

2009 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2179

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2179

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 01/19/09

Recorder Job Number: 7259

Committee Clerk Signature

*Kate Oliver*

Minutes:

Senator John Warner was unable to be there but he sent testimony to be reflected in the minutes. The testimony was presented by Senator Triplett See attached testimony #1.

**Senator Horne:** Have other states done this?

**Senator Triplett:** Yes, I am not sure who though. There were issues in the last session. To vote in presidential caucus, you are voting as a member of the party and it is more loosely organized. The presidential primary is a situation where a 17-year-old could not vote in that, it is more guided.

**Jacob Blotter:** Jacob Blotter, Mandan. Are there primary or caucus that would apply to me? If so I feel it is important for people to be able to voice their opinion.

**Senator Horne:** If this was in place last February, would you or your friends voted?

**Jacob Blotter:** I would not have been of the age that was allowed to vote, but my friends of that age would have.

**Senator Nelson:** Senator Carolyn Nelson, district 21 in Fargo. There are tons of young people asking to vote in the caucuses. I think that this needs to be a party decision.

A motion was made by Senator Cook with a second by Senator Oehlke for a do pass. There was no discussion and the motion passed 5-0 with Senator Nelson carrying the bill



**REPORT OF STANDING COMMITTEE (410)**  
January 21, 2009 11:22 a.m.

**Module No: SR-10-0633**  
**Carrier: Nelson**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2179: Government and Veterans Affairs Committee (Sen. Dever, Chairman)**  
recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2179  
was placed on the Eleventh order on the calendar.

2009 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2179

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. Senate Bill 2179

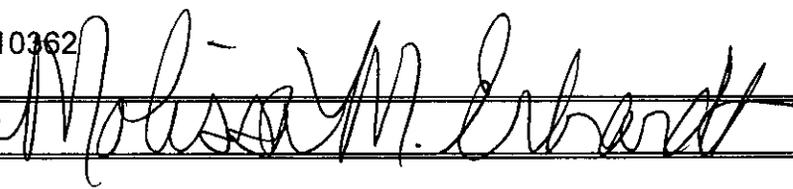
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 03/06/2009

Recorder Job Number: 10362

Committee Clerk Signature



Minutes:

**Chairman Grande:** Open the hearing on SB 2179. Clerk read the title.

**Curly Haugland, National Committeemen, ND Republican Party:** I am here today to speak against SB 2179 simply stated, best thing I can do is state it: "The rules of the Republican National Party that are (can't understand word) vote in caucuses are trumping the State rule." That is the first paragraph there, the one that starts off with my handwriting, that is out of the handbook of the Republican National Committee and what you don't have in front of you is another part of the rule that I am going to read you from the book. "Only person's who are eligible to vote and who are deemed as a matter of public record to be Republican's pursuant to State Law or they are not enrolled by party by the Republican party rules of the State, fail to participate in any primary election held for the purpose of Electing delegates or to any delegates to National Convention or in any Republican Caucus, mass meeting and so forth." The key language there is only

the person's eligible to vote. Of course that would be at the time of the caucus.

So that would be the only testimony I would have on that. See Attachment # 1.

**Rep. Kasper:** Currently, what does this bill do?

**Chairman Grande:** I think we will let Senator Warner introduce this bill.

**Senator John Warner, District 4:** I appreciate your consideration in calling me and letting me testify in front of you today. This bill came out of frustration that we had at the last presidential preference caucuses that we weren't allowed to have our High School Seniors to participate in the process. Mostly because of the State Law there is (can't understand) in the Secretary of State's Office that does say the way the Law is worded they would not be allowed to participate in any process short of their 18<sup>th</sup> birthday. So this would quite simply allow those who would be 18 by Election Day to participate in a preference caucus process which is about nine months earlier. We did some estimates and it seemed liked it would affect about 6500 people. The (can't understand) about 8 or 9 kids per grade and it does affect about  $\frac{3}{4}$  of one grade. We thought that this is a (can't understand word) process and the rules should be made by the parties themselves, in my opinion, and that this was an attempt to go halfway. I do understand that there is another bill introduced from Senator Potter that takes all references to the caucuses out of the Code and I think that would actually be the superior solution. It would simply delete all of the references to the caucuses

and the caucuses could still go on but they would go on dates set by your respective parties and that the (can't understand the speaker's words) . I hope that you pass this but given Senator Potter's track record of getting bills through the Legislature I am not sure that I can count on that one. Any questions?

