

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1433

2005 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1433

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1433

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 1/27/05

Tape Number	Side A	Side B	Meter #
1	x		0-11.5
Committee Clerk Signature <i>John H. [Signature]</i>			

Minutes: HB 1433 Relating to election mechanics.

14 members present, 0 absent.

**Alvin A. Jaeger-Secretary of State-Testimony Attached**

**Rep. Boehning-District 27-Introduced bill.**

**Kevin Glatt-Burleigh County Auditor-For-**Have some concerns with section 9, page 8, line 14, where it says information is to be provided by the North Dakota State Data Center, I think Rep. Klemin and Rep. Sitte would appreciate in the growth areas in Burleigh County, in there districts, I am not so certain we could get that information that is stated here. My other concern has to do with the new rotation that is being proposed, I believe it is to much reliance on outside vendors and my other comment, I can explain present law, the way we rotate the candidates, I don't know if I could explain it the way it is proposed.

**Rep. Potter:** Would you explain a little further, why the information being provided by the North Dakota State Data Center would be problematic for you, could you explain that please.

**Kevin:** I don't believe that information is available today for the growth areas in Bismarck and Burleigh County and referred to Rep. Klemin and Rep. Sitte in there respective districts. There has been huge growth since the last census. I don't believe the information stated here is available, I don't believe it is.

**Rep. Klemin:** What would be an alternative to what is stated.

**Kevin:** I think just delete those words and just leave it to according to precincts with the greatest voting age population. Let the county auditors determine where they best see fit where that information should come from, there is estimates that have to be done.

**Rep. Klemin:** If we deleted the language that we have a concern about and put something to the affect, according to the best data available or something like that, that would certainly give you a choice of going to the data center if that was where the best data was.

**Kevin:** Yes, it and maybe it would come from the respective planning department, Bismarck Burleigh County planning department has a lot of that information and could give me some real good data.

**Larry Berget-Printers Inc.-Against-**I own the printers in town here and we print much of the ballots for about 15 counties. My main concern here is the rotating of the ballots here and taking out and putting in the new method. The problem with the new method is I wouldn't know how to do it. When we get our new ballots here, it has to be written down here, how can I do it. This would only allow an out of state company to print the ballots. We are relying on outside sources to do it. **The language is just to vague.**

**Rep. Potter:** I understand how it would be a concern. If you had a couple of years to figure it out, would that help?

**Larry:** What happens when I go to do the election next year, I go get the new rules, I sit down and read them all, we find out the changes, when I got to this point and read this, I couldn't print the ballot, I wouldn't know what to do. I would like it explained, so that I know how to physically rotate these ballots.

**Al:** The company that prints the ballot does not have an obligation to determine the rotation and so that is not something that the printer needs to be concerned about. The programming that's done, so that the equipment we have, the optical scanner we have, can read the ballot. That programming includes the rotation, the county auditor is given the rotation, the tim plates, the proofs that deal with the ballot that will be scanned. The county auditor has the option to use any printer that they wish. What has happened over the years, **as providing excellent service**, this company has printed ballots for a number of counties. They have assisted the auditor in the process of determining rotation, what we are saying is that all of this will be done in the programming process, the rotation is determined, the proofs are given to the auditor with the rotation already established and all the people that are doing the printing have to do is print. They do not have to be concerned about how the rotation is figured out, because the whole thing is designed that the name will be in an equal amount of times and in an equal amount of ballots, in the respective positions.

**Chairman Haas:** When you are talking about a proof, you are talking about a print ready.

**Al:** Ballot proof and that can be done electronically.

**Chairman Haas:** The rotation would be prescribed as a result of the work that the county auditors have done.

1/27/05

**Al:** What we approve in terms of the rotation, that would already be prescribed, so all the **county auditor** has to do is they have to proof it and all they have to do is let the vendor, that is going to do the printing of the ballots, there is nothing being taken away from anybody.

**Chairman Haas:** In response to the Burleigh County Auditors question, is there a easy way, there will be questions asked, is there a simple explanation for people who inquire about it, candidates and others.

**Al:** I guess that mathematical formula assures, best as possible that the candidates name appears in the same location on the ballot and equal number of times.

