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Deanna H. H. H.
Operator's Signature

10/23/03
Date

2003 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2409

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10/23/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2409

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 02/06/03

Tape Number	Side A	Side B	Meter #
Tape 1	x		4100-end
Tape 1		x	0-140
Committee Clerk Signature <i>[Signature]</i>			

Minutes:

Senator Karen Krebsbach, Chairman opens SB 2409. All senators present.

Al Jaeger, Secretary of State goes over fiscal note. Each state receives a minimum of \$5,000,000 and deposits that into a separate account. That is why the fiscal note shows \$5,000,000.

Cory Fong, Deputy Secretary of State (Testimony attached)

Senator Krebsbach : In section 31 the repeal is relating to voting machines?

Fong: Yes, voting machines and punch cards.

Senator Dever : The HAVA had some exclusions for ND could you explain those.

Fong: The exclusion did apply to North Dakota specifically because HAVA requires now every state to have a voter registration system to develop a centralized voter registration system. HAVA requires then to have one statewide system. The language of the law could have prompted us to have voter's registration so we were excluded from that division.

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10/23/03
Date

Page 2

Senate Government and Veterans Affairs Committee
Bill/Resolution Number SB 2409

Hearing Date 02/06/03

Senator Dever : The administration of election fund is that involve shifting funds to political subs?

Fong: Yes, eventually it will. As part of HAVA it is the job of our office to develop a state plan. the state plan will tell how dollars will be shifted how formulas will be created.

Closed SB 2409

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10/23/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2409

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 02/13/03

Tape Number	Side A	Side B	Meter #
Tape 1		x	3070-3670
Committee Clerk Signature			

Minutes:

Senator Karen Krebsbach, Chairman reopens SB 2409. All senators present.

Senator Nelson moves to adopt amendments

Senator Wardner seconds

Senator Nelson: Maybe we should put an emergency clause on this.

Cory Fong, Deputy Secretary of State: There would be no harm in putting an emergency clause on this. We learned this morning that we have secured the funding for HAVA. We will be subjected to get the \$5 million from Congress ASAP.

Senator Nelson moves we add an emergency clause to the amendment

Senator Wardner seconds

6 Yes 0 No

Senator Dever moves Do Pass as amended

Senator Brown 2nd 6 Yes 0 No Carrier : Senator Nelson

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FISCAL NOTE

Requested by Legislative Council
03/25/2003

Amendment to: SB 2409

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$5,000,000	\$0	\$4,150,000	\$0	\$0
Expenditures	\$0	\$14,000	\$0	\$2,000,000	\$0	\$5,000,000
Appropriations	\$0	\$0	\$0	\$9,500,000	\$0	\$0

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

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

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

The amendments do not change the content of this fiscal note from that when it was originally submitted except it was since learned that the state is eligible to receive an additional \$4,150,000 during the biennium, which is being reflected in SB 2002. The revenue block also reflects the new time line for receipt of the funds, which was not known when the initial fiscal note was prepared.

The purpose of this bill is to put into place the laws needed to administer the provisions of the Help America Vote Act of 2002 (HAVA), which was passed by the Congress and signed into law by the President of the United States in October of 2002. The monies will be received and deposited in a dedicated HAVA election fund being established in the agency's appropriation bill, SB 2002. The funds will be used to replace punch card voting equipment; improve the administration of elections; educate voters about voting procedures, rights, and technology; training election officials and poll workers; develop a state plan; enhance voting systems and voter accessibility; etc.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The \$5,000,000 was appropriated by Congress and the bill signed by the President on February 20, 2003. It is expected that these funds will be received in May 2003. The additional funds are expected late in 2003 or early 2004. The line item authorization to receive and accept these funds is being established in SB 2002, which is the agency's appropriation bill. This section of SB 2002 has an emergency clause that will allow for the use of these federal funds before the end of the 2001-2003 biennium as well as continuing on into the 2003-2005 biennium. In addition, Congress has identified these funds as "no year money." This means that these specific federal funds do not have to be expended by a specific time or by the end of any federal fiscal year.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The implementation timeline of HAVA is such that most of the expenditures will be made during the 2003-2005 biennium and the 2005-2007 biennium for the purposes listed in the narrative. At this time, it is too early to determine if there will be a financial impact to the counties.

