

**2011 HOUSE POLITICAL SUBDIVISIONS**

**HB 1447**

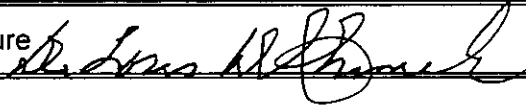
# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Political Subdivisions Committee Prairie Room, State Capitol

HB 1447  
February 3, 2011  
Job # 13961 & 13962

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Relating to the canvassing of ballots of voters whose eligibility to vote has been challenged.

### Minutes:

Testimony #1

Chairman Johnson: Opened the hearing on HB 1447.

Rep. Koppelman: Is very similar to HB 1431. This bill is an attempt to make sure every eligible voter has the opportunity to vote. That is the purpose behind this bill. We are the only state in the nation without voter registration. I like the way we do things in ND. However I think we need to have a system in place that ensures that only eligible voters vote only once. Right now if you went to the polls to vote we are very open in allowing people to vote. We have vote by mail, and absentee ballot. People have to have their ID or driver's license to vote. Our requirements are that you be a resident of that district for 30 days. Most of the time people have something, but sometimes they don't. Then you can go home and get your ID or you can vote now and sign this affidavit that is sworn statement under the penalty of perjury that you are who you say you are. The theory is later someone somehow is supposed to verify that you were eligible to vote based on that sworn statement. The States Attorney is supposed to verify them. I have talked to several states attorney's about this and asked how do you handle this? In an honest moment they will tell you they really don't do anything with it. There was one person prosecuted for voting eligibly in ND in Grand Forks. Even if they did follow up on those affidavit's where is his vote; in the ballot box. It counts. This bill would just put one more step in that process; when that voter fills out this affidavit saying I am who I say I am; their ballot would go into a provisional ballot envelope. The provisional ballot envelope would be set aside; then under the bill the voter would have 3 days to prove they are who they say they are. If they do it on Election Day the provisional ballot would be aside; if they bring back ID the ballot goes out of the provisional ballot envelop into the ballot box. It is then counted when they have proven it.

Rep. Devlin: Coming from a rural area you could very easily have one ballot that meets that criteria at the end and the person proves they are a resident and they should be counted so there is no longer a privacy of that ballot because at that stage of the game it is open and counted everybody is going to know that Joe Blow has voted for Rep. Meyer and skipped

me or whatever the case maybe because all the totals will change by one vote based on that one ballot.

Rep. Koppelman: I suppose that is a risk you always run. Any last vote in a small district could have the same affect. I don't think anybody is going to be setting there tabulating and saying this was Rep. Devlin's vote. I don't know how you avoid that in any of the scenario's we have been discussing.

Closed the hearing on HB 1447.

Tape Job # 13962

Chairman Johnson: Reopened the hearing on HB 1447. I don't know if the prime sponsor wishes to address it further?

Rep. Koppelman: It really is the first part of 1431; the portion that requires the affidavit. The townships just mentioned they favored some type of system that would verify that they are legal voters and that is what this bill will do.

Opposition:

Al Jaeger, Secretary of State: Mike Montplaisin made reference several times to the affidavit. That the affidavit that is signed on Election Day is the same affidavit that is signed for absentee voting or any of those other things. If it is found you have perjured yourself there are some severe penalties regarding those affidavits and signing them falsely and claiming something that you are not. I agree that people that show up on Election Day are going to be treated differently than people that vote absentee or some other means and that does seem to be a little different. I understand the concerns of the township because we have talked about that for a long time. I know the township conducts their meeting entirely different than what this process would deal with. They are getting at that they have people that own land in the township that don't live there that serve on boards and vote there and make major decisions for the township and have absolutely no residency as such in there so that is a big issue for them.

Rep. Koppelman: Obviously people who vote absentee are already treated differently. They vote in a different time, manner, place and they are even treated differently on whether they come to the auditor's office and vote or whether they do it by mail. If they are found guilty of prudery what happens to their vote?

Al Jaeger: The ballot is counted. There is a certain time period where political parties could contest the election.

Rep.Devlin: What are the canvass board timelines?

Al Jaeger: The canvassing board can meet no earlier than Friday after the election and no later than Monday after the election. We encourage as much as possible that they convene at the latest possible date. The reason we do that is we want to give every opportunity to the military and overseas voter to make sure there is enough time where any

ballot may have been submitted. We have provided them with options also to email their ballot.

Terry Traynor, Association of Counties: (Handed out testimony from Kevin Glatt #1).

Neutral: None

Hearing closed.

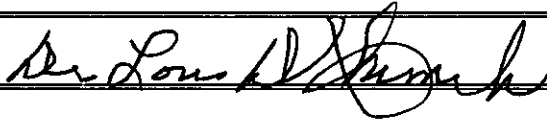
# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Political Subdivisions Committee Prairie Room, State Capitol

HB 1447  
February 17, 2011  
Job # 14667

☐ Conference Committee

Committee Clerk Signature



### Minutes:

Proposed amendment #1

Chairman Johnson: Reopened the hearing on HB 1447.

Rep. Koppelman: We had these two bills 1447 and 1431. They are two bills that are similar in substance. In fact all of 1447 is included in a portion of 1431. (See proposed amendment #1). Since the hearing there was some opposition to this primarily from the Secretary of State's office and I am very pleased to report that Mr. Silrum, the Deputy Secretary of State contacted us after the hearing and he met with the two prime sponsors of these two bills; Rep. Boehning and myself and indicated willingness on the part of the Secretary of State's office to work with us on these bills and try to find a fix that works. Recognizing that there is a problem out there, but they have some logistical reasons for not liking the bill in the form it originally was. I can see why because there are other sections of code that get changed etc. The difference between the two bills the final section on this bill. The amendments on 1431 and 1447 are similar. 1447 is amended as a hoghouse.

Jim Silrum, Deputy Secretary of State: Went over the amendment. It is our thoughts that everyone in ND wants to make sure that its qualified electors that are casting their ballots in an election. That we understood was the prime intent of the sponsors of the original bill. We simply felt that there were far more sections that needed to be addressed within the bill to accomplish what was necessary. There also needed to be a different tone that be placed on what is being stated in the bill itself. Currently under law things like challenging a voter; those are hard words and disparaging words. What the goal of the amendment was to do was to put the emphasis on the right place which is to say that because in ND we don't have voter registration every voter still needs to essentially declare they are who they say they are and that they are a qualified elector. Therefore since it is already the case that every voter is asked to show their ID we emphasis that point. Voters are going to be asked to show their ID. We have done ad campaigns in the past and intend to them in the future if this were to become law. Already 98% are doing just that. If they don't there is a safety net for them to address their qualifications with the election board or the election official responsible for the election to make sure they know that qualified electors are casting their ballot. Went through the bill and explained it to the committee. Subsection 4 is removed because there is no need to have election board members doing that challenge any more. In Section 3 we begin by amending 16.1-05-07, but you probably note that 16.1-06 is missing from there so I will draw your attention quickly to the last page of the amendment which shows that section is being repealed entirely because there are things in the wrong

place. We are simply taking the correct portions of that and putting it into other sections of the bill; deleting those unnecessary portions of that section and then even creating a brand new section to divide up those responsibilities. In 16.01-0507 when a voter appears at the polls the first thing they asked to do is show their ID. There are rules that govern what kind of ID's are applicable. Notice that Subdivision C says that a form of ID prescribed by the Secretary of State. It is our plan to revisit all of those ID's that are currently acceptable and see what would be appropriate under this revised law. If they don't have an ID or fail to bring an ID Subsection 2 says to the voter if anyone of the poll voters here knows you may be allowed to vote because they are vouching for you as a qualified elector. You notice the deleted wording in Subsection 3; that is really moving down to Subsection 5; but it is being softened there and worded because you don't immediately jump to the affidavit; you still need to finish what is in law for when a voter appears at the polls you need to correct any address changes that a voter may have or if there isn't a mailing address for the voter you need to get those things. It simply clarifies what that is. If a poll clerk understands that a voter is trying to vote in the wrong polling place because their precinct is meeting at another place the first thing they do is try and steer them to the polling place that is going to have the ballot that is for their particular precinct according to their residential address. Then the safety net kicks in; if they can't provide ID and if no poll worker knows them then they are given the opportunity to complete an affidavit. Following that is immediately what the affidavit is. That is what was in previously. In Subdivision 7 once they have executed an affidavit the poll worker must give to that person a notice on a piece of paper that says this is how long the polls are open; your ballot will be counted if you are able to verify your affidavit so they can make sure their ballot is counted. Once the voter is there it goes into a secretary envelop waiting for them to have it be counted. In Subsection 9 it simply says what happens if they come back to the polls and how that is processed. In Section 4 there is a new Subsection being added that specifically dealing with poll checkers. They are simply people who are appointed by the political party to take a look and say hi Mr. Silrum hasn't come to vote today I better call him up and make sure that he knows today is election day and should come to vote. That is already something that is done under current law. Section 5 is simply another reference to removing poll challengers. In Sections 6 and 7 those sections come from the canvassing chapter of the elections title and that simply says how the canvassing board must deal with those ballots once they come to them after they have been verified or not. Section 8 is another reference in the township title in which there is a reference to challenging voters.

Rep. Klemin: going back to Section 3 on the ID. The form of ID prescribed by the Secretary of State; how is that done?

Jim Silrum: Several years ago when the Help America Vote Act was passed and when the ID rules came into play the Secretary of State was granted the authority to determine what are the acceptable forms of ID. He has done so. There are several things that are included such as tribal ID, State issued ID; passport and it also include a utility bill. There is the ability of a student to have two forms of ID; if their student ID has their picture on it, but no address they could also provide another form of ID that would have a residential address so they could use those in combination. We simply think we would revisit those to make sure that we are adequately addressing all of the needs of the people that might not have a state issued ID at their ready disposal.

Rep. Klemin: Why would you need anything else if you had a state or tribal ID?

Jim Silrum: You would not need that. That is simply there to cover those voters who may not have either of those.

Rep. Klemin: Subsection D at the top of page 3; combination of any of the forms of a through c. If you don't have either a or b and you do have something from c; it just seems like if you say you have a combination of a through c doesn't seem make any sense to me.

Jim Silrum: The clearest example I can give of that is that a student in one of our university's is given an ID. Those ID's do not contain an address for that particular voter. Therefore they would need something else in addition to that or they could have that or a utility bill could be used in combination with that.

Rep. Klemin: Are you considering a student ID being an official form of ID issued by the state?

Jim Silrum: Under the rules that are established by the Secretary of State so far a student ID is applicable, but the ID has to show the residential address.

Rep. Klemin: I still don't think we need to have any combination of them so I am thinking d can be deleted from this.

Jim Silrum: In what has been prescribed by the Secretary of State there is specifically an address within there that the ID provided must have the voters residential address associated with it.

Rep. Klemin: You are talking about two different kinds of ID under subdivision c; when combined together give you verification of the residence. If you have a you don't need anything from c.

Jim Silrum: I think I understand what you are saying now is that under c the ones we are prescribing certainly we can continue to say that a voter could use a combination of the two under c, but they would have no reason to need to combine those with an a or b. What do we do about a voter who did live in Minnesota; moved to ND and because they lived in the precinct for more than 30 days they are a qualified elector, but the only ID they have at the time is their Minnesota drivers license because they haven't gotten to update their new one so in that case they probably would use a combination of a and c.

Rep. Klemin: then a should say their official form of ID issued by a state; not the state.

Jim Silrum: You are correct.

Rep. Beadle: My comment was going to be the same.

Rep. Mock: On page Section 8 where we amend 16.1-15-06 and then it carries into page 6; wasn't that appealed in section 11?

Jim Silrum: We repealed 05-06; not 15-06.

Rep. Mock: You are right. I am sorry.

Rep. Kretschmar: If a voter comes in and signs the affidavit does the board then allow him to vote?

Jim Silrum: Yes they allow that person to vote; however their ballot rather than being cast as with all the others; is held aside until that voter verifies who they are with a form of identification.

Rep. Kretschmar: Subsection 9 of Section 3; if an elector comes back with his driver's license or some identification the election shall return the sealed envelope that contains the individual's ballot to the voter to allow the voter to cast the ballot?

Jim Silrum: At the time he cast the ballot is the time when he is reported as having voted. The voter returned on Election Day, verifies they are who they say they are with an ID, the envelope is given back to them, they keep the secretary; they open it up and insert the ballot into the scanner and it is counted with the rest. The envelope is then retained by the election board as being a person who voted by affidavit but they verified who they are.

Rep. Maragos: Under current election code if I go and vote and I don't have an ID and I sign an affidavit is that sufficient to vote? Under current law do I have to follow up by bringing in by ID after I have signed an affidavit?

Jim Silrum: Under current law if you vote by affidavit your ballot is cast with all the rest and then under current law no more than 45 days later your local election official is required to send you a notice saying we know that you voted by affidavit we are verifying you are who you say you are, but if it is determined they are not a qualified elector. If that postcard comes back as undeliverable and somebody has voted that shouldn't have voted there is no way to abstract the ballot from the ballot can because it has already been cast.

Rep. Koppelman: I just wanted to clarify on Rep. Kretschmar question. My understanding about the casting of the ballot versus filling out a ballot issue as he described if you were to come back to the polls later with your ID and your ballot had been held aside in a secretary envelop they would hand it back to you so you could put it in the ballot box.

Chairman Johnson: So if I were to come to a polling place with no ID; I fill out the ballot; put it in the secretary envelop and do not come back on Election Day; then it is just null. Is that what happens?

Jim Silrum: You as the voter who voted by affidavit do have the opportunity to verify with the local election official anytime up until the meeting of the canvassing board. We have strongly urged election boards to hold their canvassing as late as possible which is six days later following the election mostly because of the military and overseas who are casting their ballots and have such long return times. They wouldn't have to drive and appear before them with an ID so they can email or fax their information.



Rep. Zaiser: Seems like quite a cumbersome process and from my perspective perhaps open to some shady operations. I am concerned about the dangling vote and it being a problem?

Jim Silrum: There is some cumbersomeness in this, but it is strictly for the purpose of being a safety net. We could simply say in order to vote you must provide an ID. We don't have voter registration in this state so the only way to really prove who you are is present an ID. 99% of the people who appear to the polls to vote are presenting their ID. This is to catch those people who are out running and don't have anything on them. It also doesn't address at all the a person may also vote by absentee. On the absentee application they are required to put their ID number on their state issued ID if it is available, but if it isn't available we have to assume as election officials we have to assume they just don't have one. There are plenty of options out there and this is simply a safety net.

Rep. Zaiser: This could give many opportunities for some hanky panky because this envelop is around for some time and is transported?

Jim Silrum: I would ask you to remember at that point that all election boards have at least two judges; one of them from both major political parties and that is specifically set in law so there is a check and balance over each other. These sealed ballots do need to go back to the county office so also does a list of everyone who voted by affidavit have to go back so there is a check and balance.

Rep. Koppelman: We are the only state in the national that doesn't have voter registration and therefore in every other state the requirement of a voter to prove that they are who they say they are; and live where they say they live is higher than it is in ND and with this bill it would remain higher elsewhere than in ND. Is that true?

Jim Silrum: That is true. There are seven states out there, Minnesota being one of them, that have something that is referred to as same day registration; however it is still a registration process and if in Minnesota you appear on election day to register to vote and you don't bring your ID your ballot is held out in much the same way until you have verified it.

Rep. Koppelman: Nothing under this bill would change in that. The encouragement to bring an ID to the voting polls is still there and most people are already doing it. We are just trying to accommodate those people who don't bring their ID.

Rep. Klemin: In no other state is a person allowed to cast a ballot unless they have first established that they are a qualified elector. Only in ND is a person allowed to cast a ballot without first establishing that he is a qualified elector.

Jim Silrum: Yes that is true.

Rep. Klemin: In Subsection 7 & 10 there is a reference to the appropriate election official. Who is that?

Jim Silrum: That deals with all elections so when there is a special city election than the city auditor is the primary election official. When a school board holds an election then the school business manager would be the case. So rather than saying county auditor that would only apply to those cases where the city or school elections were happening.

Rep. Mock: What is the penalty if you have found to have voted illegally if you weren't a qualified elector?

Jim Silrum: That is a misdemeanor punishable by \$1000 fine or a year in prison.

Rep. Koppelman: Is that a prudery or a separate offense?

Jim Silrum: I think it would fall under prudery.

Rep. Koppelman: That is current law. Neither the bill nor the amendments change that.

Motion made to move the amendment by Rep. Koppelman: Seconded by Rep. Hatelstad:

Chairman Johnson: on line under 1 and official with a formal identification issued by a state or keep it at the state?

Rep. Klemin: I think it is OK to leave it like it is because an ID issued by another state would be one of those forms of ID prescribed by the Secretary of State in combination with something else that would show your residence here.

Rep. Shirley Meyer: Page 4 under 7; it just seems like you are not going to let them cast a ballot unless they bring ID so why go through this? Just tell them you can't cast a vote because you don't have the proper form of ID. Basically that is what you are saying.

Rep. Hatelstad: I think the difference is you could take a couple days to get it, but you would then still have a legitimate ballot that could be cast where if you tell them you can't do it and then two days later you can't vote.

Rep. Shirley Meyer: On 7 it says if you don't return with proof of identification before the polls close your ballot won't be cast.

Chairman Johnson: I think it says before the canvassing board meets so you would have a few days to get back and verify it and your ballot would get counted.

Voice vote carried.

Do Pass As Amended by Rep. Hatelstad: Seconded by Rep. Beadle

Rep. Koppelman: There was a question of college campuses and the fact that a lot of the affidavit's that are filled out today are in college communities etc. I visited with Dean Bershanie, President of NDSU when they were in town. He said I am going to check that out. He said we can make this work. There is a place on line where each of the student has a verification of where they live and they can link to that and print that page out and

bring it to the polls. Could you also when students in the fall register have either a conformation document whether it is paper or email and have this to take to the poll.

Vote: 13 No 0 No 1 Absent Carrier: Rep. Koppelman:

Hearing closed.

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PROPOSED AMENDMENTS TO HOUSE BILL NO. 1447

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 16.1-05 of the North Dakota Century Code, relating to the appointment of poll checkers; to amend and reenact sections 16.1-02-05, 16.1-05-04, 16.1-05-07, 16.1-10-06.1, 16.1-15-06, 16.1-15-08, and 58-04-09 of the North Dakota Century Code, relating to verification of eligibility of voters; and to repeal section 16.1-05-06 of the North Dakota Century Code, relating to challenging the right to vote.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 16.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-02-05. Entry of new voters into the central voter file - Query of the central voter file for double voting - Challenges—Postelection verification.**

1. Within forty-five days following an election, the county auditor shall enter the name and required information of each individual who voted at the last election who is not already contained in the central voter file and update any required information requested and obtained at the last election for any individual contained in the central voter file.
2. The secretary of state, with the assistance of the county auditors, within eighty-five days following an election, shall query the central voter file to determine if any individual voted more than once during the preceding election. The secretary of state shall immediately notify the county auditor and state's attorney in each affected county for further investigation.
3. Upon return of any nonforwardable mail from an election official, the county auditor shall ascertain the name and address of that individual. If the individual is no longer at the address recorded in the central voter file, the county auditor shall transfer the voter to the correct precinct in the central voter file or notify the county of the voter's new residence so the voter record can be transferred to the correct county. If a notice mailed at least sixty days after the return of the first nonforwardable mail is also returned by the postal service, the county auditor shall designate the individual as "inactive" in the central voter file.
4. ~~Within forty five days after an election, the county auditor shall send a notice to each individual who was challenged on election day according to section 16.1-05-06. If a notice is returned as not deliverable, the county auditor shall attempt to determine the reason for the return. A county auditor who does not receive or obtain satisfactory proof of an individual's eligibility to vote shall notify immediately the state's attorney to conduct an investigation of the individual's eligibility to vote in that election.~~

**SECTION 2. AMENDMENT.** Section 16.1-05-04 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-05-04. Duties of the members of the election board during polling hours.**

1. The election inspector shall supervise the conduct of the election to ensure all election officials are properly performing their duties at the polling place. The election inspector shall assign duties so as to equally and fairly include both parties represented on the election board.
2. The election inspector shall assign ministerial duties to poll clerks, who shall carry out the ministerial duties assigned by the election inspector.
3. The election inspector shall assign the poll clerks to perform the function of maintaining the pollbook. The designated poll clerks shall maintain the pollbook. The pollbook must contain the name and address of each individual voting at the precinct and must be arranged in the form and manner prescribed by the secretary of state.
4. ~~The members of the election board shall challenge the right of anyone to vote whom they know or have reason to believe is not a qualified elector by requiring the elector to complete and sign a voter's affidavit.~~
5. Each member of the election board shall remain on the premises of the polling place during the time the polls are open to prevent the occurrence of fraud, deceit, or other irregularity in the conduct of the election.
- 6.5. All members of the election board shall distribute ballots and other election materials to electors. An election judge from each party represented on the election board shall give any assistance requested by electors in marking ballots or operating electronic voting system devices.
- 7.6. Each member of the election board shall maintain order in the polling place.

**SECTION 3. AMENDMENT.** Section 16.1-05-07 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-05-07. Poll clerks to check identification and verify eligibility - Poll clerks to request, correct, and update incorrect information contained in the pollbook.**

1. Before ~~delivering~~ a member of an election board delivers a ballot to an individual according to section 16.1-13-22, the poll clerks shall request the individual to show identification, which includes the individual's residential address and date of birth. ~~The~~ An approved form of identification may include includes:
  - a. An official form of identification issued by the state;
  - b. An official form of identification issued by a tribal government;
  - c. A form of identification prescribed by the secretary of state; or

- d. A combination of any of the forms of identification under subdivisions a through c.
- 2. If an individual offering to vote does not have or refuses to show an appropriate form of identification, the individual may be allowed to vote ~~without being challenged according to section 16.1-05-06 if the individual provides to the election board the individual's date of birth and if a member of the election board or a poll clerk knows the individual and can personally vouch that the individual is a qualified elector of the precinct administered by the polling place. The individual shall provide the individual's date of birth to the poll clerk entering the name of the voter in the pollbook.~~
- 3. ~~If an individual offering to vote does not meet either of the options set forth in subsection 1 or 2, the election board shall challenge the individual's right to vote and the individual may not vote unless the individual executes a voter's affidavit, as provided in section 16.1-05-06.~~
- 4.
  - a. When verifying an individual's eligibility or when entering the name of an individual into the pollbook, poll clerks shall request, correct, and update any incorrect or incomplete information about an individual required to be included in the pollbook generated from the central voter file.
  - b. If the individual's name is contained in the pollbook generated from the central voter file, the poll clerks shall verify the individual's residential address and mailing address, if different from the individual's residential address.
  - c. If the individual's name is not contained in the pollbook generated from the central voter file but the individual is determined eligible to vote, the poll clerks shall record the individual's name in the pollbook. The poll clerks shall request and obtain any additional information for the individual required to be included in the pollbook.
- ~~5.4.~~ Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct to the proper precinct and voting location.
- 5. If an individual offering to vote does not meet either of the options set forth in subsection 1 or 2, the election board shall offer the individual the opportunity to execute a voter's affidavit acknowledged before an election board member.
- 6. The voter's affidavit must include:
  - a. The name of the affiant.
  - b. The address of the affiant.
  - c. The birth date of the affiant.
  - d. The contact telephone number of the affiant.
  - e. The address of the affiant at the time the affiant last voted.
  - f. The previous last name of the affiant if it was different when the affiant last voted.