**Rep. Klemin:** Going back to the other issue that Kevin Glatt raised on page 8, line 14 and 15, this information is be provided by the North Dakota State Data Center, do you have any response to that.

**AL:** We access the North Dakota Data Center periodically, before elections, to determine the population, the data center every two years upgrades the estimate as to how many citizens of North Dakota, who are 18 years and older and we know the information we need state wide is there. You can't go back and relying on census data that happens every ten years.

**Rep. Klemin:** Because of changes and precinct boundaries and population, it is just a question of where do you get the information from. I think the point of Kevin Glatt is that data may not be available from North Dakota Data Center it might be available some place else.

**Al:** That could well be the case, one of things that we ran into a little bit is when certain things are based on the number of votes cast in a precinct in a previous gubernatorial election and then that precinct no longer exists and there is no basis to work off. We are just trying to get on some basis.

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House Government and Veterans Affairs Committee

Bill/Resolution Number 1433

1/27/05

**Rep. Klemm:** If that language was deleted, that it be provided by the North Dakota Data Center and put in something like based on the best available data determined by the County Auditor.

**Al:** Maybe rather than delete it, you could say that or other reliable sources.

**Chairman Haas:** Thank you very much. Any more questions?

**The hearing is closed on HB 1433.**

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1433

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 1/28/05

Tape Number	Side A	Side B	Meter #
4	x		24.8-31.4
Committee Clerk Signature <i>Mark Egan</i>			

Minutes: HB 1433 Relating to election mechanics.

14 members present, 0 absent.

**Chairman Haas:** This bill, most of the changes in here, came about using optical scanners, rather than the old hand method of recording things. Page 8, line 14, may want to amend this and say this information may be provided by the North Dakota State Data Center or based on the best available data as determined by the county auditors. Rep. Klemin moves the amendments, seconded by Rep. Grande, you have all heard the amendment, any discussion on the amendment, if not, all in favor of the amendment say I, all oppose say no, the amendment is carried.

**Rep. Klemin:** I have another amendment lines 21 through 30 on page 8, my amendment is to remove the overstrikes where they are on lines 22 through 26 and to remove the under lined language on line 26 through 29.

**Chairman Haas:** Is that an amendment Rep. Klemin?

**Rep. Klemin:** Yes, I move the amendment.

**Chairman Haas:** Is there a second to that amendment? Seconded by Rep. Kasper. Is there any discussion.

**Rep. Grande:** I want to resist having this change in it, I think there was a very specific reason, why not utilize what is out there. There is a simpler process that is available. This for the Secretary of State, not for the printers, copiers, not for the counties, this for the Secretary of States office to do it a simpler way.

**Chairman Haas:** I think Rep. Grande is right. I got the feeling that the county auditors and the person who printed the ballots, how I am going to figure this out, he won't have to figure it out, because he will receive a ballot proof that will be used for printing the ballots without going through the mechanics of trying to decide order. Again it is a situation where we are either going to advance according to the technology that is available or stay in the dark ages.

**Rep. Amerman:** Why not utilize the new technology and make sure the names are on there the same number of times.

**Chairman Haas:** Further discussion on the amendment, we will try a voice vote on the amendment, all in favor of the amendment please signify by saying I, all oppose say no, amendment is defeated. We now have the amended bill before us, with only one amendment on page 8, which allows the county auditor to use the best available data using numbers of population and people who vote and so on. Is there a motion.

**Rep. Galvin:** I move the bill as a DO PASS as Amended.

**Chairman Haas:** Rep. Galvin moves a DO PASS as Amended, seconded by Rep. Klemin, is there any discussion on the bill as amended. If not we will ask the clerk to take the roll.

