

MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

1379

2007 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1379

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1379

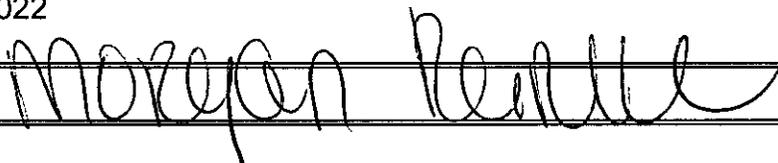
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: January 26, 2007

Recorder Job Number: 2022

Committee Clerk Signature



Minutes:

Jim Silrum: Testimony Attached.

Rep. Kasper: Under current law you have a 5% exemption for write ins, correct?

Jim Silrum: We have a 5% or less, yes. That just means that those votes are listed as scattered.

Rep. Kasper: Therefore your example you're using is that someone might write in their own name, or Donald Duck, would never be shown because of that exemption?

Jim Silrum: That is true providing those write in votes. A total of those write in votes stay below that.

Rep. Kasper: This bill talks about the inconvenience to the people who run the elections. Let's talk about the desire for the public to know what is going on in elections. If a write in candidate works hard to make his or her point to the public, and his or her campaign committee does the same thing. Some of the public votes for that person, don't you think it's the right of the public to know how many votes were cast for that person that they worked for to get elected?

Jim Silrum: You are absolutely right. If the write in candidate works hard on their campaign and does all of that, the county is very likely to take the time to research all their votes because

it is rather obvious in the public eye when a legitimate write in campaign is being run. It's also very obvious when there is no such thing as true write in candidate.

Rep. Kasper: Yes we covered that already with the 5% exemption. The key to me is this bill is taking away information that should be legitimately out there for the public to know what is happening in our elections. For the 20% of a total vote cast is a pretty big number. I think that we need to concentrate on the people and candidates knowing compare to a little extra work for the poll watchers and auditors.

Jim Silrum: Let me clarify if I may that the 20% is not based on the poll votes cast. It is based on the person who is elected. That being said, Quite frankly it is our opinion that those larger races, 5% is more than adequate. We are finding that in the smaller city races in which there are very few votes cast for those offices. 5% means a whole lot more than does 5% in a legislative race or statewide race.

Rep. Kasper: Would you clarify for me on page 2 beginning on line 1, what 20% are you talking about that would be included from being known from the public?

Jim Silrum: Let me see if I understand the question correctly. What 20%?

Rep. Kasper: You are amending the current law to strike 5% and go to 20% or less of the votes cast. If you have 10,000 votes cast, 20% is 2,000. We are saying here that if 2,000 or less votes are cast we don't have to do what with them? Tell me what you are saying with your 20%.

Jim Silrum: What we don't have to do is put the individual names of those people who had write in votes do not need to be individually published. Just as a matter of clarification they do not apply to votes cast by the voters for the people receiving the most votes. That is just a clarification. The direct answer to your question is if those offices where the write in votes

would constitute 20% or less of the total amount given to the winning candidate, they would be listed in the official public documents. They would be listed as scattered write in votes.

Rep. Kasper: Will the individual candidate that receives those votes be listed?

Jim Silrum: That is correct.

Rep. Haas: That 20% may include more than one name.

Jim Silrum: That is my testimony that it will include not only more than one name but likely lots of names.

Rep. Schneider: How many elections included this 5%?

Jim Silrum: There were to my recollection, the only races that went over that were those races that involved city races. Since we are not the office to canvass those, I don't have that record.

If I may, the Cass County Auditor is here and she could address that question.

Rep. Schneider: Well how many state elections have exceeded the 20%?

Jim Silrum: None have exceeded the 5%. It's the law of percentages that 5% of 100,000 votes is a lot of votes. 5% of 30 votes can be a lot.

Mike Montplaiser: Testimony Attached.

Rep. Meier: Do you think that 20% is a reasonable request?

Mike Montplaiser: For the small cities it is a reasonable request. We can certainly live with the 5%.

Rep. Boehning: Will this change the threshold of the number you need to get onto the general election, or what is the percentage of that?

Mike Montplaiser: No it does not. The thresholds for the general election are the same number of signatures that you need to collect to get on the ballot by petition. That doesn't change.

Rep. Boehning: What are the numbers for that?

Mike Montplaiser: I'm not quite sure the percentage. I think for the legislative race it amounts to 120 votes. Most districts have about 12,000 voters.

Rep. Haas: If we were actually going to differentiate between this and put different percentages in for large and small cities. Where do you think the cutoff should be?

Mike Montplaiser: I found that before and we have tried to figure that out. In our case a city under 5,000, 20% works fine. We have only two cities in the county that are over 5,000.

Ann Johnsrud: Testimony attached.

Rep. Haas: Is there any more testimony for HB 1379? If not we will close the hearing on HB 1379.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1379

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: January 26, 2007

Recorder Job Number: 2028

Committee Clerk Signature

Morgan Rennie

Minutes:

Rep. Dahl: One of the parts that I was skeptical on is that the process in small places. If you are going to those votes you wouldn't have a problem. If it was 160 votes, that is not a huge deal. In terms of actually counting them, I don't think it was an issue.

Rep. Froseth: I just want to clarify a misunderstanding about the printing of them in the newspaper. The newspapers print them the way the county auditor's submit them to the newspapers. If the county auditors in fact send in the abstracted votes to be published, and they in fact list every name that received a vote that is the way the newspapers will print them. The county auditors will just put scattered votes as the total. The county auditors apparently have the ability to eliminate the names. I don't think that is the problem.

Rep. Kasper: Have a lot of you worked in an election night polling center for your county auditor? I have worked about 7 of them. The last one was in about 2000. You become much more automated in those centers. With what we have now, whenever there is a write in vote, the machine kicks out the ballot automatically. The thought that you have to go through thousands of ballots to look at the write in ballots is not right. The write in ones come out and they are segregated. You have five members of your election board that night that can look at those ballots and tally who has what. A lot of work is done when you are sitting there and

waiting for the machine to do their job. The bigger issue is when does the right for the people to know, to make it easier for the election people to do their job. I think we are moving further away from what really goes on into our election when we increase the percentages like from 5% to 20%. People may only get 6 or 7 % of the vote on the write in ballot but they might have worked for 6 months to do it. For them to not know the results of their effort is not right. The public needs to know because if there is a write in campaign going on, they need to know the result. I think we need to preserve the integrity of the election and keep that information in the public eye. This goes way beyond where it should.

Rep. Boehning: One lady got 11.7% of the votes and they still didn't put her name in

Rep. Froseth: The name doesn't need to be public. If you want to find out exactly whose name was written you can go to the county auditor's office and they will look at the poll book at your precinct.

Rep. Haas: Would it be better if we put a dual percentage in there that says any community greater then 5,000 the threshold will be 5%, for any community less than 5,000 the threshold will be 20%.

Rep. Meier: I think that is an excellent idea.

Rep. Froseth: You can't go by the population of the community because not everyone votes. It would have to be based on qualified voters and the number of votes cast.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1379

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: January ~~11~~ 2007 *Date?*

Recorder Job Number: 2029

Committee Clerk Signature *Morgan Rindell*

Minutes:

Rep. Kasper: I motion a do not pass on HB 1379

Rep. Weiler: I second that

Rep. Haas: Are there any other questions?

Rep. Dahl: I still have some questions about the wording about the county recorder.

Rep. Kasper: I withdraw my motion

Rep. Weiler: I'll withdraw also

Rep. Kasper: then we have to amend it.

Rep. Haas: I'm going to talk to the Secretary of State before we act on this bill. If you want to we will amend it and remove the strike over and take it up next week.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1379

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: February 1, 2007

Recorder Job Number: 2524

Committee Clerk Signature

Morgan Penick

Minutes:

Rep. Meier: There was a little bit of concern from going from 5% to that 20%. So I did a little work on this with the Secretary of State's office and I will go through this.

Rep. Meier: Amendment attached.

Rep. Meier: This is the work that I had the Secretary of State's office do with the requests that I have had with the population.

Rep. Potter: I don't know but when Rep. Meier was reading it on 2 and on 3 you read constituents and this says constitutes. Which one do you mean?

Rep. Meier: It would be constitutes.

Rep. Potter: I just wanted to clarify that.

Rep. Froseth: I asked a question on how you could base this on the population of a city because it is based now on the number of votes cast. A certain percentage of the votes are cast. What if a city of 5,000 people and you have 100 come off the votes. I don't see how it can work because of the population of a precinct. It has to be based upon the number of votes that are cast in this given election. If we get the number of votes cast in an election it would be recognized for that, not the number of people living in a given precinct.

Rep. Haas: I'm trying to look up the section of code that gives these statements for section d and e. Sometimes even the bills don't make sense unless you know what the statement was that comes before the d and the e. The precursor statement is an election board or canvassing board may not count or be required to count to officially report any write in vote for any primary election or write in votes where the total write in votes cast for an office in a primary election are fewer then the number of votes necessary to qualify a name for the general election. The

Rep. Kasper: Can you read the opening statement again?

