

2009 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2307

# 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2307

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 02/12/09

Recorder Job Number: 9298

Committee Clerk Signature 

Minutes:

**Senator Potter:** Shortest bill for this session. Repeals presidential preference caucus in North Dakota, it does not take it away. Our first act was to ignore state law to make it more democratic law. We developed a perfect system in our eyes. Over the years it got weighted down over lawyers and people on rules committees we ended up with a system where today we still have proportional representation of interest groups. But we need balance with our system. But that is our system, and we have the right to do that in our system. We can freely associate in the party and set the rules. In 2008 the caucus 23,000 participated, it was widely advertised and attended. The Democrat's wanted to allow 17 year olds to participate and we were prevented from doing that, not sure if state law or national party rules. The Republican's across the country have a winner take all mentality, but in North Dakota we have proportional representation for the way people vote. Last problem, at the presidential preference caucus we ended up with a split between Obama and Clinton. That is how we were supposed to election at nation convention. State convention still has rule that says you can caucus....if it had not what would have happened. Also, even if we decided to honor the results, they are required to vote for Clinton. US District Judge in Nevada during the last election, US District Judge said we have no business telling people who to elect. This presents us with this situation; we have

a law that is unconstitutional. This is something that is not our business as a government. Everyone should be able to freely associate with who they choose. With that I will answer questions.

**Senator Dever:** Prior to caucus, the candidates were chosen by primary or at the state convention, if we pass this, are we saying to choose who you want and go with it as you will.

**Senator Potter:** Our candidates and freedom of association. 2 parallel lines, what our party does and what the state does and their rules for them. That is not running in concert, we don't need it what is the problem with that. The state has no interest in it.

**Garry Emminith:** This morning I would agree that the caucus is a party function, maybe an interim study. We have, on the nation level have set up a temporary committee to review. The problem is that if they change the rules and violate state laws. Things can occur that things will happen that are not in occurrence with state law. We may want to tie it into state convention; we would find ourselves having issues with that. I believe it was a great success; we should have had more than one location. It should be each party's choice on how to do that. I support it, should be an interim study. Questions?

**Senator Dever:** Caucus over primary.

**Garry Emminith:** Yes, if primary is in June. Democrats may choose to have low contested race.

**Senator Dever:** Suggested a study, if it was the party that set rules would they need to do it at the state convention on 2010.

**Garry Emminith:** Give flexibility to pass rule gives power to national party.

**Senator Dever:** The only restriction is Secretary of State sets the date.

**Garry Emminith:** I appreciate the flexibility that we have.

**Senator Dever:** Better off to repeal all together.

**Garry Emminith:** I like the way it is stated.

**Senator Dever:** Anyone else?

**Alvin Jager:** Al Jager, as I recall current law is that Secretary of State chooses the date. Law leaves participation up to the parties. They are to notify me September 1 if they intend to participate. My recollection that under current law parties don't have to do anything on the date I set, even if they do choose to participate, the law is crafted to say that the rules set at the national level. You can do what you want, but this is my understanding of current law.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No.2307

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 02/12/09

Recorder Job Number: 9307

Committee Clerk Signature 

Minutes:

A motion was made by Senator Nelson with a second by Senator Oehlke for a do pass.

**Alvin Jager:** I don't have to pick the date until a certain point; I got pressure to pick it early. I made my selection for the right reasons. I honestly believe that I picked the best date. It was great when people called their party. The only thing I did was set the date, if they didn't like the date they didn't have to participate on that date. Because Michigan ignored national party rules and therefore national party did not recognize it.

**Jim:** You will note constitution and libertarian party did not participate but still had names on the ballot. They choose not to respond.

**Alvin Jager:** We hardly knew who their party contact was. As long as I don't have to do a presidential primary. That costs a lot of money.

**Senator Dever:** How/whoever the parties choose as their candidates is irrelevant. The candidate ultimately is chosen at the national convention.

**Alvin Jager:** Bigger issue if how other states do it. We have been advocating for a change for 12 years. Things wouldn't start until March or April

**Senator Oehlke:** this reminds me of parents that have a kid at college and still trying to enforce curfew.

**Senator Cook:** Our law says that we can't have it before Iowa or New Hampshire.

**Senator Dever:** One candidate won primary and one won the caucus

**Senator Cook:** I think there is a role that legislative policy needs to have some say over policies. How they might come and many districts don't do it. As far as you shall re organize? I would be defensive of political parties to take that right away from grassroots citizens of this state, if you allow that to go up through the parties. Maybe it should be, a grassroots person gets results and then it is overturned by the party. The big one is 4 years away at this time I am comfortable with putting the issue to rest.