**VOTE: YES 14 NO 0 ABSENT 0 DO PASS AS AMENDED HB 1433**

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House Government and Veterans Affairs Committee

Bill/Resolution Number HB 1433

Hearing Date 1/28/05

**REP. POTTER WILL CARRY THE BILL.**

58287.0101  
Title.0200

Adopted by the Government and Veterans  
Affairs Committee  
January 28, 2005

VR  
1/28/05

**HOUSE** AMENDMENTS TO HOUSE BILL NO. 1433 **GVA 1/31/05**

Page 8, line 15, after "center" insert "or based on the best available data as determined by the county auditor"

Renumber accordingly

Date: 1/28/05  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1433

House House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number 58287.0101

Action Taken Do Pass As Amended

Motion Made By Rep. Galvin Seconded By Rep. Klemm

Representatives	Yes	No	Representatives	Yes	No
Chairman C.B. Haas	✓		Rep. Bill Amerman	✓	
Bette B. Grande - Vice Chairman	✓		Rep. Kari Conrad	✓	
Rep. Randy Boehning	✓		Rep. Louise Potter	✓	
Rep. Glen Froseth	✓		Rep. Sally M. Sandvig	✓	
Rep. Pat Galvin	✓				
Rep. Stacey Horter	✓				
Rep. Jim Kasper	✓				
Rep. Lawrence R. Klemm	✓				
Rep. Lisa Meier	✓				
Rep. Margaret Sitte	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Potter

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

**REPORT OF STANDING COMMITTEE**

**HB 1433: Government and Veterans Affairs Committee (Rep. Haas, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1433 was placed  
on the Sixth order on the calendar.

Page 8, line 15, after "center" insert "or based on the best available data as determined by the  
county auditor"

Renumber accordingly

2005 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1433

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1433**

**Senate Government and Veterans Affairs**

Business and Conference Committee

Hearing Date March 11, 2005

Tape Number	Side A	Side B	Meter #
1	x		0-2690
Committee Clerk Signature <i>Diane Davis</i>			

**Chairman Krebsbach** opens hearing on **HB 1433**

**Relating to election mechanics.**

**Representative Boehning** - District 27 - Introduced the bill. - In favor of this bill.

(meter #326)

**Secretary of State Al Jaeger** - See written testimony.

(meter #1150)

**Jaeger** - Continued discussing bill and amendment. The amendment is intended to do, is if the vacancy occurs within 60 days prior to the election then the appointment process that exists goes in to play. Says it is important to maintain the consistency of 60 days.

**Senator Krebsbach** - Asked if a write-in candidate would be acceptable.

**Jaeger** - Said yes, a write-in is always a possibility, that doesn't preclude that, it is printing the name on the ballot. The law is already structured to address vacancies.

**Senator Nelson** - Asked if the dead person stays on the ballot.

**Jaeger** - Replied yes.

**Senator Nelson** - Asked if there was a write-in and the write-in won, the appointee would be out. Wouldn't the dead person have to win to have the appointment.

**Jim Silrum** - Deputy Secretary of State - Replied to the question. Said in this instance that the Secretary is speaking of the commissioner who died was not his office on the ballot. The question was could we put the new person's name on the ballot but also a whole different office. That is where the confusion comes in.

**Senator Nelson** - Asked if the filing deadline had anything to do with this particular commissioner.

**Senator Krebsbach** - Stated a situation could occur where their name would be on the ballot, then what would be the proper way to handle that. Does the appointee supersede the write-in.

**Jaeger** - His thought would be that it would take care of itself. However if there was a winner in the contest they would have to be seated because they were properly elected. He also said that they may be bringing in another amendment for this bill.

(meter #1900)

**Michael Montplaiser** - Cass County Auditor - He said many times precinct boundaries change. So your name could end up first on the ballot in a lot of small precincts and not at all be close to being equal a number of times. This allowed them to get the districts in order of population.

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Senate Government and Veterans Affairs

Bill/Resolution Number **HB** 1433

Hearing Date March 11, 2005

He supports the algorithm method.

**Senator Nelson** - Asked how would that work, would there be different ballots in a precinct.

**Montplaiser** - Said no they would all be the same. Algorithm method is more fair.

(meter #2275)

**Audrey Cleary** - Voter from District 35 in Bismarck - She is a little concerned with the algorithm method. Asked if that also meant that the printing of these forms would go out of state.