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Date

10/23/03

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

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

Name:	Al Jaeger	Agency:	Secretary of State
Phone Number:	328-2900	Date Prepared:	03/25/2003

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Operator's Signature

Deanna Williams

10/23/03

Date

FISCAL NOTE
Requested by Legislative Council
02/19/2003

Amendment to: SB 2409

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$5,000,000	\$0	\$0	\$0	\$0
Expenditures	\$0	\$14,000	\$0	\$2,000,000	\$0	\$2,100,000
Appropriations	\$0	\$0	\$0	\$5,000,000	\$0	\$0

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

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

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

The purpose of this bill is to put into place the laws needed to administer the provisions of the Help America Vote Act of 2002 (HAVA), which was passed by the Congress and signed into law by the President of the United States in October of 2002. The monies will be received and deposited in a dedicated HAVA election fund being established in the agency's appropriation bill, SB 2002. The funds will be used to replace punch card voting equipment; improve the administration of elections; educate voters about voting procedures, rights, and technology; training election officials and poll workers; develop a state plan; enhance voting systems and voter accessibility; etc.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

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

B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

The implementation timeline of HAVA is such that most of the expenditures will be made during the 2003-2005 biennium and the 2005-2007 biennium for the purposes listed in the narrative. At this time, it is too early to determine if there will be a financial impact to the counties.

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

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Date

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

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

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Deanna Chiles
Operator's signature

10/23/03
Date

FISCAL NOTE
Requested by Legislative Council
01/28/2003

Bill/Resolution No.: SB 2409

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$5,000,000	\$0	\$0	\$0	\$0
Expenditures	\$0	\$14,000	\$0	\$2,000,000	\$0	\$2,100,000
Appropriations	\$0	\$0	\$0	\$5,000,000	\$0	\$0

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

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

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

The purpose of this bill is to put into place the laws needed to administer the provisions of the Help America Vote Act of 2002 (HAVA), which was passed by the Congress and signed into law by the President of the United States in October of 2002. The monies will be received and deposited in a dedicated HAVA election fund being established in the agency's appropriation bill, SB 2002. The funds will be used to replace punch card voting equipment; improve the administration of elections; educate voters about voting procedures, rights, and technology; training election officials and poll workers; develop a state plan; enhance voting systems and voter accessibility; etc.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

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

B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

The implementation timeline of HAVA is such that most of the expenditures will be made during the 2003-2005 biennium and the 2005-2007 biennium for the purposes listed in the narrative. At this time, it is too early to determine if there will be a financial impact to the counties.

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

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Operator's signature

10/23/03
Date

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

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

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

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2409

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38371.0201 Title .0300

Action Taken amendment

Motion Made By Nelson Seconded By Wardner

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

Total (Yes) 4 No 0

Absent 0

Floor Assignment _____

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

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10/23/03
Date

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

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2409

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38371.0201 Title .0300

Action Taken Do Pass as amended

Motion Made By Dever Seconded By Brown

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

Total (Yes) 10 No 0

Absent 0

Floor Assignment Nelson

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

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10/23/03
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REPORT OF STANDING COMMITTEE (410)
February 14, 2003 8:04 a.m.

Module No: SR-29-2696
Carrier: Nelson
Insert LC: 38371.0201 Title: .0300

REPORT OF STANDING COMMITTEE

SB 2409: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2409 was placed
on the Sixth order on the calendar.

Page 1, line 12, remove "and"

Page 1, line 15, after "machines" insert "; and to declare an emergency"

Page 14, line 6, overstrike "and before and after the counting of the ballots at"

Page 14, line 7, overstrike "each election"

Page 14, line 8, overstrike ", programs,"

Page 23, after line 5, insert:

"SECTION 32. EMERGENCY. This Act is declared to be an emergency
measure."

Renumber accordingly

Deanna Hall
Operator's Signature

10/23/03
Date

2003 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2409

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10/23/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2409

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 3-21-03

Tape Number	Side A	Side B	Meter #
1		x	45.5-end
2	x		0-52.7
Committee Clerk Signature <i>Joey Rinke</i>			

Minutes: Chairman Klein: called the hearing to order on SB 2409. All committee members were present.

