

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1048

2001 HOUSE JUDICIARY

HB 1048

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1048

House Judiciary Committee

☐ Conference Committee

Hearing Date 01-16-01

Tape Number	Side A	Side B	Meter #
Tape II	x		38 to 4108
Committee Clerk Signature <i>Jean Diers</i>			

Minutes: Chr DeKrey opened the hearing on HB 1048. Relating to challenging the right of a person to vote.

Vonette Richter: See page 284 under Challenged Voters of the Report of the North Dakota Legislative Council.

Cory Fong: representing the Secretary of States Office (see attached testimony).

Rep Delmore: Going back to the 10% verification, why is there no statistics, why is nothing to show that the system is broken.

Mr Fong: You want to know how many affidavits, that can translate into a percentage of people that have been challenged. Would a number from the 2000 general election give you that information.

Rep Delmore: I am more interested in how many were a problem.

Rep Eckre: Your testimony answered some of the questions that I had.

Rep Grande: If one person comes in and signs an affidavit, and it is found that this person is not a valid voter, but their ballot is put and was counted. Is it not important that we put this bill into law.

Mr Fong: I think this is why this is an important bill.

Rep Grande: What is the job description of the County Auditor? Is the County Auditor the final authority and is he required to review, then yes.

Rep Maragos: Looking at the affidavit, is there a penalty, not sure, are we changing concept?

Mr Fong: Auditors support the concept, but are concerned about some of the logistics.

Rep Maragos: Never felt that our voter registration was a problem. To your knowledge has anyone ever been prosecuted for signing a false affidavit?

Mr Fong: No, but I could research that and give the follow up.

Rep Grande: Has there not been numerous elections that have been won or lost by one vote.

Rep Onstad: Is this something that was introduced because of a prior election or they are seeing something down the road.

Mr Fong: It has to do with greater focus on the election process.

Rep Fairfield: The County Auditor makes a recommendation to the County Canvassing Board, does the Board then not have to accept that recommendation?

Mr Fong: I think that if this goes forth, that is something that has to be placed in this bill. Who will be the final arbiter when a vote is challenged. Is there an appeal process?

Rep Fairfield: How is it decided, how this is filled out? Do we have current law or Federal law, I am thinking about people who don't speak English, or have a disability.

Mr Fong: That is already provided by North Dakota law.

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House Judiciary Committee
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Rep Fairfield: If it is not filled out properly, it could be rejected.

Mr Fong: We just tell County Auditors that it has to be completed and signed.

Rep Maragos: How does one get on the roll or poll book?

Mr Fong: You are placed in the poll book by voting in an election.

Rep Maragos: How is a person taken off the list.

Mr Fong: When we have notification of death, we pass that on to the County Auditor. Otherwise they will purge the list bases on what they know.

Rep Maragos: If someone is not on the list, they are considered new?

Mr Fong: Not necessarily, it could be a name change.

Rep Maragos: If that is the case, they have to file an affidavit of residence.

Mr Fong: Not always.

Rep Maragos: Is there some discretion by the poll worker. Are the poll watchers obligated to fill out an affidavit if the person is unknown.

Mr Fong: Part of the reason in '99 was strengthen to look at the key indicators to determine to see when to challenge a voter.

Rep Maragos: Can a person go to a County Auditor prior to the election and ask for their name to be placed on the poll book?

Mr Fong: That might be a better question for one of the County Auditors.

Rep Maragos: So basically, in North Dakota the only way to get into a poll book is by a previous vote.

Mr Fong: That is true.

Rep Onstad: If two people book come in and are not on the poll book, one is challenged , and signs an affidavit and one is not, are we opening up grounds for a law suit.

Mr Fong: If you are asked for an ID and you cannot provide one , then the next step is the affidavit. Someone could raise the question about being singled out.

Rep Maragos: One thing that concerns me is no uniformity, no standardization.

Mr Fong: You are right.

Rep Kingsbury: Do election workers set with old poll books.

Mr Fong: County Auditors do take measures to purge the poll books.

Rep Kingsbury: They still live there, they have just not voted for the past several years.

