

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1497

2005 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1497

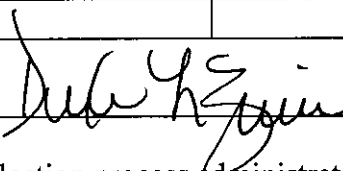
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1497

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 1/27/05

Tape Number	Side A	Side B	Meter #
1	x		31.4-49.4
1		x	0-12.5
Committee Clerk Signature 			

Minutes: HB 1497 Relating to election process administration.

13 members present, 1 absent/

Alvin A. Jaeger-Secretary of State-Testimony Attached-We are using Federal money, but we are spending six million dollars on voting equipment and to get the full benefit of that voting equipment there are changes that obviously need to made in law.

Chairman Haas: Section 11 has to do with stickers and write ins, so this essentially means the only way that you can do a write in, is to write it in and blacken the oval. If you want it counted.

AL: That is true, except if you are voting on the automark, there is a different method by which you have to touch the screen. We have only had a few cases where write- ins have taken place.

Rep. Klemin: How did you come up with the 20%?

AL: We try to figure a fair amount. We wanted it to be low enough, so that there is no question that if the boxes fuller, that it is counted and if it is less then that, then mathematically there is no way they could win. There is a part in here where the write-ins have to be counted and that is the

situation that I just told you about. If you miss a filing deadline and right now, you miss a filing deadline and you circulate a petition to get your name on the ballot, it is a certain percentage and I believe in most cases it does not exceed 300. Those of you that are legislators, take the percentage based on the districts population, you basically need about 120 to 130 write in votes to win, to have your name advance to the fall election, those votes are counted, because it is not a matter of them winning, matter that they need to meet the threshold.

Rep. Boehning: Some legislative races, there is a lot of people that don't vote for all the candidates, could there be something in there that could cause that 20% to be too high.

AL: I don't think so, because mainly, you have to keep in mind that the percentage is based off the higher vote getter and so even if there is multiple people and vote total of the highest one is lower and that means the 20% keeps going down, so I think there is always a built in automatic protection for those situations.

Rep. Kasper: How does this apply to Presidential Primary, where the small parties maybe need five% to be on the fall ballot. Have you made a provision for that.

AL: I don't have to because the Presidential Primary does not exist in North Dakota, it is called a Presidential Caucus.

Rep. Sitte: Back on section 9, you were correct with the first spelling of principal, because principal, isn't just you pal, it also means the main idea and the main participant in a situation, or a lead in a starring role, so the ple always the idea. Former English teacher.

Chairman Haas: You can be assured it will be correct before it leaves this committee.

AL: That is fine.

Rep. Boehning: Do you count the ballots when people mess up on the ballot, or do you throw them away. Do you have a tally on how many people use that second and third ballot. Do you throw away or do you count them.

AL: If you mess up the first time that ballot is discarded. It kicks your ballot out if you don't vote right.

Rep. Grande: We don't destroy the spoil ballots on sight, they have to be accounted for.

AL: Everything has to add up.

Michael Montplaisir-Cass County Auditor- For-What we are asking for in Section 12, is really some common sense type things. In the last election we had write in races both the primary and the general election, in both cases people asked that we examine each and every ballot, for people that didn't have ovals filled. In the primary election, the canvassing board refused do it, whether it was right or wrong they did it. **In** the general election we estimated all of our elections workers spent two extra hours on election, going through each and every ballot trying to find those write in votes that didn't have ovals filled in and write in all the candidates that didn't get votes. It seems that the people when they go to vote, they will vote for the races they know and the races they don't know they will write in there friends name or there own name. We are looking for some consistency.

Rep. Kasper: How do address the circumstance write in candidate, decides this is going to be my first race, but I am really in this for two or three more races down the road. To verify that the candidate is legitimate, that candidate got 19% of the vote, but was not reported to the public and therefore the public does not know and the candidate does not know, aren't we taking away the right for everyone to know.