Cory Fong, Deputy, Secretary of State, North Dakota: appeared in support of SB 2409 and provided a written statement (SEE ATTACHED TESTIMONY).

Representative Klein: basically we are helping out those counties that haven't upgraded.

Representative Williams: here we have HAVA, there became a creditability problem, I think it is important that in your rule making authority, your not going to try to go way beyond HAVA, and what the states comply.

Cory Fong: we need this bill to pass so that we can make the step forward to make a state plan, we are not going to get the 4.15 million, if we don't put in to place a state plan, and part of that state plan is people from the county auditors office, disabilities committees, voter interest groups, and people from our office, this process will be very detailed.

Representative Sitte: what will the new voting systems look like?

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10/23/03
Date

Page 2

House Government and Veterans Affairs Committee

Bill/Resolution Number SB 2409

Hearing Date 3-21-03

Cory Fong: they look a lot like a lap top, they have a flat screen, they have a flat screen, and they prevent over voting, they prevent you from double voting, the other system is kind of a box with a device to put the ballot in them, some of our precincts already have them across the state.

Representative Klein: random order, would you explain that a little bit?

Cory Fong: what that refers to that each system will have to show how voters voted and that will have to be done in a random way so you couldn't associate a vote to a person who voted.

Representative Kasper: when you get into deciding which ballot system will be used in North Dakota, do you have the power, or will every precinct use the same system, or are each county auditor decide which one they will use?

Cory Fong: that is probably one of the most talked about issues at the national level right now, is the approach to take, as one voter moves from one precinct to another there not startled by the change in voting system, uniformity, equal protection issues.

Representative Winrich: under the current law if a person is in line to vote at closing time at the polls, they have to be allowed to come in and vote, if there were a court order to extend the hours will they have to vote on a provisional ballot even if they were in line at the regular closing time?

Cory Fong: current law does state if you are in line you will vote, that would take precedence, any one that came after the polls have closed, those are the folks that would use the provisional ballot.

Al Jaeger, Secretary of State: appeared in support of SB 2409. As you can see this is the heart and soul of HAVA, a lot of the questions to relate to the testimony given yesterday. Since October we have been working really hard, training with voters, we have a excellent working relationship with our county auditors, not all states have this, what HAVA does, is when the

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10/23/03
Date

Page 3

House Government and Veterans Affairs Committee

Bill/Resolution Number SB 2409

Hearing Date 3-21-03

county makes mistakes they will be coming to the state department, we will be held accountable for what happens at the county level. We are now placed at a different level of responsibility, all of us. The first 5 million dollars requires no match, the auditing requirements are different, and the fact is HAVA is fully funded.

Jennifer Ring, ACLU: a couple of the questions that have come up, one of the things that have come up is the committee should be thinking about is that there is an equal protection question in the uniformity of elections across the state. Rich areas, wealthy counties will get the up to date equipment and the poorer counties will get the less accurate voting systems, lesser education on how to do the voting. If you could, come up with a uniform state voting system, you would be saving yourselves potential law suits in the future.

Representative Grande: moved to **AMEND** SB 2409.

Representative Sitte: **SECOND** the motion to amend SB 2409.

Representative Grande: made a **DO PASS AS AMENDED** motion on SB 2409.

Representative Sitte: **SECOND** the do pass as amended motion.

VOTE: 12-YES 0-NO 2-ABSENT (TIEMAN, HAAS).

Motion carried.

Representative Klein: will carry the bill to the floor.

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Deanna Williams
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10/23/03
Date

38371.0301
Title.0400

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

**House Amendments to Engrossed SB 2409 - Government and Veterans Affairs
Committee 03/24/2003**

Page 1, line 1, replace the second "and" with a comma

Page 1, line 2, after "16.1-06" insert ", and a new section to chapter 16.1-13"

Page 1, line 3, replace "and adopting rules to establish" with ", the establishment of"

Page 1, line 4, after "systems" insert ", and the casting of ballots after poll closings"

Page 1, line 6, after the sixth comma insert "16.1-06-19,"

**House Amendments to Engrossed SB 2409 - Government and Veterans Affairs
Committee 03/24/2003**

Page 5, line 13, replace "adopt rules for the purpose of establishing" with "establish"