Mr Fong: They remain on the poll books. There are some counties that start fresh each year with new poll books.

Rep Maragos: Then they are not concerned, they are using knowledge of the people in the district.

Mr Fong: It is based on good faith.

Rep Disrud: Who officially tracks obituaries?

Mr Fong: What we have done, through the past 2 election cycles, is to get the death notices from vital records and forward them on to the County Auditors.

Kevin Glott: Burleigh County Auditor: Poll books are tools for election workers. What is printed in the books is who voted in the previous election. If a person has not voted in the last 4 elections, they are dropped from the books.

Rep Maragos: Did the per centage of your affidavits increase or decrease in this election?

Mr Glott: It stayed the same. The number completed was .2 of 1%. There have been no prosecutions.

Rep Delmore: It is easier for voters to vote absentee ballot. How closely do you question someone who comes in for an absentee ballot?

Glott: I'm not the right one to ask. We had 1107 absentee ballots the day before the election in Burleigh County. We could not have questioned all the people who came in to vote that day, or to have them all sign an affidavit. We have become a state that is voting by mail

Rep Maragos: Is that good or bad?

Mr Glott: For an election official that is good, for a County Auditor that is not so good .

Rep Kretschmar: We have a number of absentee voters, what about the percentage of mail in voters?

Mr Glott: About 75% of the ballots came in through the mail.

Rep Eckre: Are you open on Saturday before the election?

Mr Glott: We were open three Saturdays before the election, that is the standard in Burleigh County for general elections.

Chr DeKrey: Thank you for appearing before the committee. Does anyone else have testimony on HB 1048?

Brian Holme: North Dakota Township Officers Association The purpose of this bill does pose problems for the townships. We vote for people and also on issues such as budgets.

Ch DeKrey: Are there any questions? Is there anyone else wishing to testify? We will close the hearing on HB 1048.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1048A

House Judiciary Committee

☐ Conference Committee

Hearing Date 01-24-01

Tape Number	Side A	Side B	Meter #
TAPE II		x	990 to 1539
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chairman DeKrey, we will take up HB 1048, does someone care to make a motion?

Rep Grande: I move a DO PASS

Rep Klemin: I second the motion.

Chairman DeKrey: We have a motion and a second, the bill is open for discussion

A discussion was then held on the merits of the bill. It was decided that the bill needed to have some amendments so the DO PASS motion was withdrawn by Rep Grande and Rep Klemin withdrew his second, so that the bill could have amendments worked on.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1048b

House Judiciary Committee

☐ Conference Committee

Hearing Date 02-12-01

Tape Number	Side A	Side B	Meter #
TAPE II	X		1005 to 3846
Committee Clerk Signature <i>Jean Diers</i>			

Minutes: Chairman DeKrey called the committee to order and took up HB 1048. Cory Fong Secretary of States Office came in to explain the amendments.

DISCUSSION

COMMITTEE ACTION

Chairman DeKrey asked the committee wishes. Rep Wrangham moved the amendments, seconded by Rep Grande. A voice vote was taken, the amendments pass. What are the wishes of the committee. Rep Onstad moved a DO NOT PASS as amend, seconded by Vice Chr Kretschmar. The motion passes by a vote of 7 YES, 6 NO and 2 ABSENT. Carrier is Vice Chr Kretschmar.

V/R
2/13/01
10/2

HOUSE AMENDMENTS TO HB 1048 HOUSE JUDICIARY 02-14-01

Page 1, line 13, overstrike "The members" and Insert immediately thereafter "Any member" and overstrike "and poll challengers"

Page 1, line 14, overstrike "anyone" and Insert immediately thereafter "an individual"

Page 1, line 15, after "elector" Insert "of the precinct", overstrike "Members" and insert immediately thereafter "A poll challenger may request members", overstrike "or poll challengers may" and Insert immediately thereafter "to", and overstrike "a voter if" and Insert immediately thereafter "the right of an individual to vote whom"

Page 1, line 16, after "believe" Insert "is not a qualified elector of the precinct. A challenge may be based upon" and after "any" insert "one"