- g. The identification number and state of any state-issued identification regardless of the state in which the identification was issued, if available.
  - h. A recitation of the qualifications for voting as set forth in section 16.1-01-04 and the rules for determining residence.
  - i. Notice of the penalty for making a false affidavit and that the individual will be required to provide an approved form or forms of identification showing the individual's qualification as an elector of the precinct to a member of the polling place election board while the polls remain open or to the appropriate election official before the meeting of the canvassing board before the vote can be counted.
  - j. A notice indicating the affidavit is not an open record, but information identifying who voted after executing an affidavit may be an open record as part of the pollbook, unless the individual is listed as "secured active" in the central voter file under section 16.1-02-13.
  - k. A place for the affiant to sign and swear to the affiant's qualifications as a voter.
7. Upon the execution of the affidavit, the individual must be given a notice clearly stating the affiant's ballot will be counted if the affiant returns with approved identification to the polling place before the polls close or verifies the affiant's identity with the office of the appropriate election official before the meeting of the canvassing board. The notice also must state the hour at which the polls will close; the date, time, and location of the meeting of the canvassing board; and the address, location, and office hours of the appropriate election official.
8. The election inspector shall place the ballot of an individual who executes an affidavit under this section in a secure envelope designed by the secretary of state to protect the secrecy of the ballot.
9. If the elector returns to the polling place before the polls close and shows identification providing proof of qualification as an elector, the election inspector shall return the sealed envelope containing the individual's ballot to the voter to allow the voter to cast the ballot. The election inspector shall mark the voter's affidavit as "verified".
10. Each election inspector shall deliver to the appropriate election official a list including the name of each individual who executed an affidavit under this section who has not returned to verify the individual's qualification as an elector and each ballot cast by an individual on the list. The election official shall forward the ballot of each affiant verified to the official's office with approved identification to the canvassing board for canvassing and forward the remaining ballots to the county canvassing board marked as "rejected - elector failed to verify qualification".

**SECTION 4.** A new section to chapter 16.1-05 of the North Dakota Century Code is created and enacted as follows:

**Poll checkers.**

The district chairman of each political party represented on the election board may appoint up to three poll checkers to a polling place. A poll check may not interfere with the election process or with the members of the election board in the performance of the member's duties. A poll checker may not be a member of the election board. The district chairman shall notify the county auditor of each county contained in the legislative district one day before the day of the election of the name of any individual the district chairman has appointed to serve as a poll checker in the legislative district.

**SECTION 5. AMENDMENT.** Section 16.1-10-06.1 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-10-06.1. Paying for certain election-related activities prohibited.**

No

1. A person may not pay ~~another person~~ any individual for:
  1. a. Any loss or damage due to attendance at the polls;
  2. b. Registering;
  3. c. The expense of transportation to or from the polls; or
  4. d. Personal services to be performed on the day of a caucus, primary election, or any election which tend in any way, directly or indirectly, to affect the result of such caucus or election.

~~The provisions of this~~

2. This section ~~does~~ not apply to the hiring of a ~~person~~ individual whose ~~sole duty it is to act as a challenger~~ duties are to observe the polls and to watch the count of official ballots.

**SECTION 6. AMENDMENT.** Section 16.1-15-06 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-06. Reports and pollbooks sent to county auditor - Compensation for making returns.**

Immediately following the canvass, except in cases of emergency or inclement weather, the inspector of elections, or one of the judges appointed by the inspector of elections, personally shall deliver one of the signed canvass reports provided for in section 16.1-15-04 to the county auditor. The sealed ballots of voters executing affidavits under section 16.1-05-07 and reports, carefully sealed under cover, accompanied by the pollbook provided for in sections 16.1-02-13 and 16.1-06-21 with the oaths of the inspector and poll clerks affixed thereto, must be delivered properly to the county auditor. The person making the return shall receive compensation therefor in accordance with section 16.1-05-05. The compensation and mileage must be paid out of the county treasury on a warrant of the county auditor and is full compensation for returning all used or voided ballots to the proper official.

**SECTION 7. 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 county recorder.

After generating the reports and poll lists provided for in section 16.1-15-06 and providing the sealed ballots of voters executing affidavits provided for in section 16.1-05-07 for delivery to the county auditor, the election board shall cause the ballots containing lawful write-in votes cast at the election to be placed in a suitable wrapper to form a complete wrapper for the ballots. All ballots without write-in votes shall be wrapped in a similar manner. 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 names or numbers of the precincts and the date on which the election was held. The wrappers must be sealed securely in a manner prescribed by the county auditor 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 county recorder. At the meeting of the county canvassing board, the county recorder shall deliver the ballots containing lawful write-in votes from all the precincts within the county. At the meeting of the county canvassing board, the county recorder shall deliver each ballot that may contain a write-in vote referenced in a demand made under 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. The sealed ballot of any voter whose affidavit has been verified with the county auditor must be delivered to the canvassing board for tabulation.

**SECTION 8. AMENDMENT.** Section 58-04-09 of the North Dakota Century Code is amended and reenacted as follows:

#### **58-04-09. ~~Challenge to voter~~—Duty of judges.**

If any ~~person~~individual offering to vote at any election or upon any question arising at a township meeting is challenged as unqualified using the criteria provided in ~~section 16.1-05-06~~chapter 16.1-05, the judges shall proceed in the manner in which judges at a general election are required to proceed, adapting the affidavit described in ~~section 16.1-05-06~~chapter 16.1-05 to the circumstances of the township meeting.

**SECTION 9. REPEAL.** Section 16.1-05-06 of the North Dakota Century Code is repealed."

Renumber accordingly

Date: 2-17-11  
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1447

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 01002

Action Taken ☐ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt  
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Koppelman Seconded By Rep. Hatestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Kilichowski		
Vice Chairman Hatestad			Rep. Shirley Meyer		
Rep. Beadle			Rep. Mock		
Rep. Devlin			Rep. Zaiser		
Rep. Heilman					
Rep. Klemin					
Rep. Koppelman					
Rep. Kretschmar					
Rep. Maragos					
Rep. Pietsch					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*Voices  
Vote  
carried!*

Date: 2-17-11  
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1447

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt  
Amendment

☐ Rerefer to Appropriations ☐ Reconsider \_\_\_\_\_

Motion Made By \_\_\_\_\_ Seconded By \_\_\_\_\_

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Kilichowski	✓	
Vice Chairman Hatelstad	✓		Rep. Shirley Meyer	✓	
Rep. Beadle	✓		Rep. Mock		✓
Rep. Devlin	✓		Rep. Zaiser	✓	
Rep. Heilman	✓				
Rep. Klemin	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Pietsch					

Total (Yes) 13 No 1

Absent 0

Floor Assignment Rep. Koppelman

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

**REPORT OF STANDING COMMITTEE**

**HB 1447: Political Subdivisions Committee (Rep. N. Johnson, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1447 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 16.1-05 of the North Dakota Century Code, relating to the appointment of poll checkers; to amend and reenact sections 16.1-02-05, 16.1-05-04, 16.1-05-07, 16.1-10-06.1, 16.1-15-06, 16.1-15-08, and 58-04-09 of the North Dakota Century Code, relating to verification of eligibility of voters; and to repeal section 16.1-05-06 of the North Dakota Century Code, relating to challenging the right to vote.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 16.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-02-05. Entry of new voters into the central voter file - Query of the central voter file for double voting - ~~Challenges~~—Postelection verification.**

1. Within forty-five days following an election, the county auditor shall enter the name and required information of each individual who voted at the last election who is not already contained in the central voter file and update any required information requested and obtained at the last election for any individual contained in the central voter file.
2. The secretary of state, with the assistance of the county auditors, within eighty-five days following an election, shall query the central voter file to determine if any individual voted more than once during the preceding election. The secretary of state shall immediately notify the county auditor and state's attorney in each affected county for further investigation.
3. Upon return of any nonforwardable mail from an election official, the county auditor shall ascertain the name and address of that individual. If the individual is no longer at the address recorded in the central voter file, the county auditor shall transfer the voter to the correct precinct in the central voter file or notify the county of the voter's new residence so the voter record can be transferred to the correct county. If a notice mailed at least sixty days after the return of the first nonforwardable mail is also returned by the postal service, the county auditor shall designate the individual as "inactive" in the central voter file.
4. ~~Within forty-five days after an election, the county auditor shall send a notice to each individual who was challenged on election day according to section 16.1-05-06. If a notice is returned as not deliverable, the county auditor shall attempt to determine the reason for the return. A county auditor who does not receive or obtain satisfactory proof of an individual's eligibility to vote shall notify immediately the state's attorney to conduct an investigation of the individual's eligibility to vote in that election.~~

**SECTION 2. AMENDMENT.** Section 16.1-05-04 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-05-04. Duties of the members of the election board during polling hours.**

1. The election inspector shall supervise the conduct of the election to ensure all election officials are properly performing their duties at the polling place.

The election inspector shall assign duties so as to equally and fairly include both parties represented on the election board.

2. The election inspector shall assign ministerial duties to poll clerks, who shall carry out the ministerial duties assigned by the election inspector.
3. The election inspector shall assign the poll clerks to perform the function of maintaining the pollbook. The designated poll clerks shall maintain the pollbook. The pollbook must contain the name and address of each individual voting at the precinct and must be arranged in the form and manner prescribed by the secretary of state.
4. ~~The members of the election board shall challenge the right of anyone to vote whom they know or have reason to believe is not a qualified elector by requiring the elector to complete and sign a voter's affidavit.~~
5. Each member of the election board shall remain on the premises of the polling place during the time the polls are open to prevent the occurrence of fraud, deceit, or other irregularity in the conduct of the election.
- 6.5. All members of the election board shall distribute ballots and other election materials to electors. An election judge from each party represented on the election board shall give any assistance requested by electors in marking ballots or operating electronic voting system devices.
- 7.6. Each member of the election board shall maintain order in the polling place.

**SECTION 3. AMENDMENT.** Section 16.1-05-07 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-05-07. Poll clerks to check identification and verify eligibility - Poll clerks to request, correct, and update incorrect information contained in the pollbook.**

1. ~~Before delivering a member of an election board delivers~~ a ballot to an individual according to section 16.1-13-22, the poll clerks shall request the individual to show identification, which includes the individual's residential address and date of birth. ~~The~~ An approved form of identification may include includes:
  - a. An official form of identification issued by the state;
  - b. An official form of identification issued by a tribal government;
  - c. A form of identification prescribed by the secretary of state; or
  - d. A combination of any of the forms of identification under subdivisions a through c.
2. If an individual offering to vote does not have or refuses to show an appropriate form of identification, the individual may be allowed to vote ~~without being challenged according to section 16.1-05-06 if the individual provides to the election board the individual's date of birth and if a member of the election board or a poll clerk knows the individual and can personally vouch that the individual is a qualified elector of the precinct administered by the polling place. The individual shall provide the individual's date of birth to the poll clerk entering the name of the voter in the pollbook.~~
3. ~~If an individual offering to vote does not meet either of the options set forth in subsection 1 or 2, the election board shall challenge the individual's right~~

~~to vote and the individual may not vote unless the individual executes a voter's affidavit, as provided in section 16.1-05-06.~~

4. a. When verifying an individual's eligibility or when entering the name of an individual into the pollbook, poll clerks shall request, correct, and update any incorrect or incomplete information about an individual required to be included in the pollbook generated from the central voter file.
  - b. If the individual's name is contained in the pollbook generated from the central voter file, the poll clerks shall verify the individual's residential address and mailing address, if different from the individual's residential address.
  - c. If the individual's name is not contained in the pollbook generated from the central voter file but the individual is determined eligible to vote, the poll clerks shall record the individual's name in the pollbook. The poll clerks shall request and obtain any additional information for the individual required to be included in the pollbook.
- ~~5.4.~~ Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct to the proper precinct and voting location.
5. If an individual offering to vote does not meet either of the options set forth in subsection 1 or 2, the election board shall offer the individual the opportunity to execute a voter's affidavit acknowledged before an election board member.
6. The voter's affidavit must include:
- a. The name of the affiant.
  - b. The address of the affiant.
  - c. The birth date of the affiant.
  - d. The contact telephone number of the affiant.
  - e. The address of the affiant at the time the affiant last voted.
  - f. The previous last name of the affiant if it was different when the affiant last voted.
  - g. The identification number and state of any state-issued identification regardless of the state in which the identification was issued, if available.
  - h. A recitation of the qualifications for voting as set forth in section 16.1-01-04 and the rules for determining residence.
  - i. Notice of the penalty for making a false affidavit and that the individual will be required to provide an approved form or forms of identification showing the individual's qualification as an elector of the precinct to a member of the polling place election board while the polls remain open or to the appropriate election official before the meeting of the canvassing board before the vote can be counted.
  - j. A notice indicating the affidavit is not an open record, but information identifying who voted after executing an affidavit may be an open record as part of the pollbook, unless the individual is listed as "secured active" in the central voter file under section 16.1-02-13.

- k. A place for the affiant to sign and swear to the affiant's qualifications as a voter.
7. Upon the execution of the affidavit, the individual must be given a notice clearly stating the affiant's ballot will be counted if the affiant returns with approved identification to the polling place before the polls close or verifies the affiant's identity with the office of the appropriate election official before the meeting of the canvassing board. The notice also must state the hour at which the polls will close; the date, time, and location of the meeting of the canvassing board; and the address, location, and office hours of the appropriate election official.
8. The election inspector shall place the ballot of an individual who executes an affidavit under this section in a secure envelope designed by the secretary of state to protect the secrecy of the ballot.
9. If the elector returns to the polling place before the polls close and shows identification providing proof of qualification as an elector, the election inspector shall return the sealed envelope containing the individual's ballot to the voter to allow the voter to cast the ballot. The election inspector shall mark the voter's affidavit as "verified".
10. Each election inspector shall deliver to the appropriate election official a list including the name of each individual who executed an affidavit under this section who has not returned to verify the individual's qualification as an elector and each ballot cast by an individual on the list. The election official shall forward the ballot of each affiant verified to the official's office with approved identification to the canvassing board for canvassing and forward the remaining ballots to the county canvassing board marked as "rejected - elector failed to verify qualification".

**SECTION 4.** A new section to chapter 16.1-05 of the North Dakota Century Code is created and enacted as follows:

**Poll checkers.**

The district chairman of each political party represented on the election board may appoint up to three poll checkers to a polling place. A poll checker may not interfere with the election process or with the members of the election board in the performance of the member's duties. A poll checker may not be a member of the election board. The district chairman shall notify the county auditor of each county contained in the legislative district one day before the day of the election of the name of any individual the district chairman has appointed to serve as a poll checker in the legislative district.

**SECTION 5. AMENDMENT.** Section 16.1-10-06.1 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-10-06.1. Paying for certain election-related activities prohibited.**

**No**

1. A person may not pay another person any individual for:
  - 4- a. Any loss or damage due to attendance at the polls;
  - 2- b. Registering;
  - 3- c. The expense of transportation to or from the polls; or

4. d. Personal services to be performed on the day of a caucus, primary election, or any election which tend in any way, directly or indirectly, to affect the result of such caucus or election.

~~The provisions of this~~

2. This section does not apply to the hiring of a person an individual whose sole duty it is to act as a challenger duties are to observe the polls and to watch the count of official ballots.

**SECTION 6. AMENDMENT.** Section 16.1-15-06 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-06. Reports and pollbooks sent to county auditor - Compensation for making returns.**

Immediately following the canvass, except in cases of emergency or inclement weather, the inspector of elections, or one of the judges appointed by the inspector of elections, personally shall deliver one of the signed canvass reports provided for in section 16.1-15-04 to the county auditor. The sealed ballots of voters executing affidavits under section 16.1-05-07 and reports, carefully sealed under cover, accompanied by the pollbook provided for in sections 16.1-02-13 and 16.1-06-21 with the oaths of the inspector and poll clerks affixed thereto, must be delivered properly to the county auditor. The person making the return shall receive compensation therefor in accordance with section 16.1-05-05. The compensation and mileage must be paid out of the county treasury on a warrant of the county auditor and is full compensation for returning all used or voided ballots to the proper official.

**SECTION 7. 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 county recorder.**

After generating the reports and poll lists provided for in section 16.1-15-06 and providing the sealed ballots of voters executing affidavits provided for in section 16.1-05-07 for delivery to the county auditor, the election board shall cause the ballots containing lawful write-in votes cast at the election to be placed in a suitable wrapper to form a complete wrapper for the ballots. All ballots without write-in votes shall be wrapped in a similar manner. 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 names or numbers of the precincts and the date on which the election was held. The wrappers must be sealed securely in a manner prescribed by the county auditor 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 county recorder. At the meeting of the county canvassing board, the county recorder shall deliver the ballots containing lawful write-in votes from all the precincts within the county. At the meeting of the county canvassing board, the county recorder shall deliver each ballot that may contain a write-in vote referenced in a demand made under 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. The sealed ballot of any voter whose affidavit has been verified with the county auditor must be delivered to the canvassing board for tabulation.

**SECTION 8. AMENDMENT.** Section 58-04-09 of the North Dakota Century Code is amended and reenacted as follows:



**58-04-09. ~~Challenge to voter~~—Duty of judges.**

If any ~~person~~individual offering to vote at any election or upon any question arising at a township meeting is challenged as unqualified using the criteria provided in ~~section 16.1-05-06~~chapter 16.1-05, the judges shall proceed in the manner in which judges at a general election are required to proceed, adapting the affidavit described in ~~section 16.1-05-06~~chapter 16.1-05 to the circumstances of the township meeting.

**SECTION 9. REPEAL.** Section 16.1-05-06 of the North Dakota Century Code is repealed."

Renumber accordingly

**2011 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**HB 1447**

## 2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee  
Missouri River Room, State Capitol

HB 1447  
March 24, 2011  
15922

☐ Conference Committee

Committee Clerk Signature

*Katie Oliver*

### Explanation or reason for introduction of bill/resolution:

Relating to challenging the right to vote

### Minutes:

*Testimony attached*

**Representative Kim Koppelman:** The Secretary of State was very good about working with us and could work in a way that fits in with current law. As an overview I think that House Bill 1447 does 2 things. It ensures that we have the most open elections in the country and the second is to make sure that every ballot is counted. While our state has grown it has mostly grown in urban areas, today the election workers don't know the people who come to the polls. This simply says that when a voter comes to the polls and doesn't have ID with them, we don't want to inconvenience them but we want to make sure that the ballot box is protected. If they don't have any ID on them they must sign an affidavit. Once it is filled out they fill out their ballot and after they vote. The system for trying to police that is lacking as best... Even if when those votes were cast that we could prove that they were not who they say they are. Your ballot would be set aside in an envelope of some sort and you have a few options. You can return to the polls with your ID or you have a period of time 3-6 days to verify it with the county auditor. If not, your vote is not counted. That is one of the important parts of the legislation in my opinion. We are the only state that doesn't have voter registration; I like the open system in North Dakota. Every other state in the nation requires more verification.

**Al Jager:** Secretary of State. See attached testimony #1.

**Senator Nelson:** You accept student ID's but the address that they have on their IDs is a PO Box. I have a big concern of disenfranchised students.

**Representative Kim Koppelman:** It is something that came up in the House. In college towns and this idea has surfaced and discussed. There is no address on student ID's, however they have identification online where they can go as a student and verify that they live on campus.

They could also have something that comes out in September that informs the student that is they want to vote they need this printout.

**Al Jager:** We do not want to disenfranchise any voter. My concern is that the 45 days that we have now doesn't serve a purpose now. There are other issues that we could address and have the flexibility to address so we can get the number of absentee ballots down.

**Senator Nelson:** Do we require the same ID requirements of people who apply for absentee ballots?

**Al Jager:** There are some things that are requested of people who apply for absentee ballots, also the affidavit. They provide a residential and a mailing address, when they send the ballot back they sign. Is it a double standard, that argument could be made. Right now what we have in this situation doesn't seem to have the scrutiny that it needs. This ID part is part of the bill; there are other parts that improve the operation of elections.

**Jim Silrum:** Deputy Secretary of State. By and large the vast majority of voters are producing the necessary ID for the election.

Mr. Silrum then went on to explain pages 2 & 3 of the testimony handed out by Secretary of State Jager.

**Chairman Dever:** I would imagine that most of these issues show up when they are voting at a place for the first time.

**Jim Silrum:** You are correct. We have the poll books and that is why we have the books, the biggest time is when a voter has not issued an address change with DOT or a name change.

**Senator Cook:** 1992 I was a poll checker there was a part of Mandan that had been moved into the rural district. I watched many people walk in and vote only to get up there that they were in the wrong district. I watched as the thing was corrected by giving them affidavits to sign. That could happen tomorrow with this bill. What they did, I believe was wrong. How are we supposed to deal with that after we redistrict? What is the recourse?

**Jim Silrum:** That was in 1992 prior to the advancements in technology that we have today. Through a very simple process on the Secretary of State's website you enter your house number and zip code and it will let you know what the polling place you should go to in order to vote. It has cut down the number of calls to our office and to the county offices. Secondly, with the advent of other things in law, like vote centers, if a voter happens to see a polling location they can vote there and they will find the correct ballot for them. Are we going to have a hard time redistricting? Yes. Do we have more tools at our disposal than we did previously? Yes.

