

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1310

2005 HOUSE POLITICAL SUBDIVISIONS

HB 1310

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1310

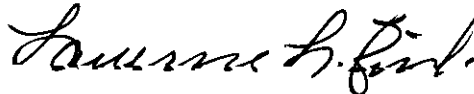
House Political Subdivisions Committee

☐ Conference Committee

Hearing Date January 21, 2005

| Tape Number | Side A | Side B | Meter #     |
|-------------|--------|--------|-------------|
| 1           | x      |        | 44.4 to end |
| 1           |        | x      | 0.2 to 35.0 |
| 2           | x      |        | 6.9 to 8.7  |

Committee Clerk Signature



Minutes: **Rep. Devlin, Chairman** opened the hearing on HB 1310, A Bill for an Act to create and enact a new chapter to title 16.1 of the North Dakota Century Code, relating to instant runoff voting; to amend and reenact sections 16.1-14-01 and 16.1-15-01 of the North Dakota Century Code, relating to the canvassing of votes; and to provide an effective date.

**Rep. Eliot Glassheim** representing District 18 and prime sponsor of HB 1310 spoke on behalf of the bill. While he did not have written testimony, he did hand out a print out from the Center for Voting and Democracy web site which he freely referenced. A copy is attached. The premise of his bill is to change from the current method of tabulating vote to determine the winner of an election based on a majority of the votes to a method which counts the plurality of votes. This is significant when a clear majority is not apparent. In those instances, and clearly only in those instances when there are three or more candidates, the votes would be counted and listed from the top with the candidate receiving the most votes ranked in order to the candidate receiving the least vote. With tabulation counting the candidate with the least votes would drop off for the

re-tabulation. The ranking then would proceed to reorder and determine the winner and second and third place positions in the results. Depending up how many candidates were on the ballot this system of counting and ranking could be repeated as often as necessary with the candidate with the least votes dropped for the next ranking and re-order. There was considerable discussion and responses between Rep. Glassheim and the committee members. While used in Austrailia, Scotland , Ireland -- it has been used infrequently in Vermont or New Hampshire; and, in, cities in California notably Oakland and San Leandro and maybe a time or two in San Fransico. British Columbia, Canada is exploring the idea. The results in the Bush-Gore elections in Florida and New Mexico would have changed the results of the presidential race. While the bill would not effect national races state races would come under this proposal. There is no reason that school elections and other races where there may be a larger or longer list of candidates, this method is purported be an advantage in those cases.

**Al Jaeger**, Secretary of State appeared not in opposition but to question some sections of the bill as it now written. A copy of his written statement is attached.

**Tape 2 side A ( 6.9 ) Rep.Devlin, Chairman ( 6.9 )** opened the discussion for action on HB1310. **Rep. Ekstrom** moved a 'Do Not Pass' motion for HB 1310. **Rep.**

**Koppelman** seconded the motion. On a roll cal vote the motion carried **12 yeas 0 nays 0 absent**. **Rep. Maragos** was designated to carry HB 1310 on the floor.

**End of record ( 8.7 ).**

# FISCAL NOTE

Requested by Legislative Council  
01/12/2005

Bill/Resolution No.: HB 1310

**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.*

|                | 2003-2005 Biennium |             | 2005-2007 Biennium |             | 2007-2009 Biennium |             |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| Revenues       | \$0                | \$0         | \$0                | \$0         | \$0                | \$0         |
| Expenditures   | \$0                | \$0         | \$0                | \$750,000   | \$0                | \$250,000   |
| Appropriations | \$0                | \$0         | \$0                | \$750,000   | \$0                | \$250,000   |

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

| 2003-2005 Biennium |        |                  | 2005-2007 Biennium |        |                  | 2007-2009 Biennium |        |                  |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties           | Cities | School Districts | Counties           | Cities | School Districts | Counties           | Cities | School Districts |
| \$0                | \$0    | \$0              | \$400,000          | \$0    | \$0              | \$400,000          | \$0    | \$0              |

