

2011 SENATE JUDICIARY

SB 2349

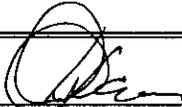
2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2349
2/2/11
Job #13890

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to verification of eligibility of voters

Minutes:

You may make reference to "attached testimony."

Senator Nething – Chairman

Senator O'Connell – Introduces the bill and explains the reason for it. He relates a story about what happened to him. He explains the intent of the bill is to put a penalty on someone who votes out of district or absentee illegally. He says the major question from senior citizens is where they should vote and is there a penalty.

Opposition

Al Jaeger – ND Secretary of State – Provides a handout on sections of the law. He relates that they know the problems Senator O'Connell mentioned do exist but they do not think this bill addresses them. He said the whole issue is our laws as they regard to residency. He proceeds to go through lines of the bill. He believes the problem is a little bigger than what the committee can take care of now.

Senator Nelson – Relates her issues of sending out thanks for voting cards and having 10 returned as person not known at this address. She asks what she should have done with those.

Jaeger – Replies she should contact the county auditor who in turn would contact the states attorney who would have the sheriff do some investigation.

Senator Olafson – Asks if there is anything of merit in the bill to move forward with.

Jaeger – Said he doesn't think there is anything in the bill to address a bigger issue.

Kevin Glatt – Burleigh County Auditor – See written testimony.

Close the hearing on 2349

2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

SB2349
2/14/11
Job #14493

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to verification of eligibility of voters

Minutes:

Senator Nething – Chairman

Senator Nething explains this amendment is a total substitute for 2349. He explains it authorizes Legislative Mgmt. to conduct a study on 2319, 2359 and 2310. We would then give them a do not pass.

Senator Olafson moves to adopt the amendment
Senator Lyson seconds

Discussion

Senator Nelson believes this puts it off to another election with the same problems.

Verbal vote – 5 yes, 1 no

Senator Olafson moves a do pass as amended
Senator Lyson seconds
Roll call vote – 6-0

Senator Nething will carry

February 14, 2011

PROPOSED AMENDMENTS TO SENATE BILL NO. 2349

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of election laws, campaign contribution and expenditure reporting requirements, and reporting of legislative travel and financial interests.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - ELECTION LAWS, CAMPAIGN CONTRIBUTIONS AND EXPENDITURES, TRAVEL REPORTING, AND STATEMENTS OF INTERESTS. During the 2011-12 interim, the legislative management shall consider studying election laws, campaign contribution and expenditure reporting requirements, and reporting of legislative travel and financial interests. 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

Date: 2/14
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2349

Senate Judiciary 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 Senator Olafson Seconded By Senator Lyson

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman			Carolyn Nelson	X	X
Curtis Olafson - V. Chairman					
Stanley Lyson					
Margaret Sitte					
Ronald Sorvaag					

Total (Yes) _____ No _____

Absent _____

Floor Assignment Senator

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

Verbal 5 yes 1 no

Date: 2/14
Roll Call Vote # 2

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2349

Senate Judiciary 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 Senator Olafson Seconded By Senator Lyson

Senators	Yes	No	Senators	Yes	No
Dave Nething - Chairman	X		Carolyn Nelson	X	
Curtis Olafson - V. Chairman	X				
Stanley Lyson	X				
Margaret Sitte	X				
Ronald Sorvaag	X				

Total (Yes) 6 No 0

Absent _____

Floor Assignment Senator Nething

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

REPORT OF STANDING COMMITTEE

SB 2349: Judiciary Committee (Sen. Nething, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2349 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 provide for a legislative management study of election laws, campaign contribution and expenditure reporting requirements, and reporting of legislative travel and financial interests.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - ELECTION LAWS, CAMPAIGN CONTRIBUTIONS AND EXPENDITURES, TRAVEL REPORTING, AND STATEMENTS OF INTERESTS. During the 2011-12 interim, the legislative management shall consider studying election laws, campaign contribution and expenditure reporting requirements, and reporting of legislative travel and financial interests. 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 POLITICAL SUBDIVISIONS

SB 2349

2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee
Prairie Room, State Capitol

SB 2349
March 10, 2011
Job # 15263

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

An Act to provide for a legislative management study of election laws, campaign contribution and expenditure reporting requirements, and reporting of legislative travel and financial interests.

