

# ELECTIONS

## CHAPTER 152

### SENATE BILL NO. 2254

(Senator Dever)  
(Representative L. Meier)

AN ACT to amend and reenact sections 4-22-21, 15.1-09-13, 16.1-01-01, 16.1-02-03, 16.1-02-04, 16.1-02-09, 16.1-02-10, 16.1-02-12, 16.1-02-13, 16.1-02-15, and 16.1-03-11, subsection 1 of section 16.1-06-15, sections 16.1-07-08, 16.1-07-09, 16.1-07-10, 16.1-07-11, 16.1-07-12, and 16.1-07-12.1, subsection 1 of section 16.1-09-03, sections 16.1-10-03, 16.1-11-05, 16.1-11-20, 16.1-11-22, 16.1-11.1-01, 16.1-11.1-03, and 16.1-11.1-06, subsection 1 of section 16.1-11.1-07, subsection 1 of section 16.1-12-04, and sections 16.1-13-03, 16.1-15-04, 16.1-15-08, 16.1-15-21, 16.1-15-22, 16.1-15-25, 16.1-15-26, 16.1-15-27, 16.1-15-33, 16.1-15-37, 16.1-15-39, 16.1-15-40, 16.1-15-41, 16.1-15-44, 16.1-15-48, 40-38-01, and 61-04.1-30 of the North Dakota Century Code, relating to election administration.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 4-22-21 of the North Dakota Century Code is amended and reenacted as follows:

##### **4-22-21. Regular election of district - When held - Regulations governing.**

The regular election of soil conservation districts must be held at the same time, and at the same place, as the general election is held. All qualified electors in the district may vote in any regular election of the district. Any land occupier living in the district desiring to be a candidate for the office of supervisor at a district election and who has failed to file a nominating petition may ~~furnish stickers to be attached to the ballot and the ballot must have blank spaces below the names of candidates nominated by petition for writing in other names~~ campaign and be elected as a write-in candidate for the office.

**SECTION 2. AMENDMENT.** Section 15.1-09-13 of the North Dakota Century Code is amended and reenacted as follows:

##### **15.1-09-13. Election precincts - Polling places - Election officials.**

1. At least thirty-five days prior to the annual election, the board of each school district shall designate one or more precincts for the election. The board shall arrange the precincts in a way that divides the electors of the district as equally as possible.
2. At least thirty-five days prior to the annual election, the board of each school district shall designate one or more polling places for the election. The board shall locate the polling places as conveniently as possible for the voters in the precinct. Once established by the board, a polling place must remain the

polling place for a precinct until it is changed by subsequent action of the board.

3. TheFor school board elections not held in conjunction with county elections, the board shall appoint two election judges and two election clerks for each precinct. Before opening the polls, the judges and clerks shall take an affirmation or oath to perform their duties according to law and to the best of their ability. The affirmation or oath may be administered by any officer authorized to administer oaths or by any of the judges or clerks.
4. For school board elections held in conjunction with county elections, the county election boards shall administer the election in the same manner as the county or state election.

**SECTION 3. AMENDMENT.** Section 16.1-01-01 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-01-01. Secretary of state to supervise election procedures - County administrator of elections.**

1. The secretary of state must be, ex officio, supervisor of elections and may employ additional personnel to administer this title. The secretary of state shall supervise the conduct of elections and in that supervisory capacity has, in addition to other powers conferred by law, the power to examine upon the secretary of state's request or the request of any election official, any election ballot or other material, electronic voting system or counting machine authorized by chapter 16.1-06, or device used in connection with any election, for the purpose of determining sufficient compliance with the law and established criteria and standards adopted by the secretary of state according to section 16.1-06-26. The secretary of state, upon determining that any ballot or other material, electronic voting system or counting machine, or device is not in sufficient compliance with the law or established criteria and standards, shall direct the proper changes to be made, and in the case of electronic voting systems and counting machines, may decertify the electronic voting systems and counting machines according to the rules adopted under section 16.1-06-26.
2. In addition to other duties provided elsewhere by law, the secretary of state shall:
  - a. Develop and implement uniform training programs for all election officials in the state.
  - b. Prepare information for voters on voting procedures.
  - c. Publish and distribute an election calendar, a manual on election procedures, and a map of all legislative districts.
  - d. Convene a state election conference of county auditors at the beginning of each election year and whenever deemed necessary by the secretary of state to discuss uniform implementation of state election policies.
  - e. Prescribe the form of all ballots and the form and wording of ballots on state referendum questions, issues, and constitutional amendments.

- f. Investigate or cause to be investigated the nonperformance of duties or violations of election laws by election officers.
  - g. Require such reports from county auditors on election matters as deemed necessary.
  - h. Certify results of statewide elections.
  - i. Prepare and publish reports whenever deemed necessary on the conduct and costs of voting in the state, including a tabulation of election returns and such other information and statistics as deemed appropriate.
  - j. Establish standards for voting precincts and polling locations, numbering precincts, precinct maps, maintaining and updating pollbooks, and forms and supplies, including but not limited to, ballots, pollbooks, and reports.
  - k. Prescribe the order in which each political subdivision will appear on an election ballot.
  - l. Develop and conduct a test election for the state's voting system prior to each statewide election utilizing the votes cast within each county according to the logic and accuracy testing required in section 16.1-06-15.
3. In carrying out the secretary of state's duties and to assure uniform voting opportunities throughout the state, and for the purpose of implementing the provisions of this title and any other requirement imposed upon the state by the Help America Vote Act of 2002 [Pub. L. 107-252; 116 Stat. 1666; 42 U.S.C. 15301 et seq.] not otherwise addressed in this Act, the secretary of state may from time to time issue rules the secretary of state deems necessary, which must be consistent with the provisions of this title or the Help America Vote Act of 2002 and be adopted and published in accordance with chapter 28-32, but which need not comply with section 28-32-07.
4. In each county there must be a county administrator of elections who must be the county auditor. The county auditor is responsible to the secretary of state for the proper administration within the auditor's county of state laws, rules, and regulations concerning election procedures.
5. In addition to other statutory duties, the county auditor shall:
  - a. Procure and distribute supplies required for voting in the county.
  - b. Prepare and disseminate voter information as prescribed by the secretary of state.
  - c. Fully comply with the test election required of this section.
  - d. Carry out uniform training programs for all county and precinct election officials as prescribed by the secretary of state.
  - ~~e-e.~~ Receive and handle complaints referred to the county auditor by any voter or precinct official involving circulation of petitions, challenges to voters, actions of election officials, or irregularities of any kind in voting. The county auditor shall refer complaints to the secretary of state or the proper prosecuting authority, as the county auditor deems appropriate.

Upon completion of the duties required by this subsection, the county auditor shall certify to the secretary of state, in the manner prescribed by the secretary of state, that the duties have been completed.