Mike: If I were the candidate, I would say that I got 19% of the vote, because no one could prove me wrong and the reality is there are running as a write-in and 19% write-in votes the vast majority are for that candidate. From our experience.

Rep. Kasper: I don't like the answer, frankly. The right of the person to know and the right of public to know is being taken away, regardless whether is 3% or 19% with this provision/

Mike: That is probably true, but I guess in the interest of saving tax payer money and really moving the election process along, maybe there are things we have to give up.

Rep. Boehning: There is nothing in this bill, if you are a write in candidate that you can ask for a recall, will you still have a right to ask for a recall and find out how many votes you actually had.

Mike: There are some recount procedures for write in candidates, they would have the same recount procedures anybody would have.

Kevin Glatt-Burleigh County Auditor-For-The problem with common sense, it is not to common. I do have some concerns about darkening the oval about a write in vote. Voter intent versus requiring compliance to rule. What is clearer then writing in someone's name on the ballot, are we going to disenfranchise somebody, because they didn't follow the rules, it is a will of the people, will the people be heard by requiring them to darken the oval, I don't know, it is hard enough to get the people to vote. I am concerned about a law suit waiting to happen.

Rep. Klemin: Lets say for example you didn't have an oval there at all, would that scanning machine pick up the backs if something was written there.

Kevin: No the scanner would not pick that up at all, they only read the oval. If the scanner was programed to read that area of the ballot, it would probably pick up a write in vote.

Rep. Klemin: Can that be done?

Kevin: I am imagine it could be done.

Rep. Grande: What is the California law. Do you know California law, according to whether the oval has to be darkened?

Kevin: I believe California law, but I am not certain, but I believe it requires that the oval be darkened.

Rep. Grande: Law is law, I believe personally that people in North Dakota are probably smarter then the people there.

Chairman Haas: Don't you think that for people who vote in this day in age, with all the standardized tests that they took through out there school career, that they are pretty familiar with darkening ovals?

Kevin: That is why I went to this system years ago.

Rep. Froseth: I was on a recount committee and we were instructed to try to determine the intent of the voter. They had used a ball point pen and it didn't register in the machines in that day in age. People had scribbled out the name. They would determine the intent of the voter.

Kevin: That is true. We have had ballots where we have counted where we have gone to the darkened oval and they took a pen or pencil and punched a whole in the ballot. We counted those ballots.

Jack McDonald: We had some concern with the newspapers, association of broadcasters association about the issuer that was brought up about the 20% on reporting of write-in ballots. We don't have any idea what would be a good figure and we certainly understand, if someone got 15% of the vote in a local election, write in or not, we think that is kind of significant and yet that would not be reportable now. in fact the guy that got 15% could find out whether he got 15%

or not. He is not going to see it unless he gets 20% now. If you go to the small towns where you have elections of three or four hundred, 20% becomes quite a bit of the vote then. I think 20% is to high of a figure. I think a lower figure the public would be better served.

Al Jaeger-Secretary of State-The 20% was an arbitrary figure, it could certainly be lower, because I think statistically 10 wouldn't force a recount. The only way I can see the way you can accommodate Mr. Glatts concern is to hand count every ballot and then I will send back all six million dollars of the equipment, because it doesn't read a hand written name. The only way it will read it is with the oval, so the concern is, how do we know if someone wrote in a name, you have to physically inspect each ballot and if you are willing to be on the local election board and do that, I am sure they would welcome your presence.

Rep. Kasper: You would physically inspect a ballot with a blackened oval, you would not have to physically inspect, if the names are printed on ballot in a blackened oval. Is that not correct?

AL: The key is the blackened oval, if the oval is not blackened in, it isn't identified, so that is what my point is. I understand your concern is the 20% or maybe you don't like the entire concept, but what we are saying is that I does become a mathematical thing. I guess if you want to decrease if from 20%, to something lower, I think that would be OK. Darkening the oval is a very critical part of out system.

Rep. Klemin: Right in the area where you write in the name, is it possible to put in an instruction right in that space.

AL: The ballots already have instructions on them.