**Senator Berry:** It's my understanding that the responsibility to know where their polling place in. Is there a timeframe for publishing the information for them to find out where to go?

**Jim Silrum:** It is their responsibility, although we provide the tools to get that info. The publishing requirements for the polling places and the precinct maps are done in the month leading up to the election.

**Senator Nelson:** If indeed the university system was able to come up with some sort of info to

**Jim Silrum:** The list that I handed out with the acceptable form of IDs they are not all state issued, tribal id, for example. We would like to work with the colleges and universities to have this be an educational experience as well. If you are living in Fargo but grew up in Bismarck you can vote absentee in Bismarck. But if you have been at your address for more than 30 days before the election you are able to vote in Fargo provided they print out the necessary paperwork.

**Senator Nelson:** On page 3 you list the approved forms.

**Jim Silrum:** On page 3, line 14 subsections 3. That allows for the flexibility to allow the Secretary of State to have the conversations that he needs to have to do that. In regard to your other ID of the fact that we said written and it doesn't say that directly in the bill, we would support the change to amend the bill.

**Kevin Glatt:** Burleigh County Auditor/Treasurer. See attached testimony #2.

There was no one else present to speak in support, opposition, or a neutral position on HB 1447. Chairman Dever closed the public hearing.

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Government and Veteran's Affairs Committee Missouri River Room, State Capitol

HB 1447  
March 31, 2011  
16255

☐ Conference Committee

Committee Clerk Signature

*Kate Oliver*

### Explanation or reason for introduction of bill/resolution:

Relating to challenging the right to vote

### Minutes:

*No testimony attached*

**Vice Chairman Sorvaag:** I am getting feedback from the auditors that they are unsure why this is such an issue.

**Senator Nelson:** They are the ones that are going to have to take care of this.

**Chairman Dever:** That may be part of their objection that they are going to be the ones to do it.

**Vice Chairman Sorvaag:** Right now I am not going to support the bill.

**Chairman Dever:** I think that this was in Government and Veterans Affairs in the House.

**Vice Chairman Sorvaag:** Where is the problem that we've had that everyone thinks that there is fraud going on.

**Senator Berry:** Having something in place to prevent someone doing something of this nature. And it would have to be in the larger cities especially because in the smaller cities people know each other.

**Chairman Dever:** If you are voting where you are not supposed to be or voting more than once you are in trouble.

**Senator Berry:** You are in trouble but the vote still got counted and I don't think that it should be counted that's why I am more in favor of making sure that person is eligible to vote.

**Chairman Dever:** I sat on the canvassing board for the county this last time and questions come up sometimes with absentee ballots. You sign an affidavit to get the ballot, you sign the envelope when you send it back in and those signatures are supposed to match. Some of them pretty clearly don't match.

**Senator Berry:** That is my point, it can make a difference. The idea of election law is that it is made for those and that it is a free and open election.

**Senator Nelson:** One of my problems with this bill is that there are different sets of rules for citizens who vote in person and citizens who vote absentee. There was only one person that they caught in the last election who is being charged with fraud so one out of Cass County is not a huge problems.

**Senator Berry:** But how many people did they not catch.

**Chairman Dever:** Some of the problems with people voting twice in the future will be taken care of because of the central voter file.

**Senator Nelson:** Some people could just be uninformed. Usually this is only a problem with first time voters.

A motion was made by Senator Nelson to amend the bill with Vice Chairman Sorvaag seconding the motion. There was no further discussion, roll was taken, and the motion passed 5-1-1. A motion was then made for a do pass as amended by Vice Chairman Sorvaag with a second by Senator Nelson, there was no further discussion, roll was taken, the motion passed 5-1-1 with Vice Chairman Sorvaag carrying the bill to the floor.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1447

Page 1, line 5, after "vote" insert "; and provide for a legislative management study of residency as pertains to voting and additional consolidation of political subdivision elections with county elections.

Page 8, after line 7, insert:

**"SECTION 10. LEGISLATIVE MANAGEMENT STUDY – VOTING RESIDENCY AND ADDITIONAL CONSOLIDATION OF POLITICAL SUBDIVISION ELECTIONS.** During the 2011-12 interim, the legislative management shall consider studying residency as pertains to voting and additional consolidation of political subdivision elections with county elections.

Renumber accordingly



Date: 3-31-11  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1447

Senate \_\_\_\_\_ Committee \_\_\_\_\_

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

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

Motion Made By Nelson Seconded By Sorvaag

Senators	Yes	No	Senators	Yes	No
Chairman Dever	X		Senator Marcellais	X	
Vice Chairman Sorvaag	X		Senator Nelson	X	
Senator Barry		X			
Senator Cook					
Senator Schaible	X				

Total (Yes) 5 No 1

Absent Cook

Floor Assignment \_\_\_\_\_

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

Date: 3-31-11  
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1447

Senate GVA Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sorvaag Seconded By Velzen

Senators	Yes	No	Senators	Yes	No
Chairman Dever	X		Senator Marcellais	X	
Vice Chairman Sorvaag	X		Senator Nelson	X	
Senator Barry		X			
Senator Cook					
Senator Schaible	X				

Total (Yes) 5 No 1

Absent Cook

Floor Assignment Sorvaag

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

**2011 HOUSE POLITICAL SUBDIVISIONS**

**CONFERENCE COMMITTEE**

**HB 1447**

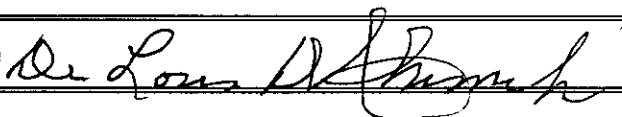
# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Political Subdivisions Committee Prairie Room, State Capitol

HB 1447  
April 12, 2011  
Job # 16500

☒ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Relating to challenging the right to vote.

### Minutes:

**Chairman Koppelman:** Called the conference committee to order. Roll call was taken with all members present. Let's begin asking the Senate about their amendment?

**Senator Sorvaag:** We looked at your bill and in our committee there were some that agreed and disagreed. The primary purposed was to verify people when they use an affidavit. We felt at this time that we did not see that there was that much problems going on anticipating there could be and that is why the committee looked at it that we should just study and make sure this is the way we want to go forward. I think it is important. We don't want people voting if they are not suppose to vote but we don't want to disenfranchise people either by making the process too cumbersome. That is why we moved it to a study.

**Chairman Koppelman:** Just coming from the House prospective and a little bit of background on this bill and previous efforts to deal with this same issue. This is not a new issue. We have talked about it for several years now in North Dakota. I was very pleased how this all came together this session because the Secretary of State's office essentially wrote the language of 1447 as it was amended and came over to you from the House. Not the original bill, but the version you got. We conferred with them and basically deferred to their wisdom because they deal with these issues every day. So I think the bill is in good shape. I think the main question that we really need to grapple with as legislatures in the state of North Dakota is 1. The fact that we have the most open voting system in the nation, but it is also a dangerous thing potentially. We are an honest state and we pride ourselves in that was well; but that doesn't mean every individual is honest. The question is do we care about the integrity of the election process. Do we want to insure that that integrity is insured in some way? You say this is a little thing and it is not happening and it is not a big deal. When we had the hearing on this bill in the House and I heard the numbers and I know they vary a little bit. The numbers we got from the Secretary of State's office was Cass County because that is the county I am from and some of you are from. It was over 2,000 people in the last election that voted with affidavits. The election prior to that, the numbers were over 4,000 people. That is a lot of people and when you have elections being decided by 3 votes or 100 votes it is pretty common in North Dakota. When you have 4,000 people that you are not sure if they are eligible to vote or not; that is a potential

problem. I am not saying every one of those votes is fraudulent, of course not. But we have no way of knowing that.

**Senator Nelson:** We get a lot of these in Senate GVA and I think this is the one. We were concerned also that for checking things on people who actually show up to the polls and vote, but we didn't have something similar for people who vote by mail. If you are voting in Cass County a lot of folks voted by mail. It is not equal. We are not doing that kind of test on people who vote by mail. The follow up to Cass County was only one person was charged with fraud out of all of those people. That is not a major difficulty.

**Rep. Hatelstad:** The interesting thing on the testimony on Cass County; they mail out a postcard and if you don't send it back they assume you are a legal voter. That to me is backward. I am just going to ignore it and throw it away. Whether I am legal or illegal and so they just assume that I am legal?

**Senator Nelson:** The Fargo post office is legal about delivering things. If you don't have your apartment on there is come s back to the sender. If those postcards were not returned those people were probably at that address.

**Chairman Koppelman:** I think that is a big probably because I told the story in the House hearing on this bill that had just happened to me because we were having our mail held, and this is the West Fargo post office, not the Fargo post office. We had tried to get into the post office on Saturday morning and pick it up and I was given a big basket of mail to take home and it wasn't until we started going through and said they gave us somebody's else's letter by mistake and they were all somebody else's mail. They had given us the wrong basket and I rushed back and actually they were closed. I beat on the door and got them to finally open up and take it back. I get incorrect mail all the time. Either it is the neighbor's piece of mail that was miss delivered to my house or it is a postcard mysteriously at my address, but it is somebody I never heard of. I usually put those back in the mailbox and put the flag up because I want whoever that was suppose to go to get it. I am not sure they pay the same attention to postcards as they do letters. I know for a fact that not every piece of mail that is miss delivered to an address is returned to the sender. I think that is a major issue. On your other point about who is prosecuted I think that is a key question. We don't know how many of those were fraudulent and that is a wholly inadequate system in trying to determine whether someone lives there or not. The word disenfranchising has come up in both hearings. Let's ask ourselves what we are really talking about when we talk about acquiescing someone of disenfranchising a voter? Like I said earlier, North Dakota has the broadest, easiest election system in the nation. We are proud of that. I have voted against the measurers for voter registration when they have come before us in the legislature over the years I have been here because I think our system is good. But it is not perfect and to avoid having voter registration I think we need to take some steps to ensure that our system has the integrity that we all want it to have. So what do we really mean when we throw this acquisition out of disenfranchising a voter? If we have perimeters; every other state in the nation we have to prove identity before you vote because they have registration. We are the only state. Minnesota has same day registration, but even then you have to go register and prove who you are and then you get the right to vote. In North Dakota we don't do that so to ask someone to do that when they come to the polls to me is a minimum standard and secondly when we say disenfranchised

what are we really saying? If we say the polls are open until 7PM then they close at 7PM and someone shows up at 7:30PM and says sucks I thought I could vote until 8PM. Is that individual disenfranchised? I don't think so. We have given perimeters; here is the day, place you vote and here are the hours you can vote. To imply that when someone doesn't meet the standard and they don't vote as a result we are somehow disenfranchising them I think is a bogus argument.

**Senator Sorvaag:** I think to expand on what Senator Nelson said the focus was on the affidavits. All this mail in voting is based on affidavits too and there really isn't a standard; but we are holding them to the standard of these affidavits so that was kind of the thought to go into the study. Do we need to figure out how we are going to handle affidavits up and down the system because I know there is a little check and balance at the mail box but the reality is it is right for fraud and mail in voting too? I am not for registration. I am proud of our open system and I think that is why the mind set; let's do the study and really look at the whole thing. Because we are expanding this mail in and that is going to continue to expand the way it looks and I don't have a problem with that. I think that is why we wanted to look at the whole picture and do a study.

**Rep. Zaiser:** I spoke of disenfranchise in committee and I spoke of it in particular the young people that this would make it more difficult. The other thing that I want to make a point; majority leader came up to our committee and testified on one of these bills. I am not sure if it was thing one. One thing I recall him saying is that we need to do everything we can to make voting as simple and as easy as possible and not disenfranchise anybody from voting. I think what lead to that commit is that I was asking about our voting record. I do want to say he was supportive of making it clear and easy. I don't see that there have been a lot of problems. When you look at that number I don't think that says that there was only one person that was caught. I don't think it says there are a lot more out there that should have been caught. I am concerned that we are over reacting. Maybe we should just do a study first.

**Rep. Hatelstad:** When you and I walk into the poll we have to provide identification. The Secretary of State's office gives you a host of different ways in which you can do that. I don't understand the problem if I have to produce identification why not the individual that comes to vote at the polls. It shouldn't be a problem. It is and should not be a surprise. The Secretary of State publishes it weeks before the election you need identification so I don't see this as a problem. I think this is a good idea and I don't think we are pushing a person any further. I think it is a reasonable request.

**Chairman Koppelman:** I think the other piece to that we need to remember is that the Secretary of State's office indicated that they are intending if this bill passes to mount an education campaign so that voters know and are reminded to bring their ID etc.

**Senator Cook:** The whole voting process is the basic core of the democratic process and we certainly don't want to see somebody win an election because of voter fraud but to what degree we have any of that I am not sure if we have a great degree. I have to show an ID every time I vote and voting on Election Day is just like mom and apple pie to me. Have we ever done a study of this in the past?

**Chairman Koppelman:** I am not sure I can answer that.

**Senator Cook:** I know that we have people that do this. They live all their life on a farm and ultimately they move to the big city somewhere; yet they continue to go back to where they owned the farm and vote there since it is the most important place for them to cast their ballot on issues that are important to them. They are in the voting record of that home voting district yet and that is what is going on today. Is that our intent with this to stop that?

**Chairman Koppelman:** My intent as a sponsor of this bill to insure that people are voting with identification and that they are who they say they are. I am not aiming anything at any particular person or group of people or any particular practice.

**Senator Cook:** Would it be an unintended conscience?

**Chairman Koppelman:** I suppose it could.

**Senator Cook:** When we do put a law in effect that is going to change how people are able to vote; we should make sure if that is going to be a conscience we understand it; we fully realize it; we discuss it; and we determine ourselves that is what we intend to do and justify it and I would hope that we give those people the opportunity to stick to the wisdom of that policy change. That is one of my concerns that kept me from embracing the bill that you brought before us. This is a very important issue; how people vote and they all look at it a little differently and we want to make sure we know all the consequences of it. That we fully vest the discussions and I think that leant a lot to the committee to put this into a study so we truly know what it is we are doing and what all the consequences are and we say this is the consequences we want.

**Rep. Hatelstad:** In response to your question it seems to me that state law says wherever your official residence is located. If you declare that farm your official residence then I would think you have every right to vote there. If you change your residence to Mandan, I would assume that would be where you should vote and that person should know that.

**Senator Cook:** Mr. Chairman and Rep. Hatelstad it comes down to the residency issue and our residency laws. We have a lot of different definitions for residency depending on how we are applying it. One of the residency definitions is polling and another one is where you pay your taxes. Our concern is as we move forward and do something as important as this that we truly know what it is we are doing and again that the people who are going to be effected by it truly understand and have the opportunity to speak to the consequences of this bill.

**Chairman Koppelman:** I think what the law currently says is something to the effect that residency is defined by the union of act and intent. I think what it has traditionally meant in North Dakota is allowing something like you are talking about or at least not aggressively disallowing it. However, I am not sure this would change that. The reason I say that is that if are voting one place and spending some of your time somewhere else, if you have declared by the union of act and intent, the former to be your voting residence I am assuming when you go to the polls to vote there are people there that know you and one of the ways that you cannot show identification is if someone vouches for you. If one of the

election officials vouches for you. That suffices as identification under the law. Secondly, we have talked some about absentee voting and I assume some of these folks are voting through that process as well. I am not sure that this would have the kind of impact that you infer Senator Cook.

**Senator Cook:** I think you just answered it does when you make reference to assumption that somebody might be there that know you. I could assume that maybe nobody there might know you too. It could be somebody that moved from the big city out to a farm to live with their family.

**Chairman Koppelman:** But if you have a utility bill or some other form of identification it doesn't have to be a drivers license; we already allow for a wide variety of identification. I think the key question there is if you attempted to vote both places that would be caught because of our voter file but I don't know if it would really be a bar. Should it be? That is a whole another discussion.

**Senator Nelson:** We asked about students because if you live in a residence hall you have a box number. Box numbers are not acceptable. Their driver's license usually has their home address. If they want to vote in District 45. University said yes they could out a sheet but is that an official identification. We would have to designate that it is. Rep. Zaiser and I have a nursing home and a college in our district. Some of those folks in the nursing home still want to go home on the farm. They have neither an ID and if they do it is a senior ID because they certainly are not driving; they are not paying their utilities and maybe they will vote by absentee or mail ballot. One of my biggest concerns with this was we are not being equitable between the people who vote on site and the ones that vote by mail. I thought the same rules should apply to both.

**Chairman Koppelman:** We have worked very hard. For the senior piece my mother lived with us until she passed away, but we had an ID that was issued by the DOT, but it was a valid government issued ID showing where she lived. So those are certainly available. As far as the college piece. That was an important question that came up; not only on this bill this session, but on bills during the last two sessions when we have looked at this issue and tried to address it. That was why I visited with Dean Bresciani, President of NDSU about this. I said this is an issue. How do we deal with it? He said that shouldn't be rocket science. There should be a problem figuring out a form of ID so they suggested. They said they could have a sheet that could be printed out and they could put out a notice to students who intend to vote at the school versus back home indicating that you have to take this to the polls with you when you vote to prove you are eligible to vote here. If they failed to do that they would have the same right under the bill to come back with it later etc. as anyone else would have with any other form of ID. I think the way current law reads, I don't think the bill would change that. It is the Secretary of State's prevue to determine what form of ID is acceptable. Their office could do that and work with the colleges if this bill were passed to insure by the next election there was a clear process in place.

**Senator Cook:** You brought this issue forward. I think you brought an issue forward that needs to come forward. We as public policy makers need to address and make sure that it is fair and honest. The bill that ended up in the Senate people still has some concerned with it and I think the one thing we do want to want to make sure that we do is when we go



down the road and address this issue and finally put it in law the final changes, we want to make sure we are comfortable with it. That everybody that is going to be affected knows about it and I can't help but think that if we put this thing to a study that we might just get a little bit better bill. Maybe we will come out with the same bill, but I doubt that we would. You have the issue here that we need to go down. We need to have a discussion on it and I just think it is imperative that we make sure what we do is right and so that being said I **would move that the House accede to the Senate amendments and that we pass this bill. Seconded by Senator Nelson.**

**Chairman Koppelman:** We have a motion and a second that the House accede to the Senate amendments.

Discussion:

**Senator Cook:** I compliment you in bringing this issue forward. As we move forward I would hope that we make sure what we do with this important issue that we do very deliberately and we make sure that we can defend it and it is correct and doesn't have unintended consequences.

**Chairman Koppelman:** I would not necessarily oppose a study. I think a study going forward to deal with some of the issues that have been discussed that aren't addressed in this bill might make some sense or to revisit this issue and see if it can be improved in any way, however, I should point out a couple of things. One is that this is not a new issue. We have been looking at this for several legislative sessions. We have not crafted the language that we thought was the best workable language to get an agreement and pass out of here. I was hopeful that would occur this session especially when the Secretary of State's office came forward and crafted this because I think there is not a greater group of experts in the state than those who are the chief election administrators in that office. I think this bill is in good shape. Does it address every possible issue we could think of with respect to voting, no of course not. Should we still study it? Should we look at options for addressing the absentee voting? This bill is silent on that, it doesn't address that issue. That is something we should probably look at, but the perfect should not be the enemy of the good. So to bury our heads in the sand and say we are going to do nothing for two years, I don't think is the answer either. I think the bill does take us down a road that would improve things greatly and we could still work on solutions. Any further discussion? The motion is for the House to accede to the Senate amendment.

Roll call: 4 Yes 2 No Motion failed.

**Chairman Koppelman:** Two from each side so motion fails. We have had some good discussion. I am not again opposed to studying things, but I don't think if it means throwing out the work that has been done so I hope you will consider that the next time we meet.

Adjourned.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee  
Prairie Room, State Capitol

HB 1447  
April 14, 2011  
Job # 16598

☒ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to challenging the right to vote.

## Minutes:

**Chairman Koppelman:** Reopened the conference committee meeting on HB 1447. Roll call was taken with all members present. The last time we were discussing the various perspectives and any further discussion or things that you have thought about since we last met?

**Rep. Zaiser:** I am considering throwing a study onto this bill in addition to the regular bill. Have both of them with the study attached to the House bill.

**Chairman Koppelman:** The bill as passed by the House is the language regarding the procedures for voting. The bill as passed by the Senate was that language all taken out and a study resolution. I think Rep. Zaiser what you are saying is melting the two as a compromise. Is that correct?

**Rep. Zaiser:** I would move to House to accede to the Senate amendments and further amend with the House language so the resolution of that if passed would be that both the House bill and the Senate study would be the conference committee version if that passed. Seconded by Rep. Hatelstad.

Discussion:

**Senator Sorvaag:** Basically we have your bill with our study on your bill.

**Chairman Koppelman:** That is correct. We did not plan this in advance. But I think then what we have is the committee in the Senate apparently didn't like the House bill for some of the reasons we have talked about so you turn it into a study. The House has already defeated a study resolution similar or identical to this. The Senate has not voted on the whole bill because they adopted the amendment you presented so I guess I would see this, if we pass it, as a bit of a compromise. We would have the left on the House side of trying to convenience them to agree to a study which we previously rejected. But I would be willing to try if the committee thinks it is wise.

**Senator Sorvaag:** I don't think it still gets beyond some of our objections with your bill. Our feeling was that we should study before we implement everything. There hasn't been a feeling that the problem was at that level that it needs to be done without studying and incorporating all the other issues in there. No they haven't actually voted on your bill, but the Senate approved our amendment which eliminated your bill, which was part of the discussion when the amendment was presented to them.

**Chairman Koppelman:** That is why I said it would represent a compromise if we were to do this. As to the point of whether this is right for action or needs study before we do it, I think Senator Cook you said at our last meeting to the effect that perfection is always a work in progress or something like that. So every time we do something here in the legislature we get it as good as we can. We try to put bills in good shape; that is the reason we have two chambers; that is the reason we have committees, and that is the reason we have conference committees. Having looked at this issue at least three sessions it is hardly new. It has had many hearings in different forms and so I think the question is should we do something to fix what we know is a problem rather than fainting from that because we don't believe we can do everything to perfection. I think that is wise. I would hate for us for example to read headlines during the next election cycle saying voter fraud in North Dakota and the sub note being the legislature had an opportunity to do something about this and didn't so I think personally we should do what we can do now and then look at other things we might think are issues in the intern and come back and this would allow us to do that.

