaking. This is wholesale assault on the Constitution, on the First Amendment, on the concept that people are innocent until proven guilty, on common sense in government, and on the concept that government exists to serve the people, not to treat them as deviant and to oppress them. Governments that exist to treat the people as criminals first are by definition fascist. That is *not* the North Dakota way. North Dakota has always prided itself on being a democracy. I don't see anything in this bill that is democratic.

If this bill passes into law, not only will I not ever vote again, I am likely to get rid of my drivers license & worry about "if" the non-stalking police "catch" me. If I'm going to be assumed by the law to be a criminal from the beginning, and without my permission, I may as well not be made a liar of first. All the "we didn't mean to" s in the world don't & won't mean anything. Hitler got his start in this way, & I know full well that was never the intent of the people who sponsored & authored this bill in the first place, any more than it was the intent of the people who passed the laws he wanted when he was rising to power. The Road to Hell is paved with good intentions, however. From what I've seen of life, it has been fully paved for quite some time. It doesn't need any more bricks, and SB 2394 is such a brick.

Mitakuye oiasin. We can extrapolate this from "we are all related" to "what happens to one, happens to all; and injustice anywhere opens the door to injustice everywhere". Just because one person or group stole an election recently and the people who could have done something about it did not, does not mean we "need" this kind of reactionary, demeaning, threatening, Orwellian, and insulting law. Thank you for hearing me in a good way now. I know you didn't mean to make such devastation of the Constitution happen, so thank you for killing this bill. And not me. Many blessings.



*Representing the Diocese of Fargo
and the Diocese of Bismarck*

Christopher T. Dodson
Executive Director and
General Counsel

To: Senate Government and Veterans Affairs Committee
From: Donna Byzewski, Corporate Guardianship Program Supervisor
at Catholic Family Service
Subject: Senate Bill 2394
Date: February 6, 2003

Chairperson Krebsbach and Members of the Government and Veterans Affairs Committee, my name is Donna Byzewski and I am supervisor of the corporate guardianship program at Catholic Family Service. I am respectfully asking your committee to revise Section 9 of SB 2394 which pertains to people placed under guardianship.

Catholic Family Service provides corporate guardianship services on behalf of 340 people with developmental disabilities. Many of our wards continue to have the right to vote, even though they have been found by the court to be incapacitated and in need of a guardian. We have also had several wards who have returned to court to ask that their right to vote be restored. In almost all cases, the court reinstated this right. North Dakota Century Code 30.1-28-04 states that except upon specific findings of the court, no ward may be deprived of any of the following legal rights: to vote, to seek to change marital status, to obtain or retain a motor vehicle operator's license, or to testify in any judicial or administrative proceedings.

It is my fear that Section 9 of SB 2394 will create a barrier for our wards who have the right to vote and want to exercise their right to vote. I do not believe that it is the intent of SB 2394 to prevent all people who have a guardian from voting and I respectfully ask the committee to amend this section of the bill. Thank you for your time and consideration.

W. Broadway, Suite 2
Bismarck, ND 58501

(701) 223-2519
1-888-419-1237
FAX # (701) 223-6075

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Donna Byzewski
Operator's Signature

10/22/03
Date

Testimony on SB 2394
Senate Committee on Government and Veterans Affairs
Tim Schuetzle, Prisons Division Director
North Dakota Department of Corrections and Rehabilitation
10:30 a.m. 2/6/03

The Department of Corrections wishes to testify against Section 10 of SB 2394. This new section to chapter 16.1-02 of the North Dakota Century Code makes two requirements of the Director of the North Dakota Department of Corrections. The first requirement is that the DOCR shall report monthly to the Secretary of State the name, address, date of birth, date of sentence, effective date of sentence, and the county of conviction of each person who has been convicted of a felony. The second requirement is that the Director of the DOCR shall also report the name, address, and date of birth of each person **previously convicted** of a felony whose civil rights have been restored as provided in section 12.1-33-02.

The greatest problem with the first requirement is that the DOCR is not informed of every person that is convicted of a felony in the state, and could only provide data for those felons that were actually sentenced to the DOCR and had entered our system. It is not uncommon for some felons to receive suspended sentences, serve the time in a county jail, and never enter the DOCR. While the DOCR could provide this information on our portion of all convicted felons (the ones that we receive), a more complete list of felons could be generated if the law required each sentencing court to provide this information to the Secretary of State.

The DOCR could also provide the information on those felons that have been discharged from the DOCR, but again this will likely not be a complete list. We also believe that requiring this information on a monthly basis is overly burdensome for the staff involved.

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Deanna Ballantyne
Operator's Signature

10/22/03
Date

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February 13, 2003

TO: Senator Karen Krebsbach and Members of the Senate Government and Veteran's Affairs Committee

FR: Cory G. Fong, Deputy Secretary of State

RE: Hoghouse Amendment to Senate Bill No. 2394 - Central Voter File

Since the hearing of Senate Bill 2394, the Secretary of State's office has worked with the various interested parties and other state agencies to address concerns about the legislation. Many of the concerns were already addressed by the initial hoghouse amendments.