Rep. Haas: An election board or canvassing board may not count or be required to count to officially report any write in vote for any primary election or write in votes where the total write in votes cast for an office in a primary election are fewer then the number of votes necessary to qualify a name for the general election. I'll tell you what we did. It says that a general election of a jurisdiction. That means a voting jurisdiction with a population of less than 5,000. If it is a township election that is the voting jurisdiction. If it is a city election that is the voting jurisdiction. It could be a county election whereas the county is the voting jurisdiction. If it's a school election the school district is the voting jurisdiction. We are talking about populations within a voting jurisdiction. I don't know if that helps. It has to be related to the voting jurisdiction.

Rep. Kasper: Let's just work with 5,000. That is our population. 5,000 people and roughly half of those would be voting eligible. Now we have 2,500. This bill says that the person who gets the highest votes. Out of 2,500 someone got 2,000 votes. This says if the write in candidate gets 20% or less of 2,000 which would be 400 they do not have to record their vote. I think that is a ridiculous number. This is a solution to a problem that doesn't exist. I have worked on an election board 7 or 8 times. There is no problem in identifying who the write ins are because the machines kicked them out. You at that election center that night and you segregate them

and read the names while someone writes them down. All the work is done at the election center the night of the election. You know who the write ins are and you have a little sheet. You have already done the work. All we are saying is that if we had the number of votes exceeds 5% under the current statute that you have to publish them. Now we are going to 20%. After all the work we have done you just write the names down and publish them. People work their tails off to get 400 votes and they don't even know they got 400 votes. That is not right.

Rep. Weiler: I guess when I look at who came in to testify for this bill, we saw the Secretary of State's office. Then there were some county recorders who said they were happy to work with it. I have to agree with Rep. Kasper. The individual that works hard should be recognized. We aren't talking about county officials coming in and saying that this is a big problem. We just need to kill this bill.

Rep. Amerman: You mentioned earlier that in the city election the city is the jurisdiction. If I'm running for governor, what happens?

Rep. Haas: Well then the voting jurisdiction is the state.

Rep. Froseth: 20% on a 5,000 population is small. If there are 2,000 votes cast and the top candidate gets 600 votes. 20% of that is 120 votes. I'm thinking if someone gets 120 votes they should be recognized. You have to feel sorry for the poor newspaper who prints all of these abstract votes too. But that seems to be that the biggest objection that some of these auditors came in was the cost of publishing the abstracted votes. I know that they can compile the scattered votes. They don't have to list every name for one vote. It seems like 20% is quite excessive.

Rep. Haas: If you look at the summary from Cass County. On his abstract sheet it has the scattered votes on it. I have one comment in reference to Rep. Weiler's comment that has to

do with the county recorders testimony. I'm not trying to defend these people but Ann Johnsrud's testimony says that in this bill wherever there was a reference made to the clerk of district court it was changed to county recorder. All she said was that we happily accept that job. She didn't make any reference in her testimony to whether or not she was in support of the change.

Rep. Boehning: Do we have a motion on the floor?

Rep. Haas: No we do not.

Rep. Boehning: I move to amend page 2 line 3 and remove the overstrike on 5 and strike out 20.

Rep. Haas: This simply leaves the bill exactly how it is and the rest of the bill will stay in tact.

Rep. Kasper: I second that.

Rep. Haas: Is there any discussion?

Rep. Meier: I didn't get a chance to move my amendments but I do think the comments from the committee are right.

Rep. Froseth: It seems to me that a couple of session back that we did make an exception for fictitious names that did not have to be recorded. Is there any way of checking that real quick?

Rep. Kasper: It is right on the handout.

Rep. Haas: We will take a voice vote on the amendment. All in favor say 'aye' all opposed say 'no'. The amendment is carried. When we get the amendment down they aren't going to remove the overstrike on 5 and strike out 20. They are going to remove lines 1-6 on page 2.

Rep. Kasper: They can't do that.

Rep. Haas: Yes they are. They are going to remove it because nothing is changed there. That is the way the amendment will come down from legislative council. They just take it out of the bill and it stays the same.

Rep. Weiler: I move a do pass as amended.

Rep. Meier: I second that.

Rep. Weiler: I do have a question and it relates to page 1 line 2. Will legislative council change the title?

Rep. Haas: Yes they will do all of that. There is also a section where it says subdivision d and e of subsection 1. That will all come out also.

Rep. Froseth: Just a point of clarification on that. I believe the title is not part of the bill. The title is where it describes the bill. What we change goes into effect on line 3.

Rep. Haas: That is correct.

Rep. Weiler: You are correct on that but however if they didn't change that it would go on the floor where it would be read.

Rep. Haas: They do. They will change the title of the bill to reflect what is actually happening in the bill. Is there any further discussion? If not we will take a roll call vote on HB 1379. The do pass as amended motion for HB 1379 passes with a vote of 11-0-2. Is there a volunteer to carry this bill?

Rep. Karls: I will.

Date: 1-26-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HB 1379

Action Taken Do not pass

Motion Made By Rep. Kasper Seconded By Rep. Weiler
Granell Meier

Representatives	Yes	No	Representatives	Yes	No
Rep. C. B Haas Chairman			Rep. Bill Amerman		
Rep. Bette Grande VC			Rep. Louise Potter		
Rep. Randy Boehning			Rep. Jasper Schneider		
Rep. Stacey Dahl			Rep. Lisa Wolf		
Rep. Glen Froseth					
Rep. Karen Karls					
Rep. Jim Kasper					
Rep. Lisa Meier					
Rep. Dave Weiler					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 2-1-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HB 1379

Action Taken amend bill

Motion Made By Rep Boehning Seconded By Rep Kasper

Representatives	Yes	No	Representatives	Yes	No
Rep. C. B Haas Chairman			Rep. Bill Amerman		
Rep. Bette Grande VC			Rep. Louise Potter		
Rep. Randy Boehning			Rep. Jasper Schneider		
Rep. Stacey Dahl			Rep. Lisa Wolf		
Rep. Glen Froseth					
Rep. Karen Karls					
Rep. Jim Kasper					
Rep. Lisa Meier					
Rep. Dave Weiler					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 2-1-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HB 1379

Action Taken Do pass as amended

Motion Made By Rep Weiler Seconded By Rep Meier

Representatives	Yes	No	Representatives	Yes	No
Rep. C. B Haas Chairman	X		Rep. Bill Amerman	X	
Rep. Bette Grande VC			Rep. Louise Potter	X	
Rep. Randy Boehning	X		Rep. Jasper Schneider	X	
Rep. Stacey Dahl			Rep. Lisa Wolf	X	
Rep. Glen Froseth	X				
Rep. Karen Karls	X				
Rep. Jim Kasper	X				
Rep. Lisa Meier	X				
Rep. Dave Weiler	X				

Total (Yes) 11 No 0

Absent 2

Floor Assignment Rep. Karls

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

REPORT OF STANDING COMMITTEE

HB 1379: Government and Veterans Affairs Committee (Rep. Haas, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). HB 1379 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "subdivisions" with "subdivision" and remove "and e"

Page 1, line 2, after "to" insert "canvassing of"

Page 1, line 4, replace "Subdivisions" with "Subdivision" and remove "and e"

Page 1, line 5, replace "are" with "is"

Page 2, remove lines 1 through 6

Renumber accordingly

2007 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1379

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1379

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 2/23/07

Recorder Job Number: 3766, 3771

Committee Clerk Signature

Veronica Spaulding

Minutes:

All members of the committee were present.

Senator Dever, Chairman, opened the hearing on HB 1379.

Al Jaeger, Secretary of State, introduced HB 1379. See attachment # 1. He said the bill in its original form was brought forth for a good reason. A recount costs a county a lot of money so he would like to cut down on the number of recounts.

Senator Oehlke asked when a recount is done, can a person who was a write-in candidate find out how many votes he got?

Al Jaeger said when you are a write-in candidate on a recount you are allowed to be present and watch the recount process.

Danette Odenbach with the North Dakota Association of Counties spoke in favor of HB 1379.

She said the Cass County Auditor's Office said 5% is fine for counties but they would like to see it higher for city or school board elections. Many fictitious names are being written in and it wastes time and resources counting and publishing them.

There was discussion about increasing the percentage. Senator Lee asked if the House had considered other percentages.

Danette said they did consider it and then they just deleted the language altogether. She wasn't present at their committee discussion so she doesn't know why they decided to do it.

Senator Nelson said she doesn't feel the problem is with the candidates who receive between 5% and 20%. She feels it is with those who receive from 0% to 5% of the vote.

Senator Oehlke said the candidates want to know their votes are counted.

Ann Johnsrud, McKenzie County Recorder, spoke in favor of the bill. See attachment # 2.

Support: -

Opposition: -

Neutral: -

Chairman Dever closed the hearing on HB 1379.

Senator Lee stated she would like the committee to consider re-amending the bill back to its original form. She doesn't feel it is necessary to accommodate a handful of people who want to see their name in print and cause a lot of work for public officials. She also would like to change the percentage to a larger number somewhere between 5 and 20.