Page 5, line 14, replace "may adopt rules" with "shall"

Page 5, line 15, remove "according to subsection 3 of section 16.1-01-01 to"

**House Amendments to Engrossed SB 2409 - Government and Veterans Affairs
Committee 03/24/2003**

Page 16, line 5, replace "2007" with "2006" and after the underscored period insert:

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

16.1-06-19. Instructions, advertisements, maps, and ballots posted in polling places. Each county auditor shall have cards printed, in large type, containing full instructions to electors on obtaining and ~~preparing~~ voting ballots and a copy of section 16.1-01-12, any federal laws regarding prohibitions on acts of fraud and misrepresentations, and general information on voting rights under applicable federal and state laws, including instructions on how to contact the appropriate officials if these rights are alleged to have been violated. The county auditor shall furnish ten such cards to the election inspector in each election precinct who, ~~prior to~~ before the opening of the polls, shall post at least one of the cards in each booth or compartment provided for the preparation of ballots and at least three of the cards in and about the polling place. Three of the official ballots without the official stamp thereon must be posted conspicuously in the polling place on the morning of the election. The county auditor, at the time of delivering the ballots to the inspector of elections in each precinct, shall deliver at least five copies of the newspaper publication or other copy of the complete text of any constitutional amendment or initiated or referred measure to such inspector of elections. Not less than three of ~~such~~ the newspaper publications or copies must be posted conspicuously in the polling place on the morning of the election. Each county auditor shall furnish the election inspector in each precinct with four copies of a map showing the election precinct's boundaries and information regarding the date of the election and the hours during which polling places will be open. The inspector shall, ~~prior to~~ before the opening of the polls, post the maps and information regarding the date of the election and the hours during which polling places will be open at the entry to and in other conspicuous places around the polling place."

**House Amendments to Engrossed SB 2409 - Government and Veterans Affairs
Committee 03/24/2003**

Page 18, line 27, after "each" insert "one hundred"

Page 18, line 30, overstrike "for each two hundred electors or"

Page 18, line 31, overstrike "fraction thereof" and overstrike "the" and insert immediately thereafter "each"

House Amendments to Engrossed SB 2409 - Government and Veterans Affairs
Committee 03/24/2003

Page 19, after line 13, insert:

"SECTION 26. A new section to chapter 16.1-13 of the North Dakota Century Code is created and enacted as follows:

Voters casting ballots after regular poll closings - Provisional ballots. An individual who votes after the regular poll closing time in an election in which a federal office appears as a result of a federal or state court order or any other order extending the time established for closing the polls under state law in effect ten days before the date of that election may only vote in that election by casting a provisional ballot. The ballot must be marked as a provisional ballot and must be separated and held apart from other ballots cast by those not affected by the order. The secretary of state shall approve the form of any provisional ballot and may prescribe any procedures the secretary of state determines to be necessary to facilitate the casting, secrecy, and counting of provisional ballots."

Renumber accordingly

3 of 3

38371.0301

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Deanna Hall
Operator's Signature

10/23/03
Date

Roll Call Vote #:

Date: 3-21-03

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTE
SENATE BILL/RESOLUTION NO. 2409

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken More to Amend

Motion Made By Rep. Grande Seconded By Rep. Sitte

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

Total (Yes) 12 No 0

Absent 2 (Rep. Tieman & Rep. Haas)

Floor Assignment voice vote

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

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Operator's Signature

10/23/03
Date

Roll Call Vote #:

Date: 3-21-03

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTE
SENATE BILL/RESOLUTION NO. 2409

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 38371.0301

Action Taken Do Pass As Amended by Klemin & rereferred to Approp.

Motion Made By Rep. Grande Seconded By Rep. Sitte

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

Total (Yes) 12 No 0

Absent 2 (Rep. Tieman & Rep. Haas)

Floor Assignment Rep. Klein

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

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10/23/03
Date

REPORT OF STANDING COMMITTEE (410)
March 24, 2003 9:19 a.m.

Module No: HR-52-5489
Carrier: M. Klein
Insert LC: 38371.0301 Title: .0400

REPORT OF STANDING COMMITTEE

SB 2409, as engrossed: Government and Veterans Affairs Committee (Rep. M. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2409 was placed on the Sixth order on the calendar.