As a result of our work, I am providing the committee with a new and improved hoghouse amendment to Senate Bill 2394. The changes in the new hoghouse amendment, which are shaded for you, accomplish the following:

- Addresses the reporting concerns of the Departments of Health and Corrections and Rehabilitation, the State Court Administrator, and Protection and Advocacy. (Sections 7, 8, and 9)
- Removes the section concerning enforcement by the state's attorney's that was contained in Section 18 of the previous hoghouse amendment. (previous Section 18)
- Allows an individual to request to be added to the central voter file. (Section 10)
- Clarifies that records in the central voter file are considered exempt records and would therefore not be subject to the open records laws, except for the records available to candidates, political parties, and political committees, for election related purposes. (Section 16)
- Allows an individual offering to vote to either present a driver's license, a photo ID containing date of birth, or another appropriate form of identification prescribed by the Secretary of State displaying date of birth. (Section 19)
- Removes the provisional voting component altogether. (Section 18 and previous Section 20)

If you want to choose your own future, VOTE! - Tuesday Zwetow - 2000-2002 Get Out the Vote Slogan Winner - Bismarck Vo Tech

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2394

Secy State

Page 1, line 1, after A BILL, replace the remainder of the bill with:

"for an Act to create and enact chapter 16.1-02 and two new sections to chapter 16.1-05 of the North Dakota Century Code, relating to providing a central voter file for the purpose of preventing and determining voter fraud, election boards checking identification and verifying voter eligibility, and election boards being provided with precinct maps and precinct locators; to amend and reenact sections 16.1-01-04, 16.1-05-06, and 54-09-08 of the North Dakota Century Code, relating to qualifications of voters, challenging voters, and fees received by the secretary of state; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-01-04 of the North Dakota Century Code is amended and reenacted as follows:

16.1-01-04. Qualifications of electors.

1. Every citizen of the United States who is: eighteen years or older; a resident of this state; and has resided in the precinct at least thirty days next preceding any election, except as otherwise provided in regard to residency in chapter 16.1-14, is a qualified elector.
2. Every As it pertains to this title, every qualified elector of the state may have only one voting residence, shown by an actual fixed permanent dwelling or establishment.
3. A Except as otherwise provided in this section, a person's voting residence must be determined in accordance with the rules for determining residency as provided in section 54-01-26.
4. Pursuant to section 2 of article II of the Constitution of North Dakota, voting by persons convicted and sentenced for treason or felony must be limited according to chapter 12.1-33.
5. As it pertains to this title, a person may not be deemed to have gained or lost a residence solely by reason of the person's presence or absence while enrolled as a student at a college, university, or other postsecondary institution of learning in this state.
6. As it pertains to this title, a member of the armed forces of the United States may not be deemed to have gained or lost a residence in this state solely by reason of the member being stationed on duty in this state.
7. As it pertains to this title, a person may not be deemed to have lost residence in the person's precinct or in the state by reason of the person engaging in temporary government service or private employment outside the person's precinct or outside the state.

SECTION 2. A new section to chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

Permanent central voter file. A permanent, centralized, electronic data base of voters, to be known as the central voter file is established with the offices of the secretary of state and county auditors linked together by a centralized statewide system. The county auditor is chief custodian of the central voter file records in each county. The secretary of state is responsible for maintaining the central voter file. The central voter file shall be accessible by the secretary of state and all county auditors for purposes of preventing and determining voter fraud, making

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2394

changes and updating the central voter file, and generating information, including pollbooks, reports, inquiries, forms and voter lists.

SECTION 3. A new section to Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

Costs of creating and maintaining a central voter file. The creation of the central voter file and its maintenance through June 30, 2009, must be paid for with funds from the state's election fund, provided the election fund contains adequate funding to create and maintain the central voter file according to this chapter. The creation of the central voter file and its maintenance through June 30, 2009, must not be paid for from funds in the secretary of state's budget or the state's general fund or from county funds. Beginning July 1, 2009, the office required to perform the functions and duties of this chapter must bear the costs incurred and the secretary of state shall pay the costs of operating and maintaining the central voter file.

SECTION 4. A new section to Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

Secretary of state to establish the central voter file with department of transportation and county auditors.

1. Before the primary election in 2004, the secretary of state shall establish the central voter file in cooperation with the department of transportation and county auditors.
2. The secretary of state shall establish the initial central voter file from records maintained by the department of transportation. The county auditors shall compare the initial central voter file against all precinct pollbooks used during and created from the general elections in 2000 and 2002 and any reasonably reliable updates made by county auditors since the general elections in 2000 and 2002. Those individuals contained in the initial central voter file who voted at either the general election in 2000 or 2002 shall be designated as active in the initial central voter file. Those individuals contained in the initial central voter file who did not vote at either the general election in 2000 or 2002 shall be designated as inactive in the initial central voter file.
3. Each individual contained in the initial central voter file must be assigned a unique identifier. An individual's unique identifier must be created from unique information and data obtained from records maintained by the department of transportation and the pollbooks from the general elections in 2000 and 2002. If it is impossible to assign a unique identifier to an individual contained in the initial central voter file, a unique identifier will be randomly generated and assigned to the individual.
4. The secretary of state shall adopt rules for generating and assigning a unique identifier to each individual contained in the central voter file according to section 12 of this Act and subsection 3 of section 16.1-01-01.
5. When establishing the initial central voter file from the records maintained by the department of transportation and the pollbooks from the general elections in 2000 and 2002, the secretary of state and county auditors shall attempt to correct address errors and misspellings of individuals' names.

SECTION 5. A new section to Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

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amendments (sb 2394 wo prov voting) 020603

Deanna Hall
Operator's Signature

10/22/03

Date

PROPOSED AMENDMENTS TO SENATE BILL NO. 2394

Precinct boundaries changed - Change to the central voter file. When the boundaries of a precinct are changed, the county auditor shall immediately update the voter records for that precinct in the central voter file to accurately reflect those changes.

SECTION 6. A new section to Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

Entry of new voters into the central voter file - Query of the central voter file for double voting - Verification by mail - Challenges - Post election verification.