**SECTION 4. AMENDMENT.** Section 16.1-02-03 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-02-03. Secretary of state to establish the central voter file with department of transportation and county auditors.**

1. Not later than the primary election in 2008, the secretary of state shall establish the central voter file in cooperation with the department of transportation and county auditors.
2. The secretary of state shall establish the initial central voter file from records maintained by the department of transportation. Each county auditor shall compare the initial central voter file against all precinct pollbooks used in the auditor's county during and created from the general elections in the two previous election years and any reasonably reliable updates made by the county auditor since the general elections in the two previous election years. Any individual contained in the initial central voter file who voted at either of the general elections in the two previous election years must be designated as "active" in the initial central voter file. Any individual contained in the initial central voter file who did not vote at either of the general elections in the two previous election years must be designated as "inactive" in the initial central voter file.
3. Each individual contained in the initial central voter file must be assigned a unique identifier. An individual's unique identifier must be ~~created from unique information and data obtained from records maintained by the department of transportation and the pollbooks from the general elections in the two previous election years. If it is not possible to assign a unique identifier to an individual contained in the initial central voter file, a unique identifier must be randomly generated and assigned to the individual.~~
4. ~~The secretary of state shall adopt rules for generating and assigning a unique identifier to each individual contained in the central voter file according to section 16.1-02-11 and subsection 3 of section 16.1-01-01.~~
5. When establishing the initial central voter file from the records maintained by the department of transportation and the pollbooks from the general elections in the two previous election years, the secretary of state and county auditors shall attempt to correct address errors and misspellings of names.

**SECTION 5. AMENDMENT.** Section 16.1-02-04 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-02-04. Precinct boundaries changed - Change to the central voter file.**

When the boundaries of a precinct are changed, the county auditor shall immediately update the voter records for that precinct in the central voter file to accurately reflect those changes. The county auditor shall provide to the secretary of state all materials requested for existing precincts or to assist in making or verifying the required changes.

**SECTION 6. AMENDMENT.** Section 16.1-02-09 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-02-09. Department of transportation to report updates to the secretary of state - Changes to records in the central voter file.**

1. The department of transportation shall report regularly to the secretary of state any relevant changes and updates to records maintained by the department of transportation which may require changes and updates to be made to records of individuals contained in the central voter file.
2. The county auditor may change the designation of individuals contained in the central voter file whose change of address can be confirmed by the United States postal service. The secretary of state may provide each county auditor with periodic reports on any individual whose change of address can be confirmed by the United States postal service.
3. If a qualified elector makes a written request to the county auditor for inclusion in the central voter file, the county auditor shall collect the required information from the individual and add the individual's name to the central voter file with the designation of "~~inactive~~active".

**SECTION 7. AMENDMENT.** Section 16.1-02-10 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-02-10. Posting voting history - Failure to vote - Individuals designated inactive.**

Within seventy-five days after each election, each county auditor shall post the voting history for each individual who voted in the election. After the close of the ~~2010~~each even-numbered calendar year, the secretary of state shall determine if any individual has not voted during the preceding four years and shall change the status of each such individual to "inactive" in the central voter file. The secretary of state shall prepare a report to each county auditor which contains the name of each individual who has been designated as "inactive" in the central voter file. Although not counted in an election, a late absentee ballot from an individual may not be used to designate an individual as "inactive" in the central voter file.

**SECTION 8. AMENDMENT.** Section 16.1-02-12 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-02-12. Information contained and maintained in the central voter file.**

The central voter file must contain the following information for each individual included in the file:

1. The complete legal name of the individual.
2. The complete residential address of the individual.
3. The complete mailing address of the individual, if different from the individual's residential address.
4. The unique identifier generated and assigned to the individual.

5. A designation showing whether the individual's ability to vote in a precinct has been inactivated as a result of death or because the individual is no longer a resident of the precinct according to section 16.1-01-04.
6. The county, legislative district, city or township, school district, county commissioner district, if applicable, precinct name, and precinct number in which the individual resides.
7. Beginning in 2008, four years of an individual's voting history, if applicable.
8. Date of birth.
9. The identification number and state of any state-issued identification regardless of the state in which the identification was issued, if available.
10. Any other information requested of and obtained from the individual deemed necessary by the secretary of state for the proper administration of the central voter file.

**SECTION 9. AMENDMENT.** Section 16.1-02-13 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-02-13. Information contained in pollbooks generated from the central voter file.**

The county auditor shall generate a pollbook for each precinct in the county from the central voter file by the day before an election. With the exception of a record designated "secured active" and the unique identifier voter's birth date and identification number of any state-issued identification regardless of the state in which the identification was issued, which are exempt records, the precinct pollbooks are open records under section 44-04-18. The secretary of state shall prescribe procedures for generating pollbooks and for transporting the pollbooks to the election judges for use on election day. Pollbooks generated from the central voter file must contain the following information for each individual contained therein:

1. The complete legal name of the individual.
2. The complete residential address of the individual.
3. The complete mailing address of the individual, if different from the individual's residential address.
4. The unique identifier generated and assigned to the individual.
5. The county, legislative district, city or township, school district, county commissioner district, if applicable, precinct name, and precinct number in which the individual resides. A ballot-style code identifying this information may be used in place of the information required by this subsection.
6. Any other information requested of and obtained from the individual deemed necessary by the secretary of state for the proper administration of the pollbook.

**SECTION 10. AMENDMENT.** Section 16.1-02-15 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-02-15. Voter lists and reports may be made available for election-related purposes - Funds received.**

Except as otherwise provided by law, a voter list or a report generated from the central voter file may be made available to a candidate, political party, or a political committee for election-related purposes. Any information obtained by a candidate, political party, or political committee for election-related purposes from a list or report generated from the central voter file may not be sold or distributed for a purpose that is not election-related. Except for information identified in the central voter file under subsections 1, 2, 3, 4, 5, 6, 7, and ~~8~~10 of section 16.1-02-12, which may be made available to a candidate, political party, or political committee for election-related purposes, information in the central voter file is an exempt record. An individual's record that is designated as "secured active" is an exempt record and is not available to any candidate, political party, or political committee for any purpose. Any funds received by the secretary of state to pay the cost of producing a report or list of voters contained in the central voter file must be deposited in the secretary of state's general services operating fund.

**SECTION 11. AMENDMENT.** Section 16.1-03-11 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-03-11. State committee - Meetings - Organization - Vacancies.**

The state committee shall meet on or before July first of each odd-numbered year. The committee shall organize by selecting a chairman, vice chairman, secretary, and treasurer and by adopting rules and modes of procedure. The party's bylaws must be filed with the secretary of state. The officers elected need not be members of the committee, but they shall become voting members of the committee after their election. Within thirty days following the state committee's organization, the newly elected chairman shall notify the secretary of state of the names of the party officers selected ~~and the names and addresses of the party's district chairmen~~. These officers, with any other persons provided for by the party's bylaws and as the state committee designates, constitute the executive committee of the state committee. If the office of chairman becomes vacant, the vice chairman holds the office until the next regular election for the office or until a new chairman is selected by the state committee for the balance of the term, whichever occurs first. A vacancy in an office of the state committee, other than chairman and a party district chairman, must be filled upon a majority vote of the state committee. The chairman of the state committee may temporarily fill any vacancy existing on the state committee until the state committee convenes to fill the vacancy. The secretary of state must be notified of any changes in membership of the state's committee officers ~~or the party's district chairmen~~.