Page 1, line 1, replace the second "and" with a comma

Page 1, line 2, after "16.1-06" insert ", and a new section to chapter 16.1-13"

Page 1, line 3, replace "and adopting rules to establish" with ", the establishment of"

Page 1, line 4, after "systems" insert ", and the casting of ballots after poll closings"

Page 1, line 6, after the sixth comma insert "16.1-06-19,"

Page 5, line 13, replace "adopt rules for the purpose of establishing" with "establish"

Page 5, line 14, replace "may adopt rules" with "shall"

Page 5, line 15, remove "according to subsection 3 of section 16.1-01-01 to"

Page 16, line 5, replace "2007" with "2006" and after the underscored period insert:

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

16.1-06-19. Instructions, advertisements, maps, and ballots posted in polling places. Each county auditor shall have cards printed, in large type, containing full instructions to electors on obtaining and preparing voting ballots and a copy of section 16.1-01-12, any federal laws regarding prohibitions on acts of fraud and misrepresentations, and general information on voting rights under applicable federal and state laws, including instructions on how to contact the appropriate officials if these rights are alleged to have been violated. The county auditor shall furnish ten such cards to the election inspector in each election precinct who, ~~prior to before~~ the opening of the polls, shall post at least one of the cards in each booth or compartment provided for the preparation of ballots and at least three of the cards in and about the polling place. Three of the official ballots without the official stamp thereon must be posted conspicuously in the polling place on the morning of the election. The county auditor, at the time of delivering the ballots to the inspector of elections in each precinct, shall deliver at least five copies of the newspaper publication or other copy of the complete text of any constitutional amendment or initiated or referred measure to such inspector of elections. Not less than three of ~~each the~~ newspaper publications or copies must be posted conspicuously in the polling place on the morning of the election. Each county auditor shall furnish the election inspector in each precinct with four copies of a map showing the election precinct's boundaries and information regarding the date of the election and the hours during which polling places will be open. The inspector shall, ~~prior to before~~ the opening of the polls, post the maps and information regarding the date of the election and the hours during which polling places will be open at the entry to and in other conspicuous places around the polling place."

Page 18, line 27, after "each" insert "one hundred"

Page 18, line 30, overstrike "for each two hundred electors or"

(2) DESK, (3) COMM

Page No. 1

HR-52-5489

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Date

10/23/03

REPORT OF STANDING COMMITTEE (410)
March 24, 2003 9:19 a.m.

Module No: HR-52-5489
Carrier: M. Klein
Insert LC: SCS71.0301 Title: .0400

Page 18, line 31, overstrike "fraction thereof" and overstrike "the" and insert immediately thereafter "each"

Page 19, after line 13, insert:

***SECTION 26.** A new section to chapter 16.1-13 of the North Dakota Century Code is created and enacted as follows:

Voters casting ballots after regular poll closings - Provisional ballots. An individual who votes after the regular poll closing time in an election in which a federal office appears as a result of a federal or state court order or any other order extending the time established for closing the polls under state law in effect ten days before the date of that election may only vote in that election by casting a provisional ballot. The ballot must be marked as a provisional ballot and must be separated and held apart from other ballots cast by those not affected by the order. The secretary of state shall approve the form of any provisional ballot and may prescribe any procedures the secretary of state determines to be necessary to facilitate the casting, secrecy, and counting of provisional ballots.

Renumber accordingly

(2) DESK, (3) COMM

Page No. 2

HR-52-5489

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10/23/03
Date

2003 HOUSE APPROPRIATIONS

SB 2409

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10/23/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2409

House Appropriations Committee

☐ Conference Committee

Hearing Date March 26, 2003

Tape Number	Side A	Side B	Meter #
3		X	25.2
Committee Clerk Signature <i>Chris S. Nyhus</i>			

Minutes:

REP. SVEDJAN Called the committee to order.

REP. MATT KLEIN Stated this bill was a result of the federal government's "Helping Americans Vote Act". Because of the problems they had at the last election, the federal government passed this bill which put new requirements on the Secretary of State. In the federal budget there is some 8 million dollars to let the states set this up. The Secretary of State has that in his budget, along with the fiscal note which explains how this is set up. He went through the sections of the bill explaining what each section did.