1. Within sixty days following an election, the county auditor must enter the names and required information of each individual who voted at the last election who is not already contained in the central voter file and update any required information requested and obtained at the last election for any individual already contained in the central voter file.
2. To prevent fraudulent voting and to eliminate excess names, the secretary of state, with the assistance of the county auditors, within seventy days following an election, shall query the central voter file to determine if any individual voted more than once during the preceding election. The secretary of state shall immediately notify the county auditors and state's attorneys in the affected county or counties for further investigation.
3. To prevent fraudulent voting and to eliminate excess names, the county auditor shall mail to a random sampling of individuals contained in the central voter file a notice stating the individual's name and address as they appear in the central voter file. The random sampling shall be determined in the manner established by the secretary of state. The notice must request the individual to notify the county auditor if there is any mistake in the information.
4. Upon return of any nonforwardable mail from an election official, the county auditor or the auditor's staff shall ascertain the name and address of that individual. If the individual is no longer at the address recorded in the central voter file, the county auditor shall designate the individual as challenged in the central voter file. An individual designated as challenged in accordance with this subsection shall comply with the provisions of section 16.1-05-06 before being allowed to vote at the next election in that precinct. If a notice mailed at least sixty days after the return of the first nonforwardable mail is also returned by the postal service, the county auditor shall designate the individual as inactive in the central voter file.
5. Within ninety days after an election, the county auditor shall send the notice provided for under subsection 3 to each individual who was challenged on election day according to section 16.1-05-06. If a notice is returned as not deliverable, the county auditor shall attempt to determine the reason for the return. A county auditor who does not receive or obtain satisfactory proof of an individual's eligibility to vote shall immediately notify the state's attorney to conduct an investigation according to and the secretary of state.

SECTION 7. A new section to Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

Reporting deceased individuals and changes of names - Changes to records in the central voter file.

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2394

1. The state health officer shall provide for the regular reporting to the secretary of state the name, city, date of birth, and county of residence, if available, of each individual eighteen years of age or older who has died while maintaining residence in this state since the last report. Within thirty days after receiving the report, the secretary of state shall designate those individuals as deceased in the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.
2. The state health officer shall also provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older whose name was changed by marriage since the last report. Within sixty days after receiving the report, the secretary of state shall make the name changes in the central voter file and notify by mail each individual whose name was changed that the individual's name has been changed accordingly in the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.
3. After receiving notice of death of an individual who has died outside the county, the county auditor shall designate that individual as deceased in the central voter file. Notice must be in the form of a printed obituary or a written statement signed by an individual having knowledge of the death of the individual.

SECTION 8. A new section to Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

**Reporting individuals placed under guardianship and changes of names -
Changes to records in the central voter file.**

1. The state court administrator shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older who was placed under a guardianship and as a result has been deprived of the legal right to vote since the last report. Within thirty days after receiving the report, the secretary of state shall designate those individuals as ineligible in the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.
2. The state court administrator shall also provide for the regular reporting to the secretary of state the name, address, and date of birth, if available, of each individual eighteen years of age or older whose legal right to vote has been restored by the court since the last report. Within thirty days after receiving the report, the secretary of state shall remove the ineligible designation of the individual in the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.
3. The state court administrator shall also provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older whose name was changed by divorce or any order or decree of the court since the last report. Within sixty days after receiving the report, the secretary of state shall make the name changes in the central voter file and notify by mail each individual whose name was changed that the individual's name has been changed accordingly in

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the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.

SECTION 9. A new section to Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

Reporting Incarcerations - Changes to records in the central voter file.

1. The director of the department of corrections and rehabilitation shall provide for the regular reporting to the secretary of state the name, address, date of birth, date of sentence, effective date of the sentence, and county in which the conviction occurred, if available, of each person who has been convicted of and incarcerated under the legal and physical custody of the department of corrections and rehabilitation for a felony since the last report. Within thirty days after receiving the report, the secretary of state shall designate those individuals as ineligible in the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.
2. The director of the department of corrections and rehabilitation shall also provide for the regular reporting to the secretary of state the name, address, and date of birth, if available, of each person previously convicted of and incarcerated for a felony whose civil rights have been restored as provided in chapter 12.1-33 since the last report. Within thirty days after receiving the report, the secretary of state shall remove the ineligible designation of the individual in the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.

SECTION 10. A new section to Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

Department of transportation to report updates to the secretary of state - Changes to records in the central voter file.

1. The department of transportation shall report regularly to the secretary of state any relevant changes and updates to records maintained by the department of transportation that may require changes and updates be made to individuals and records of individuals contained in the central voter file.
2. The county auditor may change the designation of individuals contained in the central voter file whose change of address can be confirmed by the United States Postal Service. The secretary of state may provide the county auditors with periodic reports on individuals whose change of address can be confirmed by the United States Postal Service.
3. If an individual makes a written request to the county auditor for removal of the individual's record from the central voter file, the county auditor shall change the designation of the individual contained in the central voter file to inactive.
4. If a qualified elector makes a written request to the county auditor for inclusion in the central voter file, the county auditor shall collect the required information from the individual and add the individual's name to the central voter file with the designation of inactive.

SECTION 11. A new section to Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

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Posting voting history - Failure to vote - Individuals designated inactive. Within ninety days after every election, the county auditor shall post the voting history for every individual who voted in the election. After the close of the 2008 calendar year, the secretary of state shall determine if any individuals have not voted during the preceding four years and shall change the status of those individuals to inactive in the central voter file. The secretary of state shall also prepare a report to the county auditors containing the names of all individuals who were designated as inactive in the central voter file. Although not counted in an election, a late absentee ballot from an individual may not be used to designate an individual as inactive in the central voter file according to this section.