**Senator Dever:** One of the provisions is that in order to vote you have to vote in a caucus is that you need to indicate your intention to vote for that party in the general election. It seems to me that there needs to be control, but the repeal of this would leave it up to the party.  
Roll was taken and the motion passed 5-0 with Senator Nelson carrying the bill.



**REPORT OF STANDING COMMITTEE (410)**  
February 12, 2009 2:15 p.m.

**Module No: SR-28-2548**  
**Carrier: Nelson**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**  
**SB 2307: Government and Veterans Affairs Committee (Sen. Dever, Chairman)**  
recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2307  
was placed on the Eleventh order on the calendar.



2009 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2307

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. Senate Bill 2307

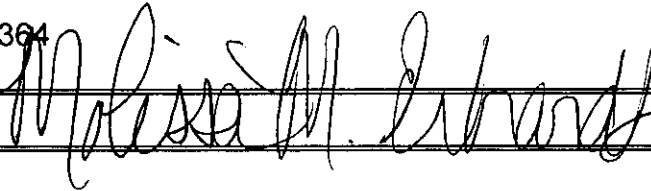
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 03/06/2009

Recorder Job Number: 10364

Committee Clerk Signature



Minutes:

**Chairman Grande:** Open the hearing on SB 2307. Clerk read the title.

**Senator Tracy Potter, District 35:** This bill SB 2307 comes to you because, not out of any antipathy towards caucuses because I love the caucuses. When I was

21 years old in 1971 I was appointed to the Committee to help rewrite the rules for the Democratic Party on how we would select our delegates. At that time, the State of ND had laws that regulated how the party selected delegates from the precinct to the district to the State conventions and on to National conventions.

These were horrible laws as far as I was concerned because what they required was that if you wanted to participate in the District Convention you needed to be a precinct committee person. To be a precinct committee person you had to run for election in the primary election two years prior. So if I wanted to affect who was going to be President of the United States in 1972 I had to know that in

September of 1970 and run for election as a precinct committeeman and

organize my people to elect me so that I could then affect the process. This was

wrong. So at our very first meeting of the committee to determine our new by-laws our First Resolution was will we follow State Law or will we violate it. We determined to violate it and we created the preference caucus system in ND that the Democrat's have followed virtually ever since. It was I think a very good system that we created because from our perspective we like proportional representation of interest (can't understand word). So if labor wanted to elect a certain number of delegates they would go stand in the corner and say work for labor and they would get the proportion they were entitled to. If it wanted to be on candidates you could do that so McGovern had his people, Chisholm had hers, and John Lindsey, a good Republican had his, and you had your ability. That is what we say as the way we wanted to do it that is the way we did it. Over the year's that has been weighted down by the lawyers in the rules committees to where it is hardly recognizable anymore and it is just a mess. But it is our system and we love and we stick to it. In 2008, there was a tremendous success, 17,000 people I believe turned out in ND for the caucuses and it was a wonderful expression. It is what should happen. But there was a real problem inheriting this. For one thing, the State Law gives a judgment, tells the parties that whatever happened at those caucuses is what is supposed to happen at your National Convention. But intervening we had district conventions, a State convention and that State Convention elects delegates, if only by the merest

coincidence that the reflection of the numbers of the State Convention actually matched what happened at the preference caucuses. It could have easily been different and you would have forced people who supported Barack O'Bama to vote for Hillary Clinton or vice versa. This is not what we are about, we think that the process ought to be that the party determines how it is going to elect its delegates and it goes through the process and does that. I back it up with that is the way the Constitution reads as well. During that same campaign in Nevada there was a challenge to the way that Nevada was collecting it's delegates and the Federal judge, US District Court Judge, Mayham, ruled clearly and I have the quote "It is up to the National Party and the State Party to promulgate rules and enforce them. It is something the parties decide. This is just the constitution." It is the freedom of association. People can freely associate in any party that they want to. If the Republicans want to, the Libertarians want to, however they want to select their candidates it is up to them. And so what I am bringing you is not a problem. We don't have a problem here the system is working just fine but I bring you a philosophy that says: "You know what the State has no business regulating this." Not that it he has been doing it badly, the Secretary of State has been it very well. But there is no reason for him to be involved in it. The State doesn't have a role in how political parties choose their people and I will bring you a potential problem and this is this. Last election cycle

the Democrats thought that we should allow 17 year-olds to vote in our caucuses if they would be eighteen by November so they would have a hand in choosing the person that they would be voting for. Not all Democrats felt that way and in fact it was our own rules that prevented us but we looked to the Secretary of State for advice on this. He informed us of what our rules were and that we were unable to change them. But say that we had had the party rules say one thing and the Republicans choose to have different rules, how is that going to work, when the State is regulating them. More importantly, the rules of the State say that it will be proportional representation as the Democrats had always proposed.