Senator Oehlke asked what the cost was for the recount in Fargo.

Al said it was 5 people x 2 hours x 58 precincts x \$9.00/ hr. He mentioned there were also a lot of angry people.

Senator Nelson asked if the candidate had to pay for the recount.

Al said the county has to pay.

Senator Dever asked what percentage that candidate got.

Al said from memory it was 3% or 4%, but the way the law was the candidate could demand a recount.

Senator Oehlke asked if that occurred this year.

Al said he thought it was in 2002.

Senator Oehlke asked how a candidate would know to ask for a recount.

Al responded that the vote percentage has to be within a certain percentage. At one percentage level it is an automatic recount; at another percentage level a candidate can demand a recount. As the law stands now if there are 2000 votes cast overall and the machine counts that there are 100 write-ins for a particular race, that would be 5% of the votes cast and the write-in votes would have to be tabulated by candidate and the results published.

Danette reported back that the cost to the county on the count that was asked for earlier was \$2610.00.

The committee will act on this later.

JOB # 3771

Chairman Dever opened discussion on HB 1379.

Senator Lee felt it was worth reconsidering this bill in its original form, just changing the percentage.

Senator Horne said he was also in favor of considering that.

Senator Dever said maybe they could try for 15 and compromise at 10.

A do pass motion was made by Senator Lee to amend the bill, putting back in the wording the House excluded which is Section 6 but changing the percent to 10%.

The motion was seconded by Senator Horne.

Roll Call Vote: Yes 5 No 1 Absent 0

A do pass as amended motion was made by Senator J. Lee.

The motion was seconded by Senator Oehlke.

Roll Call Vote: Yes 6 No 0 Absent 0

Carrier: J. Lee

Date : 2-23-07
 Roll Call Vote # : 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1379 amendment

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken amendment

Motion Made By Lee Seconded By Horne

Senators	Yes	No	Senators	Yes	No
Senator Dick Dever - Chairman	✓		Senator Robert Horne	✓	
Senator Dave Oehlke - VC	✓		Senator Richard Marcellais	✓	
Senator Judy Lee	✓		Senator Carolyn Nelson		✓

Total (Yes) 5 No 1

Absent _____

Floor Assignment _____

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

*Back to orig
 changing 20% to 10%*

Date : 2-23-07
Roll Call Vote # : 2

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1379

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken do pass as amended

Motion Made By Lee Seconded By Oehlke

Senators	Yes	No	Senators	Yes	No
Senator Dick Dever - Chairman	✓		Senator Robert Horne	✓	
Senator Dave Oehlke - VC	✓		Senator Richard Marcellais	✓	
Senator Judy Lee	✓		Senator Carolyn Nelson	✓	

Total (Yes) 6 No 0

Absent 0

Floor Assignment J. Lee

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

REPORT OF STANDING COMMITTEE

HB 1379, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1379 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "subdivision" with "subdivisions" and after "d" insert "and e"

Page 1, line 4, replace "Subdivision" with "Subdivisions" and after "d" insert "and e"

Page 1, line 5, replace "is" with "are"

Page 1, after line 24, insert:

- "e. Write-in votes which constitute ~~five~~ ten percent or less of the votes cast by the voters for the candidate receiving the most votes for that office, except in the case of a primary election where enough votes were cast as write-in votes to qualify a name for the general election ballot. This percentage is to be calculated based on the total number of write-in votes tabulated by the voting equipment in the precincts of the county in which that office was on the ballot."

Renumber accordingly

2007 HOUSE GOVERNMENT AND VETERANS AFFAIRS

CONFERENCE COMMITTEE

1379

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1379

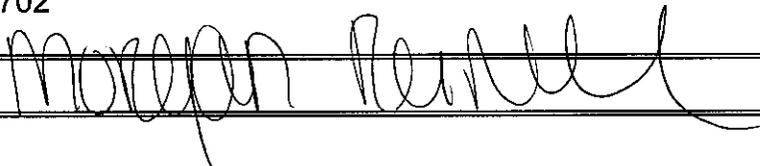
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: April 3, 2007

Recorder Job Number: 5702

Committee Clerk Signature



Minutes:

All Present.

Rep. Kasper: HB 1379 is dealing with write-in vote thresholds. I see the Senate amended the bill we sent over to you. There is only one change that moves it from 5% to 10%. Maybe we could start by having the Senator's give us your thoughts on that.

Sen. Lee: Our original note was that it was 20, and then it had been changed to 5. We then changed it to 10. I guess that would put it where it is now. We thought the 20% was a little high. It seemed like a reasonable number. That is as much as I can say with that.

Rep. Kasper: I think that was in the original draft that Secretary Jaeger gave to our committee. It was sort of a number in between the original bill and what our committee did on the house side.

Sen. Lee: I guess we maybe thought that 5 seemed a little low. This is a good chance for us to figure out where the numbers lie and where we are.

Rep. Kasper: Any comment from the house members on what we did and why we did it?

Rep. Karls: When I first saw this bill, we felt that the 20% threshold was set really high.

Somebody that actually went to the trouble of becoming a write in candidate and worked hard for the votes, that they might deserve the courtesy of seeing it printed in the paper. We toyed

with the different levels and decided that the original 5% would be more fair, it was in statute to start with. If they got fewer then that they would not be printed anyway. One of our committee members is a newspaper editor and he claims that the newspapers print them as they are received.

Rep. Schneider: Thinking back to our committee discussions, the committee felt like the sponsors weren't making their case. Their only compelling argument to change it was that they had to publish it in the paper after the election. We felt that if people went through enough work to get in the ballots, that they should be recognized with that 5% threshold.

Sen. Lee: We did have comments from the Association of Counties that the 5% seems fine for the county elections. They would like to see it higher for city and school board elections. You will see that in your minutes. The total numbers are fewer. That was part of the discussion also.

Rep. Kasper: We did talk about the various types of elections and trying to come up with different percentages for different elections. When you look at how the boundaries are drawn in the various political subdivisions, it became a difficult thing to put our hands on. We just said to stay with the 5%. It has already been there and they are used to doing it. I would agree with my colleagues about the recollection of why we kept the 5%. I know Rep. Karls have worked on elections. I have worked on 7 or 8 in the 80's and early 90's. When these ballots come through the machine does all of the tabulating. Even the goofy ones like Donald Duck are thrown out. You can sort of see which one is a frivolous vote and which one is a serious vote. Once the tabulations are done then the numbers are put together by the auditor's office. It's just a matter of getting that abstract to the newspapers so they can print it. You are probably not talking about a whole lot more names throughout the state of ND. It's just a handful. We thought that if you work hard on a write in campaign or someone who works on your behalf of

a write in campaign, that 5% was a meaningful number to let your supports know you did receive some votes.

Sen. Oehlke: I think our thought was 5% probably is a number but it isn't that meaningful. There are a lot of elections throughout this state that 10 people is 5% of the number. Anybody has 10 friends that would vote for them in the write in campaign. I think that is part of the reason that we probably look at 10% to eliminate some of the names like the Donald Duck's of the world. I don't think it is something we are hanging our hat on necessarily.

Rep. Kasper: The frivolous ones are never published anyways. It's just the serious ones. If Donald Duck gets 5% he won't be published. If Joe Doe, who is a candidate, gets 5% he will get published.

Sen. Nelson: It just occurs to me that the original bill came through with the section E on it. What was it? It switched from the district clerk of court to the county recorder. That is what you guys decided the bill should be. I guess it was some concern that maybe some of the sponsors really wanted some change made in the percentage. I think the main part of the bill was that.

Rep. Kasper: The three sponsors on the house are all members of the House Government and Veterans Affairs committee. I don't recall our final committee vote.

Rep. Schneider: It was unanimous.

Rep. Kasper: I think the sponsors agreed with the amendment.

Sen. Lee: If you also look at the Senate unit's, Sen. Oehlke brought up a question of cost. In our county we have 58 precincts. Even if it is Donald Duck on there you still have to read them by hand. You end up with 5 people times 2 hours with 50 precincts at \$9 an hour. That is \$2,610 for the cost of the recount. It isn't going to break the county but it is a frivolous expense.

That was one of the reasons why we thought it should be a number that really has some meaning. That was part of the concern also. It's really a bigger deal with them saying that. With

all the precincts that they will have to go through with the recount was part of the discussion also.

Rep. Kasper: I believe that if there is a recount the frivolous ones are set aside and not recounted. They are out of the picture. The recount is just the ones above the standard. You have a machine that runs them through to verify the original count. I don't think a recount is done by hand unless it is between one or two votes. Other than that the machine does it. Secretary Jaeger is here so he can correct me if I am wrong.

Al Jaeger: The reason for the percentage was because the people in small communities asked for it. There are people that aren't really running. This percentage doesn't make any difference in a legislative race or state wide race. It does for the election in counties. The feeling was that your committee on the house side thought 20% was too high. From the election administration standpoint that the 5% is a little bit too low. That is why we had recommended to the Senate that they change that. Sen. Nelson said the important thing is to worry about the bill there because if that isn't change it will be at odds with about four other bills. From the election administration standpoint, 10% is actually a very reasonable idea.