**Senator Cook:** I would hate to do something in a piece of legislation that causes the headlines to say that causes the headlines to say that the legislature did this and it disenfranchised voters. The road to perfection is always under construction, but before you set there and endorse something it has to have some degree of sound policy in it. I think this one has a ways to go yet. We have work to do if we are going to pass a bill then the language that we are going to pass certainly needs a lot of work yet. I think the study; we may have had legislation in the last three sessions; but to what degree we have actually sat down as a body and gave the attention we need to as a body to give to make sure that we do put a sound piece of policy out there. I don't think we have done that. I don't know to what degree the Secretary of State's office that is really in the front line of all elections, has been able to have input into this type of legislation. I know you said he has helped with this piece of legislation, but I am not comfortable with it yet.

**Chairman Koppelman:** Just to clarify, the Secretary of State's office essentially wrote the bill as it was passed in the House. Mr. Silrum came up with the language. If you look back to the original version of the bill it dealt with some of the same issues, but it was crafted very differently. I credit the Secretary of State's office with doing what they did because they came to us and said we understand what you are trying to do. We know there is a problem that you are trying to solve. We realize there is a problem and here is how we think it can be solved. So the language came from them; we sat down, two of the sponsor's of the bill with Mr. Silrum before the House voted on that amendment and went through every section. Essentially it was entirely their language. I am not saying it is the best final product that can possibly be crafted, but I am comfortable that they were involved. If this motion fails we can continue to visit with them. That is fine with me. The

other thing I want to emphasize was the question of the practice of post cards being used as the only mechanism to determine validity of voters. I would like the committee to consider this form a moment. As I mentioned depending on whose numbers you look there is somewhere around 2,000 of post cards that were sent out in Cass County alone. The county which three of us here reside in and represent during the last election cycle. During the previous election cycle there were about 4,000 post cards that were sent out. Because there was that many affidavits filed. Because that many people came to the polls that did not have identification; who were not known election officials and who simply said I am so and so and I live here and I have a right to vote here. The procedure we have currently is they fill out that affidavit and the ballot goes in the box and there is suppose to be a follow up mechanism so I would like us to think about two issues with regard to that. I am not acquiescing anyone of mischief or fraud here, but if a substantial number of those 2,000 or 4,000 people were up to something and we trying to vote where they we not entitled to vote and we have elections that are being decided by 2, 5, 10, 40, 100 votes and it could even be proven that 500 or 1,000 were fraudulent what difference would it make? What incentive is there to try and prove or try to question whether voters are valid if their ballot is already in the box? It is not going to affect the outcome of that election. The only thing it would affect is whether there was a criminal case against some individuals so that is the huge flaw in our current system. Now what I have done since the last time we met is that I did call the post master about this and I said I just wanted to ask you about post cards. What happens with post cards if you get a wrong post card do you check and see if there is a John Smith at my address and do you send it back if there is not? We try, if we know the people, if we are able and there is no guarantee that is going to happen. It is a night mare when it comes to apartments and a lot of places where property turns over very often. I have no doubt that a lot of them slip through the cracks and we deliver to the address. So I said then it is up to the receipt ant to say, I just got a post card addressed to John Smith; it is a post card and it must not be anything important since it is just a post card so I throw it away. It is addressed to John Smith and he does not live here so I am going to write on here no John Smith living at this address and I am going to take it back to the post office and give it to them saying there is no John Smith living here or I am going to put it in the mail box with a flag up. I think to say there isn't much fraud because there isn't much invalid voting going on because we are not getting a lot of post cards back is like living in wonderland if we believe that. I just think this is something; whether the wording of this bill is perfect or not I can't say, but I think this is an issue where we clearly need to deal with. Question has been called and the motion is that the House accede to the Senate amendments and that the conference committee further amend with the language of the bill as passed by the house so the final bill would contain that language an optional study. Clerk will call the roll.

Roll Call Vote    3    Yes    3    No    Failed

**Chairman Koppelman:** Motion failed. What are the wishes of the committee? Do we want to discuss more now or do we want to visit about it further. I understand the Secretary of State's office has been working on some ideas so maybe it is appropriate for us to visit with them and schedule a time to meet with them again.

**Senator Sorvaag:** I would concur with that.

House Political Subdivisions Committee

HB 1447

April 14, 2011

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Adjourned.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee  
Prairie Room, State Capitol

HB 1447  
April 15, 2011  
Job # 16652

☒ Conference Committee

Committee Clerk Signature

## Explanation or reason for introduction of bill/resolution:

Relating to challenging the right to vote.

## Minutes:

Handouts #1, #2

**Chairman Koppelman:** Reopened the conference committee hearing on HB 1447. Roll call was taken with all members present. We defeated a motion at the last meeting that we had and we received as we were leaving some language from the Secretary of State's office had worked on so we appreciate their hard work. What are the wishes or discussion of the committee?

**Rep. Hatelstad:** I was wondering if the Secretary of State's office had the new stuff that we were working with yesterday.

**Jim Silrum:** Secretary Jaeger handed out some information yesterday. I am hopeful that our changes are self explanatory and I am not needed.

**Chairman Koppelman:** We will ask the intern to make some copies and then we can take time to review the handouts 1 & 2.

**Jim Silrum:** The copy that you are going with includes the changes that you requested.

**Chairman Koppelman:** (handed out 1 & 2). I believe that the red text in that one is the changes that were made. Since we last met I have been visiting with Mr. Silrum who has been working on these amendments and they have come up with some potential compromises that I think make a lot of sense. There were two issues the Rep. Hatelstad and I had as we read it together. I want to certainly give you time to read over these changes. If we need to come back we can do that. It would change the process and do away with the affidavits that we do now and that are called for in the House version of the bill that was written earlier by them. It would eliminate the issue of coming back with identification, which has raised a lot of questions. It would allow instead of an affidavit for an individual to vouch for another voter. The one thing we asked for was it said you could vouch for up to four different people at the polls. Certainly we don't want a bus of people with five who have verifiable addresses vouching for the other fifteen who don't coming to the poles. We asked why four and as we discussed it later maybe you should only be able

to vouch for one? What about apartment dwellers and that kind of thing. If a utility bill is in the name of one of those folks and the other's live there and the one who has got the utility bill knows the others live there should he or she be able to vouch for more so you could only vouch for one other person unless you're in the same household. I think the only other thing was the question of what happens with these vouchers. The forms people sign for someone else; are they treated similarly to the affidavits now. I think they would be similar in terms of how they are treated. The county auditor or school board administer or whoever is responsible election official at that election would take that information and look at it and if there were questions would forward it to the states attorney and they would investigate and see if there are any concerns or questions and if there were just like with the affidavits now they would prosecute in a similar fashion. What it changes about the process is there no more affidavits; no more coming back with identification and I think those were some of the main questions that have been raised about what we talked about earlier. The Secretary of State's office will do a campaign to encourage voters to bring identification when they come to the polls and then also work with the college campus's to make sure that they have the kind of identification that we have discussed earlier is available and is usable as identification for students. In the law it allows the Secretary of State both currently and with any of these changes, to designate what types of identifications are permissible so that is where the issue of the utility bill and all those kinds of things have come from in the past and that wouldn't change. The other piece of that is a mandatory study. In the House we don't like to pass those, but I am willing to take that to the House because I have heard what the Senate has to say about the need to study this. I agree that there is a need and I see it as something that needs to be looked at and needs to be looked at broadly. We may want to look at the study language and maybe it could be simpler. We might want to leave the scope broader on the study. The House actually had two bills we looked at. One was essentially this bill with some other provisions that addressed early voting and addressed vote by mail or absentee voting. That bill did not pass. If the committee would like to discuss these options this maybe a possibility for compromise and something we could endorse and still forward the study option that was earlier defeated in the House, but I see the wisdom in the Senate requesting it.

**Senator Sorvaag:** I want to note that I like the concept that it is going to hold two people accountable. I think it is a good compromise what I am looking at here. We do want the study because I think we all realize we need to address this. We are a growing state and community and we want to address those issues, but to do it in a way that we don't scare away the voters also.

**Chairman Koppelman:** As I read the words to the study I am not sure I have an objection to it either. I was just raising the question of whether it could be simpler.

**Rep. Zaiser:** I had the opportunity to talk to an individual that was actually quite familiar with the HAVA Act and he talked to me about there ought to be a phone number available for everybody that had a problem and been rejected from the poll site or needed an affidavit. Now I am in a position of backing off on my support of the bill seeing that this is a pretty complex issue and we want to be right with the federal legislation that is out there.

I did oppose it on the House floor so I am going to resist support for the amendment although I think you made a noble effort.

**Chairman Koppelman:** It was really the Secretary of State's office that crafted this language. I think one thing important to point out though in note of Rep. Zaiser's comments is that this compromise language could not involve affidavits anymore. That would go away and so would the issue of coming back with identification that was in the House bill.

**Senator Sorvaag:** I appreciate all the work that is being done here, but I think on this side we need to look at all these pieces before anybody is ready to move forward on anything and look at all the options of how it ties together.

**Rep. Hatelstad:** I just wanted to thank Jim and the Secretary of State's office for all the work they did yesterday. Jim was an excellent sounding board; at some time he might have thought he was a dart board but he handled it very well and came up with some really good suggestions.

**Chairman Koppelman:** I would second those comments. Both Jim and the staff have really worked hard on this. I was told they worked overnight a few days ago so they have gone above and beyond the call of duty. Not only here on this document but also on the House when we came in with a bill was that unworkable in the real world. We looked at it as legislatures and not as election officials and they came back with language in the House and said we know there is a problem; we agree it needs to be solved, but we are not sure your language does it effectively and so let's work with you and here is language we think would accomplish it. It is important for us as policy makers to make public policy but it is equally as important that the policy be workable. With respect to the Senators request we will stand adjourned.



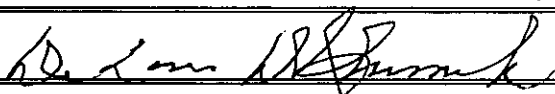
# 2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee  
Prairie Room, State Capitol

HB 1447  
April 18, 2011  
Job # 16710

☒ Conference Committee

Committee Clerk Signature



## Minutes:

**Chairman Koppelman:** Reopened the conference committee hearing on HB 1447. Roll call was taken with all members present. There has been a request to have the Secretary of State's office walk through the amendment that they are suggesting and give us some insight into the thinking and the functionality of how this would work. We don't reopen hearing in conference committees but I think given to what we are dealing with here it is appropriate to do that so if Mr. Silrum would like to come and explain things a little bit that would be good.

**Jim Silrum, Deputy of Secretary of State:** The whole premise of provisional or held ballots has been removed from the text completely. There is no such thing as that anymore. What would happen is when a voter comes to vote they would be asked for identification. Already 98% of the people of the people in ND are producing identification. For those who don't if a poll worker knows who they are just like in the past a poll worker can identify them and say yes you are a qualified elector. I know you to be my neighbor; therefore you come and vote. If that is not the case however; an elector or a voter who wants to be qualified to vote, but does not have an identification that shows their residential address they can bring another qualified elector who can be verified by their ID to have that person say yes I know this person to be a qualified elector and I am willing to vouch for him or her. Then both the elector and the other elector would be required to sign a documentation listing the items that are identified there in 16.1.05.07 which you will find starting on the bottom of page 2 and top of page 3. That quickly identifies what would be the case. When the voter appears and votes in that way and indication that they are verified by another elector would be made public in the poll book and then after the election is over all of those forms that have been completed by electors will be reviewed by the county auditor or the appropriate election official to see if there is anything of note to pay attention to on those forms and if there is some reason to further investigate the appropriate election official may do so even calling in the State Attorney to do that further investigation. An elector can vouch for one person who lives outside of their household or they may vouch for up to four people living at the same household. Our thinking was that a college student who is living in an apartment one of those may have the rental in his or her name and therefore only the utility bill or the rental agreement that they would be using as ID would come to them so therefore they could vouch for up to four roommates, if they so chose. That quickly represents it. If there are any questions I would be happy to stand for them.

**Senator Sorvaag:** You are comfortable this will work in the real world pretty good?

**Jim Silrum:** Yes we are comfortable that this would work. It is actually a better solution than holding onto ballots because that just causes additional work. We have come in with public testimony this session saying that the research that is done; which is done 45 days after the election, is beyond the point in which an election can be contested so therefore our current solution is a broken solution. Yes there would be a difference that would happen. No longer could a person come in and vouch for themselves; which is essentially what an affidavit is. They would be asked to bring along a known qualified elector to vouch for them instead so yes there is a change that would happen.

**Chairman Koppelman:** If I am understanding the current change correctly the affidavits would go away and that has been a subject of a lot of the concern not only about legislation, but about the current status. The postcards that go out to verify those affidavits wouldn't be an issue any more because that wouldn't be happening. Also, the current language that talks about an election official challenging a voter; that would be gone as well. Is that correct?

**Jim Silrum:** You are correct on all points.

**Rep. Zaiser:** The question as to a known qualified elector. Is that anybody in the written list? I could see where that could be challenged.

**Jim Silrum:** The understanding that is there is that a person who is able to identify themselves with identification and that is spelled out within the language or text here. If I appear with a utility bill I am a verified elector because that shows that I live where I say I live. If I show up with a drivers license that identifies my current residential address nine times out of ten those people are going to be found in the poll book as well. It does not preclude or necessitate them being in the poll book. It just means that they have an ID that proves they live where they live.

**Rep. Zaiser:** Getting back to that qualified elector again; that cannot be another person that is just known to be living in the district. A qualified elector has to be one that has documentation, correct?

**Jim Silrum:** You are correct in your understanding with that. Just like the 98% of us that appear at the polls with ID; that is one of those persons.

**Chairman Koppelman:** You made a statement that the current system is broken or words to that effect. You think this then would be an improvement of how that would work? If the bill were to pass as we see it before us would the outcome in your opinion be that the system is improved and that we are studying this so in the next session we can deal with some of the other issues that have been talked about that might be cause for concern and hopefully fix some more. Is that how you are seeing this?

**Jim Silrum:** We do believe that the current path that is used is broken. We do believe that this will address some of those issues. As Secretary Jaeger reminded me to emphasize a

big portion of what we intent to do in this intern as well as the study that would go on is we intend to mount a significant education campaign because we believe that it should be 100% of our electors should be able to have some form of identification that they can show to prove they are who they say they are. So our emphasis is going to be much more on the identification that people are going to be able to bring so that they will be able to show that they are a qualified elector. This provision for an elector vouching for another elector is the safety net for that person who forgets to do that. We will be working with the colleges; utility companies, and all the avenues will help those people who don't necessarily have ID's that show where they live. We are trying to broaden what people can bring to the polls to show ID, but if all else fails and they are a qualified elector there is a safety net with another qualified elector vouching for them.

**Rep. Zaiser:** There is an individual that is a lobbyist for NDSU School for students. I was wondering if he is familiar with the bill enough to comment on this.

**Chairman Koppelman:** We really don't want to reopen the hearing on the bill. The only reason I allowed Mr. Silrum to come forward to explain is because their office basically worked very hard on the amendment. We have had testimony in the past in both the House and Senate hearings on the essentially substance of what we are dealing with here and I believe the individual you are referring to represents the student body. I don't know if he represents the universities. I had personally spoken with the president of NDSU and explained that and that there is a process in the works and very workable and available that we will facilitate these issues. Mr. Silrum just said their office is going to work very closely with the colleges to resolve any issues that might be there. You are free to visit with him on your own and if you have incites to bring to the committee next time based on that we would welcome that.

**Rep. Zaiser:** I think we have changed the bill significantly and I think one of the issues we are discussing here is the students and are they being disenfranchised? That is why I thought it might be alright for a quick comment.

**Chairman Koppelman:** I don't want to be hard noses about that but we have heard today about Senator's having 10 different conference committees etc and I would invite you to visit with anyone you wish outside of the committee hearing and feel free to share that with the committee later if you would like.

**Senator Nelson:** Mr. Silrum, you mentioned talking to the campus and the utilities. Another place to talk would be nursing homes, retirement homes and apartment owners. I had a little concern when I walked in when you were talking about somebody could vouch for only four. I have a 123 units in my apartment building. Most of those people can find something because they have cable or something with their full address on it, but there are some that are pretty close to nursing home quality and are we restricting the landlord or the resident manager from only vouching for four?

**Jim Silrum:** It is my understanding as per legislative council's definition they encouraged us to use or suggested if we wanted to use that kind of language of limitation that household would be the proper term and household means a confined unit so therefore an apartment within an apartment complex is considered a household so therefore if two

people living in an apartment they could vouch for each other but a landlord would only be able to vouch for one of the people living in the apartment complex. Our emphasis in the intern is to provide ways that all people of the state that do live in the areas such as this would be able to have an ID that would show that they are a qualified elector. My hope that less than 1% of the people appear needing to have this as an outlet for them.

**Chairman Koppelman:** One other point that needs to be made is the difference between what the House passed and what is before us to consider another difference is that because there are no affidavits; because there is no challenging by an election official because there are no postcards etc. and because that language is out of it if we adopt this it would not require anyone to come back to the polls and take an extra step to verify their identity. It removes that provision, am I correct?

**Jim Silrum:** You are correct.

**Senator Cook:** Is there a penalty for somebody knowingly lying when they vouch for somebody?

**Jim Silrum:** Yes it is a Class A misdemeanor and it is identified in Subsection 4 in 16.1.05.07 on page 3. The elector themselves that is knowingly voting without being a qualified elector is also guilty of that same Class A misdemeanor.

**Chairman Koppelman:** If you are looking at the color coded version it is the end of the red typed in the middle of page 3 there. Further questions or clarification Mr. Silrum can help us with?

**Jim Silrum:** If you would notice we have left a question essentially of how many days so if this is addressed.

**Chairman Koppelman:** They have a blank on that page of days after the election official responsible for the overall administration of the election shall review each elector verification etc. The question is how long a period of time that should be and I would like Mr. Silrum's opinion on that. My thought since we are not dealing with affidavits; since we are not dealing with the canvassing board, since this is strictly a procedural process. What is the current window of time?

**Jim Silrum:** The postcards must be sent out within 45 days, but that is a part of the problem as well because a person who loses an election may contest the election up to 14 days after the final canvas of their election. For a legislator that is 14 days after the state canvas meets which can be no more than 17 days after the election? But for a city election or school board election that final canvas happens 6 days after the election and so the 14 day period starts at that point so it depends on what type of election it is. The time frames are different but this isn't specifically tied to contesting an election, but if a candidate wanted to bring this to the court for contesting an election that should be considered in there.

**Rep. Hatelstad:** Could a person put two dates in there? Within 14 days after a city election; 30 days after a statewide election? Would that take care of it?

**Jim Silrum:** I think you have hit upon a good idea. Maybe instead of putting in two different dates we simply say something like within so many days after the final canvas of that particular election.

**Senator Cook:** I am thinking the earlier the better but who is responsible for this. It is the election official responsible for the overall administration so that is going to be the county auditor?

**Jim Silrum:** In most cases that will be the case but in special elections where a city auditor is in control or a school then a school business manager is in control in those so we had to use that kind of geriatric language.

**Senator Cook:** So what are we anticipating this responsible person to do? If somebody comes up there and vouches for four people in their household are we actually expecting them to drive to the household?

**Jim Silrum:** No it is simply a quick review of all of those forms that would be there and if any kind of red flag shows up; is somebody were to discover that the address that was listed for this person was in the middle of a warehouse or something like that that may cause for further investigation and that they can quickly determine from the central voter file or from their tax records that they have for the county. That sort of thing so the review is going to go very quickly we believe. Election officials are quite busy right after the election is over.

**Senator Cook:** would a candidate have excess to these forms the day after the election?

**Jim Silrum:** The law specifically would state in here that just like affidavits these forms are not public record because they do contain vital information like birthdates, but the indication of such in the poll book marks them as having voted by use of this elector verification so therefore somebody who would review the poll books would say, John Smith who says he is living at 123 Main St. voted using this method and low and behold 123 Main St is in a place that there are no houses.

**Senator Cook:** I know where 123 Main St. is and I know how lives there and I know these other three people don't live there. I am the candidate and I know that; then what happens?

**Jim Silrum:** It is our understanding that a candidate or an individual of the public could bring that to the attention of the election official and that would also prompt the further investigation as well.

**Chairman Koppelman:** We are almost out of time here. My suggestion is if the committee has direction in terms of this day issue maybe we can direct or ask the Secretary of State and we will schedule another date for meeting.

Adjourned.

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Political Subdivisions Committee Prairie Room, State Capitol

HB 1447  
April 19, 2011  
Job #16758

☒ Conference Committee

Committee Clerk Signature



### Minutes:

Proposed amendment

**Chairman Koppelman:** Reopened the conference committee hearing on HB 1447. Roll call was taken with all members present. One of the Senate members was changed to substitute Senator Dever for Senator Cook. We have the printed version of the amendment provided by Jessica before us. Any discussion, comments or questions?

**Senator Nelson:** I think this one has come a long ways but I still have a few problems that we haven't taken care of. What happens with absentee voters and their IDs and I still would like to see the whole package come in one big package. Quite frankly I would prefer that we would use the option one that Secretary Jaeger gave us which is only the study.

**I would make a motion to move that the Senate would recede from their amendments and re amend with option one from the April 14 memo which was just the study. Seconded by Rep. Zaiser.**

**Chairman Koppelman:** Before we vote on that members of the committee I would just offer a couple of comments from the House perspective. As I see it the purpose of the conference committee is to try to resolve the differences between the House and the Senate so that would be an issue regardless of what the scenario was. After these many meetings and long discussions just doing essentially what the Senate did I don't know if we have had any information that would convince the House that that is necessarily the best route. I think we have made a lot of progress on coming up with a solution that would make some sense and maybe a good compromise and I want to again commend the Secretary of State's office for the work they did in that. The third point I would make it that the House has already defeated a study resolution so it is not just that the Senate proposed one as part of this bill, but it is also that the House has already defeated a study so the House has moved quite a ways by being willing to include a study in the compromise language we are talking about. I recognize that the Senate amended the version of the House had so again option B seems like a compromise. Option A seems like maybe something that isn't going to go anywhere. Those are my thoughts.

**Senator Nelson:** The new underlined pieces of option one, section one are the things that are being discussed in your proposal, but as I stated before I am concerned about the mail in ballot and the absentee ballots. The same rules should be holding for no matter how. In a recent memo I received from my county auditor he says is this going to force more people

to vote absentee? It is your auditor too so there are three of us with the same auditor who has this same concern.