The Republicans I understand were for winner take all, you want a winner, you want somebody to actually win the election, therefore, those delegates should be pledged in that regard. But by State Law we are both bound to have to follow the same policies even if our philosophies vary on this. The last is the pledge can bond thing, which gets to be a real problem. Let us determine that for ourselves, let you determine it for yourselves, let each party determine for themselves how they want to do it. With that I will stand for any questions?

**Rep. Dahl:** Does the State currently share in any of the cost of conducting these caucuses?

**Sen. Potter:** I don't believe so. I don't believe the State has any involvement other than the Secretary of State's issuing the time and place and so the parties are currently paying for it. As they will if you pass this bill.

**Rep. Dwight Wrangham, District 8, Bismarck:** Here in support of 2307. Are there any questions?

**Chairman Grande:** Anyone else wishing to speak in favor of 2307?

**Curly Haugland, Committeeman National Republican Party, ND Republican**

**Party:** I am in favor of this bill. I want to call your attention to the handout I passed out. The main body of that paragraph is a rule that we just passed this past August at the Republican National Convention. See Attachment # 1.

There is going to be a lot of collaboration between the Republican Committee and I think there is a similar constructed Democrat Committee so they will try to harmonize certain key points that should be uniform in the parties. I am not exactly sure how close together they are going to work but I understand it is going to be quite close and a lot of communication to make sure that no obvious problems arise in conducting these kinds of things between the two parties. But none the less the results of that committee will be put to a vote of the RNC in August of 2010 and if that product passes at that time that will be the new Republican Party rule but I am not going to tell you what our rules are. If it fails

they go back to the rules we have now and that simply says that any State Party

will establish their own rules for caucuses and so on and so forth. Which is as well as it should be. But we won't be at any risk because we will have another Legislative Session between now and the next Presidential Election should we choose to do something. So with that are there any questions?

**Chairman Grande:** Any questions? Anyone else wishing to speak in favor? Opposed to 2307? Neutral?

**Al Jaeger, ND Secretary of State:** I would just like to make a couple of comments. Senator Potter refers to the State Law and State Law is clear. The Party rules first, no party rules and then you have the break down he referred to.

So that part is clear. On a National Level I told you that the National Association of Secretary of State's they are scheduled bi-partisan committee on the Presidential Primary's for the last 10 to 12 years and they are concerned about the front-loading. The frustrating part for those of us that are Republicans is the only time the Republicans change their rules is once every four years. So what Curly just referred to is the fact that they actually stated a committee to study it, we as Secretaries welcome that because the Democrats have had that flexibility and Republicans haven't because we are very concerned about the front-loading. If it keeps front-loading we are going to decide in August in the year prior to the election when New Hampshire is going to have their primary. New Hampshire has a law that says it doesn't make any difference who is first, we will always be

first. There law automatically allows the Secretary of State to move ahead or back or whatever. One time New Hampshire was like in late February and now they are in January. The other thing in State Law currently, my only goal is to set a date and you might think that is an innocent process but it isn't because I made my decision on not any partisan thing but I thought for the good of State it was all designed to be, I picked a date. I just as soon not have to do that anymore. I feel very strongly that this is a political party function, that is why if there was any discussion at all of making this into a primary, you would have me here and I would be opposing it. The State of Michigan had a Presidential Primary and they did it prior to the Democratic National Party Rules. The taxpayers of that State paid 16 million dollars to conduct that election that the Democrat National Committee said we are not going to use the results. It isn't the job of the taxpayers to do this. Now if you want a primary and you want to tie it in with the June election that is fine because that is what we do in the June election. But to have an extra election and have it back in January or February, when we do the Presidential Preference Contest I think we were able to do it for a couple 100 thousand but we really scrimped. Right now to do a full blown election I would guess you are looking at 800 to 1 million dollars. That is one thing that I would really have a problem with. If you do away with the caucus when we get the calls



and say when is ND going to have their caucus, I give them the Republican or Democrat number.