**Jaeger** - Replied to that saying there is nothing in the algorithm rules that requires the ballots to be printed by anybody other than who the county auditor chooses. He also talked about printers who have done this business in the past. He said it has always been a matter of discussion. They do not want to take business away from anyone local. He also passed around a chart showing rotation with algorithm.

(meter #2690)

Hearing recessed.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1433**

**Senate Government and Veterans Affairs**

Business and Conference Committee

Hearing Date March 18, 2005

Tape Number	Side A	Side B	Meter #
1	x		4240-6102
1		x	0-270
Committee Clerk Signature <i>Diane Davis</i>			

**Chairman Krebsbach** opens the hearing on **HB 1433**.

**Relating to election mechanics.**

(meter #4240)

**Al Jaeger** - Secretary of State - See attached amendments. He explained the attached amendments pointing out in section 16 is just an issue of fairness. He said this probably won't happen but if it ever does it is covered. He said the law should be fair to whomever.

(meter #5355)

**Senator Krebsbach** - Asked if section 15 and 16 are identical to what was proposed when the bill was first brought in.

**Senator Nelson** - Asked how long that does board of commissioners have to fill vacancies.

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Senate Government and Veterans Affairs

Bill/Resolution Number **HB** 1433

Hearing Date March 18, 2005

**Sec. Jaeger** - Replied there is a whole chapter on how to fill vacancies in 16.1. There are procedures in place and special elections so its covered.

**Senator Nelson** - Asked if we get a new party and they go through with all the signatures and get on the ballot, they get 5 % of the vote, then in the presidential election two years beyond that they will have their own column.

**Sec. Jaeger** - Yes, and that is how Republicans and Democrats qualify for the ballot now.

**Senator Krebsbach** - Asked if parties have to have by-laws submitted, and do we have any other parties that submit by-laws.

**Sec. Jaeger** - Said we officially only recognize two parties at the present time.

**Senator Syverson** - Asked if on Sec. 15, how do they go about picking a county officer that is called in when county commissioners can't agree.

**Sec. Jaeger** - Whatever is in place seems to be working.

**(meter #6217, tape 1, side A)**

**(tape 1, side B)**

**Senator Lee** moved to adopt the amendments by Sec. Jaeger on 1433

**Senator Brown** seconded

Passed

**Senator Lee** moved do pass as amended

**Senator Syverson** seconded

Do Pass as amended

**Senator Lee** will carry.

**(meter # 270)**

Date: 3/18/05  
Roll Call Vote #: 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1433**

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Adopt amendments by Sec. Jaeger on 1433

Motion Made By Senator Lee Seconded By Senator Brown

Senators	Yes	No	Senators	Yes	No
Karen K. Krebsbach, Chairman	X		Carolyn Nelson	X	
Richard L. Brown, Vice Chairman	X				
Judy Lee	X				
John O. Syverson	X				

Total (Yes) 5 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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



**REPORT OF STANDING COMMITTEE**

**HB 1433, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1433 was placed on the Sixth order on the calendar.**

Page 1, line 2, after "16.1-11-27" insert ", 16.1-11-30"

Page 1, line 3, remove "and" and after "40-21-02" insert ", 44-02-05, and 44-02-08"

Page 9, after line 10, insert:

**"SECTION 10. AMENDMENT.** Section 16.1-11-30 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-30. Separate column on primary election ballot required for each political party.** Any party that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election; any party that had printed on the ballot at the last preceding non-presidential election a candidate for attorney general or secretary of state, and the candidate received at least five percent of the total vote cast for the office the candidate was seeking at the election; or any party that has organized according to all the requirements of chapter 16.1-03 must be provided with a separate column on primary election ballots.

Any other political organization is entitled to endorse candidates or have candidates petition to be included on the primary ballot in a consolidated column or on a special election ballot, if a petition signed by at least seven thousand qualified electors of this state is filed with the secretary of state before four p.m. of the sixtieth day before a primary or special election, naming the political organization, stating the platform principles of the party, and requesting the names of its candidates to be included on the state's primary ballot in a consolidated column. If the petition is mailed, it must be in the possession of the secretary of state before four p.m. on the sixtieth day prior to a primary or special election. Candidates of that party are entitled to the same rights and privileges as those of other parties. Petitions circulated according to this section must be filed with the secretary of state in accordance with section 1-01-50.

