

2009 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2324

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2324

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 02/12/09

Recorder Job Number: 9297

Committee Clerk Signature

Kate Quire

Minutes:

Alvin Jager: See attached testimony #1.

Senator Nelson: What kind of disclaimer would a person need for their website?

Alvin Jager: It would be the same as now.

Senator Nelson: Will this impact everybody who happens to have a website and uses it for a variety of things? Where is the cutoff?

Alvin Jager: Go past website in the language. You might find that it is easier to have a separate website or just add it on to the current website.

Senator Cook: What is the penalty if a special interest group had a website without a disclaimer?

Alvin Jager: I think that it is a misdemeanor. The problem is enforcing the candidate has to bring it against the offender. We are finding more and more that there are distasteful things on the internet

Senator Horne: What does disclosure mean, who is paying for the website?

Alvin Jager: Yes line 17 and 18 on page 23 you will see how it pays out.

Senator Horne: Section 2 line 2 does that mean that if I have an attorney that he can't vote for me. If I am not able to vote physically able to

Alvin Jager: A voter can have someone assist them. Even on Election Day you can have someone in the booth to assist you. This is referring to a legal document. It might be a situation where a person is unconscious, Power of Attorney is to take care of a lot of things. Every election we have someone with a power of attorney who wants to vote for someone else. We need to make it clear in election law to make it definitive.

Dennette Odenbach: See attached testimony #2.

Senator Dever: Anyone else? Close public hearing

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No.2324

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 02/12/09

Recorder Job Number: 9305

Committee Clerk Signature

Kate Ouel

Minutes:

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

Date: 2-12-09
Roll Call Vote #: 7

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

2324
Canner
Dever

Senate Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Oehlke Seconded By Nelson

Senators	Yes	No	Senators	Yes	No
Dick Dever	X		Dwight Cook	X	
Dave Oehlke	X		Carolyn Nelson	X	
Robert M. Horne	X				

Total Yes 5 No 0

Absent _____

Floor Assignment _____

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

REPORT OF STANDING COMMITTEE (410)
February 12, 2009 2:05 p.m.

Module No: SR-28-2538
Carrier: Dever
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2324: Government and Veterans Affairs Committee (Sen. Dever, Chairman)
recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2324
was placed on the Eleventh order on the calendar.

2009 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2324

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. Senate Bill 2324

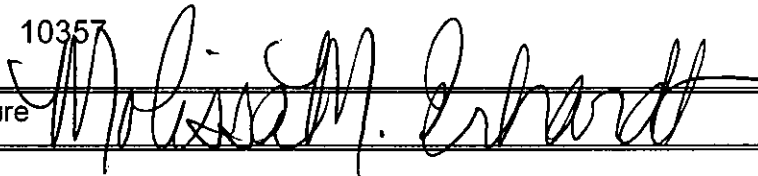
House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 3/6/2009

Recorder Job Number: 10357

Committee Clerk Signature



Minutes:

Vice Chairman Randy Boehning : Open the hearing on SB 2324. Mr. Secretary.

Al Jaeger, ND Secretary of State: Testimony. Attachment # 1.

Rep. Karls: On Page 25, Lines 22 and 23 I noticed that in your language, so I assume that that has not been law before. I am not sure what the conflict would be serving on an election board and then serving on the canvassing board.

Al Jaeger: Because the Election Board does have some decision making power and then when it gets to the canvassing board and that same individual is on the canvassing board they also have some decision making power. If that is specific to the canvassing board and if you have the same individual, you need kind of an arm's length because the decisions made by the Election Board are decisions mostly made by the Canvassing Board. It is just to make sure there is nothing in there that raises any doubt in terms of decisions that are being made. The

Canvassing Board can ask the Election Board to testify or be asked to give a basis for their decision.

Rep. Karls: On the last election, I did not sit on the Election Board at the General Election, but I did sit on the primary Election Board as a judge. Now, the canvassing board for the general election does not, in Burleigh County anyway, is not handle what they handle at the Election Board. It is strictly absentee ballots I believe and ballots that came in the mail.

Al Jaeger: In Burleigh County he has a special absentee ballot precinct and when you don't have that the absentee ballots that come in are actually separately taken out.

Rep. Karls: Handled by both.

Al Jaeger: Physically taken out to the Election Board at the precinct. The county seat is in one location and there is a precinct polling location out there. They take whatever comes into the County Seat and it is physically transported out. So that Election Board is making decisions so that is why.

Rep. Kasper: Committee members I would like to draw everybody's attention to Page 14 at the bottom where there is a huge change in the law. What is being added in the bill, under current situations we elect a precinct committee person based upon a fraction of the 250 votes based upon the last Presidential election.

Now we are adding the Governor, Attorney General, or Secretary of State in the last General Election. My first question, Secretary Jaeger, is where did this major change come up and what discussion have you had with the political parties to even suggest a change like this? This is major.

Al Jaeger: With all due respect it is not major it is just that this whole thing is tied to the organization of a political party. It is tied to something that at one time happened every four years but the fact is that they can still organize but to have it tied back to an election that happened three years ago, doesn't really make a sound basis for doing this. That is why the reference is made to the officials that are elected in the most recent past General Election. This is not major this is just a thing to tie it back to the most recent election rather than an election that happened a long time ago.

Rep. Kasper: The main part of the question was that have you had a discussion with the political parties about this suggested change?

Al Jaeger: No because it wasn't necessary. It has nothing to do with anything that concerns them. They do it every two years anyway, regardless, of this particular language and it just ties it back. This isn't a major change in all due respect Rep. Kasper.