**Chairman Grande:** Any questions of the Secretary? Close the hearing on SB 2307.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. Committee Work One SB 2307

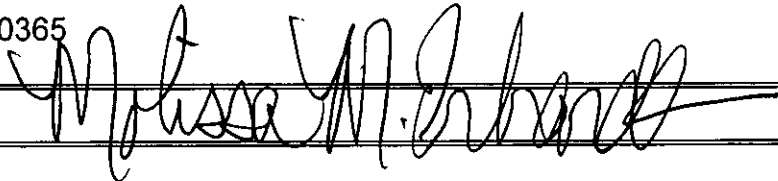
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 03/06/2009

Recorder Job Number: 10365

Committee Clerk Signature



Minutes:

**Chairman Grande:** We will discuss SB 2307.

**Rep. Dahl:** Motion for a Do Pass.

**Vice Chairman Randy Boehning:** 2<sup>nd</sup>.

**Chairman Grande:** We have a motion for a Do Pass by Rep. Dahl and a 2<sup>nd</sup> by Rep. Boehning. Any discussion? Clerk will call the roll on a Do Pass motion.

**Clerk Erhardt:** Roll Call. Yes: 11. No: 0. Absent: 2. Carrier: Rep. Kasper.

Date: 3/6/19  
 Roll Call Vote #: \_\_\_\_\_

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2307**

House Government and Veterans Affairs Committee

Check here for Conference Committee

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

Action Taken Do Pass

Motion Made By Dahl Seconded By Boehning

Representatives	Yes	No	Representatives	Yes	No
Chairman Grande	✓		Rep. Amernan	✓	
Vice Chairman Boehning	✓		Rep. Conklin	✓	
Rep. Dahl	✓		Rep. Schneider	✓	
Rep. Froseth	✓		Rep. Winrich	✓	
Rep. Karls	✓		Rep. Wolf	✓	
Rep. Kasper	✓				
Rep. Meier	✓				
Rep. Nathe	✓				

Total (Yes) 11 No 0

Absent 2

Floor Assignment Kasper

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

**REPORT OF STANDING COMMITTEE**

**SB 2307: Government and Veterans Affairs Committee (Rep. Grande, Chairman)**  
recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2307  
was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

SB 2307

2307  
Attachment  
#1

(c) The chairman of the Republican National Committee, with the approval of the Republican National Committee, may appoint such other committees and assistants as he or she may deem necessary. Whenever such committees are appointed, they shall consist of a chairman and an equal number of men and women.

(d) There shall be a temporary committee to review the timing of the election, selection, allocation, or binding of delegate and alternate delegates pursuant to Rule No. 15(b) of these rules to the 2012 Republican National Convention. The Temporary Delegate Selection Committee shall be composed of fifteen (15) members, which shall include one (1) member of the Republican National Committee from each of the four (4) regions described in Rule No. 5, elected by the members of the Republican National Committee from each region at the 2009 Republican National Committee Winter Meeting; further, the chairman of the Republican National Committee will appoint three (3) additional members of the Republican National Committee and six (6) Republicans who are not members of the Republican National Committee. The chairman and general counsel of the Republican National Committee shall serve as *ex-officio* voting members. The chairman of the Republican National Committee shall convene the Temporary Delegate Selection Committee as soon as practicable after the 2009 Republican National Committee Winter Meeting. The Temporary Delegate Selection Committee shall make any recommendations it deems appropriate concerning additions to Rule No. 15(b) of these rules, provided that such additions shall preserve the provisions of Rule No. 15(b) adopted by the 2008 Republican National Convention, which shall be voted upon without amendment by the Republican National Committee at the 2010 Republican National Committee Summer Meeting and which shall require a two-thirds (2/3) vote to be adopted. Any action adopted would take effect sixty (60) days after passage. The Temporary Delegate Selection Committee shall disband following the 2010 Republican National Committee Summer Meeting.

RULE NO. 11  
**Candidate Support**

(a) The Republican National Committee shall not, without the prior written and filed approval of all members of the Republican National Committee from

Attachment

The candidate or candidates for endorsement or election must be declared endorsed or elected pursuant to the rules of the party involved, and the chairman and secretary of the convention shall issue certificates of endorsement as provided in section 16.1-11-06 or certificates of election. The names of the candidates nominated for presidential electors with the surname of the presidential candidate the party wishes to place on the general election ballot must be certified by the chairman and secretary of the convention to the secretary of state by four p.m. on the sixtieth day before the general election to be placed upon the general election ballot as provided in section 16.1-06-07.1.

**16.1-03-15. Expenses of delegates to national conventions.** Repealed by S.L. 1987, ch. 247, § 1.

**16.1-03-16. Filling vacancy occurring in office of national committeeman or committeewoman.** Repealed by S.L. 1997, ch. 189, § 12.