Minutes:

Chairman Johnson: Opened the hearing on SB 2349.

Senator O'Connell: Do you have the original bill or just the engrossed bill? This engrossed bill does not look anything like the original bill. When I was in a senior citizen center some of the people were denied a ballot. They had moved to the bigger city from a smaller city and rural area and they were denied ballots because they said no you live in Minot and I know. They did not want to vote in Minot because they did not know anyone. They knew the place from Ryder, Parshall and wherever else. I went and talked to the auditor and they basically said look we know they moved into Minot so that is where they have to vote. At the same time, you know how they set around the coffee table; someone says well I have lived here for 15 or 20 years and I always vote back out in the country. One person said I vote in the city and my husband votes in the township where we have the farmland so we are represented both ways. I talked to the auditor about one person I known and sure enough they had gotten four ballots sent out to them. I happened to run into his family later on and I asked his wife I see you voted and she looked at me kind of funny and said what are you talking about? We have never voted in our life. Well 4 ballots had gone out to that place and I had asked the son too; dad had always said what the use of voting is. So I wondered if there is some way it was reported. The county auditor actually had to do something because the law says the county auditor turns it over to the States Attorney. So that is how the bill got here. That is the history of it. The committee basically said well lets study the whole system.

Rep. Koppelman: Based upon how you described your original bill there is a bill that went over to the Senate that we amended in the House with the help of the Secretary of States' office that does deal with verifying voter identification and some other things.

Rep. Zaiser: Maybe we should mention the concepts within the election law that you talked about within this study resolution to make sure that aspect was highlighted? Would you be OK with that?

Senator O'Connell: I have no pride or authorship with this at all. If we can clean up our laws and make it fair to everybody that is all I care. Especially since we have the mail in ballots. I have always been against the mail in ballots one of the Senator's wives said well just before we voted there were 27 people in their house, and we all sat down and he showed them how they should all vote and why they should vote this way.

Chairman Johnson: Where did the reporting of legislative travel come in?

Senator O'Connell: I have no idea because this is the first time I read the engrossed bill. Senator Robinson handed it to me and said you are upstairs and I didn't realize that was what was happening.

Opposition: None

Hearing closed.

Discussion:

Rep. Maragos Made a Motion to Do Pass.

Rep. Koppelman: I do have a couple questions I would like to research if you could give me some time.

Chairman Johnson: Rep. Maragos I will hold off on a do pass motion since we did not have a second yet. I have said anyone that wants to work on something we will give them that opportunity.

2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee
Prairie Room, State Capitol

SB 2349
March 18, 2011
Job # 15658

Conference Committee

Committee Clerk Signature



Minutes:

Proposed amendment #1

Chairman Johnson: Reopened the discussion on SB 2349.

Rep. Koppelman: (passed out proposed amendment #1). Sen. O'Connell testified that his bill was vastly changed by the Senate from the one he introduced. As we looked at it it struck some of us that a lot of the specifics in here are directed in areas that if we study election laws there are some areas the Secretary of State would like to look at that aren't part of this so we thought the cleanest way to do this is just to eliminate everything after the word election laws in that first sentence starting on page 7. It just says we are going to consider studying election laws. So that is the amendment.

Rep. Zaiser: My concern is that if we left it that vague and wide open as we found out we can talk about election law in this committee for hours and hours and it changes it yearly. I think if it gets too broad if have some concerns with that.

Rep. Mock: If we just left it at election laws that elements of campaign contributions and expenditures; they are not considered election laws. Is that correct?

Rep. Koppelman: I think they relate to elections so campaign contributions certainly relate to elections I think if you say election law; then it would be up to legislative management and whichever committee and chairman that was assigned to determine the scope and/ or Secretary of State's office; however, else they called in as participants in that study to determine what areas. Some of the issues that Secretary of State's office is concerned about or would like to work on in election law we thought the best thing to do was leave it general and let, if it is selected for study, go in the direction they chose to take it.

Rep. Zaiser: I think we need to go down the road on the issue about contributions because I think that in and of itself have plenty of controversy and there is a lot of different ways one could go. I would just as soon solve it because I have seen studies where we put it in and nothing became of it. I am not supportive of broadening out that much.