**Chairman Grande:** Any other questions? Any questions of Mr. Haugland?

**Rep. Kasper:** Curly, now, in light of what the bill does why are you against it in just your own verbage?

**Curly Haugland:** Just because it is contrary to party rules and party rules govern how these things work. Party rules trump, as you can see by that other handout, State Laws, the National Party Rule whatever it says trumps State Party Rules, and State Party Rules trump State Legislative Rules in matters of pure partisan politics.

**Rep. Meier:** Has any other State passed Legislation such as this to trump the National Party Rules?

**Curly Haugland:** The National Party Rules are what I handed out there and no matter what any other State does the Party Rules prevail. Does that answer your question?

**Rep. Schneider:** With the National Party Rules and I assume it applies to the Democrats too, trump the State Laws would you agree with Senator Potter still

that the State should just repeal back the second (don't understand) so that the parties can handle their caucuses like they want.

**Curly Haugland:** Yes, I am here for that in the next bill.

**Rep. Dahl:** I am just trying to logically be constructive so if we have a State Law that says you are going to be 18 in the next General Election you can participate in the caucuses but then a National Party rule which is not a law says "No, they can't." How would the State Law not prevail?

**Curly Haugland:** There is a couple of Supreme Court cases that have dealt with these issues and both of the cases come down on the side of a political parties right to create an association and along with that right to create or associate it gives the right to determine their own rules for operation. Political parties are not a function of the State of the Government. That is why you have that situation. In some cases laws have been passed from time to time that people without perhaps knowing, or the party rules change, our party rules change every four years, there is a brand new book of rules. So I don't even know what the rules were when this was put into code here they may have been entirely different. Like I said every four years there is a whole new book of rules, so we just have to be contemporary I guess is what I am saying. But we do have to follow the National Party Rules as a party as opposed to the State Law if there is a conflict.

**Rep. Wolf:** When are the Republican rules set to be redone again?

**Curly Haugland:** Every National Nominating Convention is the rule-making process. The delegates to the convention actually adopt new rules. In our case it was in August or September of 2008. It will be four years from now and we will do it again.

**Rep. Wolf:** At the last National Convention was there any discussion about allowing Senior's or children who are seventeen at the time of the Presidential Caucus to get more of them involved in the voting process. Was there any discussion at your convention regarding possibly doing something like what this bill proposes?

**Curly Haugland:** I was a member of the convention rules committee and so I can assure you there was no discussion about this particular rule. It is always the same rule that was in. But we as a party encourage the maximum participation and that's also in our rules of all people who are eligible to vote. But it is kind of like your first drink you have to wait until you are 21 and you know a caucus vote is a vote.

**Rep. Winrich:** I understand the provisions of the Republican Party rules here and in fact as I am suspect you know the Democratic Party rules say something very comparable and we saw examples of that in the convention representation from Michigan and Florida over which there was quite a fight in the past Election.

What I am having trouble understanding is why you seem to think that the Republican rules should apply to all other parties too?

**Curly Haugland:** I hope that I didn't imply that, what I mean to say is that the Republican Party Rules will trump State Law in the Republican's Parties Caucuses.

**Rep. Winrich:** I understand that.

**Curly Haugland:** If the Democrat Party has a different rule it is not for our review.

**Rep. Winrich:** The situation that developed in 2008 was that, on the advice of the Secretary of State, we were told that State Law would not allow the participation of people in this category who would be 18 by the time of the election. So if I see what this law does or what this bill would do, I think, is allow the political parties to allow participation, but if the parties rule for visit then they don't participate.

**Curly Haugland:** Like I said I have no knowledge of what the Democrat Parties Rules are but I can say in the case of the Republican's Parties Rules if the caucus were held under the current situation people who are not eligible to vote on the day of the caucus won't be able to vote in the caucus. Not with standing anything that the State Law says, State Law could say that 12 year olds could vote, it wouldn't matter our party rules, govern our party event.

**Chairman Grande:** If say the Democrat National Committee met and their rule making process said we would like to have an individual who is under the age of 18 that would be qualified to vote in the Election, can have the opportunity to be a part of the Presidential Preference Caucus they could do that even if we don't have it in law since it trumps anything anyway, correct?