Rep. Kasper: How long has the 5% been in statute?

Al Jaeger: I think it was about two sessions ago. What was happening is that the election aspect was spread out substantially by votes. That is why the 5%, in a smaller jurisdiction works but still creates a lot of problems. When there are write ins on the ballot, they have to be counted anyways. It's a situation that statistically the total write ins, there is no way they could possibly win. That was very carefully balanced. It is just people that are voting to get their name published in the paper. They could just round up a few friends to write their name in.

That is really what it is being designed to do. From an administration standpoint Mike Montplaiser thought 20% would still work. We went to 10% because the house decided that

5% was ok. It really was to draw a balance between these two sides and have a cost effective election administration.

Sen. Oehlke: The last thing from my perspective is that the question that Sen. Lee mentioned. We actually had the Association of Counties find out what it would cost. It was \$2,600 to the cost to do a recount based on the votes cast overall. That is a significant number, especially for small towns.

Rep. Karls: It seems to me that someone who is a write in candidate and gets below the 5%, there wouldn't a recount. It would have to be within a real tiny percentage before a recount is even called for. I'm not sure how the write in votes would matter one way or another.

Rep. Kasper: I don't think it's germane because its 5% of the total of the candidate that had the largest amount of votes. If the winning candidate had 1,000 votes, 5% of that is 50. That candidate is not in any position to ask for a recount. It's the one that has 1,000 votes. If they are within a 2% of each other, they get the recount. I'm reading what Danette said and I don't know how it applies.

Sen. Oehlke: She was talking about having to tabulate the 5%.

Sen. Nelson: The actual sitting down and tabulating the write in votes. They all have to be done.

Al Jaeger: The completing of the recount is tabulating the votes. The write in votes goes into one side. So at the end of the night you have 1,000 votes. You know that there are so many ballots that have the write in votes. If the write in side doesn't total you already know that it is going to be off. You can see that it is not large enough to change who is the winner, then you can ignore it. You would have to go back in this situation if you really think the outcome will be different.

Rep. Kasper: Can you focus on the length of the abstract compared to the right of the public to know? As I continue to recall our discussion in the house, that was a key issue in our committee, the right of the public to know on an election what happens compared to the little bit of extra work it takes for the county auditor to do to tabulate the votes. This has 19 sheets of paper in it. This would be 19 votes. Let's say they were germane to the election, you want to be counted. If the winning vote getter got 1,000 votes and the next got 995, those are the two people you focus on. If you see a stack that says with Joe Doe with 19 votes you check to see there is nothing germane to over there. If there is it has to be counted over here. If not you set it aside. That is how quick it is. What you do is have two teams of two, or one on one side one on the other. You review the ballots, say yes, do the scratch and in five minutes you are done.

To come up with a projection off of \$2,600 is a little bit of a stretch.

Al Jaeger: Danette would not have made up any figures so I'm sure there are some natural examples of situations. We do not give the legislator any false information. I'm not in a good situation. I'm not front line. I have to rely on people like the county auditor's that has to do the steps to work it out, has to do the publishing, and all of those things. This is a recommendation from them. Whatever the procedure is, those numbers would not have been pulled out of thin air.

Rep. Schneider: It's not really a cost. It's 5% now which is the current practice.

Al Jaeger: Yes you are saving money by not having the public see.

Rep. Schneider: I think that 5% is a good number. I like the idea that regardless of if it is 10 friends or 15 guys at the bar. If I'm not technically running and someone thought I was a good candidate and writes me in for something, I would like to know about it. I think we should try to keep our election modules open as much as possible. 5% is the current practice and I'm just

fine as it is. Certainly it would make your life easier, no one disputes that, but at what cost to the public.

Sen. Lee: I don't see any great cost to the public of disclosing of records. I can't agree that it is really obstructing anybody's information. It's just been practical in my view. The numbers came from the fact that 58 precincts all would have to do that. I trust the information that the Association of Counties gave us because they gave us a fair amount of discussion.

Rep. Kasper: Is there any more discussion or a motion? We will adjourn for the day.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1379

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: April 5, 2007

Recorder Job Number: 5775

Committee Clerk Signature

Morgan Keene

Minutes:

Rep. Kasper: We are still on our percentage that we want to be doing on our counting. Has anyone had any great revelations since our last meeting?

Sen. Oehlke: I have got some correspondence from some county folks. I'm not sure who sent all that. This is from our county back home. If you look at that list there, it will show if you went to 10% you would eliminate some hassles, about half. It's more of a hassle then getting a little pile. It's a little different than that. I have never had to count one ballot, I have to believe what my auditor says back home. I'd make a motion we would go to 10%.

Rep. Kasper: Let's look at Mike Montplaiser's. If you go to his second page and look at Casselton. It is 6.33%. How many scattered write ins are there per person? Did one person get all the scattered? Is there 2? That is just the total vote. It doesn't tell us how many would have qualified. There is 6 write in votes for Alice. That is in material. If someone got 6 votes and the other guy got one vote that is material. There are only seven votes cast. There we know is 1. The scattered write ins in Oxbow, if 2 got them you are at 5%. To me the people should know who got the votes. Is that a good deal?

Sen. Lee: Not to me. I don't think it needs to be either and that is why I don't have any problems with the 10%. They could not possibly have been a winner.

Rep. Kasper: To me that is not the issue. To me the right of the people who were in that area to know who got the write in votes and the right of the person who got them to know how much they received. I think it's the right to know compared to a little bit of work for the auditors to do. I thought that was the issue on our side also.

Rep. Schneider: The three house sponsors are all in the House Government and Veterans Affairs committee. Out of respect to them they all supported the house position. We should just uphold it.

Sen. Lee: The Senate sponsors are the current and former House Government and Veterans Affairs chairs and they approved what we did so I don't think that is a factor.

Rep. Kasper: Well it's just an observation, whether or not it is a factor.

Sen. Oehlke: I don't know that any of the sponsors came up with the original idea. I think the AG's office gave it to them.

Rep. Kasper: That is correct.

Sen. Oehlke: We keep concentrating on this one guy who is going to get the percents, but my thoughts on this is if there aren't more than x number of write in votes, then you don't have to worry about counting them because no one made it. If it's 5% and there were only 4% total votes, then we don't have to worry about it.

Rep. Kasper: When you count the ballots not eh write ins, when you start the count you don't know what the percentage is going to be. Therefore you must make the count initially. Once the count is made it is done. It is not recounted a second or third time unless it is a recount.

Sen. Lee: The write ins are manual.

Rep. Kasper: They have to be anyways because they need to know if we need the percentage in the current law. You have to count the write in. The only ones you throw out are the frivolous ones. You have to do the work at the precinct level. They have to take the tally.

Sen. Lee: I think the auditor makes a good point also in saying that it is appropriate for people to go through the process that is in statute about petitioning in order to be on the ballot. There is a process to which we are all supposed to go in order to be on the ballot. I don't think this should be seen as a way to get around that and in a sense it is. I think a write in should be qualified. We know that there are write in candidates because people campaign that way. I think they are messing up the process. I'm not sure that is a good idea for the system.

Rep. Kasper: That is also the right for them to do that. I know that you don't intend to say that because someone is a write in candidate that they aren't anywhere near less rights to be a candidate. Let's say you had a candidate for mayor of Beulah and he was an incumbent. Nobody filed against the incumbent. Between the filing date and the election date the person moved out of town. Now you have a vacancy. Now you have all write in candidates.

Sen. Lee: Will it be more than 10%?

Rep. Kasper: You don't know unless you count the ballots.

Sen. Lee: You aren't going to have 20 candidates.

Rep. Kasper: You don't know.

Sen. Lee: It would be highly unlikely. We can't suppose what it is going to be.

Sen. Nelson: Did we not use to have a law that said if you want to be a write in candidate you had to file with the county auditor so many days before the election?

Rep. Kasper: I do not know.

Sen. Nelson: And you don't have to count anyone who didn't file. I believe that was a law a couple of elections ago.

Rep. Karls: Then you have to blacken the oval and write the name in. I can't find it right now but I recall reading in here that 5% is fairly new.

Rep. Kasper: Yes I think Secretary Jaeger said that it was 2 or 3 sessions ago.

Rep. Karls: What was it before, do you we know?

Rep. Kasper: No I don't.

Sen. Oehlke: Where it says a demand only may be made if the unofficial election results maintained by the county auditor demonstrates that the candidates voting total is within the pertinent percentage limits provided in subsection 1 or 2. If there are 20,000 votes cast and only 500 are write in votes, if our pertinent percentage is 10%, the total write in votes would have to be over 2,00 votes before a write in candidate could say I demand a recount.

Rep. Kasper: The recount law is different then this. The recount law says that if you are within $\frac{1}{2}$ % then there is an automatic recount.

