

2013 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1345

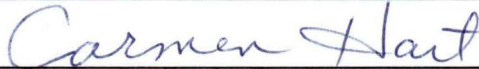
2013 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee
Fort Union Room, State Capitol

HB 1345
February 1, 2013
18180

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to safeguarding of ballots.

Minutes:

You may make reference to "attached testimony."

Chairman Jim Kasper opened the hearing on HB 1345.

Rep. Pollert was in support of this bill and was the major sponsor. He put the bill in for States Attorney Paul Murphy.

Paul Murphy, States Attorney for Foster County, appeared in support and presented **Attachment 1** testimony. He did a voting sample. **Attachment 2.** (2:37-12:38)

Rep. Ben Koppelman Is the reason why you would do that is because at this point all the envelopes have been opened so it doesn't matter?

Paul Murphy Bingo. (12:50- 20:05)

Rep. Karen Karls You say the poll book contains all signatures of all voters? Not in Bismarck. We look at ID and check the name off.

Paul Murphy I may not have all the facts regarding what is all in the poll book.

Rep. Karen Karls Every application for an absentee ballot is signed by the voter and then the envelope that contains the ballot is signed by the absentee voter. We compare them and if there is a slightest bit different, we reject them.

Paul Murphy I agree that the workers do their utmost best to insure that signature matches. However, let's say I take the poll book home and I already have these. I can practice copying your signature to get it right. This only applies in smaller elections because if I try to do this in Bismarck or Fargo, just the sheer numbers to get those signatures right to forge is virtually impossible. In a small election where I am from, it is very doable. A perfect storm is happening where I live.

Rep. Ben Koppelman What is wrong with the bill?

Paul Murphy I have attempted to work with the Secretary of State's office to make these changes and have met with no success. While I may not think that my auditor is the best auditor for the job, it doesn't matter to me who wins the election. I just want my vote to count how I voted it. I don't want my vote changed. I have talked to some auditors about what we can do to fix this, and obviously, the fix for my county won't work for large counties. The Heitkamp-Berg election, my auditor wouldn't be able to change that election, but if four, five, or six of them did, and they grabbed the mail in ballots, they could have changed the outcome.

Chairman Jim Kasper You are not suggesting that occurred? You are using that as an example?

Paul Murphy I am using that as an example. I don't believe that happened in the Berg-Heitkamp election. I am dealing with possibilities.

Chairman Jim Kasper Explain what this bill does.

Paul Murphy He pointed out and read the following: Page 2, Section M.

Chairman Jim Kasper The amendments would have two people involved in the process, not one?

Paul Murphy Yes. In a case where we are talking about a contested election for the auditor,...

Chairman Jim Kasper This could be for any race?

Paul Murphy Right. The auditor would have the most mode of opportunity to do this. I would just as soon let it be the two competing candidates for the auditor's job that would say okay, ten ballots need to go out. I get that is a logistical nightmare, but I don't know how to fix this exactly.

Chairman Jim Kasper What are we doing on Page 3?

Paul Murphy He read Line 21, Page 3.

Chairman Jim Kasper There we have two people watching? Then on Page 4?

Paul Murphy That references the additional individual appointed so the auditor and the additional individual must take care of the ballots upon receipt. He mentioned Sections 3 and 4, Page 4.

Chairman Jim Kasper This did not increase penalties. What is the current penalty for violation of this section right now?

Paul Murphy It is Class A misdemeanor.

Chairman Jim Kasper What penalty had you suggested?

Paul Murphy I would like to see at least a C felony.

Chairman Jim Kasper What is a Class C felony?

Paul Murphy It is one to five years, up to \$5,000 fine.

Rep. Gail Mooney When your auditor went and retrieved the polling book, as state auditor did you go to her and ask her what the purpose of that was?

Paul Murphy I did not ask the state auditor the reason why, because I felt that would be a waste of my time.