**SECTION 12. AMENDMENT.** Subsection 1 of section 16.1-06-15 of the North Dakota Century Code is amended and reenacted as follows:

1. All electronic voting systems used in this state must be tested according to guidelines established by the secretary of state and as follows to ascertain whether the automatic tabulating equipment will accurately count the votes cast for all offices and measures. The testing must be conducted prior to each election at which the system will be used. The testing must be done by the county auditor or county auditor's designee, and after each test, the testing materials and any preaudited ballots used during the test must be sealed and retained in the same manner as election materials after an election.

**SECTION 13. AMENDMENT.** Section 16.1-07-08 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-08. Delivering ballots - Envelopes accompanying - StatementAffidavit on envelope - Challenging electors voting by absentee ballot - Inability of elector to sign name.**

1. Upon receipt of an application for an official ballot properly filled out and duly signed, or as soon thereafter as the official ballot for the precinct in which the applicant resides has been prepared, the county auditor, city auditor, or business manager of the school district, as the case may be, shall send to the absent voter by mail, at the expense of the political subdivision conducting the election, one official ballot, or personally deliver the ballot to the applicant or the applicant's agent, which agent may not, at that time, be a candidate for any office to be voted upon by the absent voter. The agent shall sign the agent's name before receiving the ballot and deposit with the auditor or business manager of the school district, as the case may be, authorization in writing from the applicant to receive the ballot or according to requirements set forth for signature by mark. The auditor or business manager of the school district, as the case may be, may not provide an absent voter's ballot to a person acting as an agent who cannot provide a signed, written authorization from an applicant. No person may receive compensation, including money, goods, or services, for acting as an agent for an elector, nor may a person act as an agent for more than four electors in any one election. A voter voting by absentee ballot may not require the political subdivision providing the ballot to bear the expense of the return postage for an absentee ballot.
  
2. If there is more than one ballot to be voted by an elector of the precinct, one of each kind must be included and a secrecy envelope and a return envelope must be enclosed with the ballot or ballots. The front of the return envelope must bear the official title and post-office address of the officer supplying the voter with the ballot and upon the other side a printed voter's affidavit in substantially the following form:

Precinct \_\_\_\_\_

Name \_\_\_\_\_

Residential Address \_\_\_\_\_

City \_\_\_\_\_ ND Zip Code \_\_\_\_\_

Under penalty of possible criminal prosecution for making a false statement, I swear that I reside at the residential address provided above, that I have resided in my precinct for at least thirty days next preceding the election, and this is the only ballot I will cast in this election.

Applicant's Signature \_\_\_\_\_

Date \_\_\_\_\_

If the absent voter is unable to sign the voter's name, the voter shall mark (X) or use the applicant's signature stamp on the ~~statement~~affidavit in the presence of a disinterested individual. The disinterested individual shall print the name of the individual marking the X or using the signature stamp below the X or signature stamp and shall sign the disinterested individual's own

name following the printed name together with the notation "witness to the mark".

3. Each individual requesting an absent voter's ballot under this chapter must be provided a set of instructions, prescribed by the secretary of state, sufficient to describe the process of voting by absent voter's ballot. The voting instructions must contain a statement informing the individual that the individual is entitled to complete the absent voter's ballot in secrecy.
4. Each individual requesting an absent voter's ballot under this chapter who cannot read the English language or who because of blindness or other disability is unable to mark the voter's ballot, upon request, may receive the assistance of any individual of the voter's choice, other than the voter's employer, an officer or agent of the voter's union, a candidate running in that election, or a relative of a candidate as described in subsection 2 of section 16.1-05-02, in marking the voter's ballot.

**SECTION 14. AMENDMENT.** Section 16.1-07-09 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-09. Canvassing of mailed absent voter's ballots received late.**

In the case of congressional, state, county, city, or school district elections, if an envelope postmarked or otherwise officially marked by the United States postal service or other mail delivery system before the date of election and containing an absent voter's ballot is received by the officer too late to be forwarded to the proper voting precinct in time to be tabulated, the ballot must be tallied by the canvassing board of the county, the governing body of the city, or the school board of the school district, as the case may be, at the time the returns are canvassed. Any envelope without a postmark or other official marking by the United States postal service or other mail delivery system or with an illegible postmark or other official marking and containing an absentee voter's ballot must be received by mail by the proper officer ~~within two days after the election to be canvassed and counted prior to the meeting of the canvassing board.~~ An absent voter may personally deliver the absent voter's ballot to the appropriate officer's office at any time before five p.m. on the day before the election. Any envelope containing an absent voter's ballot with a postmark or official date stamp on the day of election or thereafter may not be tallied with the ballots timely submitted for the election. Before forwarding any ballot to a canvassing board pursuant to this section, the officer forwarding the ballot shall print the date of receipt on the envelope. Upon receipt, the canvassing board shall determine that the elector was qualified to vote in that precinct, that the elector did not previously vote in that precinct on the date of the election, and that the signatures on the absentee ballot application and the voter's affidavit were signed by the same person before allowing the ballot to be tallied.

**SECTION 15. AMENDMENT.** Section 16.1-07-10 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-10. Care and custody of ballot.**

Upon receipt of an envelope containing the absent voter's ballot, the proper officer immediately shall attach the ~~written~~ application of the absent voter and file the ballot with other absentee ballots from the same precinct. Before delivering the absentee ballots to the precinct, the proper officer shall package the ballots in a manner so the ballots are sealed securely. The package must be endorsed with the name of the proper voting precinct, the name and official title of the officer, and the words "This

package contains an absent voter's ballot and must be opened only ~~on election day at the polls while the polls are open~~ according to the processing provisions of section 16.1-07-12." The officer shall keep the package safely in the officer's office until it is delivered by the officer as provided in this chapter.

**SECTION 16. AMENDMENT.** Section 16.1-07-11 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-11. Submitting ballot to inspector of elections.**

If the envelope containing the absent voter's ballot is received by the county auditor, auditor or clerk of the city, or business manager of the school district, as the case may be, prior to that person's delivery of the sealed package containing the official ballots to the inspector of elections of the precinct in which such absent voter resides, such ballot, after having been enclosed with the application in an envelope as required by section 16.1-07-10, must be enclosed in such package and delivered therewith to the inspector of the precinct. If the official ballots for the precinct have been delivered to the election inspector at the time of receipt by the proper officer of the absent voter's ballot, then the officer ~~shall immediately mail the same postage prepaid to the election inspector or the officer or the officer's deputy may designee~~ shall personally deliver it to the inspector prior to the close of the polls on election day. Any absent voter's ballot sent to the wrong precinct by the official whose duty it is to forward such ballots to the precincts, or any absent voter's ballot received by the inspector from the appropriate officer too late to be counted at the precinct, must be returned to the official by the election inspector, and must be tallied by the county canvassing board, the governing body of the city, or the school board, as the case may be, with other absent voters' ballots received too late to be ~~forwarded to the precinct~~ counted on election day.