Rep. Kasper: Perhaps what you could do in your next campaign to educate the voter is to come up with a jingle to blacken the oval, instead of the right or the left.

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House Government and Veterans Affairs Committee

Bill/Resolution Number HB 1497

Hearing Date 1/27/05

AL: There was only one person that seemed to have a problem with that, so.

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

The hearing is closed on HB 1497.

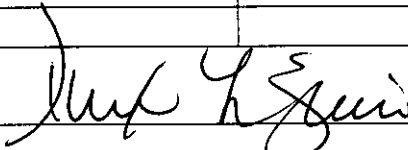
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1497

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 1/28/05

Tape Number	Side A	Side B	Meter #
4	x		0-20.2
Committee Clerk Signature 			

Minutes: HB 1497 Relating to election process administration.

13 members present, 1 absent.

Discussion and voting.

Chairman Haas: We are looking at HB 1497. Page 9, line 29. Rep. Froseth moves the amendment, is there a second? Seconded by Rep. Grande. Is there any discussion. If not we will try a voice vote on the amendment which changes the percentage on line 29, page 9 from 20 to 5, all in favor of the amendment say I, oppose no, motion is carried.

Rep. Froseth: I move a DO PASS as AMENDED.

Chairman Haas: Rep. Froseth moves a DO PASS as Amended, is there a second, seconded by Rep. Grande. Is there any further discussion on HB 1497 as amended. Rep. Sitte moves her amendment. Rep. Froseth seconds the motion, we now have two amendments to HB 1497. Any more discussion, if not I will ask the clerk to take the roll on HB 1497.

VOTE: YES 12 NO 1 ABSENT 1

DO PASS AS AMENDED

Page 2

House Government and Veterans Affairs Committee

Bill/Resolution Number HB 1497

Hearing Date 1/28/05

REP. HORTER WILL CARRY THE BILL.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1497

Page 9, line 29, replace "twenty" with "five"

Renumber accordingly

VRC
1/31/05

HOUSE AMENDMENTS TO HOUSE BILL NO. 1497 GVA 1-31-05

Page 7, line 17, remove the overstrike over "~~principals~~"

Page 7, line 18, remove "principles"

Page 7, line 20, remove the overstrike over "~~principal~~" and remove "principle"

Page 7, line 24, remove the overstrike over "~~principal~~" and remove "principle"

Page 7, line 25, remove the overstrike over "~~principal~~" and remove "principle"

HOUSE AMENDMENTS TO HB 1497 GVA 1-31-05

Page 8, line 17, remove the overstrike over "~~principal~~" and remove "principle"

Page 8, line 19, remove the overstrike over "~~principal~~" and remove "principle"

HOUSE AMENDMENTS TO HB 1497 GVA 1-31-05

Page 9, line 29, replace "twenty" with "five"

Renumber accordingly

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

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1497

House House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 50290.0103

Action Taken DO PASS AS AMENDED 2 AMENDMENTS

Motion Made By Rep. Froseth Seconded By Rep Grande

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

Total (Yes) 12 No 1

Absent 1

Floor Assignment Rep Horter

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

1st AMENDMENT

FROSETH AMENDMENT

2nd GRANDE

VOICE VOTE - motion carried

2nd AMENDMENT

SITTE MOVE THE AMENDMENT

2nd KLEMIN

VOICE VOTE - motion carried

REPORT OF STANDING COMMITTEE

HB 1497: Government and Veterans Affairs Committee (Rep. Haas, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1497 was placed on
the Sixth order on the calendar.