Rep. Gail Mooney As state's attorney that is your job for the county to make sure that what is going on within your county is being handled properly. Don't you have processes under your own prevue to be able to ensure? I am hearing that you are having a lot of problems with your auditor and that you had prosecuted other instances. Were those prosecutions related to voter fraud or other instances?

Paul Murphy Yes, it is my job to monitor that. However, if I get involved in the investigation, then I am unable to prosecute it.

Rep. Gail Mooney If you suspect something, do you not have a process in place?

Paul Murphy Yes, to report to the sheriff and if the sheriff isn't doing the work, I can go above and go to BCI which I did do in the terms of this election issue. However, being the unused ballots were pitched and the originals were back in the box by that point, the ability to build a case of election fraud against this auditor was zero. The evidence was gone.

Rep. Gail Mooney This led you to the Secretary of State?

Paul Murphy This is a difficult question because this has been an ongoing issue for some years. What happened in 2010 is different than what happened in 2006. In 2010 is when I discovered that the polling book was missing.

Rep. Gail Mooney Did you bring this to your county commissioners?

Paul Murphy It happened at the county commissioners' meeting. It eventually came out that it was at home.

Rep. Gail Mooney Then you went to the sheriff?

Paul Murphy Yes.

Chairman Jim Kasper Let us just confine this discussion to election.

Rep. Gail Mooney The second person who would be appointed, we are not going to say who that person should be, but then there are going to be additional costs that are going to be incurred back to the county for that as well?

Paul Murphy Right. The Burleigh County auditor no way could do this, but the Slope auditor could easily pull this off.

Chairman Jim Kasper You are not suggesting that the Slope County auditor would?

Paul Murphy No.

Rep. Gail Mooney I am trying to see motivation outside. Did you have a particular instance then with your auditor's election?

Paul Murphy I am looking back as to what did happen and also trying to anticipate what may happen the next time and how to shut that door and nail it closed. The motive of someone to do this would be to retain their job.

Rep. Gail Mooney That would only be the auditor?

Paul Murphy Right.

Chairman Jim Kasper The motive could be for a friend too. Let us keep our question on what the bill does and doesn't do.

Rep. Ben Koppelman Do you have any amendments or does Rep. Pollert have any?

Paul Murphy I made a phone call into one of the larger auditor offices in the state and the discussion we had was he was going to think about what we could do to the bill and we were going to try and talk today. I don't want to put amendments that are dead in the water.

Chairman Jim Kasper I want to sum what I think I heard you say. You have explained a situation that you are concerned about because of the protection of the integrity of the voting process. Your motivation is to help the whole election process and the integrity of the election be better addressed so that things like what you think might have occurred don't happen again. You are here not for a witch hunt but to try impact our election laws in a better way. Is that sort of the intent in what we are hearing from you today?

Paul Murphy Absolutely.

Chairman Jim Kasper You are not pointing fingers at other auditors?

Paul Murphy Absolutely.

Opposition:

Kevin Glatt, Burleigh County Auditor, appeared in opposition. I have some concerns about the second person that is appointed by the county commission to oversee my work as an elected official as to what those qualifications are going to be. This bill doesn't address elections related to cities and school elections. Perhaps we should turn over all elections to the Secretary of State's office.

Chairman Jim Kasper Are you proposing that to amend the bill?

Kevin Glatt I don't have an amendment proposed, but I have stated that in previous testimony in previous years. Maybe we should just turn over elections to the Secretary of State's office.

Rep. Steven Zaiser Wouldn't you agree that redundancy often is a good thing but in this case, it seems to be over kill?

Kevin Glatt I would agree.

Rep. Marie Strinden I am not sure if there are any offices where the person that is being elected or hoping to be elected is counting their own ballots. Is this the only instance of that?

Kevin Glatt That is correct. The county auditors serve as election administrators by way of law.

Rep. Marie Strinden As politicians, we have to not only make sure that we are acting morally but that it looks like we are acting morally too. There might be some room here to make sure that not only we are acting honestly but that it looks like we are acting honestly. Do you have any suggestions for, even if this isn't happening, making it look more honest because you are counting your own votes?