**Chairman Koppelman:** I recognize there has been a lobbying effort on these types of pieces of legislation for not only days, weeks or months, but years in different sessions by different folks and often times. When we did court unification and when the court reporters had to come into that process. What a battle we had. Sometimes as policy makers we need to make policy and we try to listen to the folks that have to carry it out, but we also recognize that change is hard, but if it is an improvement for the people of ND sometimes you have to say we will listen, but we have to move.

**Senator Dever:** I was standing in line this morning at a special election that is going on in the city of Bismarck. There were quite a few people there. Bill Wolken was there observing. If I did not have my ID I could have asked him to verify who I am. I would have been very unpopular for the disruption that would have held up the rest of the line. I think there are some legitimate questions regarding residency out there for college students that come from other states and have their out of state identification and need a way to verify their residency in the state and those are legitimate. I think also we think of voting as a right. I also think when we talk about rights in the Constitution of the word responsibilities. I think of a person that shows up at the polls and they have just not brought their ID that the responsibility should be on them to go home and get the right ID and bring it back. If they went to the bar and wanted a drink the bar wouldn't give them a drink until they brought their ID with them. I think there are legitimate reasons to study the issue of residency and how we can address those legitimate variations that come to the polls and need to be accommodated. I think a lot of the members of this legislation think we have gone too far down that road and made it too easy and therefore not as important.

**Chairman Koppelman:** I appreciate your comments. Until your last sentence I thought you were advocating for the House bill.

**Rep. Zaiser:** I got the email from our county auditor. I have not always agreed with our county auditor. In fact many times have disagreed with him. In this case I do agree with him. My concern here is with the students that do have a tough time voting. The representative from the student association talked to me at some length afterwards and he said he lobbied and thought the study was the best way to go so we could clean this up in one big package rather than pass this bill and then have to amend it or essentially change it next session. For that reason I am going to support this study which is the best way to go. For that reason I am going to support this motion.

**Chairman Koppelman:** I personally don't oppose the idea of studying, but we have to get this passed in both chambers and because the house has rejected the study resolution I think frankly because of the word residency in it I don't think this would pass the House if we were to pass it and then we would be back where we were so for that reason I am going to oppose it. I also don't think as Senator Cook said before he left the committee, his phrase was something to the effect that perfection is always a work in progress. My version of that is the perfect should not be the enemy of the good so I think if we can do some good and solve half of a problem or something this session and study it and try and fix the rest as we observe and go on.

**Senator Dever:** That must have been a House resolution because I am not familiar with it. I don't think this is a bad bill. I think its intent is good, but I think it is a bill before its time. We may come back as a result of the study with the same bill or some version of the same concept.

**Rep. Zaiser:** I just wanted to respond to the chairman's statement that it failed and probably wouldn't pass. I think at this stage of the game I think it would pass. I don't recall the numbers on the failing; what it was. I think if we were to urge support maybe it would pass. I don't think this is bad. A study I don't think is something everybody would oppose.

**Rep. Hatlestad:** I think the study is a good idea; it is needed. But the lack of movement I think we suffer perilous from analysis.

**ROLL CALL VOTE TAKEN ON MOTION FOR THE SENATE RECEDE FROM ITS AMENDMENTS AND THE CONFERENCE COMMITTEE FURTHER AMEND WITH A DIFFERENT VERISON OF THE STUDY RESOLUTION.**

**Vote            4 Yes      2 No    Motion failed.**

**Senator Nelson:** We have a question on this revised amendment you handed out. Page 3, Section 3, Subsection 3 c where we inserted within 14 days after the election. I thought we said it was suppose to be after the final election canvas. There was some discussion with Jim out the door he wanted it 10 days but it has no reference to the canvas in this new version of the bill. Is that a mistake or is there some reason he wrote it the way he did?

**Jim Silrum:** It was written intentionally because we found that in going back and reviewing it if we said 14 days. 14 days is two weeks. That would mean that it would have to have the finalizing of those reviews would have to be finished on a week day because elections are usually held on Tuesday so it would be finalized on the second Tuesday from then and it was our determination that between the contest period for a city or school board election and the contest period for a legislative or state wide office that does not involve a recount and the contest period for a legislative or state wide contest that does involve a recount; 14 days became the magical number after the election when we sat down and looked at a calendar and said OK lets figure this out and make sure that it is always going to be at the right time. That was certainly different than what we discussed with you yesterday, but we hoped that you would understand our analysis and that was our best recommendation.

**Chairman Koppelman:** This was a piece in the suggested language that was open. The number of days and we discussed that current law has 45 days. The suggested was 14 days within the canvas. Anything further that was altered Mr. Silrum?

**Senator Nelson:** That is what I wanted to know because I have this color coded version and then I have this version that is not color coded and trying to find if anything else was fixed?

**Jim Silrum:** The only other place that Jessica and I dealt with was some structural language. We took a look in Section 6 of the bill 58.01-09, page 5; the reference was still



to challenging a voter so we simply cleaned that up a little bit to be consistent with the other aspects of the bill. It does not change the meaning in any way, shape or form.

**Rep. Zaiser:** Have you considered putting it in the way we had suggested and then actually have a second form the way you would have recommended. We thought this would have come back the way we had talked about it.

**Jim Silrum:** The changes were not in any way, shape or form substantive. They were simply adding the proper number of days which the committee asked myself and the intern to do. If you would like to see a red line version of anything like that I can certainly provide that for you. I can also guarantee you with my job that nothing substantive has been changed.

**Rep. Hatlestad:** The fourteen days; does that give time to review those disputes before the date of the challenge expires?

**Jim Silrum:** We believe that the window of opportunity is tight there, but so also is the window of opportunity for contesting an election. You only have as a candidate 14 days after the final canvas of an election to bring your contest of an election to the courts. Like it or not if this is going to be a part of that whole process it needs to be done quickly. Oddly enough in our research of the codes yesterday we discovered that if there is a wide margin for a contest; meaning even a landslide victory, the contest period is 14 days; however, if there is a recount that contest period is shortened to 5 days. We obviously are not going to bring this up in this session or this bill, but it is something that we will probably have to revisit for the 2013 session because of that contest period is a short window of time. The county canvassing board must happen no later than 6 days after the election. This would give the counties and extra week to finish the review of these elector verification forms and unlike the affidavits our view of these was simply does there appear to be any reason to pass them on to the States Attorney for further investigation. Does a candidate who takes a look at the poll book and says I know that person voted and that person does not live at that address can bring that as well to that individual who is the county auditor or election official so it does not seem to us to be a substantial onerous responsibility on the part of the election official. They may differ on us with that regard, but that is what we believe.

**Rep. Hatlestad:** So if it is a contested election 5 days after the canvassing board meets then this deadline is outside that contested period, correct?

**Jim Silrum:** No, the analysis of these forms would be done well in advance of any contesting period that would exist and by having it 14 days; that would make sure whether it is a city election whose final canvas is on the sixth day after the election or a state wide legislative contest whose final canvas is at the state canvassing board 17 days after the election. This makes sure these would be reviewed and analysis before those contest periods in question would be up. So a candidate could bring that to court and say here are my grounds for this.

**Senator Nelson:** Is there a way to contest somebody who is in the voter files that you really don't think belongs there?

**Jim Silrum:** I am reviewing the law and currently there is the possibility of challenging the existence of somebody within the central voter file; however, the mere presence of a person in the central voter file does not grant the right to vote nor does their absence from that take away their right to vote.

**Senator Nelson:** I had a couple in my district who claimed a bank building down town as home and when one of them died she has listed her homes at Detroit Lakes and Scottsdale and she has apparently voted in most elections. They grew up here and they vote somewhere else. This residency stuff is something and you don't live in an office.

**Jim Silrum:** I want to thank you very much for high lighting the need for doing a study on residency. I want to make that clear to you. We have discussed it before when a statute pertaining to residency says a residency can only be changed by a union of act and intent. That is the biggest, widest loop hole that somebody can wonder though to say even if I do live in Scottsdale, Az and I summer in Detroit Lakes, Mn that I might have an opportunity to still vote in Fargo because I never intended to really move myself from that location. We firmly believe there needs to be a study on residency. We firmly believe this as we have proposed it to you today with an elector verifying another elector is a much better option that currently exists in law with these affidavits which is an elector self verifying themselves. This may not be ultimately what comes out of 2013, but it is better than what we have today.

**Chairman Koppelman:** That residency loop hole is almost as large as 4,000 affidavits verified by postcards but that would be editorial so I won't go there.

We stand adjourned.

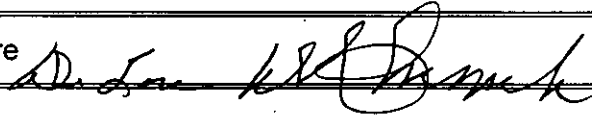
# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Political Subdivisions Committee Prairie Room, State Capitol

HB 1447  
April 20, 2011  
Job # 16788

☒ Conference Committee

Committee Clerk Signature



### Minutes:

**Chairman Koppelman** reopened the conference committee on HB 1447. Roll call was taken with all members present. The last time we had the written amendment that our intern had prepared with Mr. Silrum and there was a question about the matter dealing with days and the fact that we discussed that being after the canvassing versus being after the election and Mr. Silrum explained why that was changed and he then further forwarded me an overview of the discussion back and forth between him and the intern just in the interest of transparency so that the committee knows completely what was going on. There was nothing ill intended about that. I did forward it to all of the committee members too. We knew since Senator Dever replaced Senator Cook on the committee that he probably did not know some of the amendments that we have been discussing so we wanted to give him the opportunity to read through that. Discussion?

**Senator Sorvaag:** I would like to wait about two minutes to give Senator Nelson more time to get here.

**Chairman Koppelman:** Discussing the overview of what we have done. I think anything we have discussed in this conference committee and virtually everything that has been discussed both in the House side; Senate side and what we have here improves the status quo. I think the Secretary of State's office has worked very hard to get us good ideas to moll over I think we need to bear in mind a larger task which is to fix some problems and if we are able to do that, even though we might have questions about how well is this going to work long term that is the purpose of looking at this further through a study.

**Senator Sorvaag:** Just to verify that we are all looking at the same amendment checked it out. I am pretty comfortable with this other option that is much better than I did where they had to do the affidavit and it was set aside and the complications so with that I will move that we do the hoghouse amendment and this here becomes the bill. Seconded by Senator Dever.

**Chairman Koppelman:** It has been moved that the Senate recede from its amendment and the conference committee further amend with the version we have been discussing here that we have just clarified in our hands. It does take the form of a hoghouse. Discussion on the motion? My understanding of this amendment is that it would create a system whereby when a voter comes to the polls without identification the option to vote without identification instead of being by affidavit, which is the current process, would be by another verified resident eligible voter vouching

for that person. That could be either a poll worker or a resident and that the resident would be only be able to vouch for one person unless there are up to four people in the same household that they could vouch for. The other piece of it is the study.

**Rep. Zaiser:** Assuming there is someone not well known in the district and they don't have their ID they are pretty much out of luck. Am I correct?

**Chairman Koppelman:** I see Mr. Silrum in the room and shaking his head so I assume you are not so let's ask him. So if there are any questions on the amended version you can ask them.

**Jim Silrum:** The prime objective of this is that everyone who is a qualified elector to make sure that everybody has opportunities to produce an ID that they can bring to the polls. This issue of an elector verifying another elector is really a safety net just in case. Our hope and objective is that everybody who is a qualified elector as you suggest Rep. Zaiser, even if they are new to the district and highly unknown, will still be able to produce an ID that can be used at the polls. That is where the vast majority will be. If we can get to the point where there are less than ½ % of people who need to use this statewide for an elector verifying and elector or poll worker verifying that would be considered a big win on our part.

**Senator Sorvaag:** It is very important to me that there is a way you can work with the campus's so there will be something that the student's can print that identified they are living in a dorm room that is in this district.

**Jim Silrum:** From our understanding the students at the universities and colleges of ND have essentially a software program that is used for them that they can enter into in a private session review their grades, register for classes, pay their bills etc. but only they are allowed to go in there and within that it is our hope that we could add another element there that would maybe something like my voting and they would be able to click on that link; a letter would be produced that has their address and they could use that in addition to their student ID that has their picture they could bring that to the poll in the same way somebody could use a utility bill to prove where they live. We are hoping to make it easier for the college student who is truly a qualified elector to be able to show to the poll workers that they are who indeed a qualified elector so yes they should be covered.

**Chairman Koppelman:** That is something I had visited with the president of NDSU about he seemed to think it was a very easy fix.

**Senator Nelson:** My concern deals with some of the folks that live in the downtown areas of major cities that have post office boxes. So when we get a list from a political party it lists post office boxes and because of that they may not be living in my district. If all their utility bills are coming to the post office box that is not going to verify residency. What can we do for those people? Many of them are venerable people so I am worried about them being left out of the system.

**Jim Silrum:** You are right. This is very much the case also in small town North Dakota where if you sent something to their street address the post office will return it because it needs to go to their post office box. So there are many issues that we are going to need to work with. We hope to work with the utility companies to make sure that although a bill would be sent to the post

office box for proper mailing delivery maybe the bill could also be made to ensure to include the physical address of the place to which they are providing power or water. We are also going to need to work with the tribal governments to make sure because a couple of our counties that have reservations in the state have not completed their 911 addressing. Even if they have the residence of those counties don't know what their 911 address is. So there are many situations that we are going to need to work with please take our word for this that our guarantee is that we are going to work with all of those situations that are identified to us as being problem issues so that everyone is able to appear at the polls with some form of identification and it would make it easier for them to have excess to voting and not need to find a buddy to come along with them to verify.

**Chairman Koppelman:** In North Dakota voting isn't the only area where we have had questions about clearly identifying locations or residence or that sort of thing. For 911 service and fire portion and all of those kinds of things a lot of these places have been assigned a physical address even though their mailing address might be rural route one or something like that so we have towns in ND with 75 people in them and you will be sending something to an address with 158 Avenue NW or something like that. They do that because it allows them to pin point an address. Do you see something like that being tied to election residency so that places could be more easily identified?

**Jim Silrum:** It already is a part of this because when we are working with as many agencies as we can. Primarily when this becomes available from DOT we receive those automatic updates. The counties are working with their 9011 coordinators because that too is a 911 address you have identified to make sure that is available and in the central voter file. Even in those situations where 911 has not been assigned yet to an address the central voter file allows for a mailing address and another way of identifying that physical address so believe it or not we have certain addresses in the voter file for residential addresses that say 2 miles North on County Road 17 and to the NE corner of that. On the poll books there appears a physical location address. Our objective is to get to all of the counties where 911 addresses are associated to those particular addresses. The other step is making sure that people living at those physical addresses know what their 911 address is. Our Central Voter File is becoming a dynamic resource that has not even begun to meet its potential yet. Yesterday at the election they were using the Central Voters File and they were able to say this file has helped us to determine who lives in the city and who lives outside of the city. The election yesterday was for just in city voters on the smoking ban.

**Rep. Zaiser:** Discussed the venerable adults that we deal with in Fargo and they are not circulating in the community and they are not well known. Is there any way where the affidavit system could remain as a last resort include those folks wondered to the polls and they don't have IDs.

**Jim Silrum:** I believe your questions almost beg for an amendment to the amendment that is on the table and I hate to interfere with the chair but I believe it is out of order. It certainly could be if this amendment were defeated. We have already indicated the affidavit process is a broken process. Secretary Jaeger did remind me that for those people who are as you say on the fringes we work with Protection and Advocacy on a regular basis to make sure that we are in step with what we need to be in step with concerned people on the fringes so that is just one of our avenues.

**Senator Nelson:** If you had somebody from P&A there at the polls that person would only be limited however to one person vouch for right?

**Jim Silrum:** That would be correct. You must remember that the law would specifically say that P&A person must live within the same jurisdiction that the individual they are vouching for lives.

**Senator Nelson:** There could be a P&A in Fargo. Having an advocate there might be of assistance to the others if it is legal for them to be the vouching person.

**Chairman Koppelman:** You say you work with them and that tells me you inform them what the requirements are. You try to assist them in any way you can to help the people get to the polls so I assume if this passes one of your new tasks during this period before the next election would be for you to explain this to them.

**Jim Silrum:** We don't even need to talk with them about that because we have consulted them all along the way and P&A believes that they are already on board with this and can assist the people that they work with in having IDs that they could bring to the polls that prove who they are and where they live.

**Senator Nelson:** There are group homes where there are eight people in a house. Could you work with those agencies to do something similar to what we are suggesting with the colleges?

**Jim Silrum:** You bring up a good point. It is not just a state issued ID that is going to be acceptable. There are going to be broad ways that people can produce ID that shows who they are and where they live that will be through the Secretary of State. We are going to work with these groups; colleges, group homes, Lutheran Social Services and agencies like that to say how we can best provide an avenue for the people that you work with to have IDs to show at the polls. That is going to make checking in for an election so much faster than having to say will a poll worker vouch for me or something along those lines.

**Chairman Koppelman:** The intent is to encourage bring an ID and the vouching is only a fall back kind of a safety value sort of thing. If this passes we can add different pieces to the code.

**Jim Silrum:** That is something that is not changing within the code from what it is right now. That authority has been granted for some time to the Secretary of State.

**Rep. Zaiser:** Many of the downtown residence in Fargo are with people who are mentally or physically ill in pretty significant ways and those people do not have that individual living with them. I am concerned about these people. Could somebody be at the poll place to maybe vouch for a certain person? P&A people?

**Jim Silrum:** We welcome all suggested for how we can make it so everybody has an ID that they can bring to the polls. For some it is going to be more of a challenge than for others. That is why we need to do the proper investigative research. Reiterated there are issues where we need to work on. Wouldn't it be nice if we had everybody with an ID.?

**Chairman Koppelman:** Clerk to call the roll on the motion for the Senate to recede from its amendment for the conference committee to further amend and it would be the amendment before us.

**Roll Call:**                **4   Yes        2   No        Motion Passes**

Adjourned.

# 2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: POLITICAL SUBDIVISIONS

Bill/Resolution No. 1447 as (re) engrossed

Date: 4-12-11

Roll Call Vote #: 1

## Action Taken

- ☒ HOUSE accede to Senate amendments  
☐ HOUSE accede to Senate amendments and further amend  
☐ SENATE recede from Senate amendments  
☐ SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) --

- ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar

Motion Made by: Sen. Cook Seconded by: Sen. Nelson

Representatives	<u>4</u> 12		Yes	No		Senators	<u>2</u> 12		Yes	No
CHAIRMAN KOPPELMAN	✓			✓		SEN. SORVAAG	✓		✓	
REP. HATELSTAD	✓			✓		SEN. COOK	✓		✓	
REP. ZAISER	✓		✓			SEN. NELSON	✓		✓	

Vote Count Yes: 4 No: 2 Absent: 0

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

*Motion Failed.*



# 2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: POLITICAL SUBDIVISIONS

Bill/Resolution No. 1447 as (re) engrossed

Date: 4-14-11

Roll Call Vote #: 1

## Action Taken

- ☐ HOUSE accede to Senate amendments  
☒ HOUSE accede to Senate amendments and further amend  
☐ SENATE recede from Senate amendments  
☐ SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) --

- ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar

Motion Made by: R. S. Zaiser Seconded by: R. P. Hatelstad

Representatives	<u>44</u>	Yes	No		Senators	<u>44</u>	Yes	No
CHAIRMAN KOPPELMAN	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			SEN. SORVAAG	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
REP. HATELSTAD	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			SEN. COOK	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
REP. ZAISER	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			SEN. NELSON	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>

Vote Count Yes: 3 No: 3 Absent: 0

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

*Motion Failed*

# 2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: POLITICAL SUBDIVISION

Bill/Resolution No. 1447 as (re) engrossed

Date: April 19, 2011

Roll Call Vote #: 1

- Action Taken**
- ☐ HOUSE accede to Senate amendments
  - ☐ HOUSE accede to Senate amendments and further amend
  - ☐ SENATE recede from Senate amendments
  - ☒ SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) --

- ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar

Motion Made by: Sen. Nelson Seconded by: Rep. Zaiser

Representatives	<u>19</u>		Yes	No		Senators	<u>19</u>		Yes	No
Chairman Koppelman	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>		Senator Sorvaag	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
Rep. Hatlestad	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>		Senator Dever	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
Rep. Zaiser:	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>			Senator Nelson	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	

Vote Count Yes: 4 No: 2 Absent: 0

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Failed

April 20, 2011

VK  
4/20/11  
1086

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1447

That the Senate recede from its amendments as printed on pages 1330 and 1331 of the House Journal and page 1098 of the Senate Journal and that Engrossed House Bill No. 1447 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 16.1-05 of the North Dakota Century Code, relating to the appointment of poll checkers; to amend and reenact sections 16.1-02-05, 16.1-05-04, 16.1-05-07, 16.1-10-06.1, and 58-04-09 of the North Dakota Century Code, relating to verification of eligibility of voters; to repeal section 16.1-05-06 of the North Dakota Century Code, relating to challenging the right to vote; to provide for a legislative management study; and to provide a penalty.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 16.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-02-05. Entry of new voters into the central voter file - Query of the central voter file for double voting - ~~Challenges~~—Postelection verification.**

1. Within forty-five days following an election, the county auditor shall enter the name and required information of each individual who voted at the last election who is not already contained in the central voter file and update any required information requested and obtained at the last election for any individual contained in the central voter file.
2. The secretary of state, with the assistance of the county auditors, within eighty-five days following an election, shall query the central voter file to determine if any individual voted more than once during the preceding election. The secretary of state shall immediately notify the county auditor and state's attorney in each affected county for further investigation.
3. Upon return of any nonforwardable mail from an election official, the county auditor shall ascertain the name and address of that individual. If the individual is no longer at the address recorded in the central voter file, the county auditor shall transfer the voter to the correct precinct in the central voter file or notify the county of the voter's new residence so the voter record can be transferred to the correct county. If a notice mailed at least sixty days after the return of the first nonforwardable mail is also returned by the postal service, the county auditor shall designate the individual as "inactive" in the central voter file.
4. ~~Within forty-five days after an election, the county auditor shall send a notice to each individual who was challenged on election day according to section 16.1-05-06. If a notice is returned as not deliverable, the county auditor shall attempt to determine the reason for the return. A county auditor who does not receive or obtain satisfactory proof of an individual's~~

2 of 6

~~eligibility to vote shall notify immediately the state's attorney to conduct an investigation of the individual's eligibility to vote in that election.~~

**SECTION 2. AMENDMENT.** Section 16.1-05-04 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-05-04. Duties of the members of the election board during polling hours.**

1. The election inspector shall supervise the conduct of the election to ensure all election officials are properly performing their duties at the polling place. The election inspector shall assign duties so as to equally and fairly include both parties represented on the election board.
2. The election inspector shall assign ministerial duties to poll clerks, who shall carry out the ministerial duties assigned by the election inspector.
3. The election inspector shall assign the poll clerks to perform the function of maintaining the pollbook. The designated poll clerks shall maintain the pollbook. The pollbook must contain the name and address of each individual voting at the precinct and must be arranged in the form and manner prescribed by the secretary of state.
4. ~~The members of the election board shall challenge the right of anyone to vote whom they know or have reason to believe is not a qualified elector by requiring the elector to complete and sign a voter's affidavit.~~
5. Each member of the election board shall remain on the premises of the polling place during the time the polls are open to prevent the occurrence of fraud, deceit, or other irregularity in the conduct of the election.
- ~~6-5.~~ All members of the election board shall distribute ballots and other election materials to electors. An election judge from each party represented on the election board shall give any assistance requested by electors in marking ballots or operating electronic voting system devices.
- ~~7-6.~~ Each member of the election board shall maintain order in the polling place.