Page 7, line 17, remove the overstrike over "~~principals~~"

Page 7, line 18, remove "principles"

Page 7, line 20, remove the overstrike over "~~principal~~" and remove "principle"

Page 7, line 24, remove the overstrike over "~~principal~~" and remove "principle"

Page 7, line 25, remove the overstrike over "~~principal~~" and remove "principle"

Page 8, line 17, remove the overstrike over "~~principal~~" and remove "principle"

Page 8, line 19, remove the overstrike over "~~principal~~" and remove "principle"

Page 9, line 29, replace "twenty" with "five"

Renumber accordingly

2005 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1497

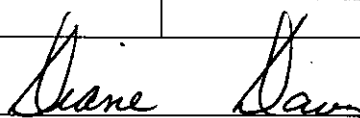
2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1497**

Senate Government and Veterans Affairs

Business and Conference Committee

Hearing Date March 11, 2005

Tape Number	Side A	Side B	Meter #
1	x		2800-6215
1		x	0-1706
Committee Clerk Signature 			

Chairman Krebsbach opens hearing on **HB 1497**

Relating to election process administration

Representative Grande - Introduced the bill - In support of.

(meter #2800)

Al Jaeger - Secretary of State - See written testimony.

(meter #4870)

Sec. Jaeger continues to talk about the bill and the proposed amendments.

(meter #6215, end of tape 1, side A)

(tape 1, side B)

Senator Syverson - Asked Sec. Jaeger to expand on the various reasons for giving a second chance to vote.

Page 2

Senate Government and Veterans Affairs

Bill/Resolution Number **HB 1497**

Hearing Date March 11, 2005

Jaeger - Mentioned such as an over-vote, voting for more than a certain number of candidates.

Most common is the one in which they can only vote in the Republican column or the Democrat column.

(meter #433)

Representative Steve Zaiser - Said he was concerned with the bill before the amendments were proposed but now is okay with it. He endorses this bill.

(meter #600)

Mike Montplaisure - Cass County Auditor - In support of this bill. They have tried to address those who choose not to vote. Trying to make it easier for people to vote. To get a machine that counts a partial oval filled in is much more expensive. He urges support of this bill.

(meter #1085)

Opposition to this bill

Jennifer Ring - ACLU - Opposed to page 9 lines 27 and 28. She is concerned with not counting because oval was not filled in even though they wrote in a name. That vote should be counted.

Senator Krebsbach - Told her that the area she mentioned had been addressed earlier by Sec. Jaeger.

(meter #1249)

Closed the hearing on 1497.

Senator Krebsbach - Asked the Sec. Of State about the money coming in from Federal.

Page 3

Senate Government and Veterans Affairs

Bill/Resolution Number **HB** 1497

Hearing Date March 11, 2005

Sec. Jaeger - Was very happy to report that we got 5 million. He then reported the match funds of 5%. He said Congress did another appropriation and we have 7.5 million sitting in a bank in Washington D.C. just waiting for a letter from ND that certifies we have our 5% match.

He discussed that it is very clear with HAVA money that the money on interest goes back into the election fund.

(meter #1706)

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1497**

Senate Government and Veterans Affairs

Business and Conference Committee

Hearing Date March 18, 2005

Tape Number	Side A	Side B	Meter #
1		x	289-1100
Committee Clerk Signature <i>Diane Davis</i>			

Chairman Krebsbach opens the hearing on **HB 1497**

Relating to election process administration.

(meter #289)

Al Jaeger - Secretary of State - Gave brief overview of the bill and proposed amendments. In favor of this bill. He worked with the Attorney General's office on this and they are in agreement.

Senator Brown - moved for a do pass on amendment

Senator Nelson - seconded

(meter #930)

Senator Brown - moved the amended bill

Senator Lee - seconded

Page 2

Senate Government and Veterans Affairs

Bill/Resolution Number **HB** 1497

Hearing Date March 18, 2005

Do Pass on amended bill

Senator Krebsbach will carry.