**SECTION 17. AMENDMENT.** Section 16.1-07-12 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-12. Opening ballot - Voting or rejecting - Depositing in ballot box - Preserving.**

At any time beginning on the day before election day and the closing of the polls on election day, the election clerks and board members of the relevant precinct first shall ~~open the outer envelope and compare the signature on the application for an absent voter's ballot with the signature on the statement~~ voter's affidavit provided for in section 16.1-07-08 ~~to ensure the signatures correspond. If the judges find that the statement is sufficient and that the signatures correspond, and that the applicant is then a duly qualified elector of the precinct and has not voted at the election, they shall open the absent voter's envelope in a manner as not to destroy the statement~~ affidavit thereon. They shall take out the secrecy envelope with the ballot or ballots contained therein without unfolding the same, or permitting the same to be opened or examined, ~~and after initialing the same as other ballots are initialed, they shall deposit the ballot in the proper ballot box and show~~ indicate in the pollbook of the election that the elector has voted. The election board members not participating in the comparing of signatures and entering voters into the pollbook shall remove the ballot or ballots from the secrecy envelope, unfold and initial the same, and deposit in the proper ballot box for tabulation. The votes from these cast ballots may not be tallied and the tabulation reports may not be generated until the polls have closed on election day. If the ~~statement~~ affidavit on the outer envelope of a returned absentee ballot is found to be insufficient, or that the signatures on the application and affidavit do not correspond, or that the applicant is not then a duly qualified elector of the precinct, the vote may not be allowed, but without opening the absent voter's

envelope, the election inspector or election judge shall mark across the face thereof "rejected as defective" or "rejected as not an elector", as the case may be. These rejected ballots are then turned over to the county canvassing board for final determination of eligibility. The subsequent death of an absentee voter after having voted by absentee ballot does not constitute grounds for rejecting the ballot.

**SECTION 18. AMENDMENT.** Section 16.1-07-12.1 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-12.1. Absentee ballot precinct - Election board appointment - Ballot counting.**

1. For any primary, general, or special statewide, district, or county election, the board of county commissioners may create a special precinct, known as an absentee ballot precinct, for the purpose of counting all absentee ballots cast in an election in that county. The election board of the absentee ballot precinct must be known as the absentee ballot counting board. The county auditor shall supply the board with all necessary election supplies as provided in chapter 16.1-06.
2. If the board of county commissioners chooses to establish an absentee ballot precinct according to this section, the following provisions apply:
  - a. The county auditor shall appoint the absentee ballot counting board that consists of one independent representative to act as the inspector and an equal number of representatives from each political party represented on an election board in the county, as set forth in section 16.1-05-01, to act as judges. Each official of the board shall take the oath required by section 16.1-05-02 and must be compensated as provided in section 16.1-05-05.
  - b. The county auditor shall have the absentee ballots delivered to the inspector of the absentee ballot counting board with the election supplies, or if received later, then prior to the closing of the polls.
  - c. The absentee ballot counting board shall occupy a location designated by the county auditor which must be open to any individual for the purpose of observing the counting process.
  - d. The absentee ballots must be opened and handled as required in section 16.1-07-12. ~~The absentee ballot counting board may commence counting the absentee ballots at the same time as any precinct within the county, city, or legislative district opens its polls. As soon as all the polls in the county, city, or legislative district close and the count is completed, the inspector shall announce publicly the results. The county auditor shall designate a location for the closing, counting, and canvassing process under chapter 16.1-15, which location must be open to any person for the purpose of observing.~~ The board shall comply with the requirements of sections 16.1-15-04 through 16.1-15-12, as applicable.

**SECTION 19. AMENDMENT.** Subsection 1 of section 16.1-09-03 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~A~~~~n~~The name of the business or employer and an identification of the principal source of income, defined in the state income tax return as "principal occupation", of both the candidate or appointee and that person's spouse.

**SECTION 20. AMENDMENT.** Section 16.1-10-03 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-10-03. Political badge, button, or insignia at elections.**

~~On the day of an election, no person~~No individual may buy, sell, give, or provide any political badge, button, or any insignia ~~to be worn at or about the polls on that day within a polling place or within one hundred feet [30.48 meters] from the entrance to the room containing the polling place while it is open for voting.~~ No such political badge, button, or insignia may be worn ~~at or about the polls on any election day within that same area while a polling place is open for voting.~~

**SECTION 21. AMENDMENT.** Section 16.1-11-05 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-05. Secretary of state to give notice to county auditor of officers to be nominated.**

Between the first day of March and the first day of April in each primary election year, the secretary of state shall ~~cause to be delivered to~~notify the county auditor of each county ~~a notice specifying~~regarding all the officers to be nominated in that county at the next primary election. This same information shall be made available to the public by the secretary of state at that time. The publication of the sample ballot by the county auditor constitutes the notice of the secretary of state in regard to the officers and candidates to be voted upon at the primary election.

**SECTION 22. AMENDMENT.** Section 16.1-11-20 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-20. Certified list of nominees transmitted to county auditor by secretary of state.**

At least fifty-five days before any primary election, the secretary of state shall electronically transmit to each county auditor a certified list containing the names and post-office addresses of each person for whom nomination papers have been filed in the secretary of state's office and who are entitled to be voted for at the primary election. A designation of the office for which each is a candidate, and if applicable, the party or principle represented by each must be included.

**SECTION 23. AMENDMENT.** Section 16.1-11-22 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-22. Primary election ballot - Form - Voters to vote for candidates of only one political party.**

At the primary election there may be only one ballot for all parties or principles. The ballot must be in the following form:

1. The ballot must be entitled the "consolidated primary election ballot".
2. Each political party or principle having candidates at the primary election must have a separate column on the ballot.
3. At the head of each column must be printed the name of the political party or principle which it represents.

4. In each column below the party or principle title must be printed: "You may vote for the candidates of only one political party at the primary election. If you cast votes in more than one party column and vote for candidates of more than one political party, your political party ballot will be rejected."
5. Immediately below the warning against voting for candidates of more than one political party must be printed: "To vote for the candidate of your choice, you must darken the oval opposite the name of the candidate. To vote for a person whose name is not printed on the ballot, write that person's name in the blank space provided for that purpose and darken the oval opposite the space provided."
6. The offices specified in section 16.1-11-26 must be arranged in each column with the name of each office in the center of each political party column at the head of the names of all the aspirants for the office.
7. Immediately under the name of each office must be printed: "Vote for no more than \_\_\_\_\_ name (or names)."
8. Immediately preceding and on the same line as the name of each aspirant must be printed an oval in which the voter is to mark the voter's choice by darkening the oval next to the name of the candidate chosen.
9. The political party or principle which cast the largest vote for governor at the most recent primary election at which the office of governor was voted upon must have the left-hand column, and the political party or principle casting the next largest vote must have the next column, and so on.