A political organization that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election are entitled to organize according to the requirements of chapter 16.1-03."

Page 11, after line 16, insert:

**"SECTION 16. AMENDMENT.** Section 44-02-05 of the North Dakota Century Code is amended and reenacted as follows:

**44-02-05. Vacancy in board of county commissioners - How filled.** When a vacancy occurs in the board of county commissioners, the remaining members of the board, with the district judge selected by the remaining county commissioners, immediately shall appoint some suitable person to fill the vacancy from the district in which the vacancy occurred. If a majority of the officers fails to agree upon a person to

fill the vacancy, the county treasurer or, if the county does not have an elected treasurer, another elective county officer must be called in and shall act as an additional member of the board to fill the vacancy. The appointee holds office until the appointee's successor is elected at the next general election that occurs at least sixty days after the vacancy and the successor has qualified.

**SECTION 17. AMENDMENT.** Section 44-02-08 of the North Dakota Century Code is amended and reenacted as follows:

**44-02-08. Appointment to be made in writing - Term.** Any appointment to fill a vacancy under ~~the provisions of~~ this chapter must be made in writing, and, except as otherwise expressly provided by law, continues in force until the first general election ~~thereafter~~ that occurs at least sixty days after the vacancy, when the vacancy will be filled by election, and thereafter until the appointee's successor by election is qualified."

Renumber accordingly

**2005 TESTIMONY**

**HB 1433**



**SECRETARY OF STATE**

STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0500

January 27, 2005

TO: Representative Haas, Chairman,  
and Members of the House Government and Veterans Affairs Committee

FR: Al Jaeger, Secretary of State

RE: HB 1433 – Election Mechanics

**Section 1:** On page 1, lines 9 through 11, the change requires school districts to publish an official notice in the applicable newspaper of the filing deadline for school board candidates at least 30 days prior to the candidate filing deadline.

**Section 2:** On page 1, line 21 through line 2 on page 2, the change requires a notarized signature of each member of a sponsoring committee organized to recall an elected official on a form created by the Secretary of State, which will verify that they are a member of the recall sponsoring committee.

**Section 3:** On page 5, line 9 changes the section title to accurately reflect the content of the section.

**Section 4:** On page 6, lines 7 and 8 clarify that ballots are available in the county auditor's office for public inspection fifteen days before an election.

On page 6, lines 10 through 16, the change authorizes a county auditor to deliver the ballots and ballot boxes directly to a precinct rather than to the election inspector because the bulk of these items requires special delivery.

**Section 5:** On page 6, line 19 through line 8 on page 7, the change reduces the number of posters required to be hung on the wall at a polling site and removes the references to the "official stamping" of ballots.

**Section 6:** On page 7, lines 12 through 14, the changes reduces the number of posted facsimile diagrams of the voting machines from four to two.

**Section 7:** On page 7, lines 20 through 26, the changes provide that the Secretary of State is to send instructions rather than blank forms for generating reports from the new voting system.

**Section 8:** On page 8, lines 1 through 4, this change more accurately describes the elected positions that are nominated through the Primary Election process.

**Section 9:** On page 8, lines 12 through 15, this change provides the method by which the order of precincts for the rotation of names is determined when precinct boundaries have been changed.

On page 8, lines 21 through 29, this change authorizes the Secretary of State to approve an algorithm that is designed to assure to the extent possible that each name on the ballot for a specific office is listed in each rotational position on the ballot an equal number of times.

On page 9, lines 5 through 10, the change is provides that while the names of candidates are rotated between precincts they stay in the same order within the precinct.

**Section 10:** On page 9, lines 13 through 24, the change removes text such as "tally books" no longer applicable to the new voting systems and replaces it with the correct terminology.

**Section 11:** On page 9, line 29, the word "tally sheet" is removed.

**Section 12:** On page 10, lines 3 through 8, the changes reflect the transition from the previous voting system to the new systems.

**Section 13:** On page 10, line 13, the change makes it clear that a no party candidate defeated in the June primary is not eligible to be a candidate again in the November election, which is the same restriction that applies under current law to partisan position candidates.