Page 1, line 17, overstrike "person" and Insert immediately thereafter "individual"

Page 1, line 19, overstrike "person" and Insert immediately thereafter "name of the individual", overstrike "has never voted in the precinct before" and Insert immediately thereafter "does not appear in the pollbook", and after "and" insert "the individual"

Page 1, line 21, overstrike "person" and Insert immediately thereafter "individual"

Page 1, line 23, overstrike "person" and Insert immediately thereafter "individual"

HOUSE AMENDMENTS TO HB 1048 HOUSE JUDICIARY 02-14-01

Page 2, line 1, overstrike "person" and Insert immediately thereafter "individual" and overstrike "poll challenger or by a"

Page 2, line 2, overstrike "person" and Insert immediately thereafter "individual"

Page 2, line 3, overstrike "person" and Insert immediately thereafter "individual"

Page 2, line 4, overstrike "person" and Insert immediately thereafter "individual"

Page 2, after line 16, Insert:

"f. A space to insert the page number of the pollbook on which the challenged voter's name appears along with the statement of the reason for the challenge."

Page 2, line 18, replace "person" with "individual" and remove "poll challenger or"

Page 2, line 19, replace "shall write on" with "mark" and after the third "envelope" Insert "with"

Page 2, line 20, remove "and a statement of the reason for the challenge" and remove "poll challenger"

Page 2, line 21, remove "or"

Page 2, line 22, replace "envelope" with "affidavit" and after "the" Insert "page"

Page 2, replace lines 23 through 31 with "on which the voter's name appears in the pollbook and must also include a statement of the reason for the challenge. The provisional"

voter's name must also be marked in the pollbook as a provisional voter. A challenged individual who has completed an affidavit and whose ballot has been designated as provisional according to this subsection has until the closing of the polls in the precinct to offer any additional information or proof to the election inspector supporting the challenged individual's qualifications to vote in the precinct. At any time before the closing of the polls in a precinct, if presented with sufficient information or proof to confirm a challenged individual's qualifications to vote in the precinct, an election inspector may withdraw the challenge and order the election board to open the provisional envelope containing the challenged individual's ballot and deposit the challenged individual's ballot into the ballot box. Before the meeting of the county canvassing board, the county auditor, with the assistance and advice of the state's attorney, shall review each completed affidavit along with the corresponding statement of the reason for the challenge and shall make a recommendation based upon the qualifications of electors in section 16.1-01-04 and the rules for determining residence in section 54-01-26 to the county canvassing board as to whether the challenged voter is qualified to vote in the precinct and whether the challenged voter's provisional ballot should be accepted and counted and canvassed by the county canvassing board or rejected. The county canvassing board shall review each recommendation made by the county auditor, and may consider each completed affidavit including the statement of the reason for the challenge, and accept or reject each provisional ballot based upon the qualifications of electors in section 16.1-01-04 and the rules for determining residence in section 54-01-26. The county canvassing board shall count those provisional ballots deemed acceptable by the board. Provisional ballots rejected by the county canvassing board must be preserved and retained with all corresponding materials for further review and consideration in case of a recount or an election contest. The decision of the county canvassing board, as it pertains to the counting of provisional ballots, is final, subject only to the recount and contesting provisions of chapter 16.1-16. An election board or county canvassing board shall take precautions to ensure that secrecy is maintained when opening and counting provisional ballots and shall proceed in the same manner as prescribed for opening and counting absent voter's ballots in section 16.1-07-12. An otherwise properly completed provisional ballot may not be rejected because an election official failed to comply with any of the procedures required by this section. The county auditor shall report all known or suspected violations to the state's attorney for investigation and possible prosecution."