SECTION 12. A new section to Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

Secretary of state to adopt rules for the purpose of maintaining the central voter file. The secretary of state shall adopt uniform rules and procedures according to subsection 3 of section 16.1-01-01 for the purposes of implementing the provisions of this chapter and for updating and maintaining the central voter file that are consistent with this chapter. The rules shall:

1. Provide for the establishment and maintenance of a central voter file.
2. Provide for the generation and assignment of a unique identifier to each individual contained in the central voter file.
3. Provide procedures for entering data into the central voter file.
4. Provide for any additional information to be requested of and obtained from individuals that is to be maintained in the central voter file, not already provided by law, but necessary for the proper administration of the central voter file;
5. Provide for the exchange of records maintained by the appropriate state and county agencies and officials for receiving regular reports about individuals and records of individuals contained in the central voter file.
6. Allow the offices of all county auditors and the secretary of state to add, modify, and delete information from the central voter file to ensure accurate and up-to-date records.
7. Allow the offices of all county auditors and the secretary of state to have access to the central voter file for review, search, and inquiry capabilities.
8. Provide security and protection of all information contained in the central voter file and to ensure that unauthorized access and entry is prohibited.
9. Provide a system for each county to identify the precinct to which an individual should be assigned for voting purposes.

SECTION 13. A new section to Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

Information contained and maintained in the central voter file. The central voter file shall contain the following information for each individual contained therein:

1. The complete name of the individual;
2. The complete residential address of the individual;
3. The complete mailing address of the individual, if different from the individual's residential address;
4. The unique identifier generated and assigned to the individual as provided by this chapter;

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5. Designations showing whether the individual's ability to vote in the precinct has been inactivated as a result of death, incarceration, or because of a change in guardianship status, or because the individual is no longer a resident of the precinct according to section 16.1-01-04;
6. Designations showing whether the individual must be challenged according to section 16.1-05-06;
7. The county, legislative district, precinct name, and precinct number in which the individual resides; and
8. Beginning in 2008, four years of an individual's voting history, if applicable.
9. Any other information requested of and obtained from the individual deemed necessary by the secretary of state for the proper maintenance of the central voter file following the adoption of rules according to section 12 of this Act and subsection 3 of section 16.1-01-01.

SECTION 14. A new section to Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

Information contained in pollbooks generated from the central voter file. The county auditor shall generate a pollbook for each precinct in the county from the central voter file by the fifteenth day before the election. Between the fifteenth day before the election and the day of the election, no changes or updates to individuals or records of individuals contained in the central voter file or a pollbook generated from the central voter file may be made, other than changes related to the status of an individual voting early or an individual requesting and returning an absent voter's ballot. The secretary of state shall prescribe procedures for generating pollbooks and for transporting the pollbooks to the election judges for use on election day. Pollbooks generated from the central voter file shall contain the following information for each individual contained therein:

1. The complete name of the individual;
2. The complete residential address of the individual;
3. The unique identifier generated and assigned to the individual as provided by this chapter;
4. Designations showing whether the individual's ability to vote in the precinct has been inactivated as a result of death, incarceration, or because of a change in guardianship status, or because the individual is no longer a resident of the precinct according to section 16.1-01-04;
5. Designations showing whether the individual must be challenged according to section 16.1-05-06;
6. The county, legislative district, precinct name, and precinct number in which the individual resides; and
7. Any other information requested of and obtained from the individual deemed necessary by the secretary of state for the proper maintenance of the pollbook following the adoption of rules according to section 12 of this Act and subsection 3 of section 16.1-01-01.

SECTION 15. A new section to Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

Voter lists and reports to be made available for jury management. On or before February 1 of each year, the secretary of state shall transmit information from the central voter

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file to the state court administrator for the purposes of compiling the master list of jurors according to chapter 27-09.

SECTION 16. A new section to Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

Voter lists and reports may be made available for election related purposes only - Funds received.

Except as otherwise provided by law, voter lists or reports generated from the central voter file may be made available to candidates, political parties, and political committees for election related purposes only. Any information obtained by candidates, political parties, and political committees for election related purposes from lists or reports generated from the central voter file may not be sold or distributed for purposes that are not election related. Except for information identified in the central voter file under subsections 1, 2, 3, 5, 7, and 8 of section 13 of this Act, which may be made available to candidates, political parties, and political committees for election related purposes, information from the central voter is an exempt record. Any moneys received by the secretary of state to pay the cost of producing reports or lists of voters contained in the central voter file must be deposited in the secretary of state's general services operating fund according to section 54-09-08.

SECTION 17. A new section to Chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

Violations - Penalties.

1. An officer, deputy, clerk, or other election employee may not intentionally:
 - a. Fail to perform or enforce any of the provisions of this chapter except subsection 2;
 - b. Remove an individual from the central voter file or change a record of an individual contained in the central voter file in a manner or for a purpose not authorized by law; or
 - c. Add a name or names of individuals to the central voter file or add a record or records of an individual contained in the central voter file in a manner or for a purpose not authorized by law.

An individual who violates this subsection is guilty of class A misdemeanor.
2. A deputy, clerk, employee, or other subordinate of a county auditor who has knowledge or reason to believe that a violation of this chapter has occurred shall immediately transmit a report of the knowledge or belief to the county auditor, together with any possessed evidence of the violation. Any county auditor who has knowledge or reason to believe that a violation of this chapter has occurred shall immediately transmit a report of the knowledge or belief to the state's attorney of the county where the violation is believed to have occurred, together with any possessed evidence of the violation. The county auditor shall also immediately send a copy of the report to the secretary of state. A violation of this subsection is a class A misdemeanor.
3. An individual who intentionally violates any provision of this chapter is guilty of a class A misdemeanor, unless a different penalty is specifically provided by law.