Rep. Kasper: What concerns me not only about this part of the bill where the change is Secretary Jaeger but also like in Fargo where I had a previous bill

where District 46, where we traditionally had 6 precincts which allowed of course then a spreading out and dividing of my district so that we had six separate precincts that could elect precinct committee people from those different precincts. We now have two precincts that the County Auditor chose to go down to two precincts. What my fear is in this area is you could theoretically, one of the things I think that is so important about election participation at the grass roots level is that we have as much participation as possible, have a small group of people in a small area of a district, because you have two precincts, be well-enough organized where they could come in and elect the whole district

organization. Where, if we had it spread out among five or six precincts you would have more proportionate representation. The area here of going to the last gubernatorial election law every two years to me is a major deal, so I will disagree with you there. Because the idea I think in Election Law was that the Presidential Elections generally have the largest turn out for votes. So therefore you have the most amount of people that you could have participate in the grass roots precinct level. So I think that is the reason that we have had for years of the last Presidential Election.

Al Jaeger: I really think that what you are talking about is two completely different issues. What you are concerned about with the six to two has really nothing to do, in my mind, with this here.

Jim Silrum, Deputy Secretary of State of ND: Rep. Kasper the intent of this change and whether it does it or not, but the intent of this change was for minor political party organization. If a minor party organizes before a non-presidential election, how do they maintain their organization after that mid-term election? Under our current law a minor party could not or could only maintain their minor party organization after a Presidential Election when there were items that define for them how to maintain their organization. Now, if our change does not achieve that or if it has any unintended consequences to what you are speaking of, I just wanted to address that that was the intent it was not the intent to change it for the

Republicans and the Democrats.

Rep. Kasper: Let me be clear on my intent this section of the law is in regards to political party organization. For your office to not have contacted the political parties and asked their input before you make a major change like this, and to me it is a major change, I think it is absolutely the wrong approach. This is brand new territory without political party involvement and the political parties are governed under your guidelines. It is just to me that the process should have been different is my concern and I do think it is a major change.

Jim Silrum: I would agree that we want everybody's input on this if there is a change that has an unintended consequence. I don't believe any of us would stand in the way of making sure that unintended consequence goes in to play.

Rep. Kasper: I would just suggest that if you had contacted the political parties in advance then you could have possibly found if they saw any unintended consequences that they were concerned about.

Jim Silrum: I apologize.

Rep. Kasper: No need to apologize, I am just making a statement that I think is important.

Jim Silrum: The statement that I will make in front of this committee is that we honestly came from an opinion that this really didn't have a bearing on the political parties. It just had a bearing on the minor political parties that may want to organize in the State.

Al Jaeger: Also we have two political parties that did sign petitions and we also have to have a meeting so that they can die and this makes it possible to tie it back to an election where it can die if they don't come back in and reorganize. We are just going to have to agree to disagree, Rep. Kasper because there was no intention to do anything with the political parties, in my mind I am still thinking there was nothing there that would impact it from a political standpoint, this mainly has to do with political party organization and this is to tie it back to the General Election. I guess I do not know how else to explain it.

Rep. Kasper: What it does require the political parties to do with this language is that you have to recount your precinct committee people every two years that

you are eligible to elect it to a point, as opposed to every four years. So it does more provide more work on the part of each political party and particularly at the district level. So to me it is a substantial change.

Al Jaeger: The fact is the law says that the political parties have to organize every two years anyway. So I still don't see the connection. Madam Chair if we could continue on because he and I are not going to agree.

Chairman Grande: Any other questions?

Danette Odenbach, ND Association of Counties, Election Reform Program

Manager: Testimony. See Attachment # 2.

Rep. Wolf: On Page 21 of the bill Lines 25 and 26, how are the County Auditor's now because we are changing that they "may verify the affidavit" to it is "required to verify?" How are they going to do that?

Danette Odenbach: This section is the information that must actually be included on the affidavit itself. Then you will notice that there is a penalty for making false affidavits and that County Auditor is required to verify the affidavit. I think previously the affidavit (can't understand word) so that they may verify the content and now it says that they must and the other section of the law the counties are required to verify all affidavits 100% . So the process by which they verify the affidavits is through the mail, they mail out confirmations of the originals

that were contained on the affidavit, they follow up with phone calls and there is a number of different ways Rep. Wolf that they do verify their information.

Rep. Wolf: This is not going to require anybody else to bring something in to prove that they are not lying or anything like that, will it?

Danette Odenbach: It won't.

Chairman Grande: Any other questions? Anyone else wishing to speak in favor? Opposition? Neutral? Close the hearing on SB 2324.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. Committee Work One SB 2324

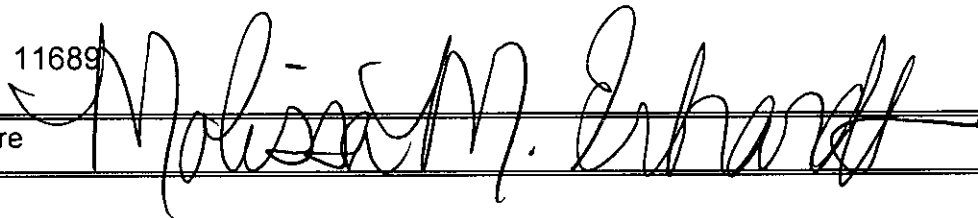
House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 4/2/2009

Recorder Job Number: 11689

Committee Clerk Signature



Minutes:

COMMITTEE WORK ONE:

Chairman Grande: We will discuss 2324.

Vice Chairman Randy Boehning: I have amendments for this. Legislative

Council study on residency status and I will just read it because it is pretty short.

"During the interim the Legislative Council shall consider studying the rules and determining the residency status under State Law including examination and determination of residency. Voting and higher education tuition purposes for obtaining game and fish licenses, motor vehicle registrations, motor vehicle operator license, and for taxation purposes. The council shall report its findings back and recommendations." Why I want to do a study on that is because we have so many different dates in there. You have six months to get a resident fishing license and so many days to get a driver's license. You need to be here 30 days to vote as a resident so I think we need to study this. If you move you have to have your driver's license redone in thirty days. If you vote are you a

resident of the State and once you establish your voting you should become a resident of the State. I want to just study this and see where it goes because I have some concerns out there that we have so many different time limits on licenses, motor vehicle registrations, hunting, and college tuition. I will move the amendments.

Rep. Wolf: 2nd.