The judges and the inspector of elections shall inform each elector at the primary, before voting, that if the voter votes for candidates of more than one political party the voter's political party ballot will be rejected.

**SECTION 24. AMENDMENT.** Section 16.1-11.1-01 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11.1-01. Counties may conduct mail ballot elections - Polling places - Records.**

1. The board of county commissioners of a county may conduct an election by mail ballot. The mail ballot election must include city elections administered by the county auditor and may include any other election administered by the county auditor pursuant to an agreement with the governing body of a political subdivision within the county. The board shall designate one or more polling places in the county to be open on the day of the election for voting in the usual manner. The county auditor shall place a notice at all polling places in the county used at the last statewide election which states the location of the polling places open for the election. The county auditor shall keep a record of each mail ballot provided to qualified electors and provide to the election board at each polling place open on the day of the election a list of every person who applied for a mail ballot.
2. The board of county commissioners of a county may conduct an election partially by mail ballot. If the board of county commissioners chooses to conduct an election partially by mail ballot, the commission may use mail ballots for any precinct in which fewer than four hundred votes were cast for

the office of governor at the last general election at which that office was on the ballot.

**SECTION 25. AMENDMENT.** Section 16.1-11.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11.1-03. Mail ballot distribution.**

The county auditor shall mail an official mail ballot with a return identification envelope, voter's affidavit, and instructions ~~sufficient to describe the voting process to each qualified elector who returns a properly completed application form to the auditor by five p.m. on the fourth day before the election. The voting instructions must contain a statement informing the elector that the elector is entitled to complete the mail ballot in secrecy. The auditor shall mail the ballot by first class mail, addressed to the address of the elector completing and returning a mail ballot application, and placed in an envelope that is prominently marked "Do Not Forward". The return identification envelope must contain the following form:~~

I, \_\_\_\_\_, under penalty of possible criminal prosecution for  
(please print name)

~~making a false statement, certify that I am or will be a qualified elector for the election and have not and will not vote more than one ballot in this election. I also understand that failure to complete the information below will invalidate my ballot.~~

\_\_\_\_\_  
(Signature of Voter)

\_\_\_\_\_  
(Mailing Address)

\_\_\_\_\_, North Dakota \_\_\_\_\_  
(City) (Zip Code)

according to section 16.1-07-08.

**SECTION 26. AMENDMENT.** Section 16.1-11.1-06 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11.1-06. Canvass of votes - ~~Special election board~~Mail ballot precinct.**

The county auditor shall appoint a special mail ballot precinct election board for the purpose of counting mail ballots in the same manner as prescribed in section 16.1-07-12.1. The board may begin scanning the ballots ~~after the polls open on the day of the election but may not total the results until the closing time of the polls at any time beginning on the day before election day and the closing of the polls on election day. Results from the mail ballot precinct may be counted, canvassed, or released under chapter 16.1-15 as soon as any precinct within the county, city, or legislative district closes its polls on the day of the election. The county auditor shall designate a location for the closing, counting, and canvassing process under chapter 16.1-15, which location must be open to any person for the purpose of observing. The board shall comply with the requirements of sections 16.1-15-04 through 16.1-15-12 as applicable.~~ A county conducting a mail ballot election constitutes one voting area, and

ballots need not be sorted according to precinct or ward unless necessary for the administration of the election.

**SECTION 27. AMENDMENT.** Subsection 1 of section 16.1-11.1-07 of the North Dakota Century Code is amended and reenacted as follows:

1. The ballot is returned in the return identification envelope with a postmark or official date stamp of at least the day before the election and received prior to the meeting of the canvassing board;

**SECTION 28. AMENDMENT.** Subsection 1 of section 16.1-12-04 of the North Dakota Century Code is amended and reenacted as follows:

1. Certificates of nomination for nominees for offices to be filled by the qualified electors of the entire state must be filed with the secretary of state. Not less than fifty-five days before any general or special election to fill any statewide office, the secretary of state shall ~~certify~~electronically transmit a certified list to each county auditor the names and addresses of the persons nominated for statewide office according to this chapter as shown on the certificates of nomination filed in the secretary of state's office.

**SECTION 29. AMENDMENT.** Section 16.1-13-03 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-13-03. Secretary of state to give notice to county auditor of officers to be elected.**

Not later than seventy days prior to the date of election, the secretary of state shall ~~direct and cause to be delivered~~electronically transmit to the county auditor of each county a notice specifying each officer to be chosen at the next general election. This same information shall be made available to the public by the secretary of state at that time. The publication of the sample ballot by the county auditor constitutes the notice of the secretary of state in regard to the offices and candidates to be voted upon at the general election.

**SECTION 30. AMENDMENT.** Section 16.1-15-04 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-04. Three canvass reports prepared by election board - One for county auditor and one for each political party.**

The election board shall generate at least three canvass reports from the electronic voting system. The ballots may not be sealed, nor may the three canvass reports be signed, by the election board or poll clerk until the counts in the poll clerks' books and in the canvass reports all show the same totals for ballots cast. A signed canvass report is to be given to each judge so that the political parties have a record of the votes cast.

In the case of the absentee ballot precinct as authorized in section 16.1-07-12.1, early voting precincts as authorized in section 16.1-07-15, and mail ballot precinct as authorized in section 16.1-11.1-06, if the work of the election board is completed prior to close of the polls on election day, the election board shall create and sign a statement consisting of a reconciliation of the number of voters recorded in the pollbook and the number of ballots processed through the tabulators. The voting system shall then be secured in a manner prescribed by the county auditor that will protect the system and ballots from tampering. Prior to generating the canvass reports from one of these three types of precincts, an election judge representing

each political party, or two election judges in the case of an election that does not include a political party contest, shall verify that the system and ballots remain secure and the statement created by the election board is still accurate.

**SECTION 31. AMENDMENT.** Section 16.1-15-08 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-08. Wrapping and returning of ballots to county recorder.**

After generating the reports and poll lists provided for in section 16.1-15-06 for delivery to the county auditor, the election board shall cause the ballots containing lawful write-in votes cast at the election to be placed in a suitable wrapper to form a complete wrapper for the ballots. All ballots without write-in votes shall be wrapped in a similar manner. The ballots and wrappers must then be tightly secured at the outer end to completely envelop and hold the ballots together. Ballots that are void must be secured in a separate wrapper and must be marked "void". Ballots that are spoiled must be separately secured and marked "spoiled". In sealing ballots, the various classes of ballots must be kept separate. Each wrapper must be endorsed with the names or numbers of the precincts and the date on which the election was held. The wrappers must be sealed securely in a manner prescribed by the county auditor so the wrappers cannot be opened without an obvious and permanent breaking of the seal. The ballots, together with those found void or spoiled, and the opened envelopes from voted absentee ballots and the unopened envelopes of absentee ballots rejected as defective, must be returned in person to the county recorder. At the meeting of the county canvassing board, the county recorder shall deliver the ballots containing lawful write-in votes from all the precincts within the county if these votes were not canvassed by the polling place election board on election night according to section 16.1-12-02.2. At the meeting of the county canvassing board, the county recorder shall deliver each ballot that may contain a write-in vote referenced in a demand made under subsection 1 of section 16.1-12-02.2. Ballots used with any electronic voting system or counted by an electronic counting machine must be sealed and returned as provided in this section.