REP. KEMPENICH Asked whether there would still be paper ballots, or is it all going electronic?

REP. KLEIN All that I understand we have to get right now is the punch card system. Eventually, the standardization when they meet with all of the county auditors, there will be some guidelines as to what is acceptable and what is not. And, when it comes to electronic

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Operator's Signature

10/23/03
Date

Page 2
House Appropriations Committee
Bill/Resolution Number SB 2409
Hearing Date March 26, 2003

voting systems, the Secretary of State will have the authority to say what is going to be purchased.

REP. KOPPLEMAN It appears both the bills SB 2409 and SB 2394 have the same five million dollars this biennium in the fiscal note, in terms of federal revenue. Why is that?

REP. SVEDJAN Stated the new fiscal note dated March 25, for SB 2409, is a total of 9.59. I believe that was because an additional 4.5, was coming in. The original fiscal note is incorrect.

REP. KOPPLEMAN Stated he was looking at the current biennium. Both fiscal notes seem to have the same dollars on the revenue side of the fiscal note, is there a division of these dollars, or don't we know that.

REP. KLEIN Stated he couldn't answer that question, he thought it was one fund it went into, and will be utilized in various ways, whether it is for voting machines or guidelines, or whatever.

REP. AARSVOLD Asked whether there are fiscal implications for the counties to carry out the election proceedings.

REP. KLEIN There are some counties that will gain, like Williams County who has the old punch card machines. Those will be paid for out of this system. There will be some costs.

REP. AARSVOLD For those counties that have paper ballots, will they meet the federal test?

REP. KLEIN They do.

He went on to explain how SB 2394 works with this bill also. He went on to explain the division of amendments on the House floor. The Minority division was going to go back to voting wherever you want to. That is the only division.

Page 3
House Appropriations Committee
Bill/Resolution Number SB 2409
Hearing Date March 26, 2003

REP. WALD Do we vote by any other means than some kind of a ballot, whether it be paper or in our city, we mark them and count them. Is there some kind of electronic device, where it would be difficult for a recount.

REP. KLEIN Not to my knowledge, there are some other methods that could be used in the future, there could even be a touch screen that would meet the requirements. This is where the Secretary of State has to set the guidelines of what is acceptable.

REP. WALD The touch screen wouldn't be any kind of record other than what the electronic machine kicks out.

REP. KLEIN Yes, the requirements are in there to have a record. The system is set up so that the machine could identify what precincts or districts they are.

REP. KEMPENICH Made a motion for a DO PASS

REP. KOPPLEMAN Second the motion. **MOTION CARRIED 21 YES**

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10/23/03
Date

2003 TESTIMONY

SB 2409

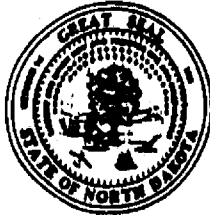
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Operator's Signature

10/23/03
Date

ALVIN A. JAEGER
SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 E BOULEVARD AVE DEPT 108
BISMARCK ND 58505-0800

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



SECRETARY OF STATE

February 6, 2003

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ELECTIONS DIVISION
PHONE (701) 328-4148, FAX (701) 328-2882
LICENSING DIVISION
PHONE (701) 328-3888, FAX (701) 328-1880
GENERAL INFORMATION (701) 328-2900
TOLL FREE 1-800-382-0867

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

FR: Cory G. Fong, Deputy Secretary of State

RE: Senate Bill No. 2409 – Election Reform and Compliance with HAVA

The Secretary of State strongly supports Senate Bill No. 2409. Passage of this legislation is critical in order for the Secretary of State's office and the counties to begin making plans and taking steps this year to comply with the federal election reform bill that passed last year, the Help America Vote Act of 2002, also known as HAVA.

Before I explain the highlights of Senate Bill No. 2409, the Secretary of State's office is proposing a technical amendment to the bill.