Rep. Schneider: I've always viewed this particular issue as an inconvenience for the auditor's but a convenience for the people. I think the Ramsey county auditor said it best that county write in votes is a pain. I'm sure there is no doubt that it is. I think in any job you will find things that you don't like. I think we need to recognize that it is a convenience for the people, I just don't see the problem of leaving it at the 5%. Going back to what I said at our last meeting when they came in and testified to support this, our committee didn't feel it made a case that was strong enough to change this. Certainly it would be more convenient for them to change it to 10%. I still think elections belong to the people. They have a right to know who the write in votes were.

Sen. Oehlke: Maybe there shouldn't be any percentage? If that feeling prevails that is what should happen.

Rep. Kasper: Write in votes which constitute 5% or less of the votes cast by the voters who have candidate of receiving the most votes for that office except in the case of a primary election were enough votes were cast as write in votes to qualify it for the general election ballot.

Rep. Nelson: A person who is required to file a certificate of write in candidacy under this section but who has not filed a certificate of candidacy has been certified as a write in candidate. You don't have to count those. You know everybody that is going to be on the ballot that needs to be counted because they thought that the certificate in the time frame.

Rep. Kasper: That is saying that the person failed to qualify as a write in candidate and didn't do the paperwork they were going to be write in candidates.

Sen. Nelson: But you don't have to count them either. You may not count or be required to officially report any of those a-f's.

Rep. Kasper: But it says to begin with a person who is required to file a certificate of write in candidacy. So that person fails to file a certificate of write in candidacy. I think what that means is that person is disqualified.

Sen. Nelson: Yes and doesn't need to be reported or counted.

Rep. Kasper: But that is different then a true write-in in section E.

Rep. Karls: This is part of testimony we got it doesn't have a date.

Rep. Schneider: What is interesting in this one is they actually put in the number of votes cast. We did talk about that in committee. You will see in E-2 that it is 20% for less than 5,000 and 5% for greater than 5,000 which would eliminate all of these.

Sen. Oehlke: What year is this?

Rep. Karls: It was just in testimony. It's not the law.

Rep. Kasper: This is what AI must have given us for what it would have looked like.

Sen. Nelson: This is what the bill is amending in this section.

Rep. Karls: Just throw this away, it was an amendment that doesn't matter because it didn't get approved.

Rep. Kasper: Are there any proposals?

Rep. Schneider: Just a comment, it will be interesting to see how this poll issue shapes up as we transition into electronic voting and publication via the web. This whole issue could potentially become irrelevant in not too many years.

Sen. Nelson: I think the essential thing is that we need to keep section 1. We need to transfer that over to the county recorders.

Rep. Kasper: Yes all the other bills have done that making code the same.

Sen. Oehlke: Seeing that we don't have anybody here from the Secretary of State's office maybe it just doesn't matter.

Sen. Lee: Actually he caught me in the hall. He had a commitment to a school group today at the same time. He was just leaving. He was very concerned about missing the meeting. He did not want to miss the meeting. He was obligated to do a presentation at a school for a student group. He is out of the capitol. That is why he's not here.

Rep. Karls: What are our choices?

Rep. Kasper: We can accept the Senate amendment, have the Senate recede from their amendment and accept the House, any motion is ok based upon what you would like to consider.

Sen. Nelson: I have worked elections and I do agree with the Ramsey County auditor that it is a pain. I also think it's necessary that we be united on section 1 which is subsection D. I would move that the Senate recede from the amendments.

Sen. Oehlke: I second that.

Rep. Kasper: We will take the roll. The motion passes 5-1-0.

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number HB 1379 (, as (re)engrossed):

Date: 4/9/07

Your Conference Committee GVA

For the Senate:

For the House:

	YES / NO			YES / NO	
Sen. Lee		X	Rep. Casper	X	
Sen. Oenike	X		Rep. Karis	X	
Sen. Nelson	X		Rep. Schneider	X	

recommends that the (SENATE/HOUSE) (ACCEDE (to) (RECEDE) from)

the (Senate/House) amendments on (SJ/HJ) page(s) 849 --

X, and place HB 1379 on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the Seventh order:

_____, having been 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.

DATE: 4/9/07

CARRIER: _____

LC NO. _____	of amendment
LC NO. _____	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: Sen. Nelson

SECONDED BY: Sen. Oenike

VOTE COUNT 5 YES 1 NO 0 ABSENT

REPORT OF CONFERENCE COMMITTEE

HB 1379, as engrossed: Your conference committee (Sens. J. Lee, Oehlke, Nelson and Reps. Kasper, Karls, Schneider) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 845 and place HB 1379 on the Seventh order.

Engrossed HB 1379 was placed on the Seventh order of business on the calendar.

2007 TESTIMONY

HB 1379

To: Chairman Haas

From: Ann Johnsrud – McKenzie County Recorder
North Dakota County Recorders Association

RE: HB 1379

For the record, my name is Ann Johnsrud, McKenzie County Recorder, representing the North Dakota County Recorders Association.

I am here today to offer support to HB 1379 The County Recorders are in full agreement to accept the duties formerly performed by the Clerk of district Court in the voting process.

If you have any question, I would be happy to answer them at this time.

ALVIN A. JAEGER
SECRETARY OF STATE

HOME PAGE www.nd.gov/sos



PHONE (701) 328-2900
FAX (701) 328-2992

E-MAIL sos@nd.gov

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

January 26, 2007

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

FR: Al Jaeger, Secretary of State

RE: HB 1379 – Write-in Vote Thresholds

Section 1, page 1, lines 11 and 12: Replaces the clerk of the district court with the county recorder

Section 1, page 2, line 1: Increases the write-in vote threshold from 5% to 20%. As in current law, the number of write-in votes would still be tabulated by the scanner, which can identify the write-in votes cast by position. However, the votes would only be individually canvassed (identified by name) when the gross total cast is greater than the threshold. The threshold is calculated on the total votes cast for the candidate receiving the most votes. For example:

John Smith receives:	5,000 votes
Bob Doe receives:	4,000 votes
Write-in votes received for position	600 votes

It takes time and financial resources to determine the name of each person receiving a write-in vote as well as to publish those names even if the gross total of write-in votes received did not exceed the threshold of 20% (1,000 votes).

In the above example, the total write-in votes received for the position (probably scattered among several candidates) would not have been enough to win the election. The total of all write-in votes only represented 6.25% of the total votes cast for that office.