(meter #1078, tape 1, side B)

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1497

Page 1, line 3, after "sections" insert "16.1-13-20," and remove the second "and"

Page 1, line 4, after "16.1-13-25" insert ", and 16.1-15-08"

Page 7, line 17, overstrike "principals" and insert immediately thereafter "principles"

Page 7, line 20, overstrike "principal" and insert immediately thereafter "principle"

Page 7, line 24, overstrike "principal" and insert immediately thereafter "principle"

Page 7, line 25, overstrike "principal" and insert immediately thereafter "principle"

Page 8, line 17, overstrike "principal" and insert immediately thereafter "principle"

Page 8, line 19, overstrike "principal" and insert immediately thereafter "principle"

Page 9, line 28, after "line" insert "except that a write-in candidate for a nonfederal office may make a timely written demand to a county canvassing board to identify and preserve any such write-in votes cast for the office sought by the write-in candidate for canvass by the board. The demand must be delivered to the county auditor and a copy to the clerk of district court no later than thirty-six hours prior to the time the county canvassing board is scheduled to meet. A demand may only be made if the unofficial election results maintained by the county auditor demonstrate that the write-in candidate's known vote total is within the pertinent percentage limits provided in subsection 1 or 2 of section 16.1-16-01 and a statement to that effect is included in the demand. The ballots which may contain such write-in voted must be recieved from the clerk of district court under section 16 of this Act and reviewed by the canvassing board to identify any ballots containing such write-in votes. Such identified write-in votes must be tallied by the county canvassing board and canvassed in the same manner as lawful or qualifying write-in votes if the canvassing board determines it is able to clearly ascertain the intent of voters from examining the ballots because the write-in candidate's name has been written on the ballot opposite the office to be voted for, or because of any other cogent evidence of intent"

Page 10, after line 6, insert:

"SECTION 13. AMENDMENT. Section 16.1-13-20 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-20. Examination of ballot box before opening of polls-Regulations for ballot box while polls are open. Before declaring the polls open, the inspector and the election judges shall inspect the ballot box to assure that it is empty. The ballot box must then be locked. While the polls are open, the ballot box must remain locked

except as may be necessary to clear a ballot jam or to move voted ballots to a separate locked ballot box in order to make room for additional ballots."

Page 11, after line 24, insert:

SECTION 16. AMENDMENT. Section 16.1-15-08 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-08. Wrapping and returning of ballots to clerk of the district court.

After having prepared the reports and poll lists provided for in section 16.1-15-06 for delivery to the county auditor, the election board shall cause the ballots of each kind cast at the election to be placed in a suitable wrapper to form a complete wrapper for the ballots. The ballots and wrappers must then be tightly secured at the outer end to completely envelop and hold the ballots together. Ballots that are void must be secured in a separate wrapper and must be marked "void". Ballots that are spoiled must be separately secured and marked "spoiled". In sealing ballots, the various classes of ballots must be kept separate. Each wrapper must be endorsed with the name or number of the precinct and the date on which the election was held. The wrappers must be sealed securely in a manner prescribed by the secretary of state so the wrappers cannot be opened without an obvious and permanent breaking of the seal. The ballots, together with those found void or spoiled, and the opened envelopes from voted absentee ballots and the unopened envelopes of absentee ballots rejected as defective, must be returned in person to the clerk of the district court. At the meeting of the county canvassing board, the clerk of the district court shall deliver all ballots which may contain write-in votes referred to in a demand made under subdivision d of subsection 1 of section 16.1-12-02.2. Ballots used with any electronic voting system or counted by an electronic counting machine must be sealed and returned as provided in this section.

Renumber accordingly

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

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1497

Senate Government and Veterans Affairs

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken

Do Pass on amendments

Motion Made By

Senator Brown

Seconded By

Senator Nelson

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

Total (Yes) 5 No 0

Absent 0

Floor Assignment _____

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

Date: 3/18/05
Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1497

Senate **Government and Veterans Affairs** Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass amended bill 1497

Motion Made By Senator Brown Seconded By Senator Lee

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

Total (Yes) 5 No 0

Absent 0

Floor Assignment Senator Brown Krebsbach.

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

REPORT OF STANDING COMMITTEE

HB 1497, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1497 was placed on the Sixth order on the calendar.

Page 1, line 3, after "sections" insert "16.1-13-20," and remove the second "and"

Page 1, line 4, after "16.1-13-25" insert ", and 16.1-15-08"

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Page 10, after line 6, insert:

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Renumber accordingly

2005 TESTIMONY

HB 1497

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 27, 2005

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

FR: Al Jaeger, Secretary of State

RE: HB 1497 – Election Process Administration

Section 1: On page 1, lines 15 through 17, the change provides for the process by which the school district informs school board candidates of the time and place for drawing for position on the ballot.