SECTION 18. AMENDMENT. Section 16.1-05-06 of the North Dakota Century Code is amended and reenacted as follows:

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2394

**16.1-05-06. Challenging right of person to vote - Identification or affidavit required
- Penalty for false swearing - Optional poll checkers.**

1. One poll challenger appointed by the district chairman of each political party represented on the election board is entitled to be in attendance at each polling place. Individual poll challengers may be replaced at any time during the hours of voting, but no more than one poll challenger from each political party is entitled to be in attendance at each polling place at any one time.
2. ~~The members~~ Any member of the election board and ~~poll challengers~~ may challenge the right of ~~anyone~~ an individual to vote whom they know or have reason to believe is not a qualified elector. ~~Members~~ A poll challenger may request members of the election board or ~~poll challengers~~ may to challenge a ~~voter if the right of an individual to vote whom~~ they know or have reason to believe is not a qualified elector of the precinct. A challenge may be based upon any one of the following:
 - a. The ~~person~~ individual offering to vote does not meet the age or citizenship requirements.
 - b. The ~~person~~ individual offering to vote has never voted in the precinct before and the name of the individual offering to vote does not appear in the pollbook generated from the central voter file, and the individual fails to provide reasonable evidence of residency in the precinct.
 - c. Except as provided in section 16.1-01-05, the ~~person~~ individual offering to vote physically resides outside of the precinct.
 - d. The ~~person~~ individual offering to vote does not meet the residency requirements provided in section ~~16.1-01-05~~ 16.1-01-04.
3. ~~A poll challenger or~~ If after an election board member may request has requested that the ~~person~~ individual offering to vote provide an appropriate form of identification, as provided under section 19 of this Act, to address any of the voting eligibility concerns listed in subsection 2-If , and the identification provided does not adequately resolve confirm the voter eligibility concerns of the poll challenger or election board member of the challenged individual, the challenged person individual may not vote unless the challenged person individual executes an affidavit, acknowledged before the election inspector, that the challenged person individual is a legally qualified elector of the precinct.
4. The affidavit must include:
 - a. The name and present address of the affiant and the address of the affiant at the time the affiant last voted.
 - b. The previous last name of the affiant if it was different when the affiant last voted.
 - c. A recitation of the qualifications for voting as set forth in section 16.1-01-04 and the rules for determining residence.
 - d. Notice of the penalty for making a false affidavit and that the county auditor may verify the affidavit.
 - e. A place for the affiant to sign and swear to the affiant's qualifications as a voter.
5. Written notice of the penalty for making a false affidavit and that the county auditor may verify the affidavits must also be prominently displayed at the polling place in a form prescribed by the secretary of state. Any person who falsely

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swears in order to vote is guilty of a class A misdemeanor and must be punished pursuant to chapter 16.1-01.

6. ~~The county auditor shall verify randomly at least ten percent of the affidavits signed in the county and shall report all known or suspected violations to the state's attorney for investigation and possible prosecution.~~
7. In addition to the poll challenger, not more than two poll checkers appointed by the district chairman of each political party represented on the election board may be in attendance at each polling place, provided such poll checkers do not interfere with the election process or with the members of the election board in the performance of their duties. The poll challengers and poll checkers must be qualified electors of the district in which they are assigned.
8. No poll challenger or checker may be a member of the election board.
8. The district chairman shall notify the county auditor of each county contained in the legislative district before the third day before the day of the election of the names of persons who the district chairman has appointed to serve as poll challengers and poll checkers in the various precincts in the legislative district.

SECTION 19. A new section to chapter 16.1-05 of the North Dakota Century Code is created and enacted as follows:

Poll clerks to check identification and verify eligibility – Poll clerks to request, correct, and update incorrect information contained in the pollbook.

1. Before delivering a ballot to an individual according to section 16.1-13-22, the poll clerks shall request the individual show either a driver's license issued by the state, another form of identification displaying a photograph of the individual and the individual's date of birth, or another appropriate form of identification prescribed by the secretary of state displaying the individual's date of birth. After verifying that the individual's name is contained in the pollbook generated from the central voter file, poll clerks shall verify the individual's residential address and mailing address, if different from the individual's residential address.
2. If the individual's name is not contained in the pollbook generated from the central voter file, the individual may be challenged according to section 16.1-05-06 and the individual's name must be recorded in the pollbook and the poll clerks must request and obtain any additional information for the individual required to be included in the pollbook.
3. When verifying an individual's eligibility according to this section or when entering a new individual into the pollbook, poll clerks shall request, correct, and update any incorrect or incomplete information about an individual that is required to be contained in the pollbook generated from the central voter file.
4. Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct to the proper precinct and voting location.

SECTION 20. A new section to chapter 16.1-05 of the North Dakota Century Code is created and enacted as follows:

County auditor to provide election board members with precinct maps or precinct finder. The county auditor shall provide each precinct election board with an accurate precinct map or precinct finder to assist election board members in determining whether an address is located in that precinct and for determining which precinct and polling location to direct an individual who may be attempting to vote incorrectly in that precinct.

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2394

SECTION 21. AMENDMENT. Section 54-09-08 of the North Dakota Century Code is amended and reenacted as follows:

54-09-08. Secretary of state's general services operating fund. The secretary of state's general services operating fund is a special fund in the state treasury. Moneys in the fund are to be used pursuant to legislative appropriations for the provision of services under section 16 of this Act, subsection 6 of section 41-09-94, subsection 9 of section 54-09-04, and sections 54-09-10 and 54-09-11. At the close of each fiscal year, the secretary of state shall transfer any unobligated balance remaining in the fund exceeding seventy-five thousand dollars to the general fund."