Chairman Grande: We have the amendments before us. Moved by Rep. Boehning and 2nd by Rep. Wolf.

Rep. Winrich: Rep. Boehning proposes a study but already has concluded what he wants the study to find and that we should change the residency requirements for thirty days for everything. If that is the implication of this study I don't think that is a valid premise because we are talking about people qualifying for many different things here. Whether or not you pay resident tuition at one of the Universities means that you are getting more support from the taxpayers of the State and so on and presumably should have made a greater commitment. Whether or not you can vote in the presidential elections or any elections is a matter of constitutional rights that is guaranteed to everyone. Perhaps there should be relatively simpler residency and things like that. Similarly for Game and Fish and public safety concerns like driver's licenses and motor vehicle licenses and so on. I don't know that we should have a study where the purpose

● should be to conclude that we should have uniform residency requirements for anything.

Chairman Grande: My thought would be maybe that is what is in Rep.

Boehning's mind but I don't think Legislative Council would take a bias. There tasked at only doing findings and recommendations and whether the sponsor may have had a bias doesn't mean that Council may have a bias.

Rep. Boehning: I guess it is my opinion and maybe I do have a bias but I think we do need to have a study. If you are here for 30 days you have to get an operator's license but you have to wait six months to get a fishing and hunting license. Some of the things I think we need to make more uniform instead of having different requirements for all of these. Let's study it and see where it goes.

Chairman Grande: I guess I wouldn't mind seeing a study of this just because I am a little more on the curious side of different types of licensing and things that we require. That is coming up right now and we hear it Fargo and Grand Forks dealt with it. The licensing of contractors and how we know who and what and for informational purposes to even know that kind of thing I think it would an interesting piece to even know.

Rep. Winrich: This seems more about residency.

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Chairman Grande: Yes, it is. Do they have to establish any kind of residency or how do they determine who can be and who cannot be licensed and things. I think it would be interesting maybe that is reaching for this but it just kind of triggered in my head just now.

Rep. Dahl: I am going to support this because earlier this session we had a big fight about the original balloting and I think it was indicated by the Secretary of State and some others that we can look at some residency issues and maybe strengthen and tighten up our laws rather than just going to a positional balloting system but look at making our system more secure. I think that this is a good amendment.

Chairman Grande: Any other comments from the committee? In favor of the amendments say I? Consent: All. Opposed: Rep. Kasper. We have the one amendment on, any others?

Vice Chairman Randy Boehning: Second set of amendments. See attachment # 1. This is not on the amendment, Page 15, Line 10, it should read: "Chapter 16.1-1-11, unless the political organization" then remove political or otherwise. Continue with attachment.

Chairman Grande: The amendments are before us do I have a second?

Rep. Kasper: 2nd.

Chairman Grande: Rep. Boehning has moved the amendments and Rep. Kasper 2nd. Discussion?

Rep. Wolf: Rep. Boehning on the first page of your amendment, Page 11, I just wanted to know why the changing of the numbers? What was your thinking behind that?

Rep. Boehning: I think that 70 days is very sufficient.

Rep. Dahl: I have a question on Section 16, Page 20, it says an equal number from each political party, on the Secretary of State's testimony it says it removes an oversight from 2007 and so that seems to be technical and I am not sure that it does what you think it does.

Rep. Froseth: That is reference to an equal number of poll clerks and whatever else that needs to be done.

Rep. Winrich: The point is in the reference in the Secretary of State's testimony the Election Clerks are not members of the Election Board. The Election Board consists of the Judges of which there is an equal number from each political party and the inspector. The clerks are basically employees of the Election Board. The fact that there was a political reference to the clerks was in appropriate and that is why it was removed. One other point Rep. Boehning's amendments removed the entire Section 8 which dealt with changing the names as a result of marriages and reports from the Health Department. The Secretary

of State's testimony on Section 8 says that this removes the timeline for maintaining the Central Voter file regarding information received from the State Health Officer. This eliminates a costly mailing process that impedes the ability to maintain an accurate Central Voter file. It is important to note that in the event it is discovered when a voter arrives at the polls that their information in the Central Voter file is incorrect. The information is immediately updated and they are allowed to vote. This simply saves some money in the Secretary of State's office regarding the mailing and doesn't really change the mechanics of anything. But I have to admit that I am very curious that this is the second bill that we have had now this morning on which Rep. Boehning is a Co-sponsor and he has brought in amendments on both of them that essentially negates the effects of the bill and return to current law. Perhaps we need a bill that would allow Rep. Boehning to remove his name from a bill.

Rep. Dahl: I do have another question with regards to Section 3, Page 5, I think you made some changes there and in the Secretary of State's testimony it says that removing your name from the petition, but he is really just making it consistent, so if that is already the case then the other parts of the law is just making it consistent here as well.

Chairman Grande: Removing of your name from the petition cannot be done anyplace else, is that what you are saying?

Rep. Dahl: That is what I understand it as, there are other places where you cannot remove your name from the petition and this is just making the law consistent.

Chairman Grande: So you better know what you are signing before you put your name on the line. Rep. Boehning you have seen some changes here what are your thoughts do you want to amend your amendments?

Vice Chairman Randy Boehning: I would move some amendments on these amendments.

Chairman Grande: Further amend?

Vice Chairman Randy Boehning: Rep. Dahl had some heartburn with Page 5, remove from the amendments Page 1, Lines 5 and 6. Moving down to Page 10 where we put the within six months, that was amended in the amendments, Page 11 there was some heartburn with from 70 – 85, so we would remove on the amendment Page 11, Lines 10 and 11 from the amendment. On Page 12, remove Lines 8-31 from the amendment and on Page 13, remove Lines 1- 3 from the amendment. On Page 15 we amended that into the amendment so that can stay.