**Curly Haugland:** As far as I know, I believe that to be correct. Like I said I cannot speak for the Democrat Parties rules but that would just seem to be consistent.

**Chairman Grande:** I am just going back to what you said about the Supreme Court rulings were that organizations trumped State Law so they can set their own rules and such as your example if the Republican or Democrat caucus at the National Level decided their rule would be we want to include 15 year-olds in this process they could do that whether we said something in law or not.

**Curly Haugland:** That is correct, Madam Chair. One of the things that I would like to point out though and like I said I profess ignorance personally of the Democrats Parties rules, however, I want to assure you that both parties communicate quite regularly to try to obtain uniformity between the parties. But that is communication between leadership of the parties. I would be very surprised, quite frankly, if the Democrat Party Rules would differ from ours in this regard but it is possible. In any case, at the very least, it should not be very

confusing because you know each party that is their own caucus and each party advises their own participants of what the rules are and I see nothing wrong with that. In another words there is no place for the State to participate in this particular rule-making process.

**Rep. Dahl:** Could you get us a copy of the Supreme Court rulings?

**Curly Haugland:** Yes, I can.

**Chairman Grande:** Any other questions?

**Rep. Winrich:** May I ask a question of the Secretary of State?

**Chairman Grande:** Yes, you may.

**Rep. Winrich:** Secretary Jaeger it is my understanding that prior to the Presidential Preference Caucus of 2008 the advice from your office was that those who are not 18 but that would be 18 by the time of the November election could not participate in the caucus. Is that correct?

**Al Jaeger:** We were asked that particular question and are basically looking at the entire caucus law and the way it was written. It seemed like it should be qualified elector that participates in the caucus so that is what we said. Since our National Association is quite concerned about front-loading we have a lot of discussions about this but I do know that for instance, like in MI, where the Democrat Party completely ignored National News they ran into a lot of problems

and stuff like that. We just were asked and we gave our opinion as to how the perspective parties dealt with that and I guess that is what we came up with.

**Rep. Schneider:** In the 2008 Presidential Caucus if the Democrats wanted to allow would be voters that were 17 at the time to vote, was it a State Law that was preventing them or was it party rules that were preventing them?

**Al Jaeger:** We were asked in the terms of what the State Law said and we were mainly responding to the language that appears in that whole caucus area in terms of being a qualified elector and things like that which kind of implies that you had to be qualified at the time of the Election, not at the time of the caucus.

**Rep. Schneider:** One quick word on the caucus area, is that the parties the rules or is that the State's statutes?

**Al Jaeger:** No, that is State Law or Statutes. That is the next bill that completely eliminates that chapter.

**Rep. Schneider:** In Section C, there is additional language and only these persons who either voted or affiliated with the clinical party at the last election or intend to vote, it seems to me that would allow 17 year-olds but maybe that is just a legal question.

**Al Jaeger:** At the time we were asked our analysis was that it needed to be a qualified elector and that is what we indicated. The one thing that we have

wanted to do very much is to take the State out of Political Party business and I

don't want to get ahead into the next bill because I am really here as a resource and not as an advocate one way or the other. I don't have any problem with this particular bill other than I would have a concern if it isn't clear that it goes back to the National Party rules. In the full chapter on the caucus there is a thing that says first, you propose to the party rules but if there are no party rules then this will go above that. So it is kind of a default. Quite frankly, we don't want the State to get into deciding how we determine your candidates.

**Chairman Grande:** Any other questions? Anyone else wishing to speak on 2179? Speak in favor of, Against, Neutral to? Closing the hearing on 2179.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. Committee Work One 2179

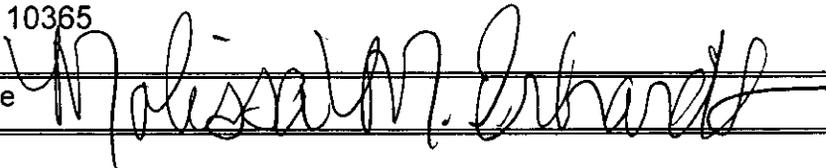
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 03/06/2009

Recorder Job Number: 10365

Committee Clerk Signature



Minutes:

**Chairman Grande:** We will discuss SB 2179.

**Rep. Dahl:** Motion for a Do Not Pass.

**Vice Chairman Randy Boehning:** 2<sup>nd</sup>.

**Chairman Grande:** We have a motion for a Do Not Pass by Rep. Dahl and a 2<sup>nd</sup> by Rep. Boehning. Any discussion? Clerk will call the roll on a Do Not Pass.