**SECTION 3. AMENDMENT.** Section 16.1-05-07 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-05-07. Poll clerks to check identification and verify eligibility - Poll clerks to request, correct, and update incorrect information contained in the pollbook - Penalty.**

1. ~~Before delivering a~~ member of an election board delivers a ballot to an individual according to section 16.1-13-22, the poll clerks shall request the individual to show identification, which includes the individual's residential address and date of birth. ~~The~~ An approved form of identification may ~~include~~ includes:
  - a. An official form of identification issued by the state;
  - b. An official form of identification issued by a tribal government;

- c. A form of identification prescribed by the secretary of state; or
  - d. A combination of any of the forms of identification under subdivisions a through c.
2. If an individual offering to vote ~~does not have or refuses to show an appropriate form of~~without identification or identification that does not list the current residential address of the individual, the individual may be allowed to vote ~~without being challenged according to section 16.1-05-06 if the individual provides to the election board the individual's date of birth and if a member of the election board or a poll clerk knows the individual and can personally vouch that the individual is a qualified elector of the precinct administered by the polling place. The individual shall provide the individual's date of birth to the poll clerk entering the voter in the pollbook.~~
3. a. If an individual offering to vote ~~does not meet either of the options set forth in subsection 1 or 2, the election board shall challenge the individual's right to vote and the individual may not vote unless the individual executes a voter's affidavit, as provided in section 16.1-05-06.~~without identification or identification that does not list the current residential address of the individual, the individual may be allowed to vote if a qualified elector of the jurisdiction covered by the election appears with the voter and can personally vouch that the individual is a qualified elector of a precinct administered by the polling place. The vouching elector must verify the vouching elector's qualification as an elector by showing to a poll worker an approved form of identification set forth in subsection 1. The secretary of state shall prescribe the form to be used for an elector to vouch for the qualifications of an individual offering to vote. The elector verification form must include:
- (1) For the vouching elector, the following information:
    - (a) Full name;
    - (b) Complete residential and mailing address, if different;
    - (c) Contact telephone number;
    - (d) Date of birth;
    - (e) State-issued identification, if available;
    - (f) Signature; and
    - (g) A statement indicating the penalty for falsely vouching for another individual's qualification as an elector; and
  - (2) For the individual offering to vote without identification or identification that does not list the current residential address of the individual, the following information:
    - (a) Full name;
    - (b) Complete residential and mailing address, if different;
    - (c) Contact telephone number;
    - (d) Date of birth;

- (e) State-issued identification that does not list the current residential address of the individual, if available;
  - (f) Signature; and
  - (g) A statement indicating the penalty for the individual making a false statement regarding the individual's qualification as an elector.
- b. The elector verification form under subdivision a is not an open record, but the designation as such which is associated with the elector in the pollbook is an open record.
- c. In any election, a qualified elector of the state may vouch, on separate elector verification forms, for the qualifications of no more than four individuals residing with the elector in the same household as defined in section 54-64-01 or one individual residing at a separate location within the boundaries of the jurisdiction covered by the election. However, a qualified elector may not vouch for an individual residing at a location within another county.
- d. Within fourteen days after the election, the local official responsible for the overall administration of the election shall review each elector verification form executed by voters participating in the election. If there is any question about the completed form or the qualifications as an elector of that political subdivision, of the individual vouching for another, or the individual being vouched for, the election official shall forward the forms and any other available information to the state's attorney for further investigation. The state's attorney shall carefully review any information forwarded and initiate an investigation in all cases in which fraud is likely to exist. An elector knowingly vouching for an unqualified elector is guilty of a class A misdemeanor for each unqualified elector vouched for by the elector.
- 4.
  - a. When verifying an individual's eligibility or when entering the name of an individual into the pollbook, poll clerks shall request, correct, and update any incorrect or incomplete information about an individual required to be included in the pollbook generated from the central voter file.
  - b. If the individual's name is contained in the pollbook generated from the central voter file, the poll clerks shall verify the individual's residential address and mailing address, if different from the individual's residential address.
  - c. If the individual's name is not contained in the pollbook generated from the central voter file but the individual is determined eligible to vote, the poll clerks shall record the individual's name in the pollbook. The poll clerks shall request and obtain any additional information for the individual required to be included in the pollbook.
  - d. An indication must be made in the pollbook for each individual allowed to vote via the execution of an elector verification form.
- 5. Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct to the proper precinct and voting location.

6. An individual who fails or refuses to comply with the requirements of this section may not be allowed to vote.

**SECTION 4.** A new section to chapter 16.1-05 of the North Dakota Century Code is created and enacted as follows:

**Poll checkers.**

The district chairman of each political party represented on the election board may appoint up to three poll checkers per polling place. A poll checker may not interfere with the election process or with the members of the election board in the performance of the member's duties. A poll checker may not be a member of the election board. The district chairman shall notify the county auditor of each county contained in the legislative district one day before the day of the election of the name of any individual the district chairman has appointed to serve as a poll checker in the legislative district.

**SECTION 5. AMENDMENT.** Section 16.1-10-06.1 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-10-06.1. Paying for certain election-related activities prohibited.**

No

1. A person may not pay ~~another person~~ any individual for:
  - 1- a. Any loss or damage due to attendance at the polls;
  - 2- b. Registering;
  - 3- c. The expense of transportation to or from the polls; or
  - 4- d. Personal services to be performed on the day of a caucus, primary election, or any election which tend in any way, directly or indirectly, to affect the result of such caucus or election.

~~The provisions of this~~

2. This section does not apply to the hiring of a person an individual whose sole duty it is to act as a challenger duties are to observe the polls and to watch the count of official ballots.

**SECTION 6. AMENDMENT.** Section 58-04-09 of the North Dakota Century Code is amended and reenacted as follows:

**58-04-09. Challenge to voter--Duty of judges.**

If any ~~person~~ individual offering to vote at any election or upon any question arising at a township meeting ~~is challenged as unqualified cannot verify the individual's qualifications as an elector~~ using the criteria provided in section ~~46.1-05-06~~ 16.1-01-04 and chapter 16.1-05, the judges shall proceed in the manner in which judges at a general election are required to proceed, ~~adapting the affidavit described in section 46.1-05-06 to the circumstances of the township meeting.~~

**SECTION 7. REPEAL.** Section 16.1-05-06 of the North Dakota Century Code is repealed.

**SECTION 8. LEGISLATIVE MANAGEMENT STUDY - VOTING RESIDENCY - CONSOLIDATION OF POLITICAL SUBDIVISION ELECTIONS.** During the 2011-12 interim, the legislative management shall study residency as it relates to voting purposes, qualifications of electors, all forms of absentee voting including in-person absentee, traditional absentee, and voting by mail, and the further consolidation of political subdivision elections with regular statewide elections. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly



# 2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: POLITICAL SUBDIVISION

Bill/Resolution No. 1447 as (re) engrossed

Date: April 20, 2011

Roll Call Vote #: 1

- Action Taken**
- ☐ HOUSE accede to Senate amendments
  - ☐ HOUSE accede to Senate amendments and further amend
  - ☐ SENATE recede from Senate amendments
  - ☒ SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) 1330 - 1331

- ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar

Motion Made by: Sen. Sorvaag Seconded by: Sen. Dever

Representatives	<u>20</u>		Yes	No		Senators	<u>20</u>		Yes	No
Chairman Koppelman	✓		✓			Senator Sorvaag	✓		✓	
Rep. Hatlestad	✓		✓			Senator Dever	✓		✓	
Rep. Zaiser:	✓			✓		Senator Nelson	✓			✓

Vote Count Yes: 4 No: 2 Absent: \_\_\_\_\_

House Carrier Rep. Koppelman Senate Carrier Sen. Sorvaag

LC Number \_\_\_\_\_ of amendment

LC Number 11.0688.02003 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**REPORT OF CONFERENCE COMMITTEE**

**HB 1447, as engrossed:** Your conference committee (Sens. Sorvaag, Dever, Nelson and Reps. Koppelman, Hallestad, Zaiser) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1330-1331, adopt amendments as follows, and place HB 1447 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1330 and 1331 of the House Journal and page 1098 of the Senate Journal and that Engrossed House Bill No. 1447 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 16.1-05 of the North Dakota Century Code, relating to the appointment of poll checkers; to amend and reenact sections 16.1-02-05, 16.1-05-04, 16.1-05-07, 16.1-10-06.1, and 58-04-09 of the North Dakota Century Code, relating to verification of eligibility of voters; to repeal section 16.1-05-06 of the North Dakota Century Code, relating to challenging the right to vote; to provide for a legislative management study; and to provide a penalty.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 16.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-02-05. Entry of new voters into the central voter file - Query of the central voter file for double voting - Challenges--Postelection verification.**

1. Within forty-five days following an election, the county auditor shall enter the name and required information of each individual who voted at the last election who is not already contained in the central voter file and update any required information requested and obtained at the last election for any individual contained in the central voter file.
2. The secretary of state, with the assistance of the county auditors, within eighty-five days following an election, shall query the central voter file to determine if any individual voted more than once during the preceding election. The secretary of state shall immediately notify the county auditor and state's attorney in each affected county for further investigation.
3. Upon return of any nonforwardable mail from an election official, the county auditor shall ascertain the name and address of that individual. If the individual is no longer at the address recorded in the central voter file, the county auditor shall transfer the voter to the correct precinct in the central voter file or notify the county of the voter's new residence so the voter record can be transferred to the correct county. If a notice mailed at least sixty days after the return of the first nonforwardable mail is also returned by the postal service, the county auditor shall designate the individual as "inactive" in the central voter file.
4. ~~Within forty-five days after an election, the county auditor shall send a notice to each individual who was challenged on election day according to section 16.1-05-06. If a notice is returned as not deliverable, the county auditor shall attempt to determine the reason for the return. A county auditor who does not receive or obtain satisfactory proof of an individual's eligibility to vote shall notify immediately the state's attorney to conduct an investigation of the individual's eligibility to vote in that election.~~

**SECTION 2. AMENDMENT.** Section 16.1-05-04 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-05-04. Duties of the members of the election board during polling hours.**

1. The election inspector shall supervise the conduct of the election to ensure all election officials are properly performing their duties at the polling place. The election inspector shall assign duties so as to equally and fairly include both parties represented on the election board.
2. The election inspector shall assign ministerial duties to poll clerks, who shall carry out the ministerial duties assigned by the election inspector.
3. The election inspector shall assign the poll clerks to perform the function of maintaining the pollbook. The designated poll clerks shall maintain the pollbook. The pollbook must contain the name and address of each individual voting at the precinct and must be arranged in the form and manner prescribed by the secretary of state.
4. ~~The members of the election board shall challenge the right of anyone to vote whom they know or have reason to believe is not a qualified elector by requiring the elector to complete and sign a voter's affidavit.~~
5. Each member of the election board shall remain on the premises of the polling place during the time the polls are open to prevent the occurrence of fraud, deceit, or other irregularity in the conduct of the election.
- 6.5. All members of the election board shall distribute ballots and other election materials to electors. An election judge from each party represented on the election board shall give any assistance requested by electors in marking ballots or operating electronic voting system devices.
- 7.6. Each member of the election board shall maintain order in the polling place.

**SECTION 3. AMENDMENT.** Section 16.1-05-07 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-05-07. Poll clerks to check identification and verify eligibility - Poll clerks to request, correct, and update incorrect information contained in the pollbook - Penalty.**

1. Before ~~delivering~~ a member of an election board delivers a ballot to an individual according to section 16.1-13-22, the poll clerks shall request the individual to show identification, which includes the individual's residential address and date of birth. ~~The~~ An approved form of identification may include includes:
  - a. An official form of identification issued by the state;
  - b. An official form of identification issued by a tribal government;
  - c. A form of identification prescribed by the secretary of state; or
  - d. A combination of any of the forms of identification under subdivisions a through c.
2. If an individual offering to vote ~~does not have or refuses to show an appropriate form of~~ without identification ~~or identification that does not list the current residential address of the individual~~, the individual may be allowed to vote ~~without being challenged according to section 16.1-05-06 if the individual provides to the election board the individual's date of birth and if a member of the election board or a poll clerk knows the individual~~

and can personally vouch that the individual is a qualified elector of the precinct administered by the polling place. The individual shall provide the individual's date of birth to the poll clerk entering the voter in the pollbook.

3. a. ~~If an individual offering to vote does not meet either of the options set forth in subsection 1 or 2, the election board shall challenge the individual's right to vote and the individual may not vote unless the individual executes a voter's affidavit, as provided in section 16.1-05-06 without identification or identification that does not list the current residential address of the individual, the individual may be allowed to vote if a qualified elector of the jurisdiction covered by the election appears with the voter and can personally vouch that the individual is a qualified elector of a precinct administered by the polling place. The vouching elector must verify the vouching elector's qualification as an elector by showing to a poll worker an approved form of identification set forth in subsection 1. The secretary of state shall prescribe the form to be used for an elector to vouch for the qualifications of an individual offering to vote. The elector verification form must include:~~
  - (1) For the vouching elector, the following information:
    - (a) Full name;
    - (b) Complete residential and mailing address, if different;
    - (c) Contact telephone number;
    - (d) Date of birth;
    - (e) State-issued identification, if available;
    - (f) Signature; and
    - (g) A statement indicating the penalty for falsely vouching for another individual's qualification as an elector; and
  - (2) For the individual offering to vote without identification or identification that does not list the current residential address of the individual, the following information:
    - (a) Full name;
    - (b) Complete residential and mailing address, if different;
    - (c) Contact telephone number;
    - (d) Date of birth;
    - (e) State-issued identification that does not list the current residential address of the individual, if available;
    - (f) Signature; and
    - (g) A statement indicating the penalty for the individual making a false statement regarding the individual's qualification as an elector.

- b. The elector verification form under subdivision a is not an open record, but the designation as such which is associated with the elector in the pollbook is an open record.
  - c. In any election, a qualified elector of the state may vouch, on separate elector verification forms, for the qualifications of no more than four individuals residing with the elector in the same household as defined in section 54-64-01 or one individual residing at a separate location within the boundaries of the jurisdiction covered by the election. However, a qualified elector may not vouch for an individual residing at a location within another county.
  - d. Within fourteen days after the election, the local official responsible for the overall administration of the election shall review each elector verification form executed by voters participating in the election. If there is any question about the completed form or the qualifications as an elector of that political subdivision, of the individual vouching for another, or the individual being vouched for, the election official shall forward the forms and any other available information to the state's attorney for further investigation. The state's attorney shall carefully review any information forwarded and initiate an investigation in all cases in which fraud is likely to exist. An elector knowingly vouching for an unqualified elector is guilty of a class A misdemeanor for each unqualified elector vouched for by the elector.
4. a. When verifying an individual's eligibility or when entering the name of an individual into the pollbook, poll clerks shall request, correct, and update any incorrect or incomplete information about an individual required to be included in the pollbook generated from the central voter file.
- b. If the individual's name is contained in the pollbook generated from the central voter file, the poll clerks shall verify the individual's residential address and mailing address, if different from the individual's residential address.
- c. If the individual's name is not contained in the pollbook generated from the central voter file but the individual is determined eligible to vote, the poll clerks shall record the individual's name in the pollbook. The poll clerks shall request and obtain any additional information for the individual required to be included in the pollbook.
- d. An indication must be made in the pollbook for each individual allowed to vote via the execution of an elector verification form.
5. Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct to the proper precinct and voting location.
6. An individual who fails or refuses to comply with the requirements of this section may not be allowed to vote.

**SECTION 4.** A new section to chapter 16.1-05 of the North Dakota Century Code is created and enacted as follows:

**Poll checkers.**

The district chairman of each political party represented on the election board may appoint up to three poll checkers per polling place. A poll checker may not interfere with the election process or with the members of the election board in the performance of the member's duties. A poll checker may not be a member of the election board. The district chairman shall notify the county auditor of each county

contained in the legislative district one day before the day of the election of the name of any individual the district chairman has appointed to serve as a poll checker in the legislative district.

**SECTION 5. AMENDMENT.** Section 16.1-10-06.1 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-10-06.1. Paying for certain election-related activities prohibited.**

~~No~~

- ~~1. A person may not pay another person any individual for:~~
- ~~1- a. Any loss or damage due to attendance at the polls;~~
- ~~2- b. Registering;~~
- ~~3- c. The expense of transportation to or from the polls; or~~
- ~~4- d. Personal services to be performed on the day of a caucus, primary election, or any election which tend in any way, directly or indirectly, to affect the result of such caucus or election.~~

~~The provisions of this~~

- ~~2. This section does not apply to the hiring of a person an individual whose sole duty it is to act as a challenger duties are to observe the polls and to watch the count of official ballots.~~

**SECTION 6. AMENDMENT.** Section 58-04-09 of the North Dakota Century Code is amended and reenacted as follows:

**58-04-09. Challenge to voter—Duty of judges.**

~~If any person individual offering to vote at any election or upon any question arising at a township meeting is challenged as unqualified cannot verify the individual's qualifications as an elector using the criteria provided in section ~~16.1-05-06~~ 16.1-01-04 and chapter 16.1-05, the judges shall proceed in the manner in which judges at a general election are required to proceed, adapting the affidavit described in section 16.1-05-06 to the circumstances of the township meeting.~~

**SECTION 7. REPEAL.** Section 16.1-05-06 of the North Dakota Century Code is repealed.

**SECTION 8. LEGISLATIVE MANAGEMENT STUDY - VOTING RESIDENCY - CONSOLIDATION OF POLITICAL SUBDIVISION ELECTIONS.** During the 2011-12 interim, the legislative management shall study residency as it relates to voting purposes, qualifications of electors, all forms of absentee voting including in-person absentee, traditional absentee, and voting by mail, and the further consolidation of political subdivision elections with regular statewide elections. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly

Engrossed HB 1447 was placed on the Seventh order of business on the calendar.

2011 TESTIMONY

HB 1447

**TESTIMONY TO THE  
HOUSE POLITICAL SUBDIVISIONS COMMITTEE**

**Prepared by Kevin J. Glatt, Burleigh County Auditor\Treasurer**

**2/3/11**

**HOUSE BILL 1447**

Mr. Chairman and members of the Committee I wish to submit testimony today in opposition to HB1447.

Mr. Chairman and Committee Members the crux of the matter is RESIDENCY. Voting residence in ND has during my tenure been defined as the union of act and intent. I may move to another residence, but if my intent is to return I can continue to vote at the former precinct. Furthermore, I do not lose my voting precinct until I vote in a new precinct (action). If I move but do not vote in my new precinct, I can continue voting in my former precinct.

During the past three (3) general elections Burleigh County has averaged 574 voter affidavits for various reasons. Election workers are instructed if an elector cannot provide ID or the ID is different than the address being used for voting purposes, to request the elector to execute an affidavit.

This proposal leads me to question how many people will execute an affidavit and not come to the auditor's office within three (3) days? And therefore, how many electors will be disenfranchised by this legislation?

Mr. Chairman and members of the Committee, until ND adopts a definition of voting residence, I do not believe this legislation will accomplish what is desired.



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

March 24, 2011

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

FR: Al Jaeger, Secretary of State

RE: HB 1447 – Voter Verification of Eligibility

As this bill was originally introduced, this office had significant concerns regarding its functionality. However, a hog house amendment was prepared in collaboration between the prime sponsor and the Secretary of State's office. The bill now reflects that effort.

The bill's intent is to require voters executing an affidavit (see attached) at the polls to provide acceptable identification within a stated time frame, which will verify their residential address for voting purposes. When the voter verifies their residential address prior to the meeting of the canvassing board, the ballot is tabulated and included with the other ballots cast by eligible voters. The ballot is counted on election night if the voter returns to polling place to verify their residential address before it closes on Election Day or at the canvassing board meeting if the voter verifies their residential address with the election official after Election Day.

Under current law, when a voter executes an affidavit, his or her ballot is immediately placed into the scanner and counted. It is not set aside. Then, within 45 days after the election, election officials send letters to all of the voters who executed an affidavit at the address they provided when doing so. If it is discovered that the voter did not reside at that address when voting, the voter is subject to prosecution, as they are warned when completing the affidavit (see second page).

Regardless, the ballot was counted on Election Day and can no longer be identified. In addition, the address discrepancy would only be known after the deadline in which a candidate may contest the results on the election. This might be significant in a very close election.

Therefore, because it does not achieve the intended purpose, this bill removes the "within forty-five" day requirement that now exists in N.D.C.C. § 16.1-02-05(4) – page 2 lines 5 through 10.

To ask a voter to provide verification of their voting residency should not be an undue burden. Doing so ensures the integrity of the election. While 99% of the voters provide acceptable identification at the polls, the number of executed affidavits is noteworthy.

In order to reduce the number of affidavits (whether under current law or this bill), the Secretary of State's office will make a concentrated effort to educate voters of the ID requirement, especially with college students who execute a large number of the affidavits.

The goal is to ensure that every eligible voter has his or her ballot counted and that residency issues are addressed within six days of the election rather than up to forty-five days later.

## Page 2

Section 1, page 2, lines 5 through 10: The wording is removed since the requirement to send notice within 45 days to those voters who executed an affidavit at the last election would no longer be necessary as these voters will now have their ballots counted when they verify their residential address.