Kevin Glatt I understand that the appearance of impropriety is sometimes worse than the impropriety itself, and that is why I suggested we just turn elections over to the Secretary of State's office.

Rep. Gail Mooney To me it is somewhat of a misnomer that you are counting your own votes. You have a multitude of people with that process at the same time, don't you?

Kevin Glatt Absolutely. Every precinct has at least five election workers. Auditors take great pains to be very careful with the mail in ballots and the absentee ballots. There are processes set up to insure that.

Rep. Karen Karls Kevin is my auditor, and I have worked with him a lot. I have heard you say repeatedly when I picked up the ballots at the post office. Could there be some other method possibly? I envision you putting them in a big bag and carrying them to the office directly from the post office. Do you take someone with you from the office for that appearance sake?

Kevin Glatt I like to think the county is results driven. I go to the post office during election season daily, and I go to the post office daily to pick up postage due absentee ballots. The other absentee ballots are delivered to the office. I touch very few of them. We did over 10,000 absentee ballots this last election in Burleigh County. There is going to be an increase in cost with another person.

Rep. Karen Karls How much does an absentee ballot cost the county?

Kevin Glatt I would say close to \$1.80 a ballot.

Rep. Vicky Steiner Your auditors must see a difference, though, between the large counties and the small counties. I think the example of Slope County is a very good one. Sometimes I know county and city officials come in here and take offense that we are trying to tighten something, but wouldn't you agree that not all auditors are always going to do what you think is the most ethical side of things and maybe we could make this better for those small county situations?

Kevin Glatt I won't disagree with you. I just don't think this is the right piece of legislation.

Chairman Jim Kasper A bias I have is I hear many times about the extra cost factor. How many employees are in your office?

Kevin Glatt We have 12 full time employees which consists of the auditor, treasurer, and tax equalization.

Chairman Jim Kasper How close is your office to the post office?

Kevin Glatt Six blocks.

Chairman Jim Kasper You said it would be extra cost to have a person go along. My contention is the people are already on the payroll so to take an extra 10 or 15 minutes, there is no extra cost. There is a shuffle in where they spend their time.

Kevin Glatt It is just not going to get the mail. This law says that someone would be appointed to oversee the election.

Chairman Jim Kasper You said this bill doesn't fix the problem. If we are trying to stop the temptation, so to speak, of one person being able to do something that he or she should not be doing, what would be your solution?

Kevin Glatt At this I don't have a solution.

Chairman Jim Kasper There is a problem, but you don't have a solution?

Kevin Glatt I am not going to recognize that there is a problem. If there is a problem, prosecute it.

Rep. Marie Strinden Isn't the problem that you can't prosecute it because there is no proof left to get a conviction?

Kevin Glatt, If there is no proof,

Chairman Jim Kasper then there is no problem. That is your supposition.

Michael Montplaisir, Cass County Auditor, appeared in opposition. **Attachment 3** was presented as testimony. (57:45-1:04)

Rep. Karen Rohr The process that is developed to maintain voter integrity is the responsibility of the auditor? Is your staff educated on personal integrity and the duty to report misconduct?

Michael Montplaisir Yes to the first question. We have a county policy on how people would go about reporting something, any kind of matter of lack of integrity. If I was taking ballots home, my staff would let me know very quickly.

Rep. Karen Rohr What if something occurs where an individual observes a misconduct and what happens if they don't report it?

Michael Montplaisir I could not imagine that happening in our structure. I don't know the political affiliations of all of the staff members. Everybody is very watchful. We take a lot of inventories. We do some video recording out at the warehouse. That is to protect our staff from any accusations like that. When we transported all of our voted absentee ballots to the warehouse to be counted by the absentee board, we had them delivered by the sheriff's department so there was a lot of security around that sort of thing.

Rep. Karen Rohr Do you think that could be a potential solution as an amendment to this bill that education will occur and that on personal conduct and the integrity to report any misconduct?