Renumber accordingly

Date: 02-12-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1048

House JUDICIARY Committee

☐ Subcommittee on _____

or

☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass as amend

Motion Made By Rep Onstad Seconded By Vice Chr Kretschmar

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey		✓			
VICE CHR -- Wm E Kretschmar	✓				
Rep Curtis E Brekke		✓			
Rep Lois Delmore	✓				
Rep Rachael Disrud					
Rep Bruce Eckre	✓				
Rep April Fairfield	✓				
Rep Bette Grande		✓			
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury		✓			
Rep Lawrence R. Klemin		✓			
Rep John Mahoney	✓				
Rep Andrew G Maragos					
Rep Kenton Onstad	✓				
Rep Dwight Wrangham		✓			

Total (Yes) 7 No 6

Absent 2

Floor Assignment Vice Chr Kretschmar

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

REPORT OF STANDING COMMITTEE

HB 1048: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO NOT PASS** (7 YEAS, 6 NAYS, 2 ABSENT AND NOT VOTING). HB 1048 was placed on the Sixth order on the calendar.

Page 1, line 13, overstrike "The members" and insert immediately thereafter "Any member" and overstrike "and poll challengers"

Page 1, line 14, overstrike "anyone" and insert immediately thereafter "an individual"

Page 1, line 15, after "elector" insert "of the precinct", overstrike "Members" and insert immediately thereafter "A poll challenger may request members", overstrike "or poll challengers may" and insert immediately thereafter "to", and overstrike "a voter if" and insert immediately thereafter "the right of an individual to vote whom"

Page 1, line 16, after "believe" insert "is not a qualified elector of the precinct. A challenge may be based upon" and after "any" insert "one"

Page 1, line 17, overstrike "person" and insert immediately thereafter "individual"

Page 1, line 19, overstrike "person" and insert immediately thereafter "name of the individual", overstrike "has never voted in the precinct before" and insert immediately thereafter "does not appear in the pollbook", and after "and" insert "the individual"

Page 1, line 21, overstrike "person" and insert immediately thereafter "individual"

Page 1, line 23, overstrike "person" and insert immediately thereafter "individual"

Page 2, line 1, overstrike "person" and insert immediately thereafter "individual" and overstrike "poll challenger or by a"

Page 2, line 2, overstrike "person" and insert immediately thereafter "individual"

Page 2, line 3, overstrike "person" and insert immediately thereafter "individual"

Page 2, line 4, overstrike "person" and insert immediately thereafter "individual"

Page 2, after line 16, insert:

"f. A space to insert the page number of the pollbook on which the challenged voter's name appears along with the statement of the reason for the challenge."

Page 2, line 18, replace "person" with "individual" and remove "poll challenger or"

Page 2, line 19, replace "shall write on" with "mark" and after the third "envelope" insert "with"

Page 2, line 20, remove "and a statement of the reason for the challenge" and remove "poll challenger"

Page 2, line 21, remove "or"

Page 2, line 22, replace "envelope" with

Page 2, replace lines 23 through 31 with "on which the voter's name appears in the pollbook and must also include a statement of the reason for the challenge. The provisional"

voter's name must also be marked in the pollbook as a provisional voter. A challenged individual who has completed an affidavit and whose ballot has been designated as provisional according to this subsection has until the closing of the polls in the precinct to offer any additional information or proof to the election inspector supporting the challenged individual's qualifications to vote in the precinct. At any time before the closing of the polls in a precinct, if presented with sufficient information or proof to confirm a challenged individual's qualifications to vote in the precinct, an election inspector may withdraw the challenge and order the election board to open the provisional envelope containing the challenged individual's ballot and deposit the challenged individual's ballot into the ballot box. Before the meeting of the county canvassing board, the county auditor, with the assistance and advice of the state's attorney, shall review each completed affidavit along with the corresponding statement of the reason for the challenge and shall make a recommendation based upon the qualifications of electors in section 16.1-01-04 and the rules for determining residence in section 54-01-26 to the county canvassing board as to whether the challenged voter is qualified to vote in the precinct and whether the challenged voter's provisional ballot should be accepted and counted and canvassed by the county canvassing board or rejected. The county canvassing board shall review each recommendation made by the county auditor, and may consider each completed affidavit including the statement of the reason for the challenge, and accept or reject each provisional ballot based upon the qualifications of electors in section 16.1-01-04 and the rules for determining residence in section 54-01-26. The county canvassing board shall count those provisional ballots deemed acceptable by the board. Provisional ballots rejected by the county canvassing board must be preserved and retained with all corresponding materials for further review and consideration in case of a recount or an election contest. The decision of the county canvassing board, as it pertains to the counting of provisional ballots, is final, subject only to the recount and contesting provisions of chapter 16.1-16. An election board or county canvassing board shall take precautions to ensure that secrecy is maintained when opening and counting provisional ballots and shall proceed in the same manner as prescribed for opening and counting absent voter's ballots in section 16.1-07-12. An otherwise properly completed provisional ballot may not be rejected because an election official failed to comply with any of the procedures required by this section. The county auditor shall report all known or suspected violations to the state's attorney for investigation and possible prosecution."

