

**1999 HOUSE JUDICIARY**

**HB 1124**

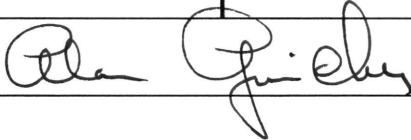
1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1124

House Judiciary Committee

Conference Committee

Hearing Date January 6, 1999

| Tape Number  | Side A | Side B | Meter # |
|--|--------|--------|---------|
| 1  | X      |        | 6.1     |
|  |        |        |         |
|  |        |        |         |
| Committee Clerk Signature  |        |        |         |

Minutes:

AL JAEGER: (SOS) Submitted prepared testimony, which is attached.

COMMITTEE ACTION: January 6, 1999

REP HAWKEN moved that the committee recommend that the bill DO PASS. Rep. Gunter seconded and the motion passed on a roll call vote of 15 ayes, 0 nays and 0 absent. Rep. Hawken was assigned to carry the bill on the floor.

1124

Date: 1/6/09  
Roll Call Vote #:

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House JUDICIARY Committee

Subcommittee on \_\_\_\_\_  
or

Conference Committee

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

Action Taken Do Pass

Motion Made By Hawken Seconded By Gunter

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------|-----|----|-----------------|-----|----|
| REP. DEKREY     | ✓   |    | REP. SVEEN      | ✓   |    |
| REP. CLEARY     | ✓   |    |                 |     |    |
| REP. DELMORE    | ✓   |    |                 |     |    |
| REP. DISRUD     | ✓   |    |                 |     |    |
| REP. FAIRFIELD  | ✓   |    |                 |     |    |
| REP. GORDER     | ✓   |    |                 |     |    |
| REP. GUNTER     | ✓   |    |                 |     |    |
| REP. HAWKEN     | ✓   |    |                 |     |    |
| REP. KELSH      | ✓   |    |                 |     |    |
| REP. KLEMIN     | ✓   |    |                 |     |    |
| REP. KOPPELMAN  | ✓   |    |                 |     |    |
| REP. MAHONEY    | ✓   |    |                 |     |    |
| REP. MARAGOS    | ✓   |    |                 |     |    |
| REP. MEYER      | ✓   |    |                 |     |    |

Total (Yes) 15 No 0

Absent 0

Floor Assignment Hawken

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

REPORT OF STANDING COMMITTEE (410)  
January 7, 1999 1:36 p.m.

Module No: HR-03-0387  
Carrier: Hawken  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1124: DeKrey (Rep. Judiciary Committee, Chairman) recommends DO PASS**  
(15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1124 was placed on the  
Eleventh order on the calendar.

**1999 SENATE JUDICIARY**

**HB 1124**

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1124

Senate Judiciary Committee

Conference Committee

Hearing Date March 2, 1999

| Tape Number                                     | Side A | Side B | Meter #     |
|---|--------|--------|-------------|
| 1   |        | x      | 1375 - 3000 |
|   |        |        |             |
|   |        |        |             |
| Committee Clerk Signature <i>Jackie Follman</i> |        |        |             |

Minutes:

HB1124 relates to name rotation on ballots and relates to piling, cutting and blocking ballots.

SENATOR STENEHJEM opened the hearing on HB1124 at 10:40 A.M.

All were present except Senator C. Nelson.

CORY FONG, Secretary of State's Office, testified in support of HB1124. Testimony attached.

SENATOR TRAYNOR asked if you varied it by precincts, how do you accommodate to be listed first.

CORY FONG stated that you take the precinct in the county that casts the largest vote in the previous election and that sets up the first rotation and then they are alternating. So it is conceivable that the two largest precincts in the county that one is going to be number one and the other is going to be number two so you are at least going to be the top position on one of them.

SENATOR LYSON asked if you are getting requests from these counties to change this.

Page 2

Senate Judiciary Committee

Bill/Resolution Number HB1124

Hearing Date March 2, 1999

CORY FONG stated that this is proposed for more consistency and the current rotation method is cumbersome. Yes, some county auditors are complaining with the cumbersome method.

SENATOR LYSON asked if we have two ways to do this now.

CORY FONG stated that is correct. We are trying to have consistency.

AL JAEGER, Secretary of State, testified in support of HB1124. We need consistency within our state. The complexity of ballot rotation needs consistency.

SENATOR STENEHJEM CLOSED the hearing on HB1124.

SENATOR WATNE made a motion for DO PASS, SENATOR TRAYNOR seconded. Motion carried. 4 - 1 - 0

SENATOR WATNE will carry the bill.

Date: 3-2-99  
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1124

Senate Judiciary Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

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

Action Taken Do Pass

Motion Made By Senator Watne Seconded By Senator Traynor

| Senators                | Yes | No | Senators | Yes | No |
|-------------------------|-----|----|----------|-----|----|
| Senator Wayne Stenehjem | X   |    |          |     |    |
| Senator Darlene Watne   | X   |    |          |     |    |
| Senator Stanley Lyson   |     | X  |          |     |    |
| Senator John Traynor    | X   |    |          |     |    |
| Senator Dennis Bercier  | X   |    |          |     |    |
| Senator Carolynn Nelson | A   |    |          |     |    |
|                         |     |    |          |     |    |
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|                         |     |    |          |     |    |
|                         |     |    |          |     |    |

Total (Yes) 4 No 1

Absent 1

Floor Assignment Senator Watne



REPORT OF STANDING COMMITTEE (410)  
March 2, 1999 4:52 p.m.

Module No: SR-37-3840  
Carrier: Watne  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**HB 1124: Judiciary Committee (Sen. W. Stenehjem, Chairman)** recommends **DO PASS**  
(4 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1124 was placed on the  
Fourteenth order on the calendar.

1999 TESTIMONY

HB 1124



## SECRETARY OF STATE

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

January 6, 1999

**TO:** Representative DeKrey and Members of the House Judiciary Committee

**FR:** Al Jaeger, Secretary of State

**RE: HB 1124 – Ballot Rotation**

Rotating the names' of candidates on election ballots (more commonly known as ballot rotation) is a process that attempts to give each candidate the same, or about the same, opportunity of having his or her name printed in the first position under a specific office designation.

During the 1995 and 1997 Legislative Sessions, the Secretary of State's office supported legislation that would have eliminated ballot rotation altogether. Both times, the legislation was defeated.

Nevertheless this office and North Dakota's county election officials, who are responsible for overseeing ballot rotation, believe that something still needs to be done to address the confusion and inconsistencies associated with ballot rotation.

Therefore, it is important to stress that the intent of this bill is not to eliminate ballot rotation in North Dakota. Rather, the intent of House Bill 1124 is to eliminate confusion, complex procedures, and inconsistencies by establishing one ballot rotation method that would be the same used in all counties in the state.

Under current North Dakota law, there are two methods for rotating candidates' names on election ballots. The first rotation method is a cumbersome process that requires the names of candidates to be rotated and ballots to be cut and piled in a certain manner so that each ballot is different from the next within each precinct. Currently, this rotation method is only used in the 9 counties that use hand count paper ballots. North Dakota law also requires this rotation method to be employed by counties using electronic scanning devices, even though these devices cannot accommodate this rotation method. More than 40 of North Dakota's 53 counties utilize electronic scanning devices.

Rather than follow the first method of rotation, the large majority of counties using electronic scanning devices follow the second rotation method offered by law. It is much simpler and one they can accommodate with their electronic scanning devices. This method requires the names of candidates to be rotated from precinct to precinct, rather than ballot to ballot within each precinct. While this method still allows ballots and candidate rotations to differ from precinct to precinct, ballots are the same throughout an entire precinct.

This second method of ballot rotation is designated in law to be used by counties using voting machines. However, currently there are no counties in North Dakota that use voting

machines. Regardless of this, and as previously mentioned, a large majority of counties using electronic scanning devices currently use this method of precinct-to-precinct rotation because their electronic scanning devices cannot accommodate the first method of rotation provided under current law.

The two existing rotation methods are confusing and provide an impossible ballot rotation method for a large majority of North Dakota's election officials who use electronic scanning devices. Furthermore, the two different rotation methods provide inconsistencies between hand count paper ballot counties and those counties currently using electronic scanning devices.

House Bill 1124 establishes a ballot rotation method that accommodates a large majority of North Dakota's counties utilizing electronic scanning devices. More importantly, House Bill 1124 establishes one simple rotation method in all 53 counties, regardless of their ballot style or voting system.

For these reasons, I encourage your support for House Bill 1124.



## SECRETARY OF STATE

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

March 2, 1999

**TO:** Senator Stenehjem and Members of the Senate Judiciary Committee

**FR:** Al Jaeger, Secretary of State

**RE:** **HB 1124 – Ballot Rotation**

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- a. Offices to be filled by the electors of the state, the entire county, or any district which includes the entire county.
  - b. Offices to be filled by the electors of districts smaller than the county, with a different rotation for each of those districts.
4. The precincts must be arranged according to the total votes cast for governor at the last general election in which the office of governor was filled, starting with the precinct having the highest total votes cast and ending with the precinct having the lowest total votes cast in that election.
  5. If there are more than three candidates for any office, and it is not possible to place all of the names on one line, the names must be placed in two or more lines having an equal or nearly equal number of names on each line; provided, that in no event may only one name appear on any line.

**Source:** S.L. 1981, ch. 241, § 8; 1985, ch. 243, § 1; 1997, ch. 199, § 2.

**Effective Date.**

The 1997 amendment of this section by section 2 of chapter 199, S.L. 1997 became effective August 1, 1997.

**Law Reviews.**

Elections — Right of Suffrage and Regulation Thereof — Official Ballots; Validity of Ballot Access and Ballot Position Restrictions, 57 N.D. L. Rev. 495 (1981).

**16.1-11-28. Piling, cutting, and blocking ballots.** After the ballots are printed as provided in section 16.1-11-27, and before being cut, they must be kept in separate piles for each change of position, and then must be repiled by taking one from each pile and placing it upon the other pile to be cut, so that every other ballot in the pile of printed sheets must have names in different positions. After the piles are made in this manner, they must be cut and placed in blocks as provided by the general election laws.

**Source:** S.L. 1981, ch. 241, § 8.

**16.1-11-29. Preparation of ballot.** Unless otherwise provided in this chapter, the primary election ballot must be prepared as provided in chapter 16.1-06.

**Source:** S.L. 1981, ch. 241, § 8.

**16.1-11-30. Separate column on primary election ballot required for each political party.** Any party that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election or has organized according to all the requirements of chapter 16.1-03 must be provided with a separate column on primary election ballots.