**16.1-03-17. Political party reorganization after apportionment.** If apportionment of the legislative assembly becomes effective after the organization of political parties as provided in this chapter and before the primary or the general election, the secretary of state shall establish a timetable for the reorganization of the parties as rapidly as possible before the ensuing election. When the timetable is established, the secretary of state shall notify all the county auditors of the timetable and of the details of the legislative apportionment as it affects each county. The secretary of state or county auditor may not require reorganization of precincts in which boundaries are unchanged after apportionment by the board of county commissioners or the governing body of the city pursuant to chapter 16.1-04. Each county auditor shall publish in the official county newspaper, a notice containing:

1. A statement that legislative apportionment has occurred.
2. A description and a map of the new legislative districts and the precincts as established by the governing bodies of the counties and cities in the county, pursuant to section 16.1-04-01.
3. The date, time, and places of the precinct caucuses and district committee meetings determined by the secretary of state and the county auditor to be necessary according to the new districts and precincts established.

The political parties, in the newly established precincts and districts, shall then proceed to reorganize as closely as possible in conformance with this chapter and in conformance with the timetable established by the secretary of state.

**16.1-03-18. Unfair and corrupt election practices applicable to chapter.** Repealed by S.L. 1997, ch. 189, § 12.

**16.1-03-19. Organizations allowed to nominate statewide and legislative candidates.** A political organization may not endorse candidates or have candidates petition for president, vice president, Congress, statewide office, or legislative office as set forth in chapter 16.1-11, unless the organization, political or otherwise:

1. 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 candidate 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;
2. Organized according to all requirements of this chapter; or
3. Filed a petition with the secretary of state as set forth in section 16.1-11-30.

**16.1-03-20. Political parties may conduct presidential preference caucuses.**

1. On one designated day, following presidential nominating contests in the states of Iowa and New Hampshire and prior to the first Wednesday in March in every presidential election year, every political party entitled to a separate column under section 16.1-11-30 may conduct a presidential preference caucus.
2. Before August fifteenth of the odd-numbered year immediately preceding the presidential election year, the secretary of state shall designate the day after consulting with and taking recommendations from the two political parties casting the greatest vote for president of the United States at the most recent general election when the office of president of the United States appeared on the ballot.
3. A political party entitled to conduct a presidential preference caucus must notify the secretary of state before September first of the odd-numbered year immediately preceding the presidential election year if the political party will conduct a presidential preference caucus in that presidential election year according to this section. If selected by a political party, the results of a presidential preference caucus must be used to instruct delegates attending the political party's national political convention.
4. A political party that establishes itself according to section 16.1-11-30 after September first of the odd-numbered year immediately preceding the presidential election year and before the day designated by the secretary of state according to subsection 2 is entitled to conduct a presidential preference caucus according to this section. The political party is entitled to conduct a presidential preference caucus on the day designated by the secretary of state according to subsection 2 and shall notify the secretary of state of the political party's intent to conduct a presidential preference caucus at the time it establishes itself.
5. Before the presidential preference caucuses, the legislative district chairman of each participating party shall issue the call for the presidential preference caucus, which may be held in conjunction with any other caucuses or meetings of the political party that are scheduled for the purpose of endorsing legislative candidates or selecting officers of the legislative district, at least thirty days before the time set for holding the caucus. At the time of making the call, the district chairman shall notify the secretary of state of the information contained in the call, which must include the following:
  - a. Name of the party.
  - b. Precinct number or name.
  - c. Date of caucus.
  - d. Place of caucus.
  - e. Hours of caucus.
  - f. A statement of the business to be conducted, including the nomination of a candidate for president of the United States.
  - g. The name of the district chairman issuing the call.
6. The district chairman shall provide ten days' published notice in the official county newspaper in circulation within each precinct in the district. The notices must contain that information set forth in subsection 5.
7. A presidential preference caucus must be conducted in the manner provided in this chapter with the exception that a political party is not required to hold individual caucuses in every election precinct throughout a legislative district. Only those



persons who either voted or affiliated with the political party at the last general election or intend to vote or affiliate with the political party at the next general election may participate and vote at the presidential preference caucus.

8. Unless specifically forbidden by national party rules, the voting delegates selected by political parties are bound to cast their first ballots at the political party's national convention in the same proportion as the total votes cast for all candidates for president of the United States at the political party's presidential preference caucus. If political party rules do not allow apportionment of a delegate and such an apportionment appears necessary because a candidate did not receive more than one-half of a delegate, those partial delegates must be assigned to the candidate receiving the highest number of votes at the caucus. If a candidate withdraws before voting begins on the first ballot, delegates obligated to vote for the candidate on the first ballot are released from that obligation.
9. Every political party entitled to a separate column under section 16.1-11-30 that chooses not to conduct a presidential preference caucus is entitled to nominate a presidential candidate and select presidential electors for inclusion on the general election ballot in the presidential election year according to section 16.1-03-14.