Michael Montplaisir That happens already. If that was a requirement, that is fine. We do it anyway.

Rep. Gary Paur As I understand it, the Secretary of State is the chief election officer of the state and you are the chief election officer of the county. Does it not seem a little out of place to put somebody appointed by the county commissioners overseeing your duties which basically come from the Secretary of State?

Michael Montplaisir Yes, it does. I am an independently elected official. I would be real concerned if the county commission is going to try to appoint somebody, what are going to be the qualifications of that person? Who would the county commission find in our local community who has as much knowledge about election procedures and oversight and that sort of thing?

Rep. Marie Strinden Would you support an amendment that would take out that second overseer but that would provide for the sealing of those ballots so if there was an inquest, there would be something to show in court?

Michael Montplaisir That is already the case.

Rep. Marie Strinden It doesn't sound like that is what happens in Foster County. It is not a state law? It is just your county policy to do that?

Michael Montplaisir That is the law. The county recorder is responsible for the custody and care of those ballots. If it is not being done, then the state's attorney should be doing something about that. Two days after the election if I were to go to the county recorder and

say I want all of these back or some of these back, unless I have some really compelling reasons and there are some cases where we do--for example, in a small city we have a lot of write in votes and we will sometimes have to go back because the election board didn't tally those correctly and ask for those ballots back but we do that in writing and count those write in votes--there are already procedures there.

Rep. Scott Louser In the case where there are 10,000 mail in ballots and I assume they are all scanned.

Michael Montplaisir That is true.

Rep. Scott Louser Do we match the signatures and then scan the ballot immediately or do we match all signatures and then take all the ballots and scan them?

Michael Montplaisir We take that envelope with the ballot on and we match it up to the original application from the voter. At that point they are entered into the election system as we received it back. Those ballots are stored until election day. In most counties they send those out to their individual polling sites who then review those signatures and open and initial and scan those ballots.

Rep. Steven Zaiser Is it not correct that the 2006 election when I voted absentee, that actually my ballot was challenged?

Michael Montplaisir I don't recall every signature that was challenged.

Rep. Steven Zaiser There has been a case in 2006 where someone received the wrong ballot. That is a case where some level of redundancy might be helpful, or would it matter how best to prevent that kind of thing from occurring?

Michael Montplaisir Whenever you have a human element of people pulling ballots, for instance, that can happen. What we have done since that time is if someone in my office comes up to the counter to vote, they enter you into the election system, it prints out a label, it tells what district you are in, what ballot style you should get, and they go poll the ballot. They have to hand that to a second person who then looks at that receipt and compares it to the ballot style to make sure they have the correct one. We try to put as much redundancy in there as we can.

Rep. Steven Zaiser I assume you do the same process even though you mail it out. You have two people look at it.

Michael Montplaisir Every ballot that goes out of our office gets examined twice.

Chairman Jim Kasper I think I heard Mr. Murphy indicate in his testimony that he wasn't supposing that ballots were being photocopied. His concern was if there are 1,000 ballots and there are some extra ones that aren't used because I would assume that every auditor is going to order a few extra ones, the extra ones which are original could then be used to be replaced by the one that was sent in.

Michael Montplaisir I think he was implying that they were physically copying on a copier. You can't take the ballot right now and copy it and expect it to be counted by the machine. It won't do it.

Chairman Jim Kasper If there were original ballots and someone had larceny in their heart, the opportunity is there for that to occur?

Michael Montplaisir You could do that. We try to keep track of our unused ballots. He explained his safeguarding in Cass County.

Chairman Jim Kasper In a smaller county where they don't have the procedures, if one person was in charge and the process was not being followed, then the possibility for someone with larceny in their heart exists to do what Mr. Murphy described?

Michael Montplaisir That is certainly true.

Chairman Jim Kasper If the ballots are destroyed before anybody sees them, there is no evidence and have nothing to go back to look at.