Renumber accordingly

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Testimony on SB2394 at House Government and Veterans Affairs

By Ken Yantes / North Dakota Township Officers Association

Mr. Chairman and Members of the House Government and Veterans Affairs Committee,

My name is Ken Yantes and I represent over 6000 grassroots elected North Dakotans called The North Dakota Township Officers Association.

This Association has policy in support of SB2394.

SB2394 is a 14 page bill that seeks to accomplish a multi-purpose. The ND Township Officers are in support of the changes found on lines 15 - 17 on page 1 which says "every qualified elector may have only one residence shown by an actual fixed permanent dwelling or establishment".

We feel that the passage of this bill will help to clear up who can vote and hold office in a township.

Each year as the time for township annual meetings comes around, we are inundated with questions on voter eligibility. Representatives....this is why. NDCC in 58-04-08 and 58-05-01 says "in order for you to hold office in a township, you must be to be a qualified elector of the township". In another section of NDCC it says that the only way for you to lose your voting status is if you vote elsewhere. Until you do vote elsewhere, you are still entitled to vote and hold office in the township where you had prior residency. Many of our states township officers have moved into town, still own land in what was their township for many years and have not voted elsewhere just to keep their voting status in the township. This violates the long time principle of residency as a voting requirement or at least puts it in a very gray area.

Our membership at the 1998 annual meeting developed a clarification policy which said "if you live in a township you can vote in a township, if you don't live in a township you don't vote in a township".

Mr. Chairman and Committee Members, this bill will help to establish a firmer description of who is a qualified elector for voting in a township. The NDTOA asks for your do pass recommendation on SB2394.

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**58th Legislative Assembly
North Dakota State Legislature
House Government and Veteran's Affairs Committee**

**Testimony of Phyllis Howard
Tribal member, Three Affiliated Tribes**

Regarding SB 2397

March 20, 2003

Mr. Chairman, members of the Committee. My name is Phyllis Howard. I am presently a resident of Bismarck, employed in Bismarck, and I am also a member of the Three Affiliated Tribes. I am here today to speak in opposition to SB 2397, and in particular, in opposition to any change in the requirements for showing a picture identification card as a prerequisite to vote in state elections.

Several years ago, I ran as a candidate in a primary for a position in the State Legislature from District 4, where I was then a resident. As you may know, most of the voting population of the Three Affiliated Tribes is contained within District 4. My race gained a great deal of attention among Tribal members, as I was one of the first Tribal members, if not the first, and most likely the first woman, to run for a seat in the legislature in our district.

The turnout in this race was phenomenal. Many more Tribal members showed up to vote than usual in a primary race, and unfortunately, in several precincts that primarily serve Tribal members there were long lines of people waiting to vote when the polls closed. In at least two precincts on the reservation, there were not enough ballots for all those wanting to vote. I can assure you, the issues that this election raised were brought to the attention of the County Auditors in the affected counties. No question was raised then about the eligibility of those coming to vote at the precincts where the lines were long or where there were not enough ballots, because the poll watchers and the election officials knew the people coming to vote, even those who had not voted before or who had not voted in a long time. We are still in a rural state and people know each other in our District.

I mention this history to you because SB 2397 imposes a new requirement on elections that certainly has not been necessary in the past, that is, it says that any citizen has to have a photo identification card or some other form of identification prescribed by the Secretary of State that has the person's birth date on it. But many, many Tribal members from Fort Berthold, especially our elders, may not have a picture form of identification. I suspect this is true for the other Tribes in our state also. Many of our members don't carry around their Tribal enrollment card, either. Instead, if our Tribal members come to vote, they know that there will be someone there who knows who they are. That is the way it is in our state, which does not require pre-registration for a person of adult age to be able to vote.

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There is no compelling reason presented to you today to change that requirement. What SB 239⁴ would do in the rural areas of our reservations is to discourage voting. If an elder comes to a precinct to vote, and has traveled some distance to get there, and is told that they don't have adequate identification and so they cannot vote, even if they have voted there before, you lose otherwise eligible voters. Even if the elder has the appropriate identification, but has forgotten it at home, the elder on fixed income, who took the time to come to vote, may not be able to go home and get the identification and come back in time to be able to vote. That is not right. Again, an eligible voter is lost and voter participation is reduced. That is not consistent with the kind of open, participatory democracy we value in North Dakota.

I am aware that the proposed law, SB 239⁴, says that the Secretary of State may prescribe other forms of identification that contain a person's birthdate on it, other than those mentioned in the statute. Maybe that could include a Tribal identification card or a Tribal enrollment card. But it is not clear that these forms of identification would be accepted by the Secretary of State. Nor do we know what would happen if the identification card is forgotten at home and there is no time to go back to get it before the polls were to close.

Right now, the issue of proper identification is taken care of by the ability of poll watchers to challenge voters. The process is outlined in present law, and is amended somewhat in SB 239⁷. I believe the present process of challenging voters is adequate and does not need to be substantially amended. The penalty for filing a false affidavit if no adequate identification is provided is enough of a disincentive to voters in North Dakota not to falsely cast a ballot. I do not believe that I have heard of a case in North Dakota of fraudulent balloting.

Therefore, because a good challenge system is in place, we do not need a more cumbersome system of voting in North Dakota. In fact, I believe the system that SB 239⁷ sets up is, effectively, voter registration without calling it that.