2006 Primary Election Write-Ins
(16.1-12-02-2 1 (e))

	Candidates	Totals	Write - In Percentage	Over or Under 5%	Action to be taken
MAYOR CITY OF CASSELTON	Edward McConnell	537			
	Scattered Write-Ins	34	6.33%	Over	Need to Count
MAYOR CITY OF KINDRED	Robert Clarke	71			
	Scattered Write-Ins	5	7.04%	Over	Need to Count
MAYOR CITY OF AMENIA	Scattered Write-Ins	20	100.00%	Over	Need to Count
MAYOR CITY OF ARGUSVILLE	Carol Lovejoy	21			
	Scattered Write-Ins	64	304.76%	Over	Need to Count
MAYOR CITY OF BUFFALO	Phillip L. Weshnevski	49			
	Scattered Write-Ins	13	26.53%	Over	Need to Count
MAYOR CITY OF DAVENPORT	Larry Palluck	25			
	Scattered Write-Ins	34	136.00%	Over	Need to Count
MAYOR CITY OF FARGO	Dennis Walaker	6434			
	John G. Cosgriff	4960			
	Richard Eugene Blair	43			
	J J Gordon	146			
	Brad Swenson	2792			
	Arlette Preston	4617			
MAYOR CITY OF GARDNER	Scattered Write-Ins	9	0.14%	Under	NONE
	Scattered Write-Ins	16	100.00%	Over	Need to Count
MAYOR CITY OF GRANDIN	David Blaser	43			
	Allan Narveson	16			
MAYOR CITY OF BRIARWOOD	Scattered Write-Ins	0	0.00%	Under	NONE
	John Adams	26			
MAYOR CITY OF FRONTIER	Scattered Write-Ins	0	0.00%	Under	NONE
	Barry L. Wegner	59			
MAYOR CITY OF NORTH RIVER	Scattered Write-Ins	2	3.39%	Under	NONE
	David Susag	24			
MAYOR CITY OF PRAIRIE ROSE	Scattered Write-Ins	1	4.17%	Under	NONE
	Gwen McIntyre	19			
MAYOR CITY OF OXBOW	Scattered Write-Ins	0	0.00%	Under	NONE
	Kent Rademacher	65			
MAYOR CITY OF MAPLETON (unexpired term)	Scattered Write-Ins	7	10.77%	Over	Need to Count
	Jeff Shirley	80			
MAYOR CITY OF WEST FARGO	Scattered Write-Ins	17	21.25%	Over	Need to Count
	Rich Mattern	1264			
COUNCIL MEMBER CITY OF KINDRED Elect 2	Scattered Write-Ins	15	1.19%	Under	NONE
	Arlen Blumer	66			
COUNCIL MEMBER CITY OF PAGE Elect 2	Scattered Write-Ins	2	2.90%	Under	NONE
	Brad Wigen	38			
COUNCIL MEMBER CITY OF ALICE Elect 2	Scattered Write-Ins	23			
	Ernest (Ole) Erickson	23			
COUNCIL MEMBER CITY OF AMENIA Elect 2	Scattered Write-Ins	57			
	Richard Bjerke	57	3.51%	Under	NONE
COUNCIL MEMBER CITY OF ARTHUR Elect 2	Scattered Write-Ins	2			
	Tim Schmidt	9			
COUNCIL MEMBER CITY OF ARGUSVILLE Elect 2	Scattered Write-Ins	6			
	Ron Mulder	6			
COUNCIL MEMBER CITY OF AYR Elect 2	Scattered Write-Ins	1	11.11%	Over	Need to Count
	Henry Sherman	22			
COUNCIL MEMBER CITY OF BUFFALO Elect 2	Scattered Write-Ins	16	72.73%	Over	Need to Count
	Greg Nelson	83			
COUNCIL MEMBER CITY OF DAVENPORT Elect 2	Scattered Write-Ins	4	4.82%	Under	NONE
	Lori King	53			
COUNCIL MEMBER CITY OF GRANDIN Elect 2	Scattered Write-Ins	4			
	Steven Perry	57			
COUNCIL MEMBER CITY OF HORACE Elect 2	Scattered Write-Ins	4	8.89%	Over	Need to Count
	Russell Stoltman	45			
COUNCIL MEMBER CITY OF KINDRED Elect 2	Scattered Write-Ins	0	0.00%	Under	NONE
	Bryan Hovland	42			
COUNCIL MEMBER CITY OF PRAIRIE ROSE Elect 2	Scattered Write-Ins	0			
	D. C. Lucas	31			
COUNCIL MEMBER CITY OF WEST FARGO Elect 2	Scattered Write-Ins	3	5.56%	Over	Need to Count
	Darren Wetzel III	37			
COUNCIL MEMBER CITY OF ARGUSVILLE Elect 2	Scattered Write-Ins	7	14.89%	Over	Need to Count
	Arthur Punton	0			
COUNCIL MEMBER CITY OF FRONTIER Elect 2	Scattered Write-Ins	0	0.00%	Under	NONE
	Terry Wills	1			
COUNCIL MEMBER CITY OF GRANDIN Elect 2	Scattered Write-Ins	1	2.44%	Under	NONE
	Jeffrey R. Skaar	54			
COUNCIL MEMBER CITY OF AMENIA Elect 2	Scattered Write-Ins	1			
	Melissa L. Wendling	18			
COUNCIL MEMBER CITY OF PRAIRIE ROSE Elect 2	Scattered Write-Ins	1			
	Marlene Sprague	47			
COUNCIL MEMBER CITY OF WEST FARGO Elect 2	Scattered Write-Ins	1			
	Joe F. Kolling	47			
COUNCIL MEMBER CITY OF ARGUSVILLE Elect 2	Scattered Write-Ins	1			
	David Faller	46			
COUNCIL MEMBER CITY OF KINDRED Elect 2	Scattered Write-Ins	1			
	Dave Deplazes	30			
COUNCIL MEMBER CITY OF PRAIRIE ROSE Elect 2	Scattered Write-Ins	1			
	Thomas Dick	27			
COUNCIL MEMBER CITY OF WEST FARGO Elect 2	Scattered Write-Ins	1			
	Kenneth Preston	39			
COUNCIL MEMBER CITY OF ARGUSVILLE Elect 2	Scattered Write-Ins	1			
	Kelly Kylio	41			
COUNCIL MEMBER CITY OF GRANDIN Elect 2	Scattered Write-Ins	1			
	Curtis Weible	19			
COUNCIL MEMBER CITY OF PRAIRIE ROSE Elect 2	Scattered Write-Ins	1			
	Chris Bolton	96			
COUNCIL MEMBER CITY OF WEST FARGO Elect 2	Scattered Write-Ins	1	0.84%	Under	NONE
	Terry Heiden	109			
COUNCIL MEMBER CITY OF ARGUSVILLE Elect 2	Scattered Write-Ins	1			
	Shane Walock	119			
COUNCIL MEMBER CITY OF WEST FARGO Elect 2	Scattered Write-Ins	1			
	Jan Malakowsky	106			

**2006 Primary Election Write-Ins
(16.1-12-02-2 1 (e))**

	Candidates	Totals	Write - In Percentage	Over or Under 5%	Action to be taken
COUNCIL MEMBER CITY OF HUNTER Elect 2	John Johnson	41	4.76%	Under	NONE
	Lonnie Nelson	42			
	Scattered Write-Ins	2			
COUNCIL MEMBER CITY OF LEONARD Elect 2	Rod Lamberson	42	14.29%	Over	Need to Count
	Tony Plante	25			
	Scattered Write-Ins	6			
COUNCIL MEMBER CITY OF MAPLETON Elect 2	Denise Brady	63	12.70%	Over	Need to Count
	Gordy Pederson	63			
	Floyd Westall	47			
COUNCIL MEMBER CITY OF TOWER CITY Elect 2	Scattered Write-Ins	8	67.74%	Over	Need to Count
	Rod Stoa	31			
	Scattered Write-Ins	21			
COUNCIL MEMBER CITY OF BRIARWOOD Elect 2	Tracy Wallach	22	20.00%	Over	Need to Count
	Bob Hegg	25			
	Scattered Write-Ins	5			
COUNCIL MEMBER CITY OF FRONTIER Elect 2	Nell Krueger	44	9.09%	Over	Need to Count
	Wade Olsen	39			
	Jay Titus	32			
COUNCIL MEMBER CITY OF NORTH RIVER Elect 2	Scattered Write-Ins	4	21.05%	Over	Need to Count
	Kristi Tostenson	19			
	Rick Jermyn	18			
COUNCIL MEMBER CITY OF HARWOOD Elect 2	Ervln Wolff	8	108.82%	Over	Need to Count
	Scattered Write-Ins	4			
	Jim Gadberry	68			
COUNCIL MEMBER CITY OF REILES ACRES Elect 2	Lori Peyerl	65	9.38%	Over	Need to Count
	Scattered Write-Ins	74			
	JoAnn Czerwinski	32			
COUNCIL MEMBER CITY OF PRAIRIE ROSE Elect 2	Michael F. Volk	32	0.00%	Under	NONE
	Scattered Write-Ins	3			
	Laurie Ashley	18			
COUNCIL MEMBER CITY OF OXBOW Elect 2	Diane Kittelson	19	6.85%	Over	Need to Count
	Scattered Write-Ins	0			
	Bill Kuzas	61			
COUNCIL MEMBER CITY OF CASSELTON Elect 3	Steve Sorenson	73	6.01%	Over	Need to Count
	Scattered Write-Ins	5			
	Tom Sinner Jr.	449			
COUNCIL MEMBER CITY OF AMENIA (unexpired term) - Elect 1	Lee Anderson	509	0.00%	Under	NONE
	Fred Wangler	516			
	Scattered Write-Ins	31			
COUNCIL MEMBER CITY OF DAVENPORT (unexpired term) - Elect 1	Chad Johnson	23	100.00%	Over	Need to Count
	Scattered Write-Ins	0			
	Scattered Write-Ins	39			
COUNCIL MEMBER CITY OF ALICE (unexpired term) - Elect 1	Matthew Lund	8	12.50%	Over	Need to Count
	Scattered Write-Ins	1			
	Brad Wimmer	11479			
CITY COMMISSIONER CITY OF FARGO Elect 2	Timothy J. Mahoney	11059	0.49%	Under	NONE
	Frank Anderson	5031			
	Rob Lynch	5005			
CITY COMMISSIONER CITY OF WEST FARGO Elect 2	Scattered Write-Ins	56	0.52%	Under	NONE
	Lou Bennett	1157			
	Bryan Schulz	1056			
MUNICIPAL JUDGE CITY OF WEST FARGO	Scattered Write-Ins	6	0.83%	Under	NONE
	Susan Bailey	1198			
	Scattered Write-Ins	10			
MUNICIPAL JUDGE CITY OF CASSELTON	H.G. Poulson	580	0.52%	Under	NONE
	Scattered Write-Ins	3			
	Brenda Rosten	70			
MUNICIPAL JUDGE CITY OF KINDRED	Scattered Write-Ins	1	1.43%	Under	NONE
	Scattered Write-Ins	1			
	Scattered Write-Ins	17			
MUNICIPAL JUDGE CITY OF MAPLETON	Brenda R. Rosten	31	100.00%	Over	Need to Count
	Scattered Write-Ins	1			
	Scattered Write-Ins	1			
MUNICIPAL JUDGE CITY OF TOWER CITY	Susan L. Bailey	33	3.23%	Under	NONE
	Scattered Write-Ins	1			
	Scattered Write-Ins	1			
MUNICIPAL JUDGE CITY OF REILES ACRES	Janet Luick	65	3.03%	Under	NONE
	Richard Schook	64			
	Scattered Write-Ins	8			
PARK BOARD MEMBER CITY OF KINDRED Elect 2	Scattered Write-Ins	8	12.31%	Over	Need to Count
	Ola Andersson	99			
	Jennifer Dermess	93			
PARK BOARD MEMBER CITY OF ARTHUR Elect 2	Scattered Write-Ins	2	2.02%	Under	NONE
	Scattered Write-Ins	2			
	Todd Zaun	62			
PARK BOARD MEMBER CITY OF BUFFALO Elect 2	Leslie A. Wegner	63	0.00%	Under	NONE
	Scattered Write-Ins	0			
	Scattered Write-Ins	0			
PARK BOARD MEMBER CITY OF HORACE Elect 2	Julie Dahlin	209	0.48%	Under	NONE
	Jim Pearson	177			
	Scattered Write-Ins	1			