Michael Montplaisir If those ballots are destroyed before 22 months and there was a federal election involved, they have a real problem.

Chairman Jim Kasper I should have clarified that I meant the extra ballots.

Michael Montplaisir That is true.

Chairman Jim Kasper He read Line 25, Item M at the bottom of Page 2. Is it a governing body that is responsible for the election or is it the auditor that is responsible for the election? What does that mean?

Michael Montplaisir The governing body is the county commission.

Chairman Jim Kasper They would have the ultimate authority over the election?

Michael Montplaisir Their responsibility is in conjunction with the county auditor.

Chairman Jim Kasper He read Line 29. I think we are saying that the one person appointed is responsible. Would you read it that way?

Michael Montplaisir Correct.

Chairman Jim Kasper In order to accomplish what the person who wanted the bill introduced should do, we would have to change that to make sure that at least the one additional person appointed plus the auditor are at all times looking together with the safeguarding of the undistributed ballots.

Michael Montplaisir I think in a larger sense that is already done because of the roles and responsibilities of the county recorder.

Chairman Jim Kasper These two people would be hopping around?

Michael Montplaisir Correct.

Rep. Gary Paur He read in that same section. Could that mean precincts?

Michael Montplaisir I don't believe that is what they are getting at. Within the auditor's office.

Rep. Gary Paur That is what the intent is but could that be interpreted as precincts or polling places?

Michael Montplaisir That is kind of a legal question which I would defer to our state's attorney for.

Rep. Karen Rohr When you are setting up your voter integrity procedures, does it include that if you have any questions or concerns that you contact the Secretary of State's office for assistance?

Michael Montplaisir If you are asking about our employees, our policy points them to our county administrator or county commission.

Rep. Gail Mooney was wondering if she could read an email from her county auditor in opposition.

Chairman Jim Kasper No, we will do so in committee discussion.

Al Jaeger, Secretary of State, appeared in opposition. He informed the committee that the penalty is being handled in another bill. We have been in contact with Mr. Murphy since 2004. This bill is not the correct means. It is one size fits all. It is already in law. In my opinion, this goes back to a personal situation. It is because the county auditor has been reelected.

Chairman Jim Kasper

Rep. Scott Louser Are ballots numbered?

Al Jaeger No, there would be concern there. You wouldn't want a ballot to somehow relate back to a voter.

Chairman Jim Kasper You do not have investigative authority. How many complaints like this from any other county have you received from a state's attorney? Al Jaeger pointed out there was one, the Murphy case. You indicated the charges should be investigated. Would it be your office's responsibility to investigate?

Al Jaeger When we know that things are amiss, we go to the attorney general when it is petitions. I don't know how to respond to that. If there are violations of election law, we are

to refer that to a state's attorney. They are the ones that can prosecute. Mr. Murphy stated that he had gone to BCI.

Chairman Jim Kasper Secretary Jaeger held up one file and indicated it was one file of complaint in his twenty years.

Al Jaeger One case.

Rep. Steven Zaiser Is not the state's attorney in a particular county the chief law enforcement officer for that county?

Al Jaeger I don't know if that is how they are designated.

Rep. Scott Louser Would it be advantageous to have numbered ballots for the mail in?

Al Jaeger No, what does the number prove?

Vice Chair Randy Boehning If we put some language in the bill that would give you investigative power would that be something that would be workable?

Al Jaeger If you did give it to me, I would need some more staff to go and investigate.

Vice Chair Randy Boehning How about when you get a complaint such as the Murphy case, you go to the attorney general and then BCI would do the investigation?

Al Jaeger I am kind of duty bound. I did in one letter to Mr. Murphy reach out and asked for some particulars so that I could initiate some kind of action.

John Arnold, ND Association of Counties, appeared in opposition.

Chairman Jim Kasper HB 1397 is the bill where the penalty is being considered to be changed. I would suggest that some of you in the audience get together and see if there is any solution that can be mutually reached on this bill.