On page 2, lines 1 through 5, the change removes the option for a candidate to use stickers for placement on the ballot as a write-in candidate. *can not use stickers*

Section 2: On page 2, lines 9 through 14, the change removes a requirement not needed with new voting systems and replaces it with applicable language. *what constitutes*

On page 2, lines 19 through 31 and lines 1 and 2 on page 3, the change requires that a voter must darken the oval next to the candidate, whether the name is printed or written in on the ballot.

On page 3, lines 3 through 25, the change pertains to ballot format for initialing ballots and makes changes to other text to conform to new voting systems.

Section 3: On page 3, lines 29 and 30 and on page 4, line 15, the change eliminates text not applicable to new voting system.

Section 4: On page 4, line 26, the change eliminates text not applicable to new voting system.

Section 5: On page 5, the changed section clarifies how the names of presidential candidates and their electors are positioned on the ballot.

Section 6: On page 5, lines 18 and 19, the change eliminates text and replaces it with text applicable to new voting system.

Section 7: On page 5, line 31 and on page 6, lines 1 and 2, the change removes text that is not applicable to new voting system.

On lines 11 through 13, the change pertains to the darkening of the oval.

Section 8: On pages 6 and 7, the entire section either updates or removes text that is not applicable to new voting systems.

Section 9: On pages 7 and 8 throughout this section, the spelling of "principal" is changed to the correct spelling of "principle."

The remaining changes in the section relate to the voter darkening the oval in order for his or her vote to count.

Section 10: On page 8, the section updates the law related to a no-party primary ballot to reflect the applicable changes needed for the new voting system. *New movement automatic*

Section 11: On page 9, this section eliminates the use of stickers on ballots for write-in candidates and includes the method by which a voter can vote on the new voting equipment that will primarily be used by those persons with disabilities to vote unassisted.

Section 12: On page 9, lines 27 and 28 refer to the darkening of the oval.

On page 9, in lines 29 through 31 continuing through line 6 on page 10, neither the election board or a canvassing board is not required to count or list the names of any write-in candidates that did not receive in excess of 20% of the votes cast for the candidate receiving the most votes for the office. It does, however, require the counting of write-in votes in any primary election where the candidate must meet a minimum threshold to have his or her name appear on the General Election ballot as if they would have circulated petitions.

Section 13: On page 10, this section removes text that is now obsolete with the new to the new voting systems.

Section 14: Throughout the section, there are references to a requirement that the ballot is given to the voter in a secrecy sleeve.

Again, there are references throughout the section pertaining to the darkening of the oval.

On page 11, lines 11 through 16, the text reflects how the ballot is placed into the optical scanning device, second chance voting if the scanner detects an error, and the number of times a voter can be given a ballot in the event they make an error.

Section 15: On page 11, this section eliminates the use of stickers for write-in candidates.

Section 16: On page 16, N.D.C.C. § 16.1-13-16 is repealed because its provisions conflict directly with all of the changes made in this bill, which are related to the darkening of the oval and that only a darkened oval constitutes a vote. One of the provisions of the Help America Vote Act of 2002 includes is a mandate where states must establish provisions as to what constitutes a vote. The numerous references to the darkening of the oval throughout this bill are in keeping with those requirements.

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SECRETARY OF STATE

STATE OF NORTH DAKOTA
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March 11, 2005

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

FR: Al Jaeger, Secretary of State

RE: HB 1497 – Election Process Administration

Section 1: On page 1, lines 15 through 17, the change provides for the process by which the school district informs school board candidates of the time and place for drawing for position on the ballot.

On page 2, lines 1 through 5, the change removes the option for a candidate to use stickers for placement on the ballot as a write-in candidate.

Section 2: On page 2, lines 9 through 14, the change removes a requirement not needed with new voting systems and replaces it with applicable language.