Renumber accordingly

2001 TESTIMONY

HB 1048



SECRETARY OF STATE

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

January 16, 2001

TO: Representative Duane DeKrey & Members of the House Judiciary Committee
FR: Al Jaeger, Secretary of State (presented on his behalf by Cory Fong)
RE: HB 1048 - Provisional Ballot

Currently, North Dakota law allows an election official, e.g., a member of an election board or poll challenger, to challenge a person offering to vote who he or she knows or has reason to believe is not qualified to vote in a precinct. According to the law, a challenged voter must "stand" aside and may not vote unless he or she executes an affidavit in the presence of the election inspector, acknowledging that he or she is a legally qualified elector of the precinct. I have attached a copy of the Voter's Affidavit (SFN 17343) used by our state's election officials for your reference.

If a challenged voter refuses to execute a voter's affidavit, he or she may be denied the right to vote by the election board. However, if a voter agrees and executes a voter's affidavit, he or she must be allowed to vote just as any other voter is allowed to vote and his or her ballot is deposited in the ballot box with all of the other ballots to eventually be counted and canvassed.

After the election, it is the responsibility of the county auditor to randomly verify at least ten percent of the affidavits completed and report all known or suspected violations to the state's attorney for investigation and possible prosecution. However, even if the county auditor or the state's attorney determine, after reviewing the affidavits, that a person voted in the incorrect precinct or that a person voted who was not authorized to do so, it does not change the fact that the person still successfully cast a ballot that was counted and canvassed.

House Bill 1048 adds an additional step and safeguard to the voter challenge process. It requires the members of an election board to set aside a ballot cast by a challenged voter as a provisional ballot to be counted once it has been resolved that the challenged voter is a qualified voter of the precinct.

The Secretary of State's office went on record supporting the draft of HB 1048 when it was discussed and voted upon by the Interim Judiciary Committee. And, the Secretary of State's office continues to support the general concept and goal of HB 1048, that being to make the challenge process more meaningful and to separate ballots cast by qualified electors from those cast by unqualified electors. However, there are many components and questions of the bill that need to be resolved before it is finalized and passed. These components include:

- How will the law change ensure the secrecy of a voter's ballot?
- Should the county auditor have the sole authority, responsibility, and burden to make a recommendation as to a voter's qualifications?
- Should the county auditor be required to review a challenged voter's executed affidavit in addition to the reason for the challenge?

HB 1048 – Testimony from Secretary of State
January 16, 2001
Page two

- Will the county canvassing board have the ultimate authority to accept or reject a voter's ballot?
- If so, will the decision of the county canvassing board be final? Will their decision be subject to an appeal or to the contesting process identified in Chapter 16.1-16?
- What happens to a challenged voter's ballot once it is rejected?
- Will challenged voters' ballots be segregated once the county canvassing board counts or rejects them in order to be considered during a recount?
- Is the two days between the date of the election and the third day after the election enough time for the county auditor to review all challenges and formulate a recommendation to the county canvassing board?
- Should the date of the county and state canvassing boards be adjusted back in order to accommodate this additional component to the challenge process?

My intent in raising all of these unresolved questions is certainly not to squash the idea or the concept of HB 1048. Remember, the Secretary of State's office went on record supporting the draft of HB 1048 when it was voted upon and approved by the Interim Judiciary Committee. The Secretary of State's office still supports the idea behind HB 1048.