Hearing closed.

2013 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee
Fort Union Room, State Capitol

HB 1345
February 7, 2013
18510

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to safeguarding of ballots.

Minutes:

You may make reference to "attached testimony."

Chairman Jim Kasper opened the session on HB 1345. He reviewed the situation with Mr. Murphy and the problems he experienced in Foster County.

Rep. Gail Mooney made a motion for a Do not pass.

Rep. Vernon Laning seconded the motion.

A roll call vote was taken and resulted in **DO NOT PASS, 14-0**. **Rep. Gary Paur** is the carrier of this bill.

Date: 2-7-13
 Roll Call Vote #: _____

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1345**

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Mooney Seconded By Laning

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Bill Amerman	X	
Vice Chairman Randy Boehning	X		Rep. Gail Mooney	X	
Rep. Jason Dockter	X		Rep. Marie Strinden	X	
Rep. Karen Karls	X		Rep. Steven Zaiser	X	
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Gary Paur	X				
Rep. Karen Rohr	X				
Rep. Vicky Steiner	X				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Paur

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

REPORT OF STANDING COMMITTEE

HB 1345: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)
recommends **DO NOT PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1345 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

HB 1345

1345
Attachment

Firstly I want to tell this committee that while this bill starts the dialogue for the election process, I don't believe that this bill in its current form is the best bill that we can draft, no offense to legislative council. I have been requesting for assistance from the Secretary of State for years on this problem and at this point, do not have faith in his willingness or ability to fix this issue. That being that ballots may be changed between the time they are mail-in/absentee voted and when they are counted.

I will demonstrate how this can be accomplished with the supplies I have brought with me. Please vote your choice of the two candidates on the ballot before you. Fold and place in the brown envelope, then place in the white envelope, sign - where indicated and seal them and pass them to me. I will open them and tabulate them. I will then re-vote your ballots to show you that it can be done with relative ease. The results will be different than the original vote total. The vote alteration, without more sophistication or reprogramming the tabulating computer (which is entirely another discussion that is not being addressed that I know of), is really only possible on elections where the mail-in ballots could make the difference in the election i.e. if the margin of victory is 100 votes and 50+ ballots were tampered with.

Here is how:

September 15 Voter requests mail-in/absentee ballot

September 20 receives ballot

24th votes ballot and sends to auditor

25th ballot is picked up, not deposited in mail-in precinct, opened at home or work, re-voted from how elector voted, signature from poll book is copied on the back of the envelope

26th re-mailed to PO Box, picked up deposited in mail-in precinct box

I am supplying a fact pattern of a possible scenario which shows motive, opportunity and the tools to accomplish what I contend is possible to "steal an elections Facts:

- If an Auditor was contested in an successive elections (Motive)
- If an auditor won by a margin of under 10 votes in the first election (Motive)
- In the next election, the auditor won by a margin of over 60 votes after mail in/absentee balloting was expanded (Motive)
- If an Auditor obtained a separate PO Box that only he had a key for, prior to a contested auditor's election. This would ensure that only the auditor had access to

any mail in ballots prior to the election, prior to this new mailbox, mail was sometimes picked up by other offices. (Exclusive Opportunity)

- In the second election, electors were told that the ballot needed to be to the auditor the day before the election when in truth, it needed to be postmarked the day prior to the election. NDCC 16.1-11.1-04. (Opportunity expanded to more ballots)
- If an Auditor's had access to a calligrapher or former calligrapher or was good at copying signatures. (Tools)
- If a Poll book was removed from the auditor's office and was at the home of the auditor. Poll book contains all signatures of all voters. This would allow an auditor months to work on forging outer envelopes for likely mail in voters for a fall election.(Tools)
- If an Auditor had access to all voting supplies (Tools)
- If an Auditor has been seen accessing the ballot boxes long after the election was over. (possibly exchanging forged outside envelopes with originals to escape detection of forgery)
- If it was it was reported to the States Attorney's office that ballots were found on Saturday before election on the desk of the auditor in my county but by the time it was reported it was too late to file a challenge to the process. Officers are wired to handle traffic, drugs, assaults, etc not white collar, election fraud cases. (alleged commission of fraudulent voting on an election that where the auditor had motive, opportunity and the tools to accomplish the alleged acts)