For these reasons, I oppose SB 239⁴, and ask that this committee give it a DO NOT pass recommendation. We do not need voter registration in North Dakota. I want to make sure that all Tribal members who want to vote are allowed to do so.

Thank you for the opportunity to provide testimony to this committee.

Phyllis Howard
919 South 7th St., Suite 303
Bismarck, North Dakota 58504



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MANDAN, HIDATSA, & ARIKARA NATION

Three Affiliated Tribes • Fort Berthold Indian Reservation
404 Frontage Road • New Town, North Dakota 58763-9402

58th Legislative Assembly
North Dakota State Legislature
Government and Veteran's Affairs Committee
House of Representatives

Testimony of Mervyn Packineau
Vice-Chairman, Three Affiliated Tribes

Opposing SB 239⁴

March 20, 2003

Mr. Chairman and members of the Committee, my name is Mervyn Packineau, Vice-Chairman of the Three Affiliated Tribes, and I am testifying against SB 239⁷, and especially in opposition to the new requirement added by SB 239⁷ that each voter must produce a photo identification card in order to vote in state elections.

Our Tribe is not aware of the problems that SB 239⁴ is supposedly trying to solve. We are not aware, for example, of any issues involving voter fraud or problems of people voting twice in our state elections. It is hard enough to get people out to vote in state elections, even though North Dakota does not have the voter registration present in most states.

What SB 239⁴ does do, however, is put more roadblocks in the way of people voting in our state. It may seem like a simple thing, to produce a photo identification card that has your birthday on it in order to vote. But many, many of our members, and I believe the members of other of the Indian tribes in North Dakota as well, simply do not have such identification cards, and the enrollment cards of members do not generally have photos on them.

We simply have not heard that a problem concerning voter fraud exists that would require the solutions proposed by SB 239⁷. In fact, the challenge system currently in place in state elections seems quite adequate to us. We use a similar challenge process in our Tribal elections. In the state challenge process, a penalty exists for swearing out a false affidavit regarding residency in the precinct in which you are voting. I can see the legislature increasing that penalty to reduce the chance of voter fraud. But requiring a photo identification card where not was required before is truly unnecessary where our precincts are already quite small in terms of population size.

There are several other factors to consider, as well. What happens if a voter forgets the identification required and it is too late to go home to get it before the polls close? The voter may have cast a ballot many times, be on the poll book, be known to the election officials, and still be denied a ballot. That is simply not the way things have been done in North Dakota and it has worked when our population was larger, and it has worked in the most recent election.

What kind of identification card, in addition to driver's licenses, or other state issued I.D. cards will be approved by the Secretary of State? If it is a photo I.D. but doesn't have the person's birthday on it, why isn't that good enough? For example, we issue photo Tribal I.D. cards to

those who request them, and issue photo I.D.s to our Tribal employees, but they do not have the person's birthday on them. Are we now required to reissue these I.D. cards for them to be acceptable to the Secretary of State for voting purposes? Who will pay for these I.D. cards to be reissued?

Finally, North Dakota has long been the only state in the United States without voter registration. SB 239 is in fact a voter registration process. It places barriers to voting that are not in keeping with the traditions of our state. It will act to discourage voters from voting. I see nothing but litigation that will follow the passage of this bill. That fact alone should encourage each of the members of this Committee to vote DO NOT PASS for this bill.

Thank you for considering my testimony.

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Deanna Hallen
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10/22/03
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Senate Bill 2394
House Government and Veterans Affairs Committee
Thursday, March 20, 2003
by Ted Gladden, State Court Administrator

Chairman Klein and members of the House Government and Veterans Affairs Committee, I am appearing today in support of SB 2394.

The North Dakota Judiciary, through its district courts, uses two source lists in the preparation of the master jury list that is prepared in each county by March 1 of each odd-numbered year. The source lists are prescribed by court rule. Those two lists are licensed drivers in North Dakota and people who voted in the most recent general election. In most counties, we must go through and manually extract the names of the people who have voted in the last general election and compare it to the list of licensed drivers to see if they already have had a chance to be selected for jury duty by being picked from the drivers list. If a name is unduplicated, in that they were not selected from the drivers list, the name is added from the poll books.

One of the major challenges we have is in obtaining the names of individuals with current addresses. The bill before you, which primarily focuses on the creation of a central voter file maintained in the Secretary of State's Office, will allow the judiciary to get the names of people who have voted in an electronic format. The process will reduce the amount of time and staff work required to compare voters names against drivers names and simplify the creation of the master jury list. We will be able to compare names electronically. While I recognize the focus of this bill is not for this purpose, it will assist the judiciary in providing an accurate automated list of names in a more timely fashion than is the case today.

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At the present time, there are less than five counties that automate their poll book records. In these select number of counties, the entering of names from the poll books to a computerized list is done when the time is available in the county auditor's office. The current process takes too long to get the names to us to be of any benefit in our selection process. For this reason, the language that is contained in the SB 2394, on page 10, lines 5-8, will substantially improve our efficiency and effectiveness in preparing the master jury lists. We will not only improve the accuracy of the data contained in the master jury lists, but with the requirement that the information be submitted by the county auditors to the central voter file prior to the 1st of February, the master jury lists will be available to meet our needs by March 1 of each odd-numbered year.

Thank you.

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SECRETARY OF STATE

March 20, 2003

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TO: Representative Matt Klein and Members of the House Government and Veteran's Affairs Committee

FR: Cory G. Fong, Deputy Secretary of State

RE: Senate Bill No. 2394 - Central Voter File

Senate Bill No. 2394 is intended to establish a centralized electronic voter database, to be known as the Central Voter File, that will link the Secretary of State's office with county auditors' offices. The Central Voter File would provide a tool for improving Election Day administration, preventing and detecting voter fraud, generating Election Day poll books, and keeping accurate voting lists.