In most hearings related to a bill such as this, the Secretary of State's office would offer amendments to address the logistical concerns just raised. However, with this particular bill, it was believed that it would be best to first share these concerns with the committee and encourage the feedback of the committee.



VOTER'S AFFIDAVIT
SECRETARY OF STATE
SFN 17343 (10-99)

Secretary of State
State of North Dakota
600 E Boulevard Ave Dept 108
Bismarck ND 58505-0500
Telephone 701-328-4146
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Provisions for challenging a voter may be found in Chapter 16.1-05 of the North Dakota Century Code.

The members of the election board, including the inspector and judges of election, and the poll challengers appointed by the political parties may challenge the right of anyone to vote whom they know or have reason to believe is not a qualified elector. Members of the election board or poll challengers may challenge a voter if they know or have reason to believe any of the following:

- The person offering to vote does not meet the age or citizenship requirements.
- The person offering to vote has never voted in the precinct before and fails to provide reasonable evidence of residency in the precinct.
- Except as provided in Section 16.1-01-05, the person offering to vote physically resides outside of the precinct.
- The person offering to vote does not meet the residency requirements provided in Section 16.1-01-05.

If any person offering to vote is challenged by a poll challenger or by a member of the election board, the challenged person, unless the challenge is withdrawn, shall stand aside and may not vote unless the challenged person executes an affidavit, acknowledged before the election inspector, that the challenged person is a legally qualified elector of the precinct.

PERSONS OFFERING TO VOTE MUST REVIEW AND COMPLETE THE FOLLOWING IN ITS ENTIRETY

The following requirements for voting are taken from Sections 16.1-01-04 and 54-01-26 of the North Dakota Century Code and Article III of the Constitution of North Dakota.

- Every citizen of the United States who is: eighteen years or older; a resident of North Dakota; and has resided in the precinct at least 30 days prior to the date of any election, except as otherwise provided in regard to residency in Chapter 16.1-14 is a qualified elector.
- Every qualified elector of the state may only have one voting residence.
- A person's voting residence must be determined in accordance with the rules for determining residency as provided in Section 54-01-26.
- Pursuant to Section 2 of Article II of the Constitution of North Dakota, voting by persons convicted and sentenced for treason or felony must be limited according to Chapter 12.1-33.
- No person who has been declared mentally incompetent by order of a court or other authority having jurisdiction, which order has not been rescinded, shall be qualified to vote.
- No person convicted of a felony shall be qualified to vote until his or her civil rights are restored.

Remember, your place of residence for voting purposes must be determined based on the rules defined in North Dakota Century Code, Section 54-01-26 which states:

Every person has in law a residence. In determining the place of residence, the following rules must be observed:

- It is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he or she returns in seasons of repose.
- There can be only one residence.
- A residence cannot be lost until another is gained.
- The residence can be changed only by the union of act and intent.

Name of Person Offering to Vote		Current Telephone #	
Present Address (residential address)	City	State	Zip Code
Address Where You Last Voted If Applicable (residential address)	City	State	Zip Code
If your name was different when you last voted due to marriage, divorce, etc., please enter your previous name.			

(continue on reverse side)

IMPORTANT: READ BEFORE SIGNING

I understand that by signing this affidavit, I am declaring:

- I am a qualified elector (as defined in North Dakota Century Code Section 16.1-01-04); and
- I am a resident of this voting precinct in which I am about to vote in (as defined in North Dakota Century Code Section 54-01-26).

I also understand that under state law (North Dakota Century Code Section 16.1-01):

- the county auditor or appropriate election official is required to verify voter affidavits and must report all known or suspected violations to the county state's attorney for investigation and possible prosecution; and that
- any person who falsely swears to the above in order to vote is guilty of a Class A misdemeanor, which carries a maximum penalty of one year's imprisonment, a fine of \$2,000 thousand dollars, or both.