**SECTION 32. AMENDMENT.** Section 16.1-15-21 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-21. Primary election statement prepared by county canvassing board - Contents.**

The county canvassing board, upon canvassing the returns of a primary election, shall prepare a ~~statement~~ an abstract signed by the members of the board and filed in the office of the county auditor. The ~~statement~~ abstract must contain all of the following:

1. The names of all candidates voted for at the primary election with the number of votes received by each and for what office. The ~~statement~~ abstract must be made separately for each political party or principle.
2. The names of the persons or candidates of each political party or principle who receive the highest number of votes for the respective offices. If more than one person is required to be elected to a given office at the next ensuing general election, there must be included in the ~~statement~~ abstract the names of so many of the candidates of the party receiving the next highest number of votes for that office as there are persons to be elected to the office at said ensuing general election. The ~~statement~~ abstract must be made separately for each political party.

3. The total number of ballots cast at the primary election.

A separate ~~statement~~abstract of the votes cast must be transmitted to the secretary of state according to reporting instructions specified by the secretary of state.

**SECTION 33. AMENDMENT.** Section 16.1-15-22 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-22. County auditor to transmit abstract of votes to secretary of state after primary election.**

The county auditor of each county shall provide to the secretary of state ~~athe~~certified abstract ~~detailed in section 16.1-15-21~~, under separate political designation or principle, or no-party designation, as the case may be, of the total number of votes cast in the auditor's county and the votes cast for every candidate for nomination according to reporting instructions specified by the secretary of state. The abstract must also include the total number of votes cast for initiated or referred measures and constitutional amendments. The certified abstract must be in the possession of the secretary of state before four p.m. on the ~~tenth~~eight day after the primary election.

**SECTION 34. AMENDMENT.** Section 16.1-15-25 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-25. County auditor to forward abstract of votes of general election to secretary of state - Contents - Abstract for presidential electors.**

Within ~~teneight~~ days and before four p.m. on the ~~tenth~~eight day following any general election, the county auditor of each county shall provide to the secretary of state a certified abstract of the votes cast in the county at the election according to the reporting instructions specified by the secretary of state.

**SECTION 35. AMENDMENT.** Section 16.1-15-26 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-26. Memorandum Notification of date of receiving returns in secretary of state's office.**

~~A memorandum~~An electronic notification of the date of reception of all returns of votes in the secretary of state's office must be made to each county auditor.

**SECTION 36. AMENDMENT.** Section 16.1-15-27 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-27. Abstract of votes - Secretary of state to record - Failure of county auditor to send - Messenger dispatched.**

Upon receipt of the certified abstract of votes from the county auditors as provided in section 16.1-15-25, the secretary of state shall record the result of the election by counties and shall file and carefully preserve the certified ~~statements~~abstracts received from the county auditors. If no certified ~~statement~~abstract is received by the secretary of state from the county auditor of any county prior to the time specified for the meeting of the state canvassing board, the secretary of state shall dispatch a special messenger to obtain the ~~statement~~abstract at the expense of the county. Upon demand, the county auditor shall make and deliver the required ~~statement~~abstract to the special messenger who shall deliver it to the secretary of state to be recorded and filed as provided in this section. The messenger shall receive the same mileage expense as other state officers and employees. The state

treasurer shall present a bill for the amount audited against the county failing to send returns as provided in this section, and the bill must be audited by the board of county commissioners of the county and paid by the county treasurer to the state treasurer.

**SECTION 37. AMENDMENT.** Section 16.1-15-33 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-33. State canvassing board - Membership - Oath - Quorum - Compensation.**

The clerk of the supreme court, the secretary of state, the state treasurer, and the chairman, or chairman's designee, of the state committee of the two political parties which cast the highest vote for governor at the last general election at which a governor was elected shall constitute the state canvassing board. The duties of the state canvassing board are ~~ministerial, mandatory, and nondiscretionary~~ and consist of ~~canvassing the results~~ examining the returns of votes cast at the elections received from the various counties, verifying the computed final results in any reasonable manner adopted by the board and which may incorporate the use of any electronic technology or system approved by the secretary of state, and certifying the results on the basis of the canvass. After taking the oath required of civil officers, the board shall proceed to canvass publicly the election returns made by the county auditors. Three members of the board constitute a quorum and may make the canvass provided for in this chapter and certify to the result thereof. If less than a quorum attend on the day appointed for a meeting of the board, the members attending may summon other state officers until there is a sufficient number to constitute a quorum. Any other state officer, upon being notified by the members of the board, shall attend without delay and act as a member of the board. Members of the board may be compensated only for their expenses incurred in attending meetings in accordance with sections 44-08-04 and 54-06-09. The compensation must be paid from the appropriation to the secretary of state.

**SECTION 38. AMENDMENT.** Section 16.1-15-37 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-37. Examination of abstracts by state canvassing board - Messenger dispatched to county when error discovered.**

After the state canvassing board is formed, it shall examine the certified abstracts of the county canvassing boards and verify the computed final results as provided in section 16.1-15-33 and if it appears that:

1. Any material mistake has been made in the computation of votes cast for any person; or
2. The county canvassing board in any county has failed to canvass the votes or any part thereof cast in any precinct in its county,

the board may dispatch a messenger to the county auditor of the county, at the expense of the county, with the board's requirement in writing to the county auditor to certify the fact concerning the mistake or the reason why the votes were not canvassed. The county auditor, to whom the requirement is delivered, shall make a true and full answer thereto under the county auditor's hand and official seal and shall deliver the answer with all convenient dispatch to the secretary of state.

**SECTION 39. AMENDMENT.** Section 16.1-15-39 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-39. Disagreements in canvassing returns by canvassing board - Disregarding technicalities, misspelled words, and abbreviations.**

In canvassing the returns and verifying the computed final results received from the various counties, a majority of the members of the state canvassing board shall decide all matters of disagreement. The board shall disregard all technicalities, misspelling, the use of initial letters, and the abbreviations of the names of candidates if it can be ascertained from the returns for whom the votes were intended.