The general concept behind Senate Bill No. 2394 has been discussed by the Secretary of State's office and county auditors as an attempt to improve the accuracy and functionality of precinct poll books and voter lists. While at the same time addressing the concerns and allegations of voter fraud that are sometimes raised by advocates of voter registration. The Interim Judiciary Committee, as a possible alternative to adopting voter registration, also raised the concept several years ago. However, the concept never gained momentum because of funding concerns.

Today, funding is less of a concern because of the recent passage and funding of the Help America Vote Act of 2002, also known as HAVA. The state of North Dakota stands to receive \$5 million, and possibly more, for purposes of improving election administration, replacing punch card voting equipment, better educating election workers and voters, improving voter accessibility, and purchasing new and advanced voting equipment.

The Secretary of State's office believes the costs associated with creating, implementing, and maintaining the Central Voter File, as envisioned in this legislation, could be paid for from federal HAVA moneys because it would significantly improve election administration in the state. The legislation specifies that creating and maintaining the Central Voter File through 2008 would be contingent upon the necessary funding being made available by Congress so that the Secretary of State's office, counties, and the legislature are not left holding the bag.

Before I explain the highlights of Senate Bill No. 2394, the Secretary of State's office is proposing some amendments to the bill. My explanation of the bill will also include discussion of these proposed amendments.

The bill with the proposed amendments accomplishes the following:

- Requires the Secretary of State to establish a centralized electronic voter database, known as the Central Voter File, created from records maintained by the Department of Transportation and compared against precinct poll books maintained by the county auditors from the previous general elections. (Section 2 - 16.1-02-01)

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- Requires the Central Voter File to be developed no later than the 2006 Primary Election. (Section 2 - 16.1-02-03 and proposed amendments)
- Specifies that the Central Voter File must be funded from the state's election fund and not through the Secretary of State's budget, the general fund, or from county funds. (Section 2 - 16.1-02-02)
- Provides that during the creation of the Central Voter File, each individual contained in the Central Voter File would be assigned a unique identifier from existing data contained in the file. If it were impossible to assign a unique identifier to a voter contained in the initial Central Voter File, a randomly generated unique identifier would be assigned to the individual. (Section 2 - 16.1-02-02)
- Directs the county auditors to enter data into the Central Voter File in a timely manner following elections and on routine intervals for the purpose of ensuring the data and records maintained in the Central Voter File are up-to-date and accurate. (Section 2 - 16.1-02-05)
- Directs the county auditors to perform routine and random mailings to individuals contained in the Central Voter File to verify and confirm voter eligibility, ensure voting in the proper precinct, and prevent and detect voter fraud. (Section 2 - 16.1-02-05)
- Directs the Secretary of State and the county auditors to conduct routine inquiries of the Central Voter File following elections to prevent and eliminate excess names and detect voter fraud. (Section 2 - 16.1-02-05)
- Requires routine reporting to the Secretary of State concerning deaths, name changes, guardianships that result in an individual being deprived of the right to vote, and incarcerations from the Department of Health, the State Court Administrator, and the Department of Corrections and Rehabilitation, which may require that updates and changes be made to records contained in the Central Voter File. (Section 2 - 16.1-02-06, 16.1-02-07, and 16.1-02-08)
- Requires routine reporting by the Department of Transportation to the Secretary of State of updates, which may require that updates and changes be made to records contained in the Central Voter File. (Section 2 - 16.1-02-09)
- Requires the Central Voter File to contain four years of voting history, if applicable, for each individual contained in the Central Voter File, beginning in 2008. (Section 2 - 16.1-02-10)
- Authorizes the Secretary of State to promulgate rules to create, implement, and maintain the Central Voter File in cooperation with the Department of Transportation and the county auditors. (Section 2 - 16.1-02-11)

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- Establishes the content of information for the Central Voter File and poll books generated from the Central Voter File. (Section 2 - 16.1-02-12, 16.1-02-13, and proposed amendments)
- Requires the Secretary of State to submit data from the Central Voter File to the State Court Administrator for the purpose of facilitating jury management. (Section 2 - 16.1-02-14)
- Provides that records in the Central Voter File are considered exempt records and would therefore not be subject to the open records laws, except for the records available to candidates, political parties, and political committees, for election related purposes. (Section 2 - 16.1-02-15)
- Provides for penalties if the information in the Central Voter File is used, updated, or altered in a manner not authorized by the law. (Section 2 - 16.1-02-15, 16.1-02-16, and proposed amendments)
- Provides a "check in" process for all voters at the polls, which requires showing identification, either a North Dakota driver's license, a photo ID with date of birth, or another appropriate form of identification prescribed by the Secretary of State displaying date of birth. (Section 4)
- Provides that a voter who fails or refuses to show identification is subject to be challenged and required to complete and sign a voter's affidavit. A voter who fails or refuses to show identification and is vouched for by a member of the election board or clerk may be allowed to vote without completing and signing a voter's affidavit. (Sections 3, 4, and proposed amendments)
- Provides that an individual offering to vote who is not contained in a precinct's poll book or is designated as challenged in the precinct's poll book is subject to be challenged and required to complete and sign a voter's affidavit. (Section 3)
- Clarifies and strengthens residence as it pertains to voting. (Section 1)

The Secretary of State's office supports Senate Bill No. 2394 with the proposed amendments and encourages this committee to give it a do pass recommendation.

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