Section 2, page 2, lines 24 through 26: The wording is removed because the concept of "challenging voters" goes away with this bill. Each voter who verifies their residential address or has a poll worker vouch for their eligibility will have their ballot counted in the election. A voter who does not verify their residential address is making a conscious decision to not do so.

Section 3, page 3, line 6 through page 5, line 26: Text from section N.D.C.C. § 16.1-05-06, which is repealed in Section 9, is moved to a more applicable placement within N.D.C.C. § 16.1-05-07. This section outlines the process for voters and election officials from the moment a voter enters the polls to vote.

Section 3, page 3, lines 8 through 15: This subsection summarizes the identification requirements (see list of acceptable forms of identification) requested of voters when they appear to vote.

Section 3, page 3, lines 16 through 22: This subsection describes the process by which a poll worker may vouch for the eligibility of a voter who does not show identification. The request for the individual to provide their birth date is to help differentiate between voters with the same names.

Section 3, page 3, lines 23 through 26: The text is moved to subsection 5, which is its proper place in the voting process.

Section 3, page 3, lines 27 through page 4, line 8: This renumbered subsection 3 is unchanged. The text describes what poll clerks are to record in the poll book when a voter appears to vote.

Section 3, page 4, lines 9 and 10: This renumbered subsection 4 is unchanged. Voters appearing in the wrong polling place are given direction from the poll workers to the voter's proper polling place.

Section 3, page 4, lines 11 through 13: The new subsection 5 pertains to when a voter cannot or does not show ID and no poll worker can vouch for the voter's eligibility, the voter is then asked to execute a voter's affidavit. This is the text moved from subsection 3 on page 3.

Section 3, page 4, lines 14 through page 5, line 5: This subsection details the voter's affidavit. This text was previously located in N.D.C.C. § 16.1-05-06, which is to be repealed in Section 9. (**Note:** a technical amendment needs to be mentioned here since subdivision k on page 5, line 5 needs to be underlined since it is new wording to this section of law.)

Section 3, page 5, lines 6 through 12: A voter executing an affidavit will be given a written notice clearly stating what the voter must do and by when in order to have his or her ballot counted.

Section 3, page 5, lines 13 through 15: This outlines the process by which the election inspector is to secure the ballot from a voter executing an affidavit.

Section 3, page 5, lines 16 through 19: This text summarizes how the ballot is to be tabulated if the voter returns to the polling place to verify their residential address prior to the closing of the polls.

Section 3, page 5, lines 20 through 26: Identifies the process by which the election inspector is to deliver to the appropriate election official all the ballots of voters that executed affidavits, but did not return to the polls to verify their residential address. It continues to identify that the election official is to forward all held ballots to the canvassing board for either tabulation or rejection because the voter failed to verify their qualification to vote.

Section 4, page 5, lines 30 through page 6, line 5: This is text moved from the repealed N.D.C.C. § 16.1-05-06 in Section 9 that pertains to the concept of poll checkers who are placed in polling locations by political parties. This new section allows poll checkers, but with the creation of the Central Voter File and its capabilities, poll checkers are not as necessary any longer since political parties can obtain lists of voters who have and have not voted so the parties can reach out to their faithful and encourage them to vote.

Section 5, page 6, lines 18 through 20: The removed wording deals with challenging voters, which is no longer necessary.

Section 6, page 6, line 28: The added wording includes the sealed ballots of voters executing affidavits among those things that polling place election workers must deliver to the county auditor or appropriate election official after the polls close.

Section 7, page 7, lines 7 and 8 and 26 through 28: This section identifies the process by which sealed ballots are to be delivered to the county auditor or appropriate election official after the polls close. And, that the ballots of any voter whose affidavit was verified by the election official must be delivered to the canvassing board for tabulation.

Section 8, page 8, lines 2 through 6: This text removes the concept of challenging voters in township elections as well since they too are to verify voter's eligibility prior to the individual voting.

Section 9, page 8, line 7: Section 16.1-05-06 (next page) is repealed and as noted earlier, the provisions are moved to other sections of the law for clarity and easier administration.

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

1. Three poll challengers appointed by the district chairman of each political party represented on the election board 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 three poll challengers from each political party 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 has reason to believe the individual is not a qualified elector of the precinct. A 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 an election board member, that the challenged individual is a legally qualified elector of the precinct.
4. The affidavit must include:
  - a. The name of the affiant.
  - b. The address of the affiant.
  - c. The birth date of the affiant.
  - d. The contact telephone number of the affiant.
  - e. The address of the affiant at the time the affiant last voted.
  - f. The previous last name of the affiant if it was different when the affiant last voted.
  - g. The identification number and state of any state-issued identification regardless of the state in which the identification was issued, if available.
  - h. A recitation of the qualifications for voting as set forth in section 16.1-01-04 and the rules for determining residence.
  - i. Notice of the penalty for making a false affidavit and that the county auditor is required to verify the affidavit.
  - j. A notice indicating that the affidavit is not an open record, but that information identifying who voted after executing an affidavit is an open record as part of the pollbook, except A notice indicating for any individual listed as secured active in the central voter file under section 16.1-02-13.
  - k. 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 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. The district chairman of each political party represented on the election board may appoint poll checkers to a 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. Poll challengers 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 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.



**VOTER'S AFFIDAVIT**  
**SECRETARY OF STATE**  
SFN 17343 (03-10)

Provisions for challenging a voter may be found in Chapter 16.1-05 of the North Dakota Century Code.

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

- The individual offering to vote does not meet the age or citizenship requirements.
- 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.
- Except as provided in Section 16.1-01-05, the individual offering to vote physically resides outside of the precinct.
- The individual offering to vote does not meet the residency requirements provided in section 16.1-01-04.
- The individual offering to vote fails or refuses to provide an appropriate form of identification as requested under subsection 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 above 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, known as a Voter's Affidavit, acknowledged before an election board member, that the challenged individual is a legally qualified elector of the precinct.

This affidavit is not an open record, but information identifying who voted after executing an affidavit is an open record as part of the pollbook.

\*\*\*\*\*

**PERSONS OFFERING TO VOTE MUST REVIEW AND COMPLETE THE FOLLOWING IN ITS ENTIRETY**

The following requirements for voting are taken from Sections 16.1-01-04 and 54-01-26 of the North Dakota Century Code and Article III of the Constitution of North Dakota.

- Every citizen of the United States who is: eighteen years old on the day of election; a North Dakota resident; and has resided in the precinct at least 30 days prior to the date of any election, except as otherwise provided in regard to residency in Chapter 16.1-14 is a qualified elector.
- Every qualified elector of the state may only have one voting residence.
- A person's voting residence must be determined in accordance with the rules for determining residency as provided in Section 54-01-26.
- Pursuant to Section 2 of Article II of the Constitution of North Dakota, voting by persons convicted and sentenced for treason or felony must be limited according to Chapter 12.1-33.
- No person who has been declared mentally incompetent by order of a court or other authority having jurisdiction, which order has not been rescinded, shall be qualified to vote.
- No person convicted of a felony shall be qualified to vote until his or her civil rights are restored.

Remember, your place of residence for voting purposes must be determined based on the rules defined in North Dakota Century Code, Section 54-01-26 which states:

Every person has in law a residence. In determining the place of residence, the following rules must be observed:

- It is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he or she returns in seasons of repose.
- There can be only one residence.
- A residence cannot be lost until another is gained.
- The residence can be changed only by the union of act and intent.

Name of Person Offering to Vote	Date of Birth	Contact Telephone Number	
Present Address (residential address)	City	State	Zip Code
Address Where You Last Voted If Applicable (residential address)	City	State	Zip Code
If your name was different when you last voted due to marriage, divorce, etc., please enter your previous name.			
Identification number and state of any state-issued identification regardless of the state issued, if available.			

(continue on reverse side)

**IMPORTANT: READ BEFORE SIGNING**

I understand that by signing this affidavit, I am declaring:

- I am a qualified elector (as defined in North Dakota Century Code Section 16.1-01-04); and
- I am a resident of this voting precinct in which I am about to vote in (as defined in North Dakota Century Code Section 54-01-26).

I also understand that under state law (North Dakota Century Code Sections 16.1-02-05(4) and 16.1-05-06(5):

16.1-02-05(4)

- Within forty-five days after an election, the county auditor shall send a notice to each individual who was challenged on election day according to section 16.1-05-06. If a notice is returned as not deliverable, the county auditor shall attempt to determine the reason for the return. A county auditor who does not receive or obtain satisfactory proof of an individual's eligibility to vote shall immediately notify the state's attorney to conduct an investigation of the individual's eligibility to vote in that election.

16.1-05-06(5)

- 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.
- A Class A misdemeanor carries a maximum penalty of one year's imprisonment, a fine of \$2,000 thousand dollars, or both.

I, \_\_\_\_\_, do solemnly swear and affirm I am a qualified elector of this  
name of person offering to vote

voting precinct and as such: I am eighteen (18) years of age; that I'm a citizen of the United States; that I have been a resident of this precinct for thirty days, next preceding this election; and that I have not already voted in this election.

\_\_\_\_\_  
Signature of person offering to vote

State of North Dakota       )  
  )ss.  
County of \_\_\_\_\_ )

Subscribed in my presence and sworn to before me, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Precinct Number

\_\_\_\_\_  
Signature of election inspector

# **id. requirements**



**Acceptable forms of identification must include a street address.**



**PO Boxes do not establish residency & CANNOT be accepted.**

## **Acceptable forms of identification with residential addresses are:**

- Valid Drivers License
- Valid State Identification Card
- Valid Federally Issued Identification Card:  
(1) Passport (2) Agency Identification Card
- Valid Tribal Government Issued Identification Card
- Valid Student Identification Card
- Valid United States Military Identification Card
- Utility bill dated 30 days prior to election day with name and residential address
- Change of address verification letter from the US Postal Service

***Voice Your VOTE***  
NORTH DAKOTA VOICES COUNT  
Secretary of State Elections Division

**If you do not have one of the forms of identification listed above,**  
You still have the right to vote if:

- An election poll worker is able to vouch for your identity and residence.
- You complete a Voter's Affidavit on which you certify, under oath, your identity and that you are a resident within this precinct.

## TESTIMONY TO THE

SENATE GOVERNMENT and VETERANS AFFAIRS Committee

Prepared by Kevin J. Glatt, Burleigh County Auditor\Treasurer

3/24/11

## HOUSE BILL 1447

Mr. Chairman and members of the Committee I am here today in opposition to HB1447. Mr. Chairman and Committee Members the crux of the matter is RESIDENCY. Voting residence in ND has during my tenure been defined as the union of act and intent. I may move to another residence, but if my **intent** is to return I can continue to vote at the former precinct. Furthermore, I do not lose my voting residence until I vote in a new precinct (**action**). If I move but do not vote in my new precinct, I can continue voting in my former precinct. **Currently if a voter does not have adequate ID – an affidavit can be signed and the elector casts a ballot.**

During the past three (3) general elections Burleigh County has averaged 574 voter affidavits for various reasons. Election workers are instructed if an elector cannot provide ID or the ID is different than the address being used for voting purposes; the voter executes an affidavit and votes. This bill changes that and basically requires an ID or your vote is not counted.

**There are real issues with IDs** – the law states an approved form of identification includes:

- An official form of identification issued by the state;
- An official form of identification issued by a tribal govt;
- A form of ID prescribed by the Secretary of State;
- A combination of any forms of identification above.

Official IDs issued by the state can be problematic - (address changes but you do not get new Drivers License with the new address).

I also have an issue with ID prescribed by the Secretary of State. What is this? Is a picture required? Does it include a utility bill? A change of address form? When will it be decided? I think something this important should be known and spelled out in statute and not left up to interpretation.

**This legislation will put greater burden on “volunteer election boards.”** If the ID issue is not resolved and crystal clear election boards will be required to make delicate decisions regarding whether a ballot is to be counted or not. Many election boards are very busy on Election Day – and this will just add to the duties and STRESS. Human nature is for people to shun controversy. The way to avoid controversy on Election Day is to have a voter complete an affidavit and allow them to vote -

How many people will execute an affidavit and not return to the polling place with ID (whatever that may be) or come to the auditor's office within three (3) days? How many electors will be disenfranchised?

**(OVER)**



**HB1447 will create two (2) separate and distinct classes of electors** - those who vote in person and those who vote absentee or mail ballot. Electors who vote in person, who cannot provide an acceptable form of ID (?), will be required to complete an affidavit, and have their ballot segregated. Electors who vote absentee or by mail will only be required to complete an affidavit. There is no provision for verifying the legitimacy of absentee\mail ballots. This is unfair as voters are not treated equally with the only difference being the method by which they request their ballots.

Basically you are encouraging people to vote absentee \mail ballots which are **less secure** than voting in person.

Mr. Chairman and members of the Committee, until ND adopts a definition of voting residence, I do not believe this legislation will accomplish what is desired.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1447

Page 1, line 5, after "vote" insert "; and provide for a legislative management study of residency as pertains to voting and additional consolidation of political subdivision elections with county elections.

Page 8, after line 7, insert:

**"SECTION 10. LEGISLATIVE MANAGEMENT STUDY – VOTING RESIDENCY AND ADDITIONAL CONSOLODATION OF POLITICAL SUBDIVISION ELECTIONS.** During the 2011-12 interim, the legislative management shall consider studying residency as pertains to voting and additional consolidation of political subdivision elections with county elections.

Renumber accordingly

ALVIN A. JAEGER  
SECRETARY OF STATE

PAGE www.nd.gov/sos



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April 14, 2011

TO: Rep. Koppelman, Chair, and Members of the Conference Committee for HB 1447

FR: Al Jaeger, Secretary of State

RE: Amendments to HB 1447

For the committee's consideration and to hopefully address the concerns that have been raised, I offer the following amendments for the committee's consideration.

Option # 1: If the committee chooses to only amend the bill as it currently exists in Section 1 of the bill (First Engrossment with Senate Amendments), we recommend it be changed to read as follows. It expands the study to include the tabulation of ballots cast by voters executing voter affidavits and changes "shall consider studying" to "shall study" the items listed.

**SECTION 1. LEGISLATIVE MANAGEMENT STUDY - VOTING RESIDENCY - CONSOLIDATION OF POLITICAL SUBDIVISION ELECTIONS.** During the 2011-12 interim, the legislative management shall ~~consider studying~~ study residency as it relates to voting purposes, qualifications of electors, absentee voting, voting by mail, the tabulation of ballots from voters executing voter affidavits, and the further consolidation of political subdivision elections with regular statewide elections. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

Option # 2 (reverse side):

Option # 2:

To adopt the attached hog house amendment, for the following reasons.

It removes 16.1-02-05(4) because the mailing of a post card within forty-five days does not accomplish the intended purpose of determining the voter's eligibility and if it was determined the voter was not eligible, it is too late to challenge the results of the election.

It repeals 16.1-05-06 related to the challenging of voters because the concept of challenging voters would no longer exist. A voter will provide identification, be vouched for by a poll worker, or vouched for by a qualified elector. If not, he or she will not be allowed to vote.

It maintains the ability of the Secretary of State to prescribe acceptable forms of identification, which will allow for the development of options with the university system to establish ID that will identify their residence eligibility.

It still allows a poll worker, as in current law, to vouch for the qualifications of an elector if they personally know them to be qualified.

The bill removes the option for a voter to execute an affidavit, if they do not have approved identification or are not vouched for by a poll worker. In other words, without an ID or someone, other than a poll worker, vouching for the voter's eligibility, the individual is not allowed to cast a ballot.

This is accomplished by the following, which is a significant change from current law. An individual, who does not present a form of approved identification, is allowed to vote only if a qualified elector vouches that he or she is an eligible voter. Both individuals, the one doing the vouching and the individual vouched for, must sign a form, which makes them both subject to a criminal penalty (as is now the case on the affidavit). if it is subsequently discovered that the voter was not eligible.

The amendment includes a new section regarding the number and responsibilities of political party poll checkers.

It removes two sections from the bill related to chapter 16.1-15 because they are no longer needed since the concept of held or provisional ballots is removed.

**16.1-02-05. Entry of new voters into the central voter file – Query of the central voter file for double voting – Challenges— Postelection verification.**

1. Within forty-five days following an election, the county auditor shall enter the name and required information of each individual who voted at the last election who is not already contained in the central voter file and update any required information requested and obtained at the last election for any individual contained in the central voter file.
2. The secretary of state, with the assistance of the county auditors, within eighty-five days following an election, shall query the central voter file to determine if any individual voted more than once during the preceding election. The secretary of state shall immediately notify the county auditor and state's attorney in each affected county for further investigation.
3. Upon return of any nonforwardable mail from an election official, the county auditor shall ascertain the name and address of that individual. If the individual is no longer at the address recorded in the central voter file, the county auditor shall transfer the voter to the correct precinct in the central voter file or notify the county of the voter's new residence so the voter record can be transferred to the correct county. If a notice mailed at least sixty days after the return of the first nonforwardable mail is also returned by the postal service, the county auditor shall designate the individual as "inactive" in the central voter file.
4. ~~Within forty-five days after an election, the county auditor shall send a notice to each individual who was challenged on election day according to section 16.1-05-06. If a notice is returned as not deliverable, the county auditor shall attempt to determine the reason for the return. A county auditor who does not receive or obtain satisfactory proof of an individual's eligibility to vote shall notify immediately the state's attorney to conduct an investigation of the individual's eligibility to vote in that election.~~

**16.1-05-04. Duties of the members of the election board during polling hours.**

1. The election inspector shall supervise the conduct of the election to ensure all election officials are properly performing their duties at the polling place. The election inspector shall assign duties so as to equally and fairly include both parties represented on the election board.
2. The election inspector shall assign ministerial duties to poll clerks, who shall carry out the ministerial duties assigned by the election inspector.
3. The election inspector shall assign the poll clerks to perform the function of maintaining the pollbook. The designated poll clerks shall maintain the pollbook. The pollbook must contain the name and address of each individual voting at the precinct and must be arranged in the form and manner prescribed by the secretary of state.
4. ~~The members of the election board shall challenge the right of anyone to vote whom they know or have reason to believe is not a qualified elector by requiring the elector to complete and sign a voter's affidavit.~~

5. Each member of the election board shall remain on the premises of the polling place during the time the polls are open to prevent the occurrence of fraud, deceit, or other irregularity in the conduct of the election.
- 6.5. All members of the election board shall distribute ballots and other election materials to electors. An election judge from each party represented on the election board shall give any assistance requested by electors in marking ballots or operating electronic voting system devices.
- 7.6. Each member of the election board shall maintain order in the polling place.

**16.1-05-07. Poll clerks to check identification and verify eligibility – Poll clerks to request, correct, and update incorrect information contained in the pollbook.**

1. Before delivering a member of an election board delivers a ballot to an individual according to section 16.1-13-22, the poll clerks shall request the individual to show identification, which includes the individual's residential address and date of birth. ~~The~~An approved form of identification may include includes:
  - a. An official form of identification issued by the state;
  - b. An official form of identification issued by a tribal government;
  - c. A form of identification prescribed by the secretary of state; or
  - d. A combination of any of the forms of identification under subdivisions a through c.
2. If an individual offering to vote ~~does not have or refuses to show an appropriate form of~~ without identification or identification that does not list the current residential address, the individual may be allowed to vote ~~without being challenged according to section 16.1-05-06 if the individual provides to the election board the individual's date of birth and~~ if a member of the election board or a poll clerk knows the individual and can personally vouch that the individual is a qualified elector of the ~~a~~ precinct administered by the polling place. The individual shall provide the individual's date of birth to the poll clerk entering the voter in the pollbook.
3. ~~If an individual offering to vote does not meet either of the options set forth in subsection 1 or 2, the election board shall challenge the individual's right to vote and the individual may not vote unless the individual executes a voter's affidavit, as provided in section 16.1-05-06.~~

If an individual is offering to vote without identification or identification that does not list the current residential address, the individual may be allowed to vote if a qualified elector of the political subdivision covered by the election appears with the voter and can personally vouch that the individual is a qualified elector of a precinct administered by the polling place. The vouching elector must verify the voucher's qualification as an elector by showing to poll worker an approved form of identification set forth in subsection 1. The secretary of state shall prescribe the form to be used for an elector to vouch for the qualifications of an individual offering to vote. The form must include:

- a. Pertaining to the vouching elector, the following:
  - 1) Full name;
  - 2) Complete residential and mailing address if different;

- 3) Contact telephone number;
  - 4) Date of birth
  - 5) State issued identification, if available;
  - 6) Signature;
  - b. Pertaining to the individual offering to vote without identification or identification that does not list the current residential address, the following:
    - 1) Full name;
    - 2) Complete residential and mailing address if different;
    - 3) Contact telephone number;
    - 4) Date of birth;
    - 5) State issued identification without current residential address, if available,
    - 6) Signature; and
  - c. Pertaining to both: A statement indicating the penalty for falsely vouching for another individual's qualification as an elector and for the individual making a false statement regarding the individual's qualification as an elector.
4. a. When verifying an individual's eligibility or when entering the name of an individual into the pollbook, poll clerks shall request, correct, and update any incorrect or incomplete information about an individual required to be included in the pollbook generated from the central voter file.
- b. If the individual's name is contained in the pollbook generated from the central voter file, the poll clerks shall verify the individual's residential address and mailing address, if different from the individual's residential address.
- c. If the individual's name is not contained in the pollbook generated from the central voter file but the individual is determined eligible to vote, the poll clerks shall record the individual's name in the pollbook. The poll clerks shall request and obtain any additional information for the individual required to be included in the pollbook.
5. Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct to the proper precinct and voting location.
6. An individual that cannot or refuses to comply with the requirements of this section may not be allowed to vote because the individual has not verified the individual's qualification as an elector.

A new section is created and enacted in chapter 16.1-05

**Poll checkers.**

The district chairman of each political party represented on the election board may appoint up to three poll checkers per polling place. A poll checker may not interfere with the election process or with the members of the election board in the performance of the member's duties. A poll checker may not be a member of the election board. The district chairman shall notify the county auditor of each county contained in the legislative district one day before the day of the election of the name of any individual the district chairman has appointed to serve as a poll checker in the legislative district.

**16.1-10-06.1. Paying for certain election-related activities prohibited.**

No

- 1. A person may not pay another person any individual for:

4. a. Any loss or damage due to attendance at the polls;
2. b. Registering;
3. c. The expense of transportation to or from the polls; or
4. d. Personal services to be performed on the day of a caucus, primary election, or any election which tend in any way, directly or indirectly, to affect the result of such caucus or election.