**SECTION 40. AMENDMENT.** Section 16.1-15-40 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-40. ~~Statement~~Abstract prepared by state canvassing board for primary election - Contents - Signing - Candidate notified of nomination.**

The state canvassing board shall prepare the ~~statement~~certified abstract required by subsections 1, 2, and 3 of section 16.1-15-21 for primary elections. The certificate must be signed by the members of the board and filed in the office of the secretary of state. Upon completion of the canvass, the secretary of state shall mail to each candidate nominated a notice of the candidate's nomination stating that the candidate's name will be placed upon the official ballot to be voted for at the ensuing general election. If the election results indicate that any candidate is entitled to a recount or to demand a recount pursuant to section 16.1-16-01, the secretary of state may not prepare or deliver the notice of nomination until the time to demand a recount has expired, or the recount results have been determined and the winner declared, whichever is later. The secretary of state shall file a copy of the findings of the board and shall publish those findings in a newspaper printed in Burleigh County.

**SECTION 41. AMENDMENT.** Section 16.1-15-41 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-41. Statements of general or special election prepared by state canvassing board - Contents.**

Upon receiving the certified abstracts on file with the secretary of state, the state canvassing board shall proceed publicly to examine and make statements of the whole number of votes cast at any general or special election for all state or district offices. The statements must show the names of the ~~persons~~individuals for whom the votes were cast for the offices and the whole number of votes for each, distinguishing the several districts and counties in which they were cast.

**SECTION 42. AMENDMENT.** Section 16.1-15-44 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-44. Secretary of state to record statement of general or special election, prepare certificates of election, publish ~~statement~~abstract.**

After receiving each certified statement and determination made by the state canvassing board, the secretary of state shall record the same in the secretary of state's office and shall prepare, and transmit to each of the ~~persons~~individuals declared to be elected, a certificate of election as provided in this chapter. If the election results indicate that any candidate is entitled to a recount or to demand a recount pursuant to section 16.1-16-01, the secretary of state may not prepare or deliver the certificate of election until the time to demand a recount has expired, or the recount results have been determined and the winner declared, whichever is later.

The secretary of state shall cause a copy of the certified ~~statement~~abstract and determination to be published in the official newspaper of Burleigh County.

**SECTION 43. AMENDMENT.** Section 16.1-15-48 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-48. Canvassing returns of constitutional amendment or other proposition - Certified ~~statement~~abstract of result - Contents.**

For the purpose of canvassing and ascertaining the result of the votes cast at any election upon any proposed amendment to the constitution, or any other proposition submitted to a vote of the people, the state canvassing board shall proceed to examine the ~~statements~~abstracts received by the secretary of state from the county auditors to ascertain and determine the result. The board shall certify a statement of the whole number of votes cast for and the whole number of votes cast against an amendment or proposition, and it shall determine whether the amendment or proposition has been approved and ratified by a majority of the electors voting thereon, and a certificate of that determination must be prepared and subscribed on the statement.

**SECTION 44. AMENDMENT.** Section 40-38-01 of the North Dakota Century Code is amended and reenacted as follows:

**40-38-01. Public library and reading room - Establishment - Election.**

The governing body of any city or county upon petition of not less than fifty-one percent of the qualified electors of the city or county as determined by the total number of votes cast at the last general election or upon a majority vote of the qualified electors thereof voting on the question shall establish and maintain public library service within its geographic limits by means of a public library and reading room or other public library service, either singly or in cooperation with the state library, or with one or more cities or counties, or by participation in an approved state plan for rendering public library service under the Library Services and Construction Act [20 U.S.C. 351-358], and acts amendatory thereof. Such question shall be submitted to the qualified electors upon resolution of the governing body or upon the petition of not less than twenty-five percent of that number of qualified electors of the city or county that voted at the last general election, filed with the governing body not less than ~~sixty~~ninety days before the next regular election. Library service may be discontinued within any city or county by any of the methods by which library services may be established, except that once established, such service shall not be discontinued until after it has been in operation for at least five years from the date of establishment.

**SECTION 45. AMENDMENT.** Section 61-04.1-30 of the North Dakota Century Code is amended and reenacted as follows:

**61-04.1-30. Abolishment of weather modification authority by election.**

When a petition signed by not less than twenty percent of the qualified electors of the county, as determined by the vote cast for governor in the last preceding gubernatorial election, requesting an election upon the abolishment of a weather modification authority as created in sections 61-04.1-27 and 61-04.1-29 is presented to the board of county commissioners, not later than ~~forty-five~~sixty days prior to the next countywide election, the board of county commissioners shall submit the question to the qualified electors of the county at the next countywide election. Upon approval by a majority of the votes cast on the question, the board of county

commissioners shall abolish the weather modification authority as of December thirty-first following the election. All unexpended funds remaining in the name of the weather modification authority, after all proper bills and expenses have been paid, shall be deposited in the general fund of the county.

Approved April 20, 2011

Filed April 20, 2011

## CHAPTER 153

### SENATE BILL NO. 2256

(Senators Holmberg, Dever)  
(Representatives Grande, Streytle)

AN ACT to create and enact a new section to chapter 16.1-05 of the North Dakota Century Code, relating to election observers.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 16.1-05 of the North Dakota Century Code is created and enacted as follows:

##### Election observers.

1. Election observers must be allowed uniform and nondiscriminatory access to all stages of the election process, including the certification of election technologies, early voting, absentee voting, voter appeals, vote tabulation, and recounts.
2. An election observer must wear a badge with the name of the individual and the name of the organization the individual is representing. An election observer may not wear any campaign material advocating voting for or against a candidate or for or against any position on a question on the ballot. An election observer may not interfere with any voter in the preparation or casting of the voter's ballot or hinder or prevent the performance of the duties of any election official.

Approved April 1, 2011  
Filed April 1, 2011

## CHAPTER 154

### SENATE BILL NO. 2120

(Government and Veterans Affairs Committee)  
(At the request of the Commission on Uniform State Laws)

AN ACT to create and enact sixteen new sections to chapter 16.1-07 of the North Dakota Century Code, relating to the adoption of the Uniform Military and Overseas Voters Act; to amend and reenact sections 16.1-07-01 and 16.1-07-05 of the North Dakota Century Code, relating to absentee voting; and to repeal sections 16.1-07-03 and 16.1-07-08.1 of the North Dakota Century Code, relating to absent voter ballots.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 16.1-07-01 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-01. Absent voter ~~–Who may vote.~~**

- ~~1. Any qualified elector of this state, including an individual who is in the armed forces of the United States, is in the merchant marine of the United States, or is a United States citizen living outside the United States who resided in this state immediately prior to the individual's departure from the United States, may vote an absent voter's ballot at any general, special, or primary state election, any county election, or any city or school district election.~~
- ~~2. A citizen of the United States who is eighteen years of age or older, has never lived in the United States, and whose parent is a qualified elector of the state may vote absentee in this state pursuant to this chapter if the individual:~~
  - ~~a. Does not maintain a domicile;~~
  - ~~b. Is not registered to vote in any other state, territory, or possession of the United States;~~
  - ~~c. Is not voting in any other state, territory, or possession of the United States; and~~
  - ~~d. Possesses a valid passport or card of identity and registration issued under the authority of the secretary of state of the United States.~~