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

As required by the Help America Vote Act of 2002 (HAVA) and authorized by the 2003 Legislative Assembly, the Secretary of State, on behalf of the State of North Dakota, executed a purchase agreement in early 2004 to purchase optional scanning equipment to be used for the counting of votes on ballots in every polling place in North Dakota. The value of this contract is in excess of \$6,000,000. According to HAVA, the voting equipment must be in place by the last day of 2005. It is designed to count ballots on which the ovals have been darkened next to a candidate's name. The voting equipment is not programmed to count ballots in the ranking manner described within this bill. The software is not an off-the-shelf product. It would result in a significant cost to develop and continue the programs that will accommodate this form of ranking voting and vote tabulation for each election. Also, there would be a significant cost to the counties because the number of ballot pages needed would increase from one to several pages depending on the number of candidates on the ballot. Therefore, the passage of this bill would make obsolete the scanning equipment that has already been purchased. The bill only requires the vote ranking to be available to the voters in a general election for Presidential and statewide candidates. Except for Presidential candidates, the statewide positions very seldom have more than two candidates. Therefore, the ranking feature would usually only apply to one position on the ballot. In addition, it would make obsolete the Election Management System that was designed to be compatible with the voting system that was purchased.

**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.*

There is no off setting revenue although federal funds could be used. However, it would decrease the amount available for maintaining the election system into future years.

**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.*

See narrative above. The figure supplied in 1A were determined after discussions with the state's vendor from whom the election equipment was purchased. Although individuals promoting the ranking style of voting may contain that the projected cost is excessive, the fact is that there would be a cost involved regardless if the amount is debated and

much of the work that has been done to date would become obsolete. This would be critical when the state has less than a year to meet the requirements of having voting equipment deployed in the counties by the end of 2005.

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.*

Funding could come from the Federal Help American Vote Act of 2002 Election Reform line.

**Name:** Al Jaeger  
**Phone Number:** 328-2900

**Agency:** Secretary of State  
**Date Prepared:** 01/18/2005

Date: 1-21-05  
Roll Call Vote:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1310

House POLITICAL SUBDIVISIONS

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Not Pass

Motion Made By

Rep. Ek

Seconded By

Rep. Kopp

| Representatives            |
|----------------------------|
| Rep. Devlin, Chairman      |
| Rep. Herbel, Vice Chairman |
| Rep. Dietrich              |
| Rep. Johnson               |
| Rep. Koppelman             |
| Rep. Kretschmar            |
| Rep. Maragos               |
| Rep. Pietsch               |
| Rep. Wrangham              |

| Yes | No |
|-----|----|
| ✓   |    |
| ✓   |    |
| ✓   |    |
| ✓   |    |
| ✓   |    |
| ✓   |    |
| ✓   |    |
| ✓   |    |
| ✓   |    |

| Representatives | Yes | No |
|-----------------|-----|----|
| Rep. Ekstrom    | ✓   |    |
| Rep. Kaldor     | ✓   |    |
| Rep. Zaiser     | ✓   |    |

Total (Yes)

12

No

0

Absent

0

Floor Assignment

Rep. Maragos

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

**REPORT OF STANDING COMMITTEE (410)**  
January 21, 2005 12:01 p.m.

**Module No: HR-14-0843**  
**Carrier: Maragos**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1310: Political Subdivisions Committee (Rep. Devlin, Chairman) recommends DO NOT PASS (12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1310 was placed on the Eleventh order on the calendar.**



2005 TESTIMONY

HB 1310

**USA Today editorial in favor of IRV**

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USA Today, February 5, 2001

**Spoiler-free elections**

Life isn't very happy these days for the "spoilers" from November's elections.

As reported by USA TODAY last week, Democrats in Congress are shunning their old consumer-advocate comrade in arms, Ralph Nader, because he siphoned off enough voters to cost Al Gore the election. If just a fraction of Nader backers in Florida and New Hampshire had gone for Gore, he would have won both states, and a majority of the Electoral College.