Rep. Karls: I had some heartburn there or is it too late. On Page 15 in my opinion, this is raising the bar for independent parties that want to get on a ballot so that we don't have to clutter our ballot with an empty space. So they have to

prove themselves, so to speak, to get on the ballot. They can't just send a petition in and say I want to be on the ballot and then not have any candidates in the fall. Our primary ballot in our county was two pages because of this. If we could have eliminated some of those empty columns we would have done it in one page instead of two and it would have saved the county a lot of money and that is property taxes.

Vice Chairman Randy Boehning: What are you suggesting?

Rep. Karls: Keeping the bill language.

Vice Chairman Randy Boehning: Keeping the bill language in that whole section or amending it as we amended it with political organizations or you just want to keep the language as is.

Chairman Grande: I think what Rep. Boehning is asking you is if we convert back to the bill language but do you want to insert the word "political" so we will have "unless the political organization" instead of just "an organization."

Rep. Winrich: It seems to me it is redundant there. Because the sentence starts out "a political organization may not endorse candidates" and so on "unless the organization" has done this and that and so on. That is why the political or otherwise was struck in the first place.

Vice Chairman Randy Boehning: We will leave Section 13 as is.

Chairman Grande: We will revert to the current bill language. So you are crossing this off the amendment.

Vice Chairman Randy Boehning: So we would be removing on the amendments, everything on Page 15 from the amendments.

Rep. Winrich: So Page 14, remove Lines 10 – 31.

Vice Chairman Randy Boehning: Yes.

Rep. Kasper: What about Section 12? Are you taking that out?

Vice Chairman Randy Boehning: We are leaving that out of the amendment.

Rep. Kasper: So you are leaving Section 12 as is in the bill and you are adding Governor, Attorney General, and Secretary of State, you are going to leave that in there?

Vice Chairman Randy Boehning: Yes, that is what the consensus is.

Vice Chairman Randy Boehning: I would withdraw my amendments if Rep. Kasper will withdraw the amendments.

Rep. Kasper: Withdraw the 2nd.

Vice Chairman Randy Boehning: On Page 10, Lines 5 and 6, "An official may not be recalled for a special election that would be held within six months" then overstrike "during the same year".

Chairman Grande: Does everyone understand, that these are now gone. He is offering a different amendment and we are on Page 10.

Rep. Winrich: Why the six months? The point of having some timeline in there is that elections are very expensive. The Counties budget quite a bit of money in Election years for the elections and so the point is that a recall election is a special election of any sort that comes up. So I think that we have to give very careful consideration with what that timeline would be. I don't why six months is better than a year.

Vice Chairman Randy Boehning: If a general election is held in November and you start a recall petition back in the previous year of November or December, so you are starting in the previous year and people want to get rid of the person they are recalling they are going to have to wait another 11 months to keep that person in there that they don't want in office. If they have enough people to sign a petition there is a reason to remove the person from office. Why should the electorate have to wait 11 or 12 months to get rid of somebody?

Rep. Winrich: Basically what that is doing is forcing a whole lot of other people to spend tax money for another election. I don't know of any elected offices where the term is less than two years and I believe most of them are four years if the recall petition isn't started until a year before the next election, the previous November or something like that, that means that they have had three years since that person was elected to approach this problem and haven't done it for that time.

Chairman Grande: I think Rep. Boehning's concern comes from say that you had a four-year term and two-years into it and that elected official does something that is quite grievous to a number of the voters and they wish to have that person removed. I think what he is trying to say is even if it is up to six months ahead of time we have to be able to say we want them out and we want them out now and we are not waiting. If you don't like them and you want them gone and there is enough people to do so, I think that the people should have the right to remove them. I certainly understand what you are saying I don't want to see an election one month before a re-election takes place. But six months is a pretty long period of time to leave an elected official, you don't hear about a lot of recall, be there that whole last year.

Rep. Winrich: I understand that we can argue about a timeline. I was just wondering if there was some particular reason. I don't know of any example where this has been a terrible problem and I would point out that the language in the bill says "during the same year" which means that is a 10-month period and we are only shortening it by a few months to change it to six.

Vice Chairman Randy Boehning: I think with that if it is in the same year but you can start the recall process in the previous year.

Rep. Winrich: You can start the recall process anytime.

Vice Chairman Randy Boehning: If you start in the previous year it could be a long time. What happens if the Governor removes somebody, do we have to have a special election then, if he removes a county commissioner or a Representative or some other officer from their office? The Governor can remove people from their office do we need to have a special election then.

Rep. Winrich: I don't know but I am sure that is a different section of the law.

Vice Chairman Randy Boehning: If the Governor would remove one of us from office even though we have an appointing process but there are some offices that don't. Maybe a school board member might be removed from office and they could call a special election.

Rep. Winrich: I don't understand why that is germane to this bill?

Vice Chairman Randy Boehning: It is the recall process. The Governor can remove you from office for malfeasance or whatever. Instead of going that route you can do a petition and a recall process to get rid of the person without having the Governor remove them.

Rep. Wolf: Just reading through the Secretary of State's notes on this bill for that particular section, it is on the top of Page 2 of his testimony, it says that in Lines 5 through 6, "It makes it clear that an elected official cannot be recalled during the year in which his or her office is already scheduled to be on the ballot."

So if we change it to the six months we could actually say that he could be recalled six months before the election?

Chairman Grande: Correct.

Rep. Wolf: Isn't that kind of a waste of money?

Chairman Grande: Depends on how much the Electors want to remove the Elected Officials they don't feel is properly placed anymore. We have the Line 5 and Line 6 amendment, the six month amendment in front of us that is the motion, do we have a second? Hearing none, motion fails.

Vice Chairman Randy Boehning: I have one other amendment. This is a pretty simple one. Currently we can only have one poll challenger appointed by the District Chairman for each political party. In the large precincts, I know we have some in Fargo where we have some combined and we have very large precincts, you only can have one poll challenger and this will allow up to three poll challengers.

Chairman Grande: I will clarify what he is saying here, in a number of our districts, we went from having six precincts to two, and I will lose more people every districting because I have too many and in those polling sites there were multiple ones, that were huge, and you could have one poll watcher. Even though there were three precincts there. But now it was one precinct and this is to clarify that if you are going to combine the precincts into one location you can

still have a poll watcher per what should be a precinct in that site. That is what this amendment is getting too.