The bill with the proposed amendment accomplishes the following:

- Establishes by law the state's Election Fund for the purpose of depositing payments and grants made to the state and funds appropriated by the state to carry out HAVA. The moneys in the Election Fund shall be used for the exclusive purpose of carrying out activities of HAVA. Payments from the Election Fund are subject to Emergency Commission oversight. (Section 3)
- Requires and authorizes the Secretary of State to adopt rules to establish a state-based grievance procedure to handle complaints of violations of Title III of HAVA, which is the title that requires the state to provide accessible voting equipment by 2007. (Section 4)
- Requires and authorizes the Secretary of State to adopt rules for the purpose of certifying and decertifying electronic voting systems and electronic counting machines for procurement and use in the state and to establishing guidelines for determining what constitutes a vote on each electronic voting system authorized to be procured and used in the state. (Section 16)
- Eliminates all references to Voting Machines (lever machines) and Punch Card Electronic Voting Systems and Counting Machines and punch card supplies, which have been essentially "outlawed" by HAVA. (Sections 1, 2, 5, 6, 7, 8, 9, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, and 31)
- Authorizes the use of Direct Recording Electronic Voting Systems, more commonly referred to as DREs ("ATM style" touch screen voting devices) that are intended to satisfy the disability components contained in Title III of HAVA. (Sections 1, 2, 5, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, and 30)

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

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10/23/03
Date

SB 2409 - Election Reform and Compliance with HAVA
Senate Government and Veteran's Affairs
February 6, 2003
Page two

- Clarifies and adds to the duties of the Secretary of State as it relates to the administration of elections in the state. (Sections 1, 3, 4, and 16)
- Authorizes the Secretary of State to promulgate administrative rules for the purpose of implementing the provisions of Title 16.1 and any other requirement imposed upon the state by HAVA, not otherwise addressed in the law, from time to time as the Secretary of State deems necessary. These rules must be consistent with the provisions of Title 16.1 and HAVA and be adopted and published in accordance with Chapter 28-32, which governs the administrative rule making process. However, the Secretary of State would not be required to comply with the timelines and all procedures of the administrative rule making process. (Section 1)

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Operator's signature

10/23/03
Date

PROPOSED AMENDMENTS TO SENATE BILL NO. 2409

Page 14, line 6, overstrike "and before and after the counting of the ballots at"

Page 14, line 7, overstrike "each election"

Page 14, line 8, overstrike ",programs,"

Renumber accordingly

Page 1

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Date

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2409

Page 5, line 13, replace "adopt rules for the purpose of establishing" with "establish"

Page 5, line 14, replace "may" with "shall" and remove "adopt rules"

Page 5, line 15, remove "according to subsection 3 of section 16.1-01-01 to"

Page 15, after line 7, insert:

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

16.1-06-19. Instructions, advertisements, maps, and ballots posted in polling places. Each county auditor shall have cards printed, in large type, containing full instructions to electors on obtaining and preparing voting ballots and a copy of section 16.1-01-12, any federal laws regarding prohibitions on acts of fraud and misrepresentations, and general information on voting rights under applicable federal and state laws, including instructions on how to contact the appropriate officials if these rights are alleged to have been violated. The county auditor shall furnish ten such cards to the election inspector in each election precinct who, prior to the opening of the polls, shall post at least one of the cards in each booth or compartment provided for the preparation of ballots and at least three of the cards in and about the polling place. Three of the official ballots without the official stamp thereon must be posted conspicuously in the polling place on the morning of the election. The county auditor, at the time of delivering the ballots to the inspector of elections in each precinct, shall deliver at least five copies of the newspaper publication or other copy of the complete text of any constitutional amendment or initiated or referred measure to such inspector of elections. Not less than three of such newspaper publications or copies must be posted conspicuously in the polling place on the morning of the election. Each county auditor shall furnish the election inspector in each precinct with four copies of a map showing the election precinct's boundaries and information regarding the date of the election and the hours during which polling places will be open. The inspector shall, prior to the opening of the polls, post the maps and information regarding the date of the election and the hours during which polling places will be open at the entry to and in other conspicuous places around the polling place."