Rep. Shirley Meyer: Legislative Management wouldn't have a choice under this language they would have to do this study. Oh, because it shall?

Rep. Koppelman made a motion to move the amendment; Seconded by Rep. Hatelstad.

Rep. Koppelman: It is up to the Legislative Management Committee to determine what studies are selected. That is why Rep. Shirley Meyer drew out attention to the shall consider language is in there and they decide which studies to pick up and which studies don't. All I know is that the Secretary of State's office would control the study in any way. I am just saying they had mentioned earlier in the session when we dealt with some specific bill maybe we ought to study election law etc. Some of the things on their mind aren't included in the original language so I think the amended version would be much better and we should pass the amendment.

Rep. Zaiser: It would seem to me that the Secretary of State has had every session they bring in changes and since I have been here I have wondered why they couldn't it takes them every session to make these minor little changes. I still think to focus on the one aspect so we can really clarify that because there is quite a bit of controveraries just the whole idea of contributions.

Chairman Johnson: Having never served on Legislative Management and when it comes time to select the studies are we allowed as individual legislators to say or request to Legislative Management that this one be considered and this is the specific thing that we want to have looked at?

Rep. Shirley Meyer: You can do that but after you have a study such as this the chair of Legislative Management can allow you to expand it, but with this; I don't think you could do this in a two year timeframe. Unless it is narrowed down I think Legislative Management would just say; to have something this broad without a specific area where you are going you would start at square one and go on for days and days. Now whether you can as the chair of that committee say well OK we are going to study this aspect of it you would have to run it by the chairman.

Chairman Johnson: The amendment narrows it just to election laws because they assume the others are in there, but if it is election laws campaign expenditures, and travel and financials; we are getting a pretty huge study in and of itself right there. I am struggling; I suspect it isn't going to happen at all even with the language that is here before the amendment it is tremendously broad.

Rep. Shirley Meyer: I would agree with that.

Rep. Hatelstad: I reflect on the performance audit bill that we had earlier where the auditor said once you open the door you really don't know what you might find and so don't put restrictions on me. Let me open up the door and see where it takes us so I think the broad bill is the way we need to go.

Rep. Zaiser: I agree with the view. But I think opening up the door just in the idea of campaign contributions and interest is pretty wide. If you open it up to campaign law that really is broad. You would go on and on and there would never be any type of completion.

Rep. Mock: As I recall the bill as it was originally written related to travel reporting specifically. If I am not mistaken so by taking out that language we have actually changed the entire intent of the legislation from addressing travel reporting and the disclosure and statements.

Chairman Johnson: If I may interrupt you Senator O'Connell's original bill was trying to get at you vote where you live. It was voter verification so it wasn't on travel.

Rep. Mock: That must have been a different bill so I withdraw that.

Rep. Koppelman: Residency is not part of the current language of the study and that was the original language of the bill. I am not sure if that should be studied, but having a general election law statement, as you said, and Rep. Hatelstad said it can go where it goes.

Voice vote carries.

Do Pass As Amended Motion Made by Rep. Hatelstad: Seconded by Rep. Koppelman:

Discussion:

Rep. Mock: I just don't know if you want to take a look at the original version of the bill or not?

Chairman Johnson: It won't change what the bill is now.

Vote: 11 Yes 3 No 0 Absent Carrier: Rep. Hatelstad:

VR
3/18/11

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2349

Page 1, line 1, remove ", campaign"

Page 1, remove line 2

Page 1, line 3, remove "financial interests"

Page 1, line 5, remove ", **CAMPAIGN**"

Page 1, remove line 6

Page 1, line 7, remove "**INTERESTS**"

Page 1, line 8, remove ", campaign contribution and expenditure reporting requirements, and reporting of"

Page 1, line 9, remove "legislative travel and financial interests"

Re-number accordingly

Date: 3-18-11
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2349

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 Rep. Koppelman Seconded By Rep. Hatelstad

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) _____ No _____

Absent _____

Floor Assignment _____

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

*Voice
Vote
Carried!*

Date: 3/18/11
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2349

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 Rep. Hatelstad Seconded By Rep. Koppelman

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) 11 No 3

Absent 0

Floor Assignment Rep. Beadle

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

REPORT OF STANDING COMMITTEE

SB 2349, as engrossed: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2349 was placed on the Sixth order on the calendar.