Rep. Dahl: Does this require up to three per political party is that correct? So is it possible to have two Republicans and three Democrats? Could we end up with a situation where the Republicans couldn't find enough and so it does allow for the lopsided issue?

Chairman Grande: Poll watchers are voluntary. Some Districts don't even do poll watchers.

Vice Chairman Randy Boehning: I don't think a Republican district chairman is going to appoint someone for the Democrat party. We will overstrike the language in addition to the poll challengers not more than two poll checkers appointed per district chairman in each political party represented. The new language will be, "The district chairman may assign the poll checkers per polling place at their discretion. Poll challengers must be qualified electors of the district in which they are assigned."

Rep. Dahl: What is the difference between poll challenger and poll checker?

Vice Chairman Randy Boehning: Poll challenger would say are you really "Stacey Dahl" and a poll checker is when you come to the polls and sign the book and say that is your name and that "Stacey Dahl" voted. So we don't call them.

Rep. Wolf: I can envision having this great big polling location and having ten poll checkers and is there going to be enough room for everyone. I just worry that we are going to have multiple poll checkers sitting there to the point it interferes with the flow of the traffic of people coming in. Can we do something instead of saying at their discretion, if there are six people sitting there with six poll challengers and then they have six poll checkers and I just worry that we are going to have this huge amount of people at these tables and it is going to interfere with the voting.

Chairman Grande: The poll checker we are limited with number but we are not limited on the poll challenger, correct.

Rep. Wolf: No, the other way around. We are not limiting the checker people that would work with the people who get out to vote. I just worry we are going to overwhelm the actual workers of the ballots and if there is this influx of all these people where do they go?

Vice Chairman Randy Boehning: What was your recommendation Rep. Wolf?

Rep. Wolf: I didn't have one.

Rep. Dahl: Maybe on Page 2 you could say the District Chairman could define up to three, five, poll checkers or whatever you want per polling place? Then strike at their discretion.

Rep. Kasper: That defeats the purpose of this amendment. In Fargo, in District 46 as in District 41 you had two precincts where you used to have six and you have a huge area where people are voting and don't you think that the District Chairman would be smart at their discretion not to clutter up the tables. If you have eight tables where people can go to get the ballots, don't you think that the District Chairman would say okay I am going to have one person per table. What if you have ten tables and you limit it to six? Then we don't have four tables where there is no poll checker.

Rep. Wolf: In your districts because you have six precincts now and only two voting places are they still identified by precinct within those polling places.

Rep. Kasper: Yes. Precinct two and Precinct one.

Rep. Wolf: Could we word this so that if it is six precincts now and two locations then they get twelve.

Chairman Grande: I end up with Precinct one and Precinct two and I don't get to have six precincts anymore.

Rep. Wolf: So that would not work.

Rep. Winrich: I am having a little trouble understanding what is happening with these large precincts but I am a little concerned about Rep. Boehning's removing the language there that says provided the poll checkers do not interfere with the election process or with the members of the election board in the performance of

their duties. I have been a poll checker or watcher and basically what you have to do is sit behind the election board closely enough so you can hear the people's names when they come up to vote and then you check off that name and periodically the list is submitted. It is important that they be relatively unobtrusive and not interfere with the election process at all and also on the first page in paragraph two, the next to the last line there is a problem with the language and it looks like a typo or something, It says: "If the poll challenger has knowledge or challenge maybe based on..." I think something is left out there.

Rep. Wolf: I have an idea for the 2nd page, Number 6, this would be a proposal for the new number six. It would say: "The district chairman may assign the number of poll checkers per polling place at their discretion, provided the poll checkers do not interfere with the election process or with the members of the election board in the performance of their duties. Poll challengers must be qualified electors of a district in which they are assigned."

Vice Chairman Randy Boehning: I would 2nd that.

Rep. Winrich: I have another suggestion. I know in our district, in particular, the district chair usually works closely with the county auditor on these kinds of things, it seems to me that somehow if I were the district chair in one of these districts that belonged to very few precincts, I would be working with the county auditor to determine how many poll watchers I should have there to cover the

whole thing. Rather than say something about at the chair's discretion, maybe the chair in agreement with the County Auditor or something would determine how many.

Vice Chairman Randy Boehning: Everyone has a hard time finding people to work these elections. I don't think anyone is going to be overwhelmed if you can get a couple people to be poll watching and challenging you probably are going to be lucky.

Rep. Kasper: Do you want the county auditor to tell you how to run the election in your district?

Chairman Grande: We have the amendment before us and everybody understands how it is reading? Any questions with that? Rep. Boehning moves these amendments. Do I have a second?

Rep. Dahl: 2nd.

Chairman Grande: All in favor of these amendments say I? All Consented. We have the amended bill before us.

Vice Chairman Randy Boehning: Move for a Do Pass As Amended.

Rep. Dahl: 2nd.

Chairman Grande: We have a Do Pass As Amended by Rep. Boehning and a 2nd by Rep. Dahl. Discussion? Clerk will call the roll on the amended bill.

Clerk Erhardt: Roll Call: Yes: 13. No: 0. Absent: 0. Carrier: Rep. Dahl.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2324

Page 1, line 2, remove the first "and"

Page 1, line 13, after "elections" insert "; and to provide for a legislative council study"

Page 34, after line 28, insert:

"SECTION 31. LEGISLATIVE COUNCIL STUDY OF RESIDENCY STATUS.