Page 16, line 5, replace "2007" with "2006"

Page 18, line 27, overstrike "fifty" and immediately insert "one hundred-fifty"

Page 18, line 30, overstrike "for each two hundred electors or"

Page 18, line 31, overstrike "fraction thereof", overstrike "the" and immediately insert "each"

Page 19, after line 13, insert:

"SECTION 25. A new section to chapter 16.1-13 of the North Dakota Century Code is created and enacted as follows:

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2409

Voters casting ballots after regular poll closings cast provisional ballots. Any individual who votes in an election for federal office as a result of a federal or state court order or any other order extending the time established for closing the polls by state law in effect ten days before the date of that election may only vote in that election by casting a provisional ballot that must be marked as a provisional ballot and be separated and held apart from other ballots cast by those not affected by the order. The secretary of state shall approve the form of any provisional ballot and may prescribe any procedures the secretary of state determines to be necessary to facilitate the casting, secrecy, and counting of provisional ballots."

Renumber accordingly

Page 2

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Deanna Williams
Operator's Signature

10/23/03
Date

ALVIN A. JAEGER
SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 E BOULEVARD AVE DEPT 108
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SECRETARY OF STATE

March 21, 2003

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LICENSING DIVISION
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GENERAL INFORMATION (701) 328-2900
TOLL FREE 1-800-382-0867

TO: Representative Matt Klein and Members of the House Government and Veterans Affairs Committee

FR: Cory G. Fong, Deputy Secretary of State

RE: Senate Bill No. 2409 – Election Reform & HAVA Compliance HAVA

Passage of this legislation is critical in order for the Secretary of State's office and the counties to begin making plans and taking steps this year to comply with the federal election reform bill that passed last year, the Help America Vote Act of 2002, also known as HAVA.

Before I explain the highlights of Senate Bill No. 2409, the Secretary of State's office is proposing some amendments to the bill. My explanation of the bill will also include discussion of these proposed amendments.

The bill with the proposed amendment accomplishes the following:

- Establishes by law the state's Election Fund for the purpose of depositing payments and grants made to the state and funds appropriated by the state to carry out HAVA. The moneys in the Election Fund shall be used for the exclusive purpose of carrying out activities of HAVA. Payments from the Election Fund are subject to Emergency Commission oversight. (Section 3)
- Requires and authorizes the Secretary of State to establish a state-based grievance procedure to handle complaints of violations of Title III of HAVA, which is the title that requires the state to provide accessible voting equipment by 2007. (Section 4 and proposed amendments)
- Requires additional information to be posted at the polling place on Election Day in accordance with HAVA, to include: information regarding federal laws pertaining to voting rights and prohibited acts of voter fraud; instructions for filing a complaint and contacting the appropriate election officials when voting rights are alleged to have been violated; and the date and hours of voting in each polling place. (proposed amendments)
- Requires and authorizes the Secretary of State to adopt rules for the purpose of certifying and decertifying electronic voting systems and electronic counting machines for procurement and use in the state and to establishing guidelines for determining what constitutes a vote on each electronic voting system authorized to be procured and used in the state. (Section 16)
- Eliminates all references to Voting Machines (lever machines) and Punch Card Electronic Voting Systems and Counting Machines and punch card supplies, which have been essentially "outlawed" by HAVA. (Sections 1, 2, 5, 6, 7, 8, 9, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, and 31)

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Date

- Authorizes the use of Direct Recording Electronic Voting Systems, more commonly referred to as DREs ("ATM style" touch screen voting devices) that are intended to satisfy the disability components contained in Title III of HAVA. (Sections 1, 2, 5, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, and 30)
- Clarifies and expands the duties of the Secretary of State as it relates to the administration of elections in the state as a result of HAVA. (Section 1)
- Authorizes the Secretary of State to promulgate administrative rules for the purpose of implementing the provisions of Title 16.1 and any other requirement imposed upon the state by HAVA, not otherwise addressed in the law, from time to time, as the Secretary of State deems necessary. These rules must be consistent with the provisions of Title 16.1 and HAVA and be adopted and published in accordance with Chapter 28-32, which governs the administrative rule making process. However, the Secretary of State would not be required to comply with the timelines and all procedures of the administrative rule making process. (Section 1)
- Changes the number of voting booths or compartments and electronic voting system devices required in each precinct. (Section 22 and proposed amendments)
- Requires voters who cast ballots as a result of a polling place or precinct remaining open after normal voting hours by court order to cast provisional ballots in accordance with HAVA. Provisional ballot cast according to this provision must be segregated from other votes cast. (proposed amendments)