

2011 SENATE JUDICIARY

SB 2359

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee  
Fort Lincoln Room, State Capitol

SB2359  
2/2/11  
Job #13889

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to polling place open for mail ballot elections

## Minutes:

There is attached testimony

**Senator Nething** – Chairman

**Senator Heckaman** – District 23 – Introduces the bill – See written testimony.

**Senator Nething** – Asks if the alternative would be to repeal the vote by mail process.

**Senator Heckaman** – Said they have discussed with the county if they would give an exception. This is the first year the county tried mail balloting. She believes the election process is the process of democracy and shouldn't be for the convenience of the county or the cost to the county. She speaks of other issues that came up with voting with absentee ballots. She said this would simplify the process giving the reservation one polling place.

**Senator Olafson** – Mentions this bill is specific to counties with an Indian reservation within their boundaries but he has also had complaints from his constituents who think they should also have a polling place in their town and they cite the same reasons. He asks if this bill is adopted other residents of the state are going to ask for polling places in their cities.

**Senator Heckaman** – Responded she has heard the same things in her district and said there will always be people that are not served in the manner that the election laws are applied. She thinks the counties could use early voting and absentee voting.

**Senator Nelson** – Asks if the major problem with the reservation isn't the lack of 911 addresses.

**Senator Heckman** – Replies that it is one of the major issues; people are very mobile on the reservation. She said two of the four districts don't have any rural mail delivery. She explains they can put a P.O. Box to get your application but you cannot send the ballot there. The 911 address is for verification that you are in the correct district and voting in the correct district.

Opposed

**Al Jaeger** – ND Secretary of State – States they are concerned with this bill as it is written. He said you can receive a ballot at a PO Box but must also provide a residential address as to where you vote. There is the option the counties have under current law to have more than one place on election day. He says the way the bill is written a county would have to put up a polling place for a small amount of people in excess of \$10,000 in cost. The way the bill is written if a county has an Indian reservation they would have to set up a polling place. Some counties have a very small portion of reservation. He said that is what his office is concerned with. He mentions a bill that is in the House dealing with forcing every city over 200 people to have a polling location. He said under present law this issue can be addressed without this bill becoming law.

**Senator Olafson** – Said in 2007 when a law was passed to vote by mail the discussion was there be one or more polling places. He asks if this situation shouldn't be a compelling reason for having a polling place on a reservation.

**Al Jaeger** – Believes that is a local decision and doesn't think the State should make that decision.

**Senator Sitte** – Asked when HAVA Legislation was passed everything had to be made handicapped accessible. Looking at that county that had 12 voters and has no handicap voters that need all the fancy gadgets that demands \$10,000 to open that polling place, if they say all they need is a paper ballot and have someone count those and turn them into the county would that not be issue of local control we could support?

**Al Jaeger** – Replies if you have a polling location you have to have the scanner and the auto mark under the Help America Vote Act. Also you have to have an election board of 5 people; there are 12 people up there. He recites it is a problem coming up with election workers.

**Senator Sorvaag** – Asks how many counties have only one.

**Al Jaeger** – Says the counties that have vote by mail like it and it has worked well.

**Senator Nelson** – Asks if there is a way they could have early vote within each reservation and didn't consider the county line. Those 12 people could vote on the reservation.

**Al Jaeger** – Replies they vote now under the present system without any problem.

**Senator Nelson** – Said she was trying to figure out how to rewrite this legislation to guarantee each reservation a polling place.

**Jim Silrum** – Deputy Secretary of State – Says ballots are county specific so the ballots that are built for a county and state law requires that the county and the precinct be identified on that ballot.

**Senator Nelson** – Questions the central voter file and wanted a system where someone could vote from another location but still vote their district.

**Jim Silrum** – He said that is true for Cass County alone. It becomes more difficult or impossible when you add counties to that. He said with the central voter file it is one voter one record so wherever you are if you are voting absentee you would vote your district ballot by way of absentee. The central voter file is intended to make for a state wide poll book so they know a certain voter is assigned to a particular district.

Neutral

**Kevin Glatt** – Burleigh County Auditor – See written testimony. Has a proposed an amendment.

**Senator Sorvaag** – Asks if he asking if this amendment reduces the polling places.

**Glatt** – Said he is looking for a vehicle to get this amendment in.

**Senator Sitte** – Asks about how many precincts would be affected by the amendment.

**Glatt** – Said he doesn't know state wide. He said in the larger counties he doesn't think it is cost effective to do a vote by mail in the larger cities but he can see it being very effective in the outlying precincts of the county.