During the 2009-10 interim, the legislative council shall consider studying the rules for determining residency status under state law, including an examination of the determination of residency for voting and higher education tuition purposes; for obtaining game and fish licenses, motor vehicle registrations, and motor vehicle operator's licenses; and for taxation purposes. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

VR
4/2/09

PROPOSED AMENDMENTS TO SENATE BILL NO. 2324

Page 1, line 2, remove the first "and"

Page 1, line 13, after "elections" insert "; and to provide for a legislative council study"

Page 20, line 13, overstrike "One" and insert immediately thereafter "Three" and overstrike "challenger" and insert immediately thereafter "challengers"

Page 20, line 14, overstrike "is" and insert immediately thereafter "are"

Page 20, line 16, overstrike "one" and insert immediately thereafter "three", overstrike "challenger" and insert immediately thereafter "challengers", and overstrike "is" and insert immediately thereafter "are"

Page 22, line 8, overstrike "In addition to the poll challenger, not more than two poll checkers appointed by the" and insert immediately thereafter "The"

Page 22, line 9, overstrike "be in"

Page 22, line 10, overstrike "attendance at each" and insert immediately thereafter "appoint poll checkers to a"

Page 22, line 12, overstrike "The poll" and insert immediately thereafter "Poll" and overstrike "and poll checkers"

Page 22, line 16, overstrike "before the third" and insert immediately thereafter "one"

Page 34, after line 28, insert:

"SECTION 31. LEGISLATIVE COUNCIL STUDY OF RESIDENCY STATUS.

During the 2009-10 interim, the legislative council shall consider studying the rules for determining residency status under state law, including an examination of the determination of residency for voting and higher education tuition purposes; for obtaining game and fish licenses, motor vehicle registrations, and motor vehicle operator's licenses; and for taxation purposes. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly."

Renumber accordingly

Date: 4/2/9

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1324-SB

House Government and Veterans Affairs

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Boehning Seconded By Dahl

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

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. Dahl

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

REPORT OF STANDING COMMITTEE

SB 2324: Government and Veterans Affairs Committee (Rep. Grande, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2324 was placed on the Sixth order on the calendar.

Page 1, line 2, remove the first "and"

Page 1, line 13, after "elections" insert "; and to provide for a legislative council study"

Page 20, line 13, overstrike "One" and insert immediately thereafter "Three" and overstrike "challenger" and insert immediately thereafter "challengers"

Page 20, line 14, overstrike "is" and insert immediately thereafter "are"

Page 20, line 16, overstrike "one" and insert immediately thereafter "three", overstrike "challenger" and insert immediately thereafter "challengers", and overstrike "is" and insert immediately thereafter "are"

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Renumber accordingly

2009 TESTIMONY

SB 2324

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

February 12, 2009

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

FR: Al Jaeger, Secretary of State

RE: SB 2324 – Voting and Election Administration Procedures

Beginning Note: Throughout the bill, the Legislative Council changed all references made to "person" to "individual". For proper context, the word shall is also changed to may in several places. These changes are not specifically noted in the following section by section summary.

Section 1, Page 1, Line 17: Changes to 40 days, the number of days prior to an election that a school election official must have election ballots available in a school district election. This makes it the same as the number of days ballots must be ready for all other elections.

Section 2, Page 2, Lines 1 thru 3: Makes it clear in state election law that a voter may not authorize an attorney in fact, or anyone else, to apply for or vote on his or her behalf in any election.

Section 3, Page 2, Line 18 and Page 3, line 14: Changes the reference on a statewide initiative or referendum petition from "ballot" title to "petition" title.

Section 3, Page 3, Lines 20 thru 24: Makes it clear that if a text is not underlined on a petition, it is not a change in existing law.

Section 3, Page 5, Line 30 and Page 6, Lines 1 and 2: Makes it clear and also consistent with other existing provisions in state law that an elector may not remove his or her name from a petition once it has been submitted to the Secretary of State.

Section 4, Page 9, Lines 3 thru 5: Makes it clear and also consistent with other existing provisions in state law that circulators have one year to gather the necessary signatures for a recall election in a political subdivision.

Section 4, Page 9, Lines 16 thru 18: Makes it clear and also consistent with other existing provisions in state law that an elector may not remove his or her name from a petition once it has been submitted to the Secretary of State.

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Section 4, Page 10, Lines 1 thru 4: Establishes a publishing requirement for a recall election.

Section 4, Page 10, Lines 5 thru 6: Makes it clear that an elected official cannot be recalled during the year in which his or her office is already scheduled to be on the ballot.

Section 5, Page 10, Line 13 and Line 15: Clarifies text pertaining to the administration of the central voter file.

Section 6, Page 10, Lines 27 thru 30: Makes it clear as to what costs are the responsibility of Secretary of State for maintaining the central voter file.

Section 7, Page 11, Lines 15 thru 20: Removes the requirement for a random sampling, which only allows the Secretary of State to check a small percentage of addresses. Rather than a random sampling, better results will be obtained using the National Change of Address (NCOA) database to check the entire central voter file and by utilizing the more reliable information already being received from DOT, vital records, court system, and counties.

Section 7, Page 11, Lines 24 thru 28: The change allows the voter's record to be 'transferred' to the correct precinct or county when mail is returned as undeliverable because of an invalid address in the central voter file.

Section 8, Page 12, Lines 13 thru 16: Removes a timeline for maintaining the central voter file regarding information received from the state health officer. This eliminates a costly mailing process that impedes the ability to maintain an accurate central voter file. It is important to note, in the event it is discovered, when they arrive at the polls, that an individual's information in the central voter file is incorrect, the information is updated and they are still allowed to vote.

Section 9, Page 12, Lines 24 thru 27: Removes a timeline for maintaining the central voter file regarding information received from the state court administrator, as in Section 8.

Section 10, Page 13, Line 7: Reduces the number of days from 90 to 75 for posting the voting history of the elector into the central voter file.

Section 11, Page 13, Lines 21 thru 25: Removes the timeline for making changes in the central voter file in order to allow for changes up to election day.

Section 12, Pages 14: The changes include references to state officials who are on the ballot in the non-presidential/governor election cycle. It makes it easier for a political party to maintain their organizational structure by not restricting any references made to party structure to only the presidential/governor election cycle, as is now referenced in state law.

Section 13, Page 15: Same reasons as in Section 12.