Page 1, line 1, remove ", campaign"

Page 1, remove line 2

Page 1, line 3, remove "financial interests"

Page 1, line 5, remove ", CAMPAIGN"

Page 1, remove line 6

Page 1, line 7, remove "INTERESTS"

Page 1, line 8, remove ", campaign contribution and expenditure reporting requirements, and reporting of"

Page 1, line 9, remove "legislative travel and financial interests"

Renumber accordingly

2011 TESTIMONY

SB 2349

11.0757.01001
Title.

Prepared by the Legislative Council staff for
Senator Nething
February 14, 2011

PROPOSED AMENDMENTS TO SENATE BILL NO. 2349

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for a legislative management study of election laws, campaign contribution and expenditure reporting requirements, and reporting of legislative travel and financial interests."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE MANAGEMENT STUDY - ELECTION LAWS, CAMPAIGN CONTRIBUTIONS AND EXPENDITURES, TRAVEL REPORTING, AND STATEMENTS OF INTERESTS. During the 2011-12 interim, the legislative management shall consider studying election laws, campaign contribution and expenditure reporting requirements, and reporting of legislative travel and financial interests. 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

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.

16.1-01-12. Election offenses - Penalty. It is unlawful for a person to:

1. Fraudulently alter another person's ballot or substitute one ballot for another or to otherwise defraud a voter of that voter's vote.
2. Obstruct a qualified elector on the way to a polling place.
3. Vote or offer to vote more than once in any election.
4. Knowingly vote in the wrong election precinct or district.
5. Disobey the lawful command of an election officer as defined in chapter 16.1-05.
6. Knowingly exclude a qualified elector from voting or knowingly allow an unqualified person to vote.
7. Knowingly vote when not qualified to do so.
8. Sign an initiative, referendum, recall, or any other election petition when not qualified to do so.
9. Sign a name other than that person's own name to an initiative, referendum, recall, or any other election petition.
10. Circulate an initiative, referendum, recall, or any other election petition not in its entirety or circulate such a petition when unqualified to do so.
11. Pay or offer to pay any person, or receive payment or agree to receive payment, on a basis related to the number of signatures obtained for circulating an initiative, referendum, or recall petition. This subsection does not prohibit the payment of salary and expenses for circulation of the petition on a basis not related to the number of signatures obtained, as long as the circulators file their intent to remunerate prior to submitting the petitions and, in the case of initiative and referendum petitions, fully disclose all contributions received pursuant to chapter 16.1-08.1 to the secretary of state upon submission of the petitions. The disclosure of contributions received under this section does not affect the requirement to file a preelection report by persons soliciting or accepting contributions for the purpose of aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure placed upon a statewide ballot by action of the legislative assembly under chapter 16.1-08.1.
12. Willfully fail to perform any duty of an election officer after having accepted the responsibility of being an election officer by taking the oath as prescribed in this title.
13. Willfully violate any rule adopted by the secretary of state pursuant to this title.
14. Willfully make any false canvass of votes, or make, sign, publish, or deliver any false return of an election, knowing the same to be false, or willfully deface, destroy, or conceal any statement or certificate entrusted to the person's care.
15. Destroy ballots, ballot boxes, election lists, or other election supplies except as provided by law.

A violation of subsections 1 through 14 is a class A misdemeanor. Any signature obtained in violation of subsection 11 is void and may not be counted. A violation of subsection 15 occurring after an election but before the final canvass, or during an election, is a class C felony, and in other cases is a class A misdemeanor.

Every act which by this chapter is made criminal when committed with reference to the election of a candidate is equally criminal when committed with reference to the determination of a question submitted to qualified electors to be decided by votes cast at an election.

TESTIMONY TO THE
SENATE JUDICIARY COMMITTEE
Prepared by Kevin J. Glatt, Burleigh County Auditor/Treasurer
2/2/11

SENATE BILL 2349

Mr. Chairman and members of the committee, I am here today in opposition to this bill.

My opposition to the bill is not related to the requirements this bill places on county auditors.

My opposition to the bill is based entirely on line 11.....shall determine the residence of the individual for voting purposes.....

AND

on line 14.....the individual resides at any address other than that provide to the election board.....

Mr. Chairman 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.

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.