On page 2, lines 19 through 31 and lines 1 and 2 on page 3, the change requires that a voter must darken the oval next to the candidate, whether the name is printed or written in on the ballot.

On page 3, lines 3 through 25, the change pertains to ballot format for initialing ballots and makes changes to other text to conform to new voting systems.

Section 3: On page 3, lines 29 and 30 and on page 4, line 15, the change eliminates text not applicable to new voting system.

Section 4: On page 4, line 26, the change eliminates text not applicable to new voting system.

Section 5: On page 5, the changed section clarifies how the names of presidential candidates and their electors are positioned on the ballot.

Section 6: On page 5, lines 18 and 19, the change eliminates text and replaces it with text applicable to new voting system.

Section 7: On page 5, line 31 and on page 6, lines 1 and 2, the change removes text that is not applicable to new voting system.

On lines 11 through 13, the change pertains to the darkening of the oval.

Section 8: On pages 6 and 7, the entire section either updates or removes text that is not applicable to new voting systems.

Section 9: On pages 7 and 8 throughout this section, the original bill changed the spelling of "principal" to the correct spelling of "principle." The House changed it back. We are offering an amendment changing it back to the way it was originally introduced.

The remaining changes in the section relate to the voter darkening the oval in order for his or her vote to count.

Section 10: On page 8, lines 29 and 30, the section updates the law related to a no-party primary ballot to reflect the applicable changes needed for the new voting system.

Section 11: On page 9, lines 8 through 16, this section eliminates the use of stickers on ballots for write-in candidates and includes the method by which a voter can vote on the new voting equipment that will primarily be used by those persons with disabilities to vote unassisted.

Section 12: On page 9, lines 27 and 28 refer to the darkening of the oval for write-in ballots and an amendment is being offered to provide discretion to the canvassing board to consider voter intent.

On page 9, in lines 29 through 31 continuing through line 6 on page 10, the election board or a canvassing board is not required to count or list the names of any write-in candidates that did not receive in excess of 5% of the votes cast for the candidate receiving the most votes for the office. It does, however, require the counting of write-in votes in any primary election if the total number of write-in votes is equal to or greater than the number required for a candidate's name to appear on the General Election ballot.

Section 13: On page 10, lines 9 through 25, this section removes text that is now obsolete with the new voting systems.

Section 14: On pages 10 and 11, there are references throughout this section to a requirement that the ballot is given to the voter in a secrecy sleeve.

Again, there are references throughout the section pertaining to the darkening of the oval.

On page 11, lines 11 through 16, the text describes how the voter inserts the ballot into the optical scanner, waits to determine if a second-chance voting condition exists and how many times a voter can be given a ballot in the event they make an error.

Section 15: On page 11, lines 19 through 24, this section eliminates the use of stickers for write-in candidates.

Section 16: On page 16, N.D.C.C. § 16.1-13-16 is repealed because its provisions conflict directly with all of the changes made in this bill, which were related to the darkening of the oval and that only a darkened oval constitutes a vote. One of the provisions of the Help America Vote Act of 2002 includes is a mandate where states must establish provisions as to what constitutes a vote. The numerous references to the darkening of the oval throughout this bill are in keeping with those requirements.

1497
PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1497

Page 1, line 3, after "sections" insert "16.1-13-20,"

Page 10, after line 6, insert:

"SECTION 13. AMENDMENT. Section 16.1-13-20 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-13-20. Examination of ballot box before opening of polls =
Regulations for ballot box while polls are open.** Before declaring the polls open, the inspector and the election judges shall inspect the ballot box to assure that it is empty. The ballot box must then be locked. While the polls are open, the ballot box must remain locked except as may be necessary to clear a ballot jam or to move voted ballots to a separate locked ballot box in order to make room for additional ballots.