**Section 14:** On page 10, lines 21 through 23, the change adds the same official notice requirement for cities as was added for school boards in Section 1 of this bill.

**Section 15:** The sections of the Century Code listed on page 11, lines 17 and 18 are being repealed because they pertain to presidential preference contests, which are no longer held, and it repeals a section of law related to cities, which is not needed because the same provisions exist in N.D.C.C. § 40-21-13.

1433  
ALVIN A. JAEGER  
SECRETARY OF STATE

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## SECRETARY OF STATE

STATE OF NORTH DAKOTA  
600 EAST BOULEVARD AVENUE DEPT 108  
BISMARCK ND 58505-0500

March 11, 2005

TO: Senator Krebsbach, Chairman,  
and Members of the Senate Government and Veterans Affairs Committee

FR: Al Jaeger, Secretary of State

RE: HB 1433 – Election Mechanics

**Section 1:** On page 1, lines 9 through 11, the change requires school districts to publish in the applicable newspaper an official notice of the school board candidate filing deadline at least 30 days prior to the deadline.

**Section 2:** On page 1, line 21 through line 2 on page 2, the change requires, on a form created by the Secretary of State, the notarized signature of each member of a sponsoring committee organized to recall an elected official. This is to verify that he or she is a member of the recall sponsoring committee as is now required for a statewide initiative or referendum.

**Section 3:** On page 5, line 9 changes the section title to accurately reflect the content of the section.

**Section 4:** On page 6, lines 7 and 8 clarify that ballots are available in the county auditor's office for public inspection fifteen days before an election.

On page 6, lines 10 through 16, the change allows the county auditor the option of delivering the ballots and ballot boxes directly to the polling location rather than to the election inspector. These items are large, heavy, and require special delivery,

**Section 5:** On page 6, line 19 through line 8 on page 7, the change reduces the number of posters required to be hung on the wall at a polling site and removes the references to the "official stamping" of ballots.

**Section 6:** On page 7, lines 12 through 14, the changes reduce the number of posted facsimile diagrams of the voting machines from four to two.

**Section 7:** On page 7, lines 20 through 26, the changes provide that the Secretary of State is to send instructions rather than supplying blank forms for generating reports from the new voting system.

**Section 8:** On page 8, lines 1 through 4, this change more accurately describes the elected positions that are nominated through the Primary Election process.

**Section 9:** On page 8, lines 12 through 15, this change provides the method by which the order of precincts for the rotation of names is determined when precinct boundaries have been changed.

On page 8, lines 22 through 30, this change authorizes the Secretary of State to approve an algorithm that is designed to assure to the extent possible that each name on the ballot for a specific office is listed in each rotational position on the ballot an equal number of times.

On page 9, lines 5 through 10, the change provides that while the order of the names of candidates is rotated between precincts the rotation stays in the same order within the precinct.

**Section 10:** On page 9, lines 13 through 24, the change removes text such as "tally books" no longer applicable to the new voting systems and replaces it with the correct terminology.

**Section 11:** On page 9, line 29, the word "tally sheet" is removed.

**Section 12:** On page 10, lines 3 through 8, the changes reflect the transition from the previous voting system to the new systems.

**Section 13:** On page 10, line 13, the change makes it clear that a no party candidate defeated in the June primary is not eligible to be a candidate again in the November election for the same office. This same restriction applies under current law to partisan position candidates.

**Section 14:** On page 10, lines 21 through 23, the change inserts the same official notice requirement for cities as was added for school boards in Section 1 of this bill.

**Section 15:** The sections of the Century Code listed on page 11, lines 17 and 18 are being repealed because they pertain to presidential preference contests, which are no longer held, and it repeals a section of law related to cities, which is not needed because the same provisions exist in N.D.C.C. § 40-21-13.

**Proposed Amendments:**

Amendments adding Sections 15 and 16 are requested to make it clear that if a vacancy occurs within 60 days of a general election, the appointment made to fill that vacancy remains in force until a successor is elected at the following general election.