Current law (NDCC16.1-16-03) states that it must be within 5 days after final certification or within fourteen days after the final certification by the appropriate canvassing board if no recount is to be conducted. The fact that all election supplies can be thrown away after this short time period, (thus destroying evidence of illegal votes or erroneous or fraudulent voting, count, canvass or recount of votes NDCC 16.1-16-05)

- Currently there is no requirement that ALL ballots be retained; unused ballots may be tossed at any time. Tossing unused ballots hinders any investigation into missing ballots, and if the number of missing ballots would have altered the final outcome. Its as if you are only counting expenses and accounts receivable when tax time comes, that only gives two numbers, what you have used and what you have ordered. Furthermore elections materials need only be retained for approximately 3.5 years, federal law may require retention of all ballots but the US attorney's office has bigger fish to fry than an auditor not keeping all the ballot from 4 years ago..

- In the two elections listed above changing 4 ballots from the other candidate would have changed that election, in the next election 32 ballots switched from the other candidate. Today, in the time allotted I was able to copy signatures for 14 of you without having the poll book of your signatures ahead of time. Imagine what could be accomplished with 24 hours or one weekend to accomplish voter fraud. I ask that you address this situation with the utmost haste and care.
- The sheer number of mail-in ballots that election workers are required to compare signatures of virtually assure that a precise and careful examination of those signatures will not be guaranteed. Mail in ballot numbers will surely go up and the number of handwriting experts to compare signatures is extremely limited.

Now that I have demonstrated how an election may be tampered with, we have no choice but to put some safeguards in place, as I, unfortunately to initiate a change, have just revealed to the public, how to commit election fraud...with mail-in ballots

Possible solutions:

- i) Safety paper for ballots, this would:
 - (a) Ensure that any ballot copied would be unreadable by the ballot counter
 - (b) Increase cost of Ballots as much as 3 times.
 - (c) But would not ensure that a copy would not be sent out initially to the mail-in voter and re-voted later on a countable ballot unless any copies made, would show **VOID** on the copied ballot.
- ii) Bar any auditor from handling ballots where they are on a contested ballot. -this is met with opposition by auditors as it is part of their job description and feel trusted when the vast majority are trustworthy ...although of the 5 auditor offices in Foster County 3 since 2002 have been prosecuted by my office for theft or other crimes through their office. One still serves in that capacity, the other two have been replaced/removed.
- iii) Seal boxes after elections completion to make it more difficult to exchange forged envelopes with original envelopes. This would allow law enforcement handwriting experts to analyze
- iv) Account for all ballots from all elections
- v) Allow for longer time for challenging elections
- vi) Retain supplies longer to allow for closer scrutiny
- vii) Return to absentee voting with more safeguards – unpopular
- viii) Not allow for mail-in ballots to be picked up until the day of the election – For big precincts, logistical nightmare.
- ix) Track all mail-in ballots via tracking number – priority, certified, registered mail. Adds expense to voting procedure and would require mail-in ballots to turn in tracking information and cross referenced to the date mailed by the elector..

Unfortunately what fixes a small county or large county's problem may not be "the fix" for everyone.

We can never do anything about motive or the tools to commit election fraud, but I need this committee to diminish the opportunity for election fraud. As a foot note, I would like an increased penalty for elections fraud, an A misdemeanor is just not sufficient when you consider that a \$500 check is a felony, the salary for nearly every job for two weeks is well over that amount.