Section 14, Page 17: Grants permission in special elections involving only no-party offices to have an election board that is not mandated to include judges appointed by political parties.

Section 15, Page 18, Lines 25 and 26: Makes it clear as to who cannot serve on an election board.

Section 16, Page 20: Removes an oversight from 2007 regarding a political reference to clerks.

Section 17, Page 21, Lines 13 thru 22: Clarifies and requests additional information on a voter's affidavit.

Section 17, Page 21, Line 26: For consistency, it requires the county auditor to verify each affidavit executed by a voter, which is already a requirement in 16.1-02-05(5).

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Section 24, Page 26: Same reasons for the state canvassing board as in previous section.

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Section 26, Page 31, Line 31: Makes it clear an individual can only run for one city commission office in any given election.

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Section 28, Page 33, Line 6: Again, makes it clear an individual can only run for one city commission office in any given election.

Section 29, Page 34, Line 5: An elector may not remove his or her name from a petition once it has been filed with the appropriate filing officer.

Section 30, Page 34, Line 21: Makes the same change as was made in Section 3 by changing the word "ballot" to "petition".

**TESTIMONY TO THE
SENATE GOVERNMENT & VETERANS AFFAIRS COMMITTEE**

Prepared February 12, 2009 by

Danette Odenbach

North Dakota Association of Counties

REGARDING SENATE BILL 2324

Chairman Dever and members of the Senate GVA Committee:

The North Dakota Association of Counties (NDACo) submits this testimony in support of Senate Bill 2324.

Senate Bill 2324, like SB 2319, contains changes to a number of chapters in the Elections Title of the North Dakota Century Code. While not all provisions in SB 2324 directly impact county election administration, indirect impacts such as school election filing deadlines and petition clarifications will provide benefits to the counties by making the election preparation process more streamlined and less confusing for the filing officers reporting the required information to the county auditors.

Among the sections of SB 2324 that do have a direct impact on the counties, clarification to the question of voting rights transferability and the expanded required content for a voter's affidavit will improve both the auditor's and the state's attorney's ability to verify the affidavits according to law. Other changes with considerable positive impact for the counties include the removed requirements for voter transfers and notifications in the central voter file. When the central vote file chapter was written for the 2003 Legislative Session, a good deal of the text was borrowed from other states and based on systems with voter registration. Since North Dakota's does not have registration and its records are a matter of who *has* voted and not who *can* vote, we are learning through the use of the system which parts of the laws as originally written have useful applications in North Dakota, and which parts are necessary only in a voter registration state.

The North Dakota Association of Counties supports the changes proposed by the Secretary of State and requests a Do Pass recommendation on Senate Bill 2324.

Attachment #1

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

March 6, 2009

TO: Rep. Grande, Chairman,
and Members of the House Government and Veterans Affairs Committee

FR: Al Jaeger, Secretary of State

RE: SB 2324 – Voting and Election Administration Procedures

Beginning Note: Throughout the bill, the Legislative Council bill and format drafters changed all references made to "person" to "individual" and those and any other grammatical changes are not noted in the following section by section summary.

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Section 11, Page 13, Lines 21 thru 25: Removes the timeline for making changes in the central voter file in order to allow for changes up to election day.

Section 12, Pages 14: Throughout this section and where applicable, changes are made to the references to state officials who are on the ballot in the non-presidential/governor election cycle. It makes it easier for a political party to maintain their organizational structure by not restricting any references made to party structure to only the presidential/governor election cycle, as is now referenced in state law.

Section 13, Page 15: Same situation and reasons as in Section 12 above.

Section 14, Page 17: Throughout the section and where applicable, it grants permission in special elections involving only no-party offices to have an election board that is not mandated to include judges appointed by political parties.

Section 16, Page 20: Removes an oversight from 2007 regarding a political reference to clerks.

Section 17, Page 21, Lines 13 thru 22: Clarifies and requests additional information on a voter's affidavit.

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Section 28, Page 33, Line 6: Again, makes it clear an individual can only run for one city commission office in any given election.

Section 29, Page 34, Line 5: An elector may not remove his or her name from a petition once it has been filed with the appropriate filing officer.

Section 30, Page 34, Line 21: Makes the same change as was made in Section 3 by changing the word "ballot" to "petition".

Attachment
#2

**TESTIMONY TO THE
HOUSE GOVERNMENT & VETERANS AFFAIRS COMMITTEE**

Prepared March 6, 2009 by
Danette Odenbach, Election Reform Program Manager
North Dakota Association of Counties

REGARDING SENATE BILL 2324

Chairwoman Grande and members of the House GVA Committee:

The North Dakota Association of Counties (NDACo) submits this testimony in support of Senate Bill 2324.

Senate Bill 2324, like SB 2319, contains changes to a number of chapters in the Elections Title of the North Dakota Century Code. While not all provisions in SB 2324 directly impact county election administration, indirect impacts such as school election filing deadlines and petition clarifications will provide benefits to the counties by making the election preparation process more streamlined and less confusing for the filing officers reporting the required information to the county auditors.

Among the sections of SB 2324 that do have a direct impact on the counties, clarification to the question of voting rights transferability and the expanded required content for a voter's affidavit will improve both the auditor's and the state's attorney's ability to verify the affidavits according to law. Other changes with considerable positive impact for the counties include the removed requirements for voter transfers and notifications in the central voter file. When the central vote file chapter was written for the 2003 Legislative Session, a good deal of the text was borrowed from other states and based on systems with voter registration. Since North Dakota's does not have registration and its records are a matter of who *has* voted and not who *can* vote, we are learning through the use of the system which parts of the laws as originally written have useful applications in North Dakota, and which parts are necessary only in a voter registration state.

The North Dakota Association of Counties supports the changes proposed by the Secretary of State and requests a Do Pass recommendation on Senate Bill 2324 as passed by the Senate.