1433

## Candidate Rotation Algorithm.

Subsection 1. **Base rotation.** On the fifty-fourth day prior to an election, the county auditor shall determine the base rotation of candidates' names for all offices for which rotation is required. The county auditor may delegate the authority to determine the base rotation of candidates' names for municipal and school district offices to the municipal and school district clerks, respectively. The base rotation must be determined by assigning the initial order of the candidates' names by lot.

Subsection 2. **Changing precinct boundaries.** County Commissioners must set precinct boundaries by December 31 prior to each election cycle.

Subsection 3. **Votes cast for governor in each precinct.** For purposes of the rotation algorithm, the county auditor shall determine the number of votes cast for governor in the last gubernatorial election by the voters in each precinct by December 31 prior to each election cycle if precinct boundaries have not been changed.

Subsection 4. **Changed precinct boundaries.** When precinct boundaries have changed making it impossible to determine the number of votes cast for governor by the voters of each precinct, the county auditor shall use the voting age population of each precinct to determine the sort order of the precincts, from the largest to the smallest number of potential voters.

Subsection 5. **Algorithm.** The algorithm in subdivisions a through f must be used to determine the rotation sequence for each race for which rotation is required.

- a. Determine the base rotation.
- b. Determine which precincts belong to the race being rotated.
- c. Arrange the precincts in order of the number of votes cast for governor by the voters in the last gubernatorial election, from largest number to smallest. (When precinct boundaries change, order the precincts according to subsection 4.)
- d. Calculate the number of rotations needed by determining the number of candidates for the office.
- e. Starting with the largest precinct, assign a precinct to each rotation. If there are more candidates than precincts, stop after the last precinct has been assigned and go on to subdivision g. If there are more precincts than candidates, keep a running subtotal of the total votes cast by the voters in the last gubernatorial election or the number of potential voters assigned to each rotation. After each rotation has been assigned one precinct, assign the next largest precinct to the rotation with the lowest subtotal. Continue assigning the next largest precinct to the rotation with the lowest subtotal until all precincts for that race have been assigned.
- f. If two or more rotations in a precinct assignment round have equal numbers for votes cast for governor in the last gubernatorial election or voting age population, the next largest precinct must be given to the rotation that comes first in numerical order of those rotations involved in the tie.
- g. Print a report by race showing rotation subtotals.

# New Rotation Algorithm for an Office with 2 Candidates in a County with 11 Precincts

Any Office Candidate Lot Draw	Rotation #1	Rotation #2	Precinct Number	Votes for Governor or VAP	Precinct Sort Order	Assigned Rotation #
Candidate #1	Candidate #1	Candidate #2	607001	715	6	2
Candidate #2	Candidate #2	Candidate #1	607002	475	7	2
			607003	866	2	2
1st Round	893	866	607004	75	11	2
2nd Round	810	855	607005	765	5	1
Running Total	1703	1721	607006	350	9	1
3rd Round	765	715	607007	855	3	2
Running Total	2468	2436	607008	275	10	2
4th Round	430	475	607009	430	8	1
Running Total	2898	2911	607010	893	1	1
5th Round	350	275	607011	810	4	1
Running Total	3248	3186				
6th Round		75				
<b>Total</b>	<b>3248</b>	<b>3261</b>		<b>6509</b>		

# New Rotation Algorithm for an Office with 2 Candidates in a County with 11 Precincts

Any Office Candidate Lot Draw	Rotation #1	Rotation #2	Precinct Number	Votes for Governor or VAP	Precinct Sort Order	Assigned Rotation #
Fred Jones	Fred Jones	Sally Smith	607001	715	6	2
Sally Smith	Sally Smith	Fred Jones	607002	475	7	2
			607003	866	2	2
1st Round	893	866	607004	75	11	2
2nd Round	810	855	607005	765	5	1
Running Total	1703	1721	607006	350	9	1
3rd Round	765	715	607007	855	3	2
Running Total	2468	2436	607008	275	10	2
4th Round	430	475	607009	430	8	1
Running Total	2898	2911	607010	893	1	1
5th Round	350	275	607011	810	4	1
Running Total	3248	3186				
6th Round		75				
<b>Total</b>	<b>3248</b>	<b>3261</b>		<b>6509</b>		