Attachment 2

GENERAL ELECTION BALLOT

VOTE FOR 1 NAME ONLY

John Smith

Roberta Johnson

BALLOT SECRECY ENVELOPE

Attachment 2

INSTRUCTIONS TO VOTE BY MAIL

- YOU ARE ENTITLED TO COMPLETE YOUR ABSENTEE VOTER'S BALLOT IN SECRECY.
- YOU ARE ENTITLED A SECOND-CHANCE TO VOTE – Should you make a mistake while voting, you have the right to return your spoiled ballot to the County Auditor and receive a new one. Contact your Auditor for more information. (N.D.C.C. § 16.1-16-32)
- IN THE JUNE ELECTION, CROSS-OVER VOTING IS NOT ALLOWED. When voting a party ballot in the June election, you must vote along party (i.e. Republican, Democratic/NPL) lines. If you split your vote, your ballot won't be counted for those races.
This does not apply to non-partisan races or measures. (N.D.C.C. § 16.1-11-22 (4))

- 1. Vote** – Be sure to blacken each oval completely using a blue or black pen. Do not make an X or other mark.
To write in a name you must blacken the oval and write the name on the line provided.
- 2. After voting**, fold your ballot to conceal your vote. Place your folded, voted ballot in the secrecy envelope or sleeve provided, and then place the secrecy envelope or sleeve in the self-addressed return envelope provided and seal.
- 3. Complete and sign the voter's affidavit** found on the back-side of the return envelope.
- 4. Affix the proper postage** before mailing – extra postage is required.

Ballots must be postmarked no later than the day before the election.

Attachment 2



Postage
Required.
Post Office will
not deliver
without proper
postage.



STEELE COUNTY AUDITOR
PO BOX 275
FINLEY ND 58230-0275

VOTER AFFIDAVIT

Under penalty of possible criminal prosecution for making a false statement, I swear that I am a U.S. citizen, a ND resident and have resided in my precinct for thirty (30) days preceding this election, and this is the ONLY ballot I will cast in this election.



Voter Signature _____

OR*



Voter's Name

Date: _____ 20 _____

Witness to the Mark

**If the absent voter is unable to sign the voter's name, the voter shall mark (X) or use the applicant's signature stamp on the statement in the presence of a disinterested individual. The disinterested individual shall print the name of the person marking the X or using the signature stamp below the X or signature stamp and shall sign the disinterested individual's own name following the printed name together with the notation "witness to the mark."*

Instructions: Seal your ballot in this envelope • Fill out and sign this affidavit • Mail or deliver to County Auditor

**Written Testimony To
THE HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
Thursday, January 31, 2013
Michael Montplaisir, Cass County Auditor
Cass County Government**

REGARDING HOUSE BILL 1345

Chairman Kasper and committee members my name is Michael Montplaisir and I am the County Auditor in Cass County. I am here today to give you some of my thoughts concerning House Bill 1345.

It seems to me that House Bill 1345 is a solution looking for a problem – the county auditor's office is an independently elected position that is already responsible for making sure that all ballots are property accounted for and safeguarded. For instance, we take an inventory of ballots when we receive them from the printer, both to establish a starting point and also to make sure that we received the quantities of ballots that we ordered for each ballot style; we record when we remove ballots from that inventory to take to the courthouse for absentee voting, to send out to the early voting sites, and to send out to precincts for Election Day.

Ballots, whether unused stock, voted absentee ballots, voted early voting ballots or election day ballots are controlled—in locked rooms in some cases—in other cases, they are locked in containers with recorded and numbered seals, and under video control in the case of our off-site warehouse. Voted ballots are turned over to the County Recorder, who has custody of the voted ballots until they are destroyed.

We handle approximately ten thousand absentee applications and ballots during a big election. At that same time we are running early voting precincts and packing ballots for Election Day—all of this is done under control of the county auditor. Adding an "individual appointed by the appropriate governing body" would do nothing to improve the ballot control. One person could not physically observe all the operations at any one time. We rely upon the integrity and professionalism of our staff, our procedures, our documentation, and our video recordings to make sure that every voter's ballot is handled in accordance with established law.

I urge a do not pass on House Bill 1345.