Close the hearing 2359

# 2011 SENATE STANDING COMMITTEE MINUTES

**Senate Judiciary Committee**  
Fort Lincoln Room, State Capitol

SB2359  
2/14/11  
Job #14492

Conference Committee

Committee Clerk Signature 

## Explanation or reason for introduction of bill/resolution:

Relating to polling place open for mail ballot elections

## Minutes:

## Senator Nething - Chairman

**Senator Olafson** moves a do not pass  
**Senator Sitte** seconds

Roll call vote  
5 yes, 1 no  
Motion carries

**Senator Nething** will carry

Date: 2/14  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2359

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 Sitte

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) 5 No 1

Absent \_\_\_\_\_

Floor Assignment Senator Nething

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

**REPORT OF STANDING COMMITTEE**

**SB 2359: Judiciary Committee (Sen. Nething, Chairman) recommends DO NOT PASS**  
(5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2359 was placed on the  
Eleventh order on the calendar.

2011 TESTIMONY

SB 2359



February 2, 2011

Mr. Chairman and members of the committee:

I am Senator Joan Heckaman from New Rockford and I represent District 23. I am here to introduce SB 2359.

The genesis of this bill was the difficulty voters on the Spirit Lake Nation encountered in the 2010 primary and general elections.

This bill itself will allow voters on any reservation in the state, the opportunity to participate in the voting process in both the primary and general elections when the county in which the reservation is encompassed resolves to go to mail ballot elections.

While there are many advantages to mail balloting, cost being one of them, when it comes to voting on the reservations, difficulties arise,

1. Applications and Ballots: 911 addresses are not posted for many of the homes on the reservations. Discussions with staff that completed the census found the same issue. If there is not a 911 address, ballots cannot be returned to the voter.
2. Transportation: Many residents lack reliable transportation and as a result if they don't get a ballot or application, cannot get to the polling place at the county seat.
3. Mail delivery: Many residents don't have access to rural mail delivery. And if they do have a PO box, they don't have transportation to access it daily.
4. Mobility: Residents move around as needs arise and don't have a permanent address.
5. Process: The entire process of getting an application, getting to the post office to mail it back, going to retrieve the ballot, and then mailing the ballot back gets burdensome.

This bill would simple require counties with mail balloting to have 1 polling place on a reservation in addition to the 1 place at the county seat.

Attempts to get this resolved last fall encompassed visits with the Tribal Council and Chairperson, intervention from the congressional delegation, calls and meetings with county commissioners, offers from Spirit Lake to pay for the polling place, and finally court action to get a polling place. This bill would seem like a much simpler solution and would encompass all reservations in the state if their county would have mail ballot elections.

That completes my remarks and I would stand for any questions.

**TESTIMONY TO THE  
SENATE JUDICIARY COMMITTEE**

**Prepared by Kevin J. Glatt, Burleigh County Auditor\Treasurer  
2/2/11**

**SENATE BILL 2359**

Mr. Chairman and members of the committee, I am here today to propose an amendment to this bill. I desire this amendment to give larger counties another option to make elections more efficient and cost effective. Current law allows any qualified elector to vote absentee. Many, many citizens are opting for this option with the result being elections becoming more and more expensive to conduct. As the election administrator for Burleigh County I do not know which option electors will take and therefore I must open precincts and bear the expense of absentee ballots.

In August of 2010 I traveled east to Minnesota and worked the Minnesota Primary Election as part of the Becker County Auditor\Treasurer's staff. I learned several things and found some ideas that I believe as the election administrator for the 2<sup>nd</sup> largest county could be implemented as a means to save money.

Current law only authorizes vote by mail as an all or nothing proposition. I believe the option to utilize vote by mail for precincts with less than 400 votes cast would be an effective measure to increase voter turnout and reduce election costs.

I therefore respectfully request your favorable consideration to the following amendment as underlined:

**16.1-11.1-01. Counties may conduct mail ballot elections – Polling places – Records.** The board of county commissioners of a county may conduct an election by mail ballot. In any precinct having fewer than 400 votes cast at the last General Election held for the office of governor the board of county commissioners may conduct an election by mail ballot with no polling place other than the office of the auditor or other location(s) designated by the auditor.