While not widely reported, GOP renegade Patrick Buchanan played a similar role. Bush lost New Mexico, Iowa, Wisconsin and Oregon by margins so small that Buchanan's votes could have given him victory. If Bush hadn't eked out a court-ordered edge in Florida, Republicans would be denouncing Buchanan just as Democrats do Nader.

Clearly, both parties have a stake in changing the system -- ideally without making it harder for third-party and independent candidates to get on the ballot.

Some states, notably in the South, already require runoffs between the top two candidates if no one gets 50% of the vote in a primary or election for state office. Many other countries elect presidents that way. Thus whoever wins can legitimately claim to have majority support. But second campaigns are expensive and would result in even more special-interest money tainting the process.

Two California cities, Oakland and San Leandro, just adopted a better way for local elections, called "instant runoff voting." Under it, voters rank the candidates 1, 2, 3 in order of preference. Voters thus could support both a Nader and a Gore, both a Buchanan and a Bush, or any other combination.

If a candidate wins a majority of first-preference votes, the count is over and that candidate wins. If not, the last-place finisher is eliminated. Ballots cast for that candidate are counted for voters' next choice, until someone has a clear majority. Australia and Ireland have used the system for decades.

In Alaska, instant runoff is to be on the ballot for voter approval in 2002. Similar efforts are underway in New Mexico, Vermont, Washington and elsewhere in California.

Changing presidential elections on a nationwide basis would require a constitutional amendment, though states could adopt such changes on their own.

Third-party candidates ought to be able to run without being labeled spoilers, and officeholders ought to be able to say they have the support of a clear majority of the public. Getting there, though, will require both major parties' support for change.

ALVIN A. JAEGER  
SECRETARY OF STATE

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## SECRETARY OF STATE

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

January 21, 2005

TO: Rep. Devlin, Chairman, and Members of the House Political Subdivisions Committee

FR: Al Jaeger, Secretary of State

RE: HB 1310

As the state's chief election officer, I have the following concerns and observations about this bill:

1. The Help America Vote Act of 2002 (HAVA) requires states to have new voting systems in place no later than December 31, 2005.
2. To meet that timeline, a year ago I executed a contract on behalf of the State of North Dakota for a new statewide voting system. It will result in expending funds in excess of \$6,000,000.
3. The statewide voting system being acquired is not designed to accommodate the ranking and instant run-off voting proposed in this bill.
4. Ranking candidates is not commonplace. There is no "off-the-shelf" software program available.
5. The state's contracted voting equipment vendor has indicated that they would charge a minimum of \$250,000 to develop the needed software. In addition, each optical ballot scanner needs an extra "card" that is used to record the vote tally. Along with its backup card, the extra cards would cost approximately \$120,000.

To accommodate the ranking of candidates, extra ballot pages might be required. This could double or triple the cost for ballots from the approximately \$160,000 expended in the recent General Election for ballots. It is anticipated that programming for subsequent General Elections would also continue to be expensive if the ranking voting procedure does not become widely used nationwide.

Finally, over \$200,000 has already been expended to develop an Election Management System within the Secretary of State's office that is compatible with the new voting system.

6. This bill only requires ranking voting options for President and statewide candidates in General Elections. For candidate ranking to have any meaning, more than two candidates should be listed on the ballot. In the past several General Elections, only the Presidential column has usually had more than two candidates. On November 2, 2004, out of the five Presidential candidates listed on the ballot, three of them received a combined percentage of 1.63% of the total vote cast.

For the remaining offices, a review of the past several General Election abstracts reveals that there seldom are more than two candidates on the ballot. However, there are exceptions. In the November 2004 General Election, there was a third candidate for the Office of Governor. That candidate received 1.35% of the total vote.

7. Regardless of any varying estimate as to cost, I encourage the committee to consider the merits of expending any amount of funds that would be required by this bill. Most often, according to the factual history in our election abstracts, there are only two candidates listed on the ballot for the positions identified in this bill. And, when there are more than two, the "extra" candidates have received a relatively small percentage of the overall votes cast. Consequently, the cost to accommodate this voting method becomes a factor when considering whether the voter's ranking of candidates has a viable benefit for the public or candidates since it appears it would only be applicable in rare situations.