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1497

Page 1, line 3, remove the second "and"

Page 1, line 4, after "16.1-13-25" insert ", and 16.1-15-08"

Page 9, line 28, after "line" insert "except that a write-in candidate for a nonfederal office may make a timely written demand to a county canvassing board to identify and preserve any such write-in votes cast for the office sought by the write-in candidate for canvass by the board. The demand must be delivered to the county auditor and a copy to the clerk of district court no later than thirty-six hours prior to the time the county canvassing board is scheduled to meet. A demand may only be made if the unofficial election results maintained by the county auditor demonstrate that the write-in candidate's known vote total is within the pertinent percentage limits provided in subsection 1 or 2 of section 16.1-16-01 and a statement to that effect is included in the demand. The ballots which may contain such write-in votes must be received from the clerk of district court under section 16 of this Act and reviewed by the canvassing board to identify any ballots containing such write-in votes. Such identified write-in votes must be tallied by the county canvassing board and canvassed in the same manner as lawful or qualifying write-in votes if the canvassing board determines it is able to clearly ascertain the intent of the voters from examining the ballots because the write-in candidate's name has been written on the ballot opposite the office to be voted for, or because of any other cogent evidence of intent."

Page 11, after line 24, insert:

"SECTION 16. AMENDMENT. Section 16.1-15-08 of the North Dakota Century Code is amended and reenacted as follows:

16.1-15-08. Wrapping and returning of ballots to clerk of the district court. After having prepared the reports and poll lists provided for in section 16.1-15-06 for delivery to the county auditor, the election board shall cause the ballots of each kind cast at the election to be placed in a suitable wrapper to form a complete wrapper for the ballots. The ballots and wrappers must then be tightly secured at the outer end to completely envelop and hold the ballots together. Ballots that are void must be secured in a separate wrapper and must be marked "void". Ballots that are spoiled must be separately secured and marked "spoiled". In sealing ballots, the various classes of ballots must be kept separate. Each wrapper must be endorsed with the name or number of the precinct and the date on which the election was held. The wrappers must be sealed securely in a manner prescribed by the secretary of state so the wrappers cannot be opened without an obvious and permanent breaking of the seal. The ballots, together with those found void or spoiled, and the opened envelopes from voted absentee ballots and the unopened envelopes of absentee ballots rejected as defective, must be returned in person to the clerk of the district court. At the meeting of the county canvassing board, the clerk of the district court shall deliver all ballots which may contain write-in votes referred to in a demand made

under subdivision d of subsection 1 of section 16.1-12-02.2. Ballots used with any electronic voting system or counted by an electronic counting machine must be sealed and returned as provided in this section."

Renumber accordingly

1499

Copy of law

16.1-16-01. Election recounts.

A recount of any primary, special, or general election for nomination or election to a congressional, state, district, legislative, county, or city office, or for the approval or disapproval of any measure, question, or bond issue submitted to the qualified electors of this state or one of its political subdivisions must be conducted as follows:

1. A recount must be conducted when:
 - a. Any person failed to be nominated in a primary election by one percent or less of the highest vote cast for a candidate for the office sought.
 - b. Any person failed to be elected in a general or special election by one-half of one percent or less of the highest vote cast for a candidate for that office.
 - c. A question, measure, or bond issue submitted to the qualified electors has been decided by a margin not exceeding one-fourth of one percent of the total vote cast for and against the question at any election.
2. A demand for a recount may be made by any of the following:
 - a. Any person who failed to be nominated in a primary election by more than one percent and less than two percent of the highest vote cast for a candidate for the office sought.
 - b. Any person who failed to be elected in a general or special election by more than one-half of one percent and less than two percent of the highest vote cast for a candidate for that office.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1497

Page 7, line 17, overstrike "principals" and insert immediately thereafter "principles"

Page 7, line 20, overstrike "principal" and insert immediately thereafter "principle"

Page 7, line 24, overstrike "principal" and insert immediately thereafter "principle"

Page 7, line 25, overstrike "principal" and insert immediately thereafter "principle"

Page 8, line 17, overstrike "principal" and insert immediately thereafter "principle"

Page 8, line 19, overstrike "principal" and insert immediately thereafter "principle"

Renumber accordingly