State of North Dakota)
)ss.
County of _____)

I, _____, do solemnly swear and affirm I am a qualified elector of this
name of person offering to vote
ing precinct and as such: I am eighteen (18) years of age; that I'm a citizen of the United
tes; that I have been a resident of this precinct for thirty days, next preceding this election;
and that I have not already voted in this election.

Signature of person offering to vote

Subscribed in my presence and sworn to before me, this ____ day of _____, _____.

Precinct Number

Signature of election inspector



SECRETARY OF STATE

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

February 6, 2001

TO: Representative Duane DeKrey & Members of the House Judiciary Committee
FR: Cory Fong, Secretary of State's Office
RE: HB 1048 – Provisional Ballot – Proposed Amendments

Proposed Amendments to House Bill No. 1048

Page 1, line 13, overstrike "The members of the election board and poll challengers may challenge the right of" and insert immediately thereafter "Any member of the election board may challenge the right of an individual to vote whom they know or have reason to believe is not a qualified elector of the precinct. A poll challenger may request members of the election board to challenge the right of an individual to vote whom they know or have reason to believe is not a qualified elector of the precinct. A challenge may be based upon any one of the following."

Page 1, overstrike lines 14 through 16

Page 1, line 24, after "16.1-01-05." insert "e. The name of the person offering to vote does not appear in the poll book."

Page 2, line 1, overstrike "poll challenger or by a"

Page 2, line 16, after "voter." insert "f. A space to insert the page number of the poll book where the challenged voter's name appears along with the statement of the reason for the challenge."

Page 2, line 17, replace "Upon the completion of the affidavit and the marking of the ballot by the challenged" with "Upon the completion of the affidavit and the marking of the ballot by the challenged person, the election board member shall insert the marked ballot in an envelope, seal the envelope, and mark the envelope with the word 'provisional'. The election board member shall attach the affidavit to the envelope containing the provisional ballot. The affidavit must be numbered to correspond to the page number where the voter's name appears in the poll book and must also include a statement of the reason for the challenge. The provisional voter's name must also be marked in the poll book as a provisional voter. A challenged person who has completed an affidavit and whose ballot has been designated as provisional according to this subsection shall have until the closing of the polls in the precinct to offer any additional information or proof to the election inspector supporting the challenged person's qualifications to vote in the precinct. At any time prior to the closing of the polls in a precinct, if presented with sufficient information or proof to confirm a challenged person's qualifications to vote in the precinct, an election inspector may withdraw the challenge and order the election board to open the provisional envelope containing the challenged person's ballot and deposit the challenged person's ballot into the ballot box. Prior to the meeting of the county canvassing board, the county auditor, with the assistance and advice of the state's attorney, shall review each completed affidavit along with the corresponding statement of the reason for the challenge and

shall make a recommendation based upon the qualifications of electors in section 16.1-01-04 and the rules for determining residence in section 54-01-26 to the county canvassing board as to whether the challenged voter is qualified to vote in the precinct and whether the challenged voter's provisional ballot should be accepted and counted and canvassed by the county canvassing board or rejected. The county canvassing board shall review each recommendation made by the county auditor, and may consider each completed affidavit including the statement of the reason for the challenge, and accept or reject each provisional ballot based upon the qualifications of electors in section 16.1-01-04 and the rules for determining residence in section 54-01-26. The county canvassing board shall proceed to count those provisional ballots deemed acceptable by the board. Provisional ballots rejected by the county canvassing board shall be preserved and retained with all corresponding materials for further review and consideration in case of a recount or an election contest. The decision of the county canvassing board, as it pertains to the counting of provisional ballots, is final, subject only to the recount and contesting provisions of Chapter 16.1-16. An election board or county canvassing board shall take precautions to ensure that secrecy is maintained when opening and counting provisional ballots and shall proceed in the same manner as prescribed for opening and counting absent voter's ballots pursuant to section 16.1-07-12. An otherwise properly completed provisional ballot may not be rejected because an election official failed to comply with any of the procedures required by this section. The county auditor shall report all known or suspected violations to the state's attorney for investigation and possible prosecution."

Page 2, remove lines 18 through 31

Renumber accordingly