**Clerk Erhardt:** Roll Call. Yes: 11. No: 0. Absent: 2. Carrier: Rep. Kasper.

Date: 3/16/19  
Roll Call Vote #: \_\_\_\_\_

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2179

House Government and Veterans Affairs Committee

Check here for Conference Committee

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

Action Taken Do Not Pass

Motion Made By Dahl Seconded By Boehning

Representatives	Yes	No	Representatives	Yes	No
Chairman Grande	✓		Rep. Amerman	✓	
Vice Chairman Boehning	✓		Rep. Conklin	✓	
Rep. Dahl	✓		Rep. Schneider	✓	
Rep. Froseth	✓		Rep. Winrich	✓	
Rep. Karls	✓		Rep. Wolf	✓	
Rep. Kasper	✓				
Rep. Meier	✓				
Rep. Nathe	✓				

Total (Yes) 11 No 0

Absent 2

Floor Assignment Kasper

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

REPORT OF STANDING COMMITTEE (410)  
March 6, 2009 12:16 p.m.

Module No: HR-41-4198  
Carrier: Kasper  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**SB 2179: Government and Veterans Affairs Committee (Rep. Grande, Chairman)**  
recommends **DO NOT PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).  
SB 2179 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2179

Senator John Warner on SB 2179  
Testimony before the Senate  
Government & Veterans Affairs Committee  
Senator Dick Dever, Chairman

Mr. Chairman, Members of the Committee,

First my apologies for not appearing in person before you; I will be attending the inaugural of our next president tomorrow in Washington DC. I have asked Senator Triplett to deliver my testimony on this bill.

Over the past two presidential election cycles the presidential preference caucus has generated enormous enthusiasm in the state and in my district. Each time thousands of people statewide and about 500 people in my district participated in the two party's selection processes, taking that first step in a series of many that will determine their party's candidate and ultimately the next president of the United States.

One group of electors, unfortunately, could not take that first step. That group was 17 year olds who would be legal voters in November as the final step was taken but were too young under current North Dakota law to participate in the process of the February caucuses. There are about 6000 young North Dakotans, mostly high school seniors who fit into that category.

What a wonderful opportunity we have before us to engage the energy and creativity of North Dakota's young adults in framing the political agenda. What a wonderful teaching opportunity we have before us for North Dakota's teachers of civics and government. I urge you to pass this change in our current law to allow these young people to participate in the entire process, from beginning to end.

I thank you for the opportunity to have this testimony presented before you and I hope that Citizen's Night at the Legislature is a resounding success.

2179

Attachment #1

C. Any state Republican Party  
MAY set the

← date for any primary, caucus, convention, or meeting for the purpose of voting for a presidential candidate and/or electing, selecting, allocating, or binding delegates to the national convention subject to the scheduling provisions in Rule No. 15. To the extent a state Republican Party's rules are in conflict with its state's laws with respect to this rule, the provisions of this rule and the state Republican Party's rules shall control. To the extent the provisions of the rule are inconsistent with the provisions of Rule No. 15, the provisions of this rule shall be controlling for all purposes.

RULE NO. 14

**Participation in the Delegate Selection Process**

(a) The states, in cooperation with the Republican National Committee, shall prepare instructive material on delegate election, selection, allocation, or binding methods and make it available for distribution.

(b) Participation in a Republican primary, caucus, or any meeting or convention held for the purpose of electing, selecting, allocating, or binding delegates and alternate delegates to a county, district, state, or national convention shall in no way be abridged for reasons of sex, race, religion, color, age, or national origin. The Republican National Committee and the state Republican Party or governing committee of each state shall take positive action to achieve the broadest possible participation by men and women, young people, minority and heritage groups, senior citizens, and all other citizens in the delegate election, selection, allocation, or binding process.

(c) Unless otherwise provided by the laws of the state in which the election occurs, in those states where delegates and alternate delegates are elected through the convention system or a combination of convention and primary systems, the precinct, ward, township, or county meetings shall be open meetings and all citizens who are qualified shall be urged to participate.

(d) Each state shall endeavor to have equal representation of men and women in its delegation to the Republican National Convention.

(e) The provisions of these rules are not intended to be the basis of any kind of quota system.