The provisions of this

2. This section does not apply to the hiring of a person an individual whose sole duty it is to act as a challenger duties are to observe the polls and to watch the count of official ballots.

**58-04-09. Challenge to voter— Duty of judges.** If any person individual offering to vote at any election or upon any question arising at a township meeting is challenged as unqualified using the criteria provided in section 16.1-05-06 chapter 16.1-05, the judges shall proceed in the manner in which judges at a general election are required to proceed, adapting the affidavit described in section 16.1-05-06 to the circumstances of the township meeting.

The following section would be repealed.

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

- ~~1. Three poll challengers appointed by the district chairman of each political party represented on the election board 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 three poll challengers from each political party 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 has reason to believe the individual is not a qualified elector of the precinct. A 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 an election board member, that the challenged individual is a legally qualified elector of the precinct.~~
- ~~4. The affidavit must include:
  - ~~a. The name of the affiant.~~
  - ~~b. The address of the affiant.~~
  - ~~c. The birth date of the affiant.~~
  - ~~d. The contact telephone number of the affiant.~~
  - ~~e. The address of the affiant at the time the affiant last voted.~~
  - ~~f. The previous last name of the affiant if it was different when the affiant last voted.~~
  - ~~g. The identification number and state of any state-issued identification regardless of the state in which the identification was issued, if available.~~
  - ~~h. A recitation of the qualifications for voting as set forth in section 16.1-01-04 and the rules for determining residence.~~
  - ~~i. Notice of the penalty for making a false affidavit and that the county auditor is required to verify the affidavit.~~
  - ~~j. A notice indicating that the affidavit is not an open record, but that information identifying who voted after executing an affidavit is an open record as part of the pollbook, except A notice indicating for any individual listed as secured active in the central voter file under section 16.1-02-13.~~
  - ~~k. 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 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 16.1-04.~~
- ~~6. The district chairman of each political party represented on the election board may appoint poll checkers to a 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. Poll challengers 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 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.~~

This section would call for a study:

**SECTION 7. LEGISLATIVE MANAGEMENT STUDY - VOTING RESIDENCY -  
CONSOLIDATION OF POLITICAL SUBDIVISION ELECTIONS.** During the 2011-12 interim,

the legislative management shall ~~consider studying~~ study residency as it relates to voting purposes, qualifications of electors, all forms of absentee voting including in person absentee, traditional absentee, and voting by mail, and the further consolidation of political subdivision elections with regular statewide elections. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

**16.1-02-05. Entry of new voters into the central voter file – Query of the central voter file for double voting – Challenges— Postelection verification.**

1. Within forty-five days following an election, the county auditor shall enter the name and required information of each individual who voted at the last election who is not already contained in the central voter file and update any required information requested and obtained at the last election for any individual contained in the central voter file.
2. The secretary of state, with the assistance of the county auditors, within eighty-five days following an election, shall query the central voter file to determine if any individual voted more than once during the preceding election. The secretary of state shall immediately notify the county auditor and state's attorney in each affected county for further investigation.
3. Upon return of any nonforwardable mail from an election official, the county auditor shall ascertain the name and address of that individual. If the individual is no longer at the address recorded in the central voter file, the county auditor shall transfer the voter to the correct precinct in the central voter file or notify the county of the voter's new residence so the voter record can be transferred to the correct county. If a notice mailed at least sixty days after the return of the first nonforwardable mail is also returned by the postal service, the county auditor shall designate the individual as "inactive" in the central voter file.
4. ~~Within forty five days after an election, the county auditor shall send a notice to each individual who was challenged on election day according to section 16.1-05-06. If a notice is returned as not deliverable, the county auditor shall attempt to determine the reason for the return. A county auditor who does not receive or obtain satisfactory proof of an individual's eligibility to vote shall notify immediately the state's attorney to conduct an investigation of the individual's eligibility to vote in that election.~~

**16.1-05-04. Duties of the members of the election board during polling hours.**

1. The election inspector shall supervise the conduct of the election to ensure all election officials are properly performing their duties at the polling place. The election inspector shall assign duties so as to equally and fairly include both parties represented on the election board.
2. The election inspector shall assign ministerial duties to poll clerks, who shall carry out the ministerial duties assigned by the election inspector.
3. The election inspector shall assign the poll clerks to perform the function of maintaining the pollbook. The designated poll clerks shall maintain the pollbook. The pollbook must contain the name and address of each individual voting at the precinct and must be arranged in the form and manner prescribed by the secretary of state.
4. ~~The members of the election board shall challenge the right of anyone to vote whom they know or have reason to believe is not a qualified elector by requiring the elector to complete and sign a voter's affidavit.~~

5. Each member of the election board shall remain on the premises of the polling place during the time the polls are open to prevent the occurrence of fraud, deceit, or other irregularity in the conduct of the election.
- 6.5. All members of the election board shall distribute ballots and other election materials to electors. An election judge from each party represented on the election board shall give any assistance requested by electors in marking ballots or operating electronic voting system devices.
- 7.6. Each member of the election board shall maintain order in the polling place.

**16.1-05-07. Poll clerks to check identification and verify eligibility – Poll clerks to request, correct, and update incorrect information contained in the pollbook.**

1. Before ~~delivering~~ a member of an election board delivers a ballot to an individual according to section 16.1-13-22, the poll clerks shall request the individual to show identification, which includes the individual's residential address and date of birth. TheAn approved form of identification may includeincludes:
  - a. An official form of identification issued by the state;
  - b. An official form of identification issued by a tribal government;
  - c. A form of identification prescribed by the secretary of state; or
  - d. A combination of any of the forms of identification under subdivisions a through c.
2. If an individual offering to vote ~~does not have or refuses to show an appropriate form of~~ without identification or identification that does not list the current residential address, the individual may be allowed to vote ~~without being challenged according to section 16.1-05-06 if the individual provides to the election board the individual's date of birth and if a member of the election board or a poll clerk knows the individual and can personally vouch that the individual is a qualified elector of the~~ a precinct administered by the polling place. The individual shall provide the individual's date of birth to the poll clerk entering the voter in the pollbook.
3. ~~If an individual offering to vote does not meet either of the options set forth in subsection 1 or 2, the election board shall challenge the individual's right to vote and the individual may not vote unless the individual executes a voter's affidavit, as provided in section 16.1-05-06.~~

If an individual is offering to vote without identification or identification that does not list the current residential address, the individual may be allowed to vote if a qualified elector of the political subdivisionjurisdiction covered by the election appears with the voter and can personally vouch that the individual is a qualified elector of a precinct administered by the polling place. The vouching elector must verify the voucher's qualification as an elector by showing to poll worker an approved form of identification set forth in subsection 1. The secretary of state shall prescribe the form to be used for an elector to vouch for the qualifications of an individual offering to vote. The elector verification form must include:

- a. Pertaining toFor the vouching elector, the following information:
  - 1) Full name;
  - 2) Complete residential and mailing address if different;

- 3) Contact telephone number;
- 4) Date of birth
- 5) State issued identification, if available;
- 6) Signature;
- b. Pertaining to For the individual offering to vote without identification or identification that does not list the current residential address, the following information:
  - 1) Full name;
  - 2) Complete residential and mailing address if different;
  - 3) Contact telephone number;
  - 4) Date of birth;
  - 5) State issued identification without current residential address, if available;
  - 6) Signature; and
- c. Pertaining to For both: A statement indicating the penalty for falsely vouching for another individual's qualification as an elector and for the individual making a false statement regarding the individual's qualification as an elector. The elector verification form is not an open record, but the designation as such associated with the elector in the pollbook is an open record.

In any election, a qualified elector of the state may, on separate elector verification forms, vouch for the qualifications of no more than four individuals residing with the elector in the same household as defined in section 54-64-01 or one individual residing at a separate location within the boundaries of the jurisdiction covered by the election. However, a qualified elector may not vouch for a person residing at a location within another county.

Within (blank) days after the election, the election official responsible for the overall administration of the election shall review each elector verification form executed by voters participating in the election. If there is any question about the form or the qualifications as an elector of that political subdivision, of the individual vouching for another, or the individual being vouched for, the election official shall forward the forms and any other available information to the states attorney for further investigation. The state's attorney shall carefully review any information forwarded and initiate an investigation in all cases in which fraud is likely to exist. An elector knowingly vouching for an unqualified elector is guilty of a class A misdemeanor for each unqualified elector vouched for by the elector.

- 4. a. When verifying an individual's eligibility or when entering the name of an individual into the pollbook, poll clerks shall request, correct, and update any incorrect or incomplete information about an individual required to be included in the pollbook generated from the central voter file.
- b. If the individual's name is contained in the pollbook generated from the central voter file, the poll clerks shall verify the individual's residential address and mailing address, if different from the individual's residential address.
- c. If the individual's name is not contained in the pollbook generated from the central voter file but the individual is determined eligible to vote, the poll clerks shall record the individual's name in the pollbook. The poll clerks shall request and obtain any additional information for the individual required to be included in the pollbook.
- d. An indication shall be made in the pollbook for each individual allowed to vote by reason of the execution of an elector verification form.

5. Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct to the proper precinct and voting location.
6. An individual that cannot who fails or refuses to comply with the requirements of this section may not be allowed to vote because the individual has not verified the individual's qualification as an elector.

A new section is created and enacted in chapter 16.1-05

**Poll checkers.**

The district chairman of each political party represented on the election board may appoint up to three poll checkers per polling place. A poll checker may not interfere with the election process or with the members of the election board in the performance of the member's duties. A poll checker may not be a member of the election board. The district chairman shall notify the county auditor of each county contained in the legislative district one day before the day of the election of the name of any individual the district chairman has appointed to serve as a poll checker in the legislative district.

**16.1-10-06.1. Paying for certain election-related activities prohibited.**

~~No~~

1. A person may not pay another person any individual for:
  - 1- a. Any loss or damage due to attendance at the polls;
  - 2- b. Registering;
  - 3- c. The expense of transportation to or from the polls; or
  - 4- d. Personal services to be performed on the day of a caucus, primary election, or any election which tend in any way, directly or indirectly, to affect the result of such caucus or election.

~~The provisions of this~~

2. This section does not apply to the hiring of a person an individual whose sole duty it is to act as a challenger duties are to observe the polls and to watch the count of official ballots.

**58-04-09. Challenge to voter— Duty of judges.** If any person individual offering to vote at any election or upon any question arising at a township meeting is challenged as unqualified using the criteria provided in section 16.1-05-06 chapter 16.1-05, the judges shall proceed in the manner in which judges at a general election are required to proceed, adapting the affidavit described in section 16.1-05-06 to the circumstances of the township meeting.

The following section would be repealed.

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

1. ~~Three poll challengers appointed by the district chairman of each political party represented on the election board 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 three poll challengers from each political party 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 has reason to believe the individual is not a qualified elector of the precinct. A 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 an election board member, that the challenged individual is a legally qualified elector of the precinct.~~

~~4. The affidavit must include:~~

- ~~a. The name of the affiant.~~
- ~~b. The address of the affiant.~~
- ~~c. The birth date of the affiant.~~
- ~~d. The contact telephone number of the affiant.~~
- ~~e. The address of the affiant at the time the affiant last voted.~~
- ~~f. The previous last name of the affiant if it was different when the affiant last voted.~~
- ~~g. The identification number and state of any state-issued identification regardless of the state in which the identification was issued, if available.~~
- ~~h. A recitation of the qualifications for voting as set forth in section 16.1-01-04 and the rules for determining residence.~~
- ~~i. Notice of the penalty for making a false affidavit and that the county auditor is required to verify the affidavit.~~
- ~~j. A notice indicating that the affidavit is not an open record, but that information identifying who voted after executing an affidavit is an open record as part of the pollbook, except A notice indicating for any individual listed as secured active in the central voter file under section 16.1-02-13.~~
- ~~k. 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 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. The district chairman of each political party represented on the election board may appoint poll checkers to a 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. Poll challengers 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 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.~~

This section would call for a study:

**SECTION 7. LEGISLATIVE MANAGEMENT STUDY - VOTING RESIDENCY - CONSOLIDATION OF POLITICAL SUBDIVISION ELECTIONS.** During the 2011-12 interim, the legislative management shall consider studying residency as it relates to voting purposes, qualifications of electors, all forms of absentee voting including in person absentee, traditional absentee, and voting by mail, and the further consolidation of political subdivision elections with regular statewide elections. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

Or

**SECTION 7. LEGISLATIVE MANAGEMENT STUDY – QUALIFICATIONS OF ELECTORS – ELECTION ADMINISTRATION.** During the 2011-12 interim, the legislative management shall consider studying qualifications of electors, all forms of absentee voting including in person absentee, traditional absentee, and voting by mail, and the further consolidation of political subdivision elections with regular statewide elections. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.



PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1447

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to 16.1-05 of the North Dakota Century Code, relating to the appointment poll checkers; to amend and reenact sections 16.1-02-05, 16.1-05-04, 16.1-05-07, 16.1-10-06.1, and 58-04-09 of the North Dakota Century Code, relating to verification of eligibility of voters; to repeal section 16.1-05-06 of the North Dakota Century Code, relating to challenging the right to vote; and to provide for a legislative management study.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 16.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-02-05. Entry of new voters into the central voter file – Query of the central voter file for double voting – Challenges— Postelection verification.**

1. Within forty-five days following an election, the county auditor shall enter the name and required information of each individual who voted at the last election who is not already contained in the central voter file and update any required information requested and obtained at the last election for any individual contained in the central voter file.
2. The secretary of state, with the assistance of the county auditors, within eighty-five days following an election, shall query the central voter file to determine if any individual voted more than once during the preceding election. The secretary of state shall immediately notify the county auditor and state's attorney in each affected county for further investigation.
3. Upon return of any nonforwardable mail from an election official, the county auditor shall ascertain the name and address of that individual. If the individual is no longer at the address recorded in the central voter file, the county auditor shall transfer the voter to the correct precinct in the central voter file or notify the county of the voter's new residence so the voter record can be transferred to the correct county. If a notice mailed at least sixty days after the return of the first nonforwardable mail is also returned by the postal service, the county auditor shall designate the individual as "inactive" in the central voter file.
- ~~4. Within forty-five days after an election, the county auditor shall send a notice to each individual who was challenged on election day according to section 16.1-05-06. If a notice is returned as not deliverable, the county auditor shall attempt to determine the reason for the return. A county auditor who does not receive or obtain satisfactory proof of an individual's eligibility to vote shall notify immediately the state's attorney to conduct an investigation of the individual's eligibility to vote in that election.~~

**SECTION 2. AMENDMENT.** Section 16.1-05-04 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-05-04. Duties of the members of the election board during polling hours.**

1. The election inspector shall supervise the conduct of the election to ensure all election officials are properly performing their duties at the polling place. The election inspector shall assign duties so as to equally and fairly include both parties represented on the election board.
2. The election inspector shall assign ministerial duties to poll clerks, who shall carry out the ministerial duties assigned by the election inspector.
3. The election inspector shall assign the poll clerks to perform the function of maintaining the pollbook. The designated poll clerks shall maintain the pollbook. The pollbook must contain the name and address of each individual voting at the precinct and must be arranged in the form and manner prescribed by the secretary of state.
4. ~~The members of the election board shall challenge the right of anyone to vote whom they know or have reason to believe is not a qualified elector by requiring the elector to complete and sign a voter's affidavit.~~
5. Each member of the election board shall remain on the premises of the polling place during the time the polls are open to prevent the occurrence of fraud, deceit, or other irregularity in the conduct of the election.
- 6.5. All members of the election board shall distribute ballots and other election materials to electors. An election judge from each party represented on the election board shall give any assistance requested by electors in marking ballots or operating electronic voting system devices.
- 7.6. Each member of the election board shall maintain order in the polling place.

**SECTION 3. AMENDMENT.** Section 16.1-05-07 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-05-07. Poll clerks to check identification and verify eligibility – Poll clerks to request, correct, and update incorrect information contained in the pollbook.**

1. ~~Before delivering a~~ Before a member of an election board delivers a ballot to an individual according to section 16.1-13-22, the poll clerks shall request the individual to show identification, which includes the individual's residential address and date of birth. ~~The~~ An approved form of identification may include includes:
  - a. An official form of identification issued by the state;
  - b. An official form of identification issued by a tribal government;
  - c. A form of identification prescribed by the secretary of state; or
  - d. A combination of any of the forms of identification under subdivisions a through c.
2. If an individual offering to vote ~~does not have or refuses to show an appropriate form of~~ without identification or identification that does not list the current residential address, the individual may be allowed to vote ~~without being challenged according to section 16.1-05-06 if the individual provides to the election board the individual's date of birth and~~ if a member of the election board or a poll clerk knows the individual and can personally vouch that the individual is a qualified elector of ~~the~~ a precinct

administered by the polling place. The individual shall provide the individual's date of birth to the poll clerk entering the voter in the pollbook.

3. ~~If an individual offering to vote does not meet either of the options set forth in subsection 1 or 2, the election board shall challenge the individual's right to vote and the individual may not vote unless the individual executes a voter's affidavit, as provided in section 16.1-05-06.~~

a. If an individual is offering to vote without identification or identification that does not list the current residential address, the individual may be allowed to vote if a qualified elector of the jurisdiction covered by the election appears with the voter and can personally vouch that the individual is a qualified elector of a precinct administered by the polling place. The vouching elector must verify the voucher's qualification as an elector by showing to a poll worker an approved form of identification set forth in subsection 1. The secretary of state shall prescribe the form to be used for an elector to vouch for the qualifications of an individual offering to vote. The elector verification form must include:

(1) For the vouching elector, the following information:

- (a) Full name;
- (b) Complete residential and mailing address if different;
- (c) Contact telephone number;
- (d) Date of birth
- (e) State issued identification, if available;
- (f) Signature;

(2) For the individual offering to vote without identification or identification that does not list the current residential address, the following information:

- (a) Full name;
- (b) Complete residential and mailing address if different;
- (c) Contact telephone number;
- (d) Date of birth;
- (e) State issued identification without current residential address, if available;
- (f) Signature; and

(3) For both: A statement indicating the penalty for falsely vouching for another individual's qualification as an elector and for the individual making a false statement regarding the individual's qualification as an elector. The elector verification form is not an open record, but the designation as such associated with the elector in the pollbook is an open record.

b. In any election, a qualified elector of the state may, on separate elector verification forms, vouch for the qualifications of no more than four individuals residing with the elector in the same household as defined in section 54-64-01 or one individual residing at a separate location within the boundaries of the jurisdiction covered by the election. However, a qualified elector may not vouch for a person residing at a location within another county.

c. Within fourteen days after the election, the local official responsible for the overall administration of the election shall review each elector verification form executed by voters participating in the election. If there is any question about the completed form or the qualifications as an elector of that political subdivision, of the individual vouching for another, or the individual being vouched for, the

election official shall forward the forms and any other available information to the state's attorney for further investigation. The state's attorney shall carefully review any information forwarded and initiate an investigation in all cases in which fraud is likely to exist. An elector knowingly vouching for an unqualified elector is guilty of a class A misdemeanor for each unqualified elector vouched for by the elector.

4. a. When verifying an individual's eligibility or when entering the name of an individual into the pollbook, poll clerks shall request, correct, and update any incorrect or incomplete information about an individual required to be included in the pollbook generated from the central voter file.
  - b. If the individual's name is contained in the pollbook generated from the central voter file, the poll clerks shall verify the individual's residential address and mailing address, if different from the individual's residential address.
  - c. If the individual's name is not contained in the pollbook generated from the central voter file but the individual is determined eligible to vote, the poll clerks shall record the individual's name in the pollbook. The poll clerks shall request and obtain any additional information for the individual required to be included in the pollbook.
  - d. An indication shall be made in the pollbook for each individual allowed to vote by reason of the execution of an elector verification form.
5. Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct to the proper precinct and voting location.
  6. An individual who fails or refuses to comply with the requirements of this section may not be allowed to vote because the individual has not verified the individual's qualification as an elector.

**SECTION 4.** A new section to chapter 16.1-05 of the North Dakota Century Code is created and enacted as follows:

**Poll checkers.**

The district chairman of each political party represented on the election board may appoint up to three poll checkers per polling place. A poll checker may not interfere with the election process or with the members of the election board in the performance of the member's duties. A poll checker may not be a member of the election board. The district chairman shall notify the county auditor of each county contained in the legislative district one day before the day of the election of the name of any individual the district chairman has appointed to serve as a poll checker in the legislative district.

**SECTION 5. AMENDMENT.** Section 16.1-10-06.1 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-10-06.1. Paying for certain election-related activities prohibited.**

~~No~~

1. ~~A person may not pay another person~~any individual for:

- ~~1-~~ a. Any loss or damage due to attendance at the polls;
- ~~2-~~ b. Registering;

3. c. The expense of transportation to or from the polls; or
4. d. Personal services to be performed on the day of a caucus, primary election, or any election which tend in any way, directly or indirectly, to affect the result of such caucus or election.

~~The provisions of this~~

2. This section does not apply to the hiring of a personan individual whose sole duty it is to act as a challengerduties are to observe the polls and to watch the count of official ballots.

**SECTION 6. AMENDMENT.** Section 58-04-09 of the North Dakota Century Code is amended and reenacted as follows

**58-04-09. Challenge to voter— Duty of judges.** If any ~~person~~individual offering to vote at any election or upon any question arising at a township meeting ~~is challenged as unqualifiedcannot verify the individual's qualifications as an elector~~ using the criteria provided in ~~section 16.1-05-0616.1-01-04 and chapter 16.1-05,~~ the judges shall proceed in the manner in which judges at a general election are required to proceed, adapting ~~the affidavit described in section 16.1-05-06~~ to the circumstances of the township meeting.

**SECTION 7. REPEAL.** Section 16.1-05-06 of the North Dakota Century Code is repealed.

**SECTION 8. LEGISLATIVE MANAGEMENT STUDY - VOTING RESIDENCY - CONSOLIDATION OF POLITICAL SUBDIVISION ELECTIONS.** During the 2011-12 interim, the legislative management shall ~~consider studying~~study residency as it relates to voting purposes, qualifications of electors, all forms of absentee voting including in person absentee, traditional absentee, and voting by mail, and the further consolidation of political subdivision elections with regular statewide elections. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly.