

2009 SENATE JUDICIARY

SB 2156

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2156

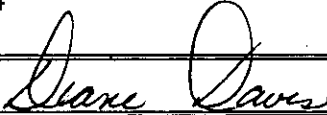
Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 14, 2009

Recorder Job Number: 6984

Committee Clerk Signature



Minutes: **Senator Nething, Chairman**

**Relating to the appointment of a foreign personal representative.**

**Senator Lyson** – Introduces the bill for the Upper Missouri Bar Association. – He explains the bill. Said it is more of a housekeeping bill.

**Senator Nelson** – Asks what is this about.

**Senator Lyson** – Said this is more of a problem in the oil country if a person needs representation that is out of state.

**Senator Nething** – Now it's done with an authenticated copy and to get an authenticated copy is more a cumbersome process. So this will permit a certified copy. It will still have to be certified with the clerk of court in the out of state where the initial probate was instigated.

**Senator Olafson** – Asks how it would work if the person was from a foreign country.

**Senator Nething** – Still would have to be certified.

Closed hearing on 2156

**Senator Olafson** moves for do pass, seconded by Senator Nelson.

Vote – pass – 6 yes

**Senator Lyson** carries the bill.

Date: 11/14  
Roll Call Vote #: /

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES *SB 2156*  
BILL/RESOLUTION NO.

Senate JUDICIARY Committee

Check here for Conference Committee

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

Action Taken  Pass  Do Not Pass  Amended

Motion Made By Senator Lyson Seconded By Senator Nelson

Senators	Yes	No	Senators	Yes	No
Sen. Dave Nething - Chairman	X		Sen. Tom Fiebiger	X	
Sen. Curtis Olafson - V. Chair.	X		Sen. Carolyn Nelson	X	
Sen. Stanley W. Lyson	X		Sen. Mac Schneider	X	

Total (Yes) 6 (N) \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment Sen. Lyson

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

**REPORT OF STANDING COMMITTEE**

**SB 2156: Judiciary Committee (Sen. Nething, Chairman) recommends DO PASS**  
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2156 was placed on the  
Eleventh order on the calendar.

2009 HOUSE JUDICIARY

SB 2156

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2156

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/9/09

Recorder Job Number: 10425, 10426

Committee Clerk Signature

*DeKrey*

Minutes:

**Chairman DeKrey:** We will open the hearing on SB 2156.

**Rep. Larry Klemin:** Co-Sponsor, support, explained the bill. This deals with probate of an estate. If a person is appointed as Personal Representative in the primary state, that person also needs to be the personal representative in any other state in order to handle that state's property, etc. for that decedent. The procedure is basically a formality. If you are appointed in SD, you probably don't have a problem appointing that same person in ND, but we have to be sure in ND, that he really was appointed in SD. Right now we go through what we call an authentication process. There is federal law on how you do authentication. Basically we're trying to have somebody in SD tell us affirmatively that the person who was appointed as PR in SD really was appointed. So authentication is kind of a convoluted procedure where the clerk of court would sign off on something and the district court judge would sign off on something, and the clerk of court would authenticate that that was the signature of the judge and the judge would authenticate that that was the signature of the clerk, and then bring that to ND and we accept that as proof that he was the PR in that other state, so we'll appoint him in this state.

This bill tries to simplify that process to allow also a certified copies of the person's appointment, so we don't have to go through this convoluted authentication procedure to get

the authenticated copies of the person's appointment in another state. All we have to do is provide a certified copy and a certified copy is something that you go to the Clerk of Court, they put their stamp on it, certify that this is the exact copy of the original that was filed in the other state. We file it here, and then you don't have to track down people that have to say that this is so-and-so's signature. That will give us another option.

**Rep. Koppelman:** I don't understand the veracity of the authenticated copy, is there any reason why a certified copy wouldn't suffice. Why would we ask for an authenticated copy in the beginning?

**Rep. Klemin:** I'm not sure, this is now part of the Uniform Law and they must have had some reason in the past for it. This probably goes back to 1969 when the Uniform Probate Code was first adopted and readopted into here in ND in 1973.

**Chairman DeKrey:** Thank you. Further testimony in support.

**Sen. Stan Lyson:** Sponsor, support. Certified copies are easier to obtain and less hassle. In MN they need two notaries for each statement. We don't need a notary for certified copies.

**Ch. DeKrey:** Thank you. Further testimony in support. Testimony in opposition. We will close the hearing. What are the committee's wishes in regard to SB 2156?

**Rep. Koppelman:** I move a Do Pass.

**Rep. Delmore:** Second.

**12 YES 0 NO 1 ABSENT**

**DO PASS**

**CARRIER: Rep. Klemin**

Date: 3/9/09  
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2156

**HOUSE JUDICIARY COMMITTEE**

Check here for Conference Committee

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

Action Taken  DP  DNP  DP AS AMEND  DNP AS AMEND

Motion Made By Rep. Koppelman Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Vig	✓	
Rep. Dahl	✓		Rep. Wolf	✓	
Rep. Hatlestad	✓		Rep. Zaiser		
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				

Total (Yes) 12 No 0

Absent 1

Floor Carrier: Rep. Klemin

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



**REPORT OF STANDING COMMITTEE (410)**  
March 9, 2009 11:26 a.m.

**Module No: HR-42-4294**  
**Carrier: Klemin**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2156: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS**  
(12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2156 was placed on the  
Fourteenth order on the calendar.