Safeguards need to be in place to guard against even the *appearance* of voting fraud. I would suggest that amendments to SB2319 be as follows:

- a. That when the auditor position is contested, that the auditor be required to defer any handling of absentee ballots to; the deputy (if available), an adjoining county auditor or a neutral party designated by the contestants for the office.
- b. That the election judge deliver the ballot back to the ballot and place that ballot in a locked and sealed box until the ballots are counted by a neutral party. If this is not done, the auditor would have the opportunity to replace the ballot with one that is marked in support of the auditor.
- c. That all absentee ballots be placed in an inaccessible place to any contestant until they are counted. (oftentimes the entire county courthouse offices are accessible by the auditor).
- d. That the absentee ballot signatures be able to be verified by an election judge to ensure the security of the process by cross checking for forged signatures on the return envelope.

I am not technically adept to know exactly how to accomplish the end result, but I would hope that through technology we could accomplish a more secure system for the voters and the process due to the large increase in use of the absentee voting system. Perhaps the Secretary of State has some ideas for the interim that can be brought forth to improve the system. I look forward to working with the resulting changes to the law and hope that any changes will improve the system.

Thank you for your time.

Sincerely

Paul Murphy

Foster County States Attorney

909 Main St

Carrington ND 58421

701 652 1200

16.1-05-06. Challenging right of person to vote - Identification or affidavit required - Penalty for false swearing - Optional poll checkers.

1. ~~One~~ Three poll challengers appointed by the district chairman of each political party represented on the election board is are entitled to be in attendance at each polling place. Individual poll challengers may be replaced at any time during the hours of voting, but no more than ~~one~~ three poll challengers from each political party is are entitled to be in attendance at each polling place at any one time.

2. Any member of the election board may challenge the right of an individual to vote if the election board member has knowledge or has reason to believe the individual is not a qualified elector. A poll challenger may request members of the election board to challenge the right of an individual to vote if the poll challenger has knowledge or challenge may be based upon any one of the following:

a. The individual offering to vote does not meet the age or citizenship requirements.

b. The individual offering to vote has never voted in the precinct before, the name of the individual offering to vote does not appear in the pollbook generated from the central voter file, and the individual fails to provide reasonable evidence of residency in the precinct.

c. Except as provided in section 16.1-01-05, the individual offering to vote physically resides outside of the precinct.

d. The individual offering to vote does not meet the residency requirements provided in section 16.1-01-04.

e. The individual offering to vote fails or refuses to provide an appropriate form of identification as requested under subsection 3.

3. If after an election board member has requested that the individual offering to vote provide an appropriate form of identification to address any of the voting eligibility concerns listed in subsection 2 and the identification is not provided or does not adequately confirm the eligibility of the challenged individual, the challenged individual may not vote unless the challenged individual executes an affidavit, acknowledged before the election inspector, that the challenged individual is a legally qualified elector of the precinct.

4. The affidavit must include:

a. The name, present address, and any contact telephone number of the affiant and the address of the affiant at the time the affiant last voted.

b. The previous last name of the affiant if it was different when the affiant last voted.

c. A recitation of the qualifications for voting as set forth in section 16.1-01-04 and the rules for determining residence.

d. Notice of the penalty for making a false affidavit and that the county auditor may verify the affidavit.

e. A place for the affiant to sign and swear to the affiant's qualifications as a voter.

5. Written notice of the penalty for making a false affidavit and that the county auditor shall verify the affidavits must also be prominently displayed at the polling place in a form prescribed by the secretary of state. An individual who falsely swears in order to vote is guilty of a class A misdemeanor and must be punished pursuant to chapter 16.1-01.

6. ~~In addition to the poll challenger, not more than two poll checkers appointed by the district chairman of each political party represented on the election board may be in attendance at each polling place, provided the poll checkers do not interfere with the election process or with the members of the election board in the performance of their duties.~~ The district chairman may assign the number of poll checkers per polling place at their discretion. The Poll challengers and poll checkers must be qualified electors of the district in which they are assigned.

7. No poll challenger or checker may be a member of the election board.

8. The district chairman shall notify the county auditor of each county contained in the legislative district before the third one day before the day of the election of the names of individuals whom the district chairman has appointed to serve as poll challengers and poll checkers in the precincts in the legislative district.

Attachment #1

PROPOSED AMENDMENTS TO SENATE BILL NO. 2324

Page 1, line 4, remove "and" and remove "subsection 2 of section 16.1-02-06, sections 16.1-02-07,"

Page 1, line 5, remove "16.1-03-03,"

Page 1, line 6, remove "16.1-15-15,"

Page 5, line 30, remove "An elector's name may not be removed"

Page 6, remove lines 1 and 2

Page 9, line 3, remove "Circulators have one year to gather the required number of signatures of qualified"

Page 9, remove lines 4 and 5

Page 9, line 6, remove "6."

Page 9, line 12, remove the overstrike over "6." and remove "7."

Page 9, line 16, remove "An elector's name"

Page 9, remove lines 17 and 18

Page 9, line 19, remove the overstrike over "7." and remove "8."

Page 9, line 27, replace "9." with "8."

Page 10, line 1, replace "10." with "9."

Page 10, remove lines 5 and 6

Page 11, line 10, remove the overstrike over "seventy"

Page 11, line 11, remove "eighty-five"

Page 12, remove lines 8 through 31

Page 13, remove lines 1 through 3

Page 14, remove lines 10 through 31

Page 15, remove lines 1 through 4

Page 15, line 13, remove the overstrike over "or", remove the first underscored comma, and remove ", a"

Page 15, line 14, remove "candidate for attorney general, or a candidate for secretary of state"

Page 15, line 15, remove the overstrike over "or", remove the first underscored comma, and remove ", attorney general, or secretary of"

Page 15, line 16, remove "state", remove the overstrike over "or", and remove the underscored comma

Page 15, line 17, remove ", attorney general, or secretary of state"

Page 20, line 3, remove the overstrike over "~~, an equal number from each~~"

Page 20, line 4, remove the overstrike over "~~political party represented on the election board,~~"

Page 25, remove lines 16 through 31

Page 26, remove lines 1 through 3

Renumber accordingly