2006 Primary Election Write-Ins
(16.1-12-02-2 1 (e))

	Candidates	Totals	Write - In Percentage	Over or Under 5%	Action to be taken
PARK BOARD MEMBER CITY OF HUNTER Elect 2	Larry Martin	42	2.27%	Under	NONE
	Donna Porter	44			
	Scattered Write-Ins	1			
PARK BOARD MEMBER CITY OF LEONARD Elect 2	Jason Anderson	41	2.44%	Under	NONE
	Bill Magstad	35			
	Scattered Write-Ins	1			
PARK BOARD MEMBER CITY OF OXBOW Elect 2	Scattered Write-Ins	74	100.00%	Over	Need to Count
PARK BOARD MEMBER CITY OF FARGO Elect 3	Ben Hanson	5551	0.54%	Under	NONE
	Mark McQuillan	4158			
	Barbara Saucke	5212			
	Ronald Sorvaag	6448			
	Jerry Schatzke	2911			
	Mary C. Johnson	7558			
	Joe Deutsch	8593			
	Scattered Write-Ins	46			
PARK BOARD MEMBER CITY OF WEST FARGO Elect 3	Ken Zetocha	833	0.21%	Under	NONE
	Denise Johnson	890			
	Timothy Strahm	712			
	Sharon Odegaard	970			
	Scattered Write-Ins	2			
PARK BOARD MEMBER CITY OF CASSELTON Elect 3	Joan Eberhardt	510	2.55%	Under	NONE
	Kristie Morris	490			
	Randy Buntrock	498			
	Scattered Write-Ins	13			
PARK BOARD MEMBER CITY OF ARGUSVILLE Elect 3	Janice McCarthy	74	17.57%	Over	Need to Count
	Randy Hanson	64			
	Scattered Write-Ins	13			
PARK BOARD MEMBER CITY OF DAVENPORT Elect 3	Diane Palluck	42	152.38%	Over	Need to Count
	Scattered Write-Ins	64			
PARK BOARD MEMBER CITY OF MAPLETON Elect 3	Jeff Hanson	72	27.38%	Over	Need to Count
	Shirley Westall	84			
	Scattered Write-Ins	23			
PARK BOARD MEMBER CITY OF HARWOOD Elect 3	Scattered Write-Ins	87	100.00%	Over	Need to Count
PARK BOARD MEMBER CITY OF KINDRED (unexpired term) - Elect 2	Rick Cramer	73	27.40%	Over	Need to Count
	Scattered Write-Ins	20			
SCHOOL BOARD MEMBER FARGO PSD # 1 Elect 5	Mark Herschlip	5859	0.94%	Under	NONE
	Dinah Goldenberg	7867			
	Darla Krank	5707			
	Dan Fremling	8186			
	Rick Steen	9009			
	Don Faulkner	6384			
	Laura Carley	8754			
	William (Bill) Williams	6230			
	Ahmed Kamel	4018			
	Scattered Write-Ins	82			
	Duane Hanson	2091			
	Angela Korsmo	2156			
SCHOOL BOARD MEMBER WEST FARGO PSD # 6 Elect 4	Karen Nitzkowski	2085	1.95%	Under	NONE
	Thomas M. Gentzkow	2032			
	Scattered Write-Ins	42			
	Lisa Berg	586			
SCHOOL BOARD MEMBER AREA 1 CENTRAL CASS PSD # 17 - Elect 1	Scattered Write-Ins	475	81.06%	Over	Need to Count
SCHOOL BOARD MEMBER AREA 1 NORTHERN CASS PSD # 97 Elect 1	Susan Stibbe	214	0.00%	Under	NONE
	Paul Teegarden	195			
	Scattered Write-Ins	0			
SCHOOL BOARD MEMBER AREA 3 CENTRAL CASS PSD # 17 Elect 1	Rodney G. Nelson	347	0.52%	Under	NONE
	Peter Lindstrom	769			
	Scattered Write-Ins	4			
SCHOOL BOARD MEMBER AREA 6 NORTHERN CASS PSD # 97 Elect 1	Sue Bracewell	127	0.00%	Under	NONE
	Ben Bush	289			
	Scattered Write-Ins	0			
SCHOOL BOARD MEMBER CITY CENTRAL CASS PSD # 17 Elect 1	Stu Romsdal	361	0.28%	Under	NONE
	Scott Kost	723			
	Scattered Write-Ins	2			

Total races to be counted and displayed in the official abstract 35
Total races that didn't need to be counted 38

16.1-12-02.2. Counting of write-in votes – Certificate of candidacy by write-in candidates.

1. An election board or canvassing board may not count or be required to officially report any write-in vote for any:
 - a. Person who is required to file a certificate of write-in candidacy under this section but who has not filed a certificate of candidacy and been certified as a write-in candidate.
 - b. Fictitious person, nonperson, or person clearly not eligible to qualify for the office for which the vote was cast.
 - c. Statement concerning the candidates.
 - d. Name written or printed by the voter for an office that did not also include the darkening of the oval next to the write-in line, except that a write-in candidate for a nonfederal office may make a timely written demand to a county canvassing board to identify and preserve any write-in vote cast for the office sought by the write-in candidate for canvass by the board. The candidate shall deliver the demand to the county auditor and a copy to the clerk of district court no later than thirty-six hours before the time the county canvassing board is scheduled to meet. A demand only may be made if the unofficial election results maintained by the county auditor demonstrate that the write-in candidate's known vote total is within the pertinent percentage limits provided in subsection 1 or 2 of section 16.1-16-01 and a statement to that effect is included in the demand. After delivery of the ballots as provided by section 16.1-15-08, the canvassing board shall review the ballots to identify any ballot that contains a write-in vote. The county canvassing board shall tally and canvass any write-in vote in the same manner as lawful or qualifying write-in votes if the canvassing board is able to clearly ascertain the intent of the voter from examining the ballot because the write-in candidate's name has been written on the ballot opposite the office to be voted for or because of any other cogent evidence of intent.
 - e. "Write-in votes where the total write-in votes cast for an office in a:
 - (1) Primary election are fewer than the number of votes necessary to qualify a name for the general election ballot.
 - (2) General election of a jurisdiction with a population less than 5,000 constitute twenty percent or less of the votes cast for the candidate receiving the most votes for that office.
 - (3) General election of a jurisdiction with a population greater than 5,000 constitute five percent or less of the votes cast for the candidate receiving the most votes for that office."
 - f. Write-in votes that do not need to be individually canvassed based on the requirements of this subsection must be listed on the county canvass report as "scattered write-ins".
2. A person who intends to be a write-in candidate for president of the United States at the presidential preference contest or for statewide or judicial district office at any election shall file a certificate of write-in candidacy with the secretary of state by four p.m. on the twenty-first day before the contest or election. The certificate must contain the name and address of the candidate and be signed by the candidate. Before the thirteenth day before the contest or election, the secretary of state shall certify the names of the candidates to each county auditor as write-in candidates.

3. A person who intends to be a write-in candidate at the general election for president of the United States shall file a certificate of write-in candidacy with the secretary of state by four p.m. on the twenty-first day before the general election. The certificate must contain the names and addresses of the candidates for presidential electors for that presidential candidate and a certification of acceptance signed by each candidate for elector. The candidate shall sign the certificate. The certificate may also include the name and address of a candidate for vice president of the United States and a certification of acceptance signed by that candidate. The secretary of state shall prescribe the form of the certificate of write-in candidacy and the certification of acceptance. Before the thirteenth day before the election, the secretary of state shall certify the names of the presidential candidates and the presidential electors to each county auditor as write-in candidates.
4. A person who intends to be a write-in candidate for any legislative district office shall file a certificate of write-in candidacy with the election officer with whom the candidate would otherwise file to have the candidate's name placed on the ballot. The certificate must contain the name, address, and signature of the candidate. Certificates must be filed by four p.m. on the fourth day before the election. When the candidate files a certificate, the candidate also shall file the contribution statement provided for under section 16.1-08.1-02 complete through the day of the filing of the certificate.
5. A certificate under this section is not required when:
 - a. No names will appear on the ballot for an office;
 - b. The number of candidates appearing on the ballot for an office is less than the number to be elected; or
 - c. The number of candidates appearing on the ballot for a party office is less than the number of nominations a party is entitled to make. When certificates of write-in candidacy are not required under this chapter, all write-in votes must be counted.