#1433

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1433

Page 1, line 3, remove "and" and after "40-21-02" insert ", 44-02-05, and 44-02-08"

Page 11, after line 16, insert:

**"SECTION 15. AMENDMENT.** Section 44-02-05 of the North Dakota Century Code is amended and reenacted as follows:

**44-02-05. Vacancy in board of county commissioners - How filled.** When a vacancy occurs in the board of county commissioners, the remaining members of the board, with the district judge selected by the remaining county commissioners, immediately shall appoint some suitable person to fill the vacancy from the district in which the vacancy occurred. If a majority of the officers fails to agree upon a person to fill the vacancy, the county treasurer or, if the county does not have an elected treasurer, another elective county officer must be called in and shall act as an additional member of the board to fill the vacancy. The appointee holds office until the appointee's successor is elected at the next general election that occurs at least sixty days after the vacancy and qualified.

**SECTION 16. AMENDMENT.** Section 44-02-08 of the North Dakota Century Code is amended and reenacted as follows:

**44-02-08. Appointment to be made in writing - Term.** Any appointment to fill a vacancy under the provisions of this chapter must be made in writing, and, except as otherwise expressly provided by law, continues in force until the first general election ~~thereafter~~ that occurs at least sixty days after the vacancy, when the vacancy will be filled by election, and thereafter until the appointee's successor by election is qualified."

Renumber accordingly

11433  
PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1433

Page 1, line 2, after "16.1-11-27," insert "16.1-11-30,"

Page 1, line 3, remove "and" and after "40-21-02" insert ", 44-02-05, and 44-02-08"

Page 9, after line 10, insert:

**"SECTION 10. AMENDMENT.** Section 16.1-11-30 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-30. Separate column on primary election ballot required for each political party.** Any party that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election, or any party that had printed on the ballot at the last preceding non-presidential election a candidate for attorney general or secretary of state, and the candidate received at least five percent of the total vote cast for the office the candidate was seeking at that election, or has organized according to all the requirements of chapter 16.1-03 must be provided with a separate column on primary election ballots.

Any other political organization is entitled to endorse candidates or have candidates petition to be included on the primary ballot in a consolidated column or on a special election ballot, if a petition signed by at least seven thousand qualified electors of this state is filed with the secretary of state before four p.m. of the sixtieth day before a primary or special election, naming the political organization, stating the platform principles of the party, and requesting the names of its candidates to be included on the state's primary ballot in a consolidated column. If the petition is mailed, it must be in the possession of the secretary of state before four p.m. on the sixtieth day prior to a primary or special election. Candidates of that party are entitled to the same rights and privileges as those of other parties. Petitions circulated according to this section must be filed with the secretary of state in accordance with section 1-01-50.

A political organization that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election are entitled to organize according to the requirements of chapter 16.1-03."

Page 11, after line 16, insert:

“SECTION 15. AMENDMENT. Section 44-02-05 of the North Dakota Century Code is amended and reenacted as follows:

**44-02-05. Vacancy in board of county commissioners - How filled.**

When a vacancy occurs in the board of county commissioners, the remaining members of the board, with the district judge selected by the remaining county commissioners, immediately shall appoint some suitable person to fill the vacancy from the district in which the vacancy occurred. If a majority of the officers fails to agree upon a person to fill the vacancy, the county treasurer or, if the county does not have an elected treasurer, another elective county officer must be called in and shall act as an additional member of the board to fill the vacancy. The appointee holds office until the appointee's successor is elected at the next general election that occurs at least sixty days after the vacancy and qualified.

SECTION 16. AMENDMENT. Section 44-02-08 of the North Dakota Century Code is amended and reenacted as follows:

**44-02-08. Appointment to be made in writing - Term.** Any appointment to fill a vacancy under the provisions of this chapter must be made in writing, and, except as otherwise expressly provided by law, continues in force until the first general election thereafter that occurs at least sixty days after the vacancy, when the vacancy will be filled by election, and thereafter until the appointee's successor by election is qualified.”

Renumber accordingly