A person required to file a certificate of write-in candidacy may not seek more than one office appearing on the primary and general election ballots.

ALVIN A. JAEGER
SECRETARY OF STATE

1 PAGE www.nd.gov/sos



PHONE (701) 328-2900

FAX (701) 328-2992

E-MAIL sos@nd.gov

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

February 23, 2007

Attach # 1

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

FR: Al Jaeger, Secretary of State

RE: HB 1379 – Write-in Vote Thresholds

Section 1, page 1, lines 11 and 12: Replaces the clerk of the district court with the county recorder

INFORMATION: The original bill included the following text:

Write-in votes which constitute ~~five~~ twenty percent or less of the votes cast by the voters for the candidate receiving the most votes for that office, except in the case of a primary election where enough votes were cast as write-in votes to qualify a name for the general election ballot. This percentage is to be calculated based on the total number of write-in votes tabulated by the voting equipment in the precincts of the county in which that office was on the ballot.

It increased the write-in vote threshold from 5% to 20%. As in current law, the number of write-in votes would still be tabulated by the scanner, which can identify the write-in votes cast by position. However, the votes would only be individually canvassed (identified by name) when the gross total cast is greater than the threshold. The threshold is calculated on the total votes cast for the candidate receiving the most votes. For example:

John Smith receives:	5,000 votes
Bob Doe receives:	4,000 votes
Write-in votes received for position	600 votes

It takes time and financial resources to determine the name of each person receiving a write-in vote as well as to publish those names even if the gross total of write-in votes received did not exceed the threshold of 20% (1,000 votes).

In the above example, the total write-in votes received for the position (probably scattered among several candidates) would not have been enough to win the election. The total of all write-in votes only represented 6.25% of the total votes cast for that office.

Attach # 2

To: Chairman Dever
Members of the Government and Veterans Affairs Committee

From: Ann Johnsrud – McKenzie County Recorder
North Dakota County Recorders Association

RE: HB 1379

For the record, my name is Ann Johnsrud, Mckenzie County Recorder, representing the North Dakota County Recorders Association.

I am here today to offer support to HB 1379. The County Recorders realize the importance of the election process and the necessity to keep continuity within the system. We are willing to accept the duties formerly performed by the Clerk of District Court in the voting process.

I thank you for this time and would be happy to answer any question you may have.

Oehlke, H. Dave

From: Betty Fischer [befische@nd.gov]
Sent: Thursday, April 05, 2007 12:07 PM
To: Oehlke, H. Dave
Subject: RE: HB 1379

Good Morning, hope things are going better for you; do you get to be home for Easter? My feeling on counting write in votes is, it is a pain, if you want to be on the ballot, you need to do the petition process like everyone else, work for the position ahead of election. It is extra work for the precinct workers and does slow down the process, the law has changed NDCC 16.1-12-02.2 write in votes which constitute five percent or less of the votes cast by the voters for the candidate receiving the most votes for that office, except in the case of a primary election where enough votes were cast as write-in votes to qualify a name for the general election ballot. This percentage is to be calculated based on the total number of write in votes tabulated by the voting equipment in the precincts of the county in which that office was on the ballot. Write in votes that do not need to be individually canvassed based on the requirements of this subsection must be listed on the county canvass report as "scattered write ins."

Hope this answer your question.

Elizabeth V Fischer
Ramsey County Auditor
524 4th Ave NE Unit 6
Devils Lake ND 58301-2490
befische@nd.gov

-----Original Message-----

From: Oehlke, H. Dave [mailto:doehlke@nd.gov]
Sent: Thursday, April 05, 2007 9:58 AM
To: Fischer, Betty V.
Subject: HB 1379

Betty: We are in conference committee on this bill. The house wants to keep the write in threshold at 5% and we have amended their bill to increase that to 10%. The Secty of States office had originally wanted to go to 20%, but we did not think that would fly. Can you explain to me how much hassle it is when needing to count write-ins? Maybe it is not a problem in our area, but some parts of the state find it a real hassle.

Dave

4/5/2007

Oehlke, H. Dave

From: Lee, Judy E.
Sent: Wednesday, April 04, 2007 10:03 AM
To: Oehlke, H. Dave; Nelson, Carolyn C.
Subject: FW: HB 1379

Senators - I had asked our county auditor to communicate with the Cass Representatives. Here is his message.

From: Montplaisir, Michael [mailto:Michael.Montplaisir@co.cass.nd.us]
Sent: Tuesday, April 03, 2007 4:54 PM
To: Kasper, Jim M.; Schneider, Jasper; Lee, Judy E.; Nelson, Carolyn C.
Cc: Jaeger, Al A.
Subject: HB 1379

I understand your conference committee is working on HB 1379, in particular the portion where the threshold for write-in candidates is raised from 5% to 10%. Since this seems to happen most often in Cass County maybe some information from Cass would be helpful. When we are conducting elections, in particular the Primary Election where we have 26 cities and 4 school districts, each with numerous races, counting write-in votes becomes a time consuming process.

We hold elections to determine who the voters wish to fill certain positions in state, district, city, county, and school levels of government. In most cases we can readily determine by the vote totals of candidates on the ballot who the voters wish to fill those offices. At the end of election night the poll workers print out a summary of the vote totals cast at their precinct and in most cases the number of write-in votes is relatively small in comparison with the total votes cast. Some examples from the past June election are as listed in tabular form below - I only listed those with 5% or more of the votes of the highest candidate.

In most cases, the "scattered write-ins" is not one person - for instance in the City of Casselton Mayor race the election workers needed to find the 34 ballots with write-in votes for Mayor and tally each of the individuals who received votes - when the winner is already obvious - none of the individual names ended up with 5% or more of the vote. In the City of Argusville council election, where we already had 4 candidates for two positions, write-in votes of 4 was 8.89% of the top candidate. The election board had to take the time to find the 4 ballots with write-in votes for the Argusville council when the lowest candidate in that race received 31 votes. As you can see by the list, this happens in a lot of the small cities.

I don't know what the correct percentage is - to me 10% is more reasonable than 5% because it would reduce some of the races that we need to look at and reduce our publishing costs.

I hope this sheds some light on the requested increase in the percentage - the 5% works fine for large elections, but with the small elections we are chasing after very small number of votes that don't affect the outcome of the election.

I also included the list below in a PDF format since when you try to print this it may not print correctly.

Michael Montplaisir
Cass County Auditor
auditor@co.cass.nd.us
voice 701-241-5627
fax 701-241-5728

4/4/2007

MAYOR CITY OF CASSELTON	Edward McConnell	537	6.33%
	Scattered Write-Ins	34	
MAYOR CITY OF KINDRED	Robert Clarke	71	7.04%
	Scattered Write-Ins	5	
MAYOR CITY OF BUFFALO	Philip L. Weshnevski	49	26.53%
	Scattered Write-Ins	13	
MAYOR CITY OF OXBOW	Kent Rademacher	65	10.77%
	Scattered Write-Ins	7	
MAYOR CITY OF MAPLETON	Jeff Shirley	80	21.25%
	Scattered Write-Ins	17	
COUNCIL MEMBER CITY OF ALICE - Elect 2	Tim Schmidt	9	11.11%
	Ron Mulder	6	
	Scattered Write-Ins	1	
COUNCIL MEMBER CITY OF ARGUSVILLE - Elect 2	Russell Stoltman	45	8.89%
	Bryan Hovland	42	
	D. C. Lucas	31	
	Darren Wetzel III	37	
	Scattered Write-Ins	4	
COUNCIL MEMBER CITY OF BUFFALO - Elect 2	Jeffry R. Skaar	54	5.56%
	Melissa L. Wendling	18	
	Marlene Sprague	47	
	Scattered Write-Ins	3	
COUNCIL MEMBER CITY OF DAVENPORT - Elect 2	Joe F. Kolling	47	14.89%
	David Faller	46	
	Scattered Write-Ins	7	
COUNCIL MEMBER CITY OF LEONARD - Elect 2	Rod Lamberson	42	14.29%
	Tony Plante	25	
	Scattered Write-Ins	6	
COUNCIL MEMBER CITY OF MAPLETON - Elect 2	Denise Brady	63	12.70%
	Gordy Pederson	63	
	Floyd Westall	47	
	Scattered Write-Ins	8	
COUNCIL MEMBER CITY OF BRIARWOOD - Elect 2	Tracy Wallach	22	20.00%
	Bob Hegg	25	
	Scattered Write-Ins	5	
COUNCIL MEMBER CITY OF FRONTIER - Elect 2	Neil Krueger	44	9.09%
	Wade Olsen	39	
	Jay Titus	32	
	Scattered Write-Ins	4	
COUNCIL MEMBER CITY OF NORTH RIVER -	Kristi Tostenson	19	
	Rick Jermvn	18	