~~Such an elector may vote only in federal elections, which means any election held solely or in part for the purpose of electing or nominating any candidate for the office of president, vice president, presidential elector, member of the United States senate, or member of the United States house of representatives.~~

- ~~3. An elector who votes by absentee ballot may not vote in person at the same election.~~

**SECTION 2. AMENDMENT.** Section 16.1-07-05 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-05. Time for applying for ballot - ~~Applications and voting for uniformed citizens and for citizens living outside the United States~~ - Emergency situations - Sufficient time for application and ballot return.**

1. At any time in an election year, any qualified elector may apply to the county auditor, the auditor or clerk of the city, or the business manager of the school district, as the case may be, by personal delivery, facsimile, electronic mail or otherwise, for an official ballot to be voted at that election. A voter may obtain an application form approved by the secretary of state, for an absent voter's ballot for a general, special, primary, ~~or county,~~ city, or school election from ~~either the secretary of state, a county auditor or a city auditor, a candidate, a political party, or a political committee.~~ The application form must include a space for the applicant to indicate whether the application is for all statewide elections in the calendar year or only for the election that is immediately after the date of the application.
2. ~~An applicant who is a qualified elector and on active duty as a member of the United States armed forces or the United States merchant marine may receive an absentee ballot by mail, facsimile, or electronic mail. In the event that returning the voted ballot by mail is not practicable, qualified electors meeting the stated criteria of this subsection may return a voted ballot and other required documents to the county auditor by means of facsimile transmission or electronic mail. To return a voted ballot and other required documents by electronic mail, the eligible voter must have access to the technology to scan the documents, save the documents in a secure format approved by the secretary of state, and return the documents as an electronic mail attachment directly to the electronic mail address assigned by the auditor, clerk, or business manager for that purpose prior to midnight in the voter's county of residence on the day before the election. The secretary of state shall develop written guidelines relating to security measures for voted ballots returned by electronic mail.~~
3. ~~Spouses, children, or other dependents of active duty uniformed service members who are qualified electors and stationed at a location other than that individual's voting residential address are granted the same absentee voting rights as the individual's spouse, parent, or guardian has under subsection 2.~~
4. ~~An applicant who is a qualified elector living outside the United States may receive an absentee ballot by mail, facsimile, or electronic mail. If returning the voted ballot by mail is not practicable, a qualified elector may return a voted ballot and other required documents to the county auditor by means of facsimile transmission or electronic mail. The elector must have access to the technology to scan the documents, save the documents in a secure format approved by the secretary of state, and return the documents as an electronic mail attachment directly to the electronic mail address assigned by the auditor, clerk, or business manager for that purpose before midnight in the voter's county of residence on the day before the election. The secretary of state shall develop written guidelines relating to security measures for voted ballots returned by electronic mail.~~
5. No auditor or clerk may issue ballots for absentee voters on the day of the election except to ~~persons~~individuals prevented from voting in person on the

day of the election due to an emergency. ~~A person~~An individual requesting an absentee ballot on the day of the election due to an emergency must do so through an agent as set forth in this chapter. An agent may represent only one ~~person~~individual. The absentee ballot must be returned to the county auditor's office by four p.m. on the day of the election.

- 6-3. A completed application must be submitted to the appropriate election official in a timely manner so as to allow the applicant to receive, complete, and mail the absent voter's ballot before the day of the election.

**SECTION 3.** A new section to chapter 16.1-07 of the North Dakota Century Code is created and enacted as follows:

**Definitions.**

In sections 3 through 18 of this Act:

1. "Covered voter" means:

- a. A uniformed-service voter whose voting residence is in this state;
- b. An overseas voter who, before leaving the United States, was last eligible to vote in this state and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements;
- c. An overseas voter who, before leaving the United States, would have been last eligible to vote in this state had the voter then been of voting age and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements; or
- d. Any other overseas voter who was born outside the United States and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements, if:
  - (1) The last place where a parent or legal guardian of the voter was, or under this Act would have been, eligible to vote before leaving the United States is within this state; and
  - (2) The voter has not previously registered to vote or voted in any other state.

2. "Dependent" means an individual recognized as a dependent by the applicable uniformed service.

3. "Military-overseas ballot" means:

- a. A federal write-in absentee ballot described in the Uniformed and Overseas Citizens Absentee Voting Act [103, 42 U.S.C. 1973ff-2];
- b. A ballot specifically prepared or distributed for use by a covered voter in accordance with sections 4 through 18 of this Act; or
- c. A ballot cast by a covered voter in accordance with sections 4 through 18 of this Act.

4. "Overseas voter" means a United States citizen who is outside the United States.
5. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
6. "Uniformed service" means:
  - a. Active and reserve components of the army, navy, air force, marine corps, and coast guard of the United States;
  - b. The merchant marine, the commissioned corps of the public health service, and the commissioned corps of the national oceanic and atmospheric administration of the United States; and
  - c. The national guard and state militia units.
7. "Uniformed-service voter" means an individual who is qualified to vote and is:
  - a. A member of the active or reserve components of the army, navy, air force, marine corps, or coast guard of the United States who is on active duty;
  - b. A member of the merchant marine, the commissioned corps of the public health service, or the commissioned corps of the national oceanic and atmospheric administration of the United States;
  - c. A member of the national guard or state militia unit who is on activated status; or
  - d. A spouse or dependent of a member referred to in this subsection.

**SECTION 4.** A new section to chapter 16.1-07 of the North Dakota Century Code is created and enacted as follows:

**Elections covered.**

The voting procedures in sections 3 through 18 of this Act apply to:

1. A general, special, or primary election for federal office.
2. A general, special, or primary election for statewide or state legislative office or state ballot measure.
3. A general, special, or primary election for political subdivision office or political subdivision ballot measure.

**SECTION 5.** A new section to chapter 16.1-07 of the North Dakota Century Code is created and enacted as follows:

**Role of secretary of state.**

1. The secretary of state is responsible for implementing sections 3 through 18 of this Act and the state's responsibilities under the Uniformed and Overseas Citizens Absentee Voting Act [42 U.S.C. 1973ff et seq.].

2. The secretary of state shall make available to covered voters information regarding procedures for casting military-overseas ballots.
3. The secretary of state shall establish an electronic transmission system through which covered voters may apply for and receive documents and other information under sections 3 through 18 of this Act.
4. The secretary of state shall develop standardized absentee-voting materials, including privacy and transmission envelopes and electronic equivalents, authentication materials, and voting instructions, to be used with the military-overseas ballot of a voter authorized to vote in any jurisdiction in this state and, to the extent reasonably possible, shall do so in coordination with other states.
5. The secretary of state shall prescribe the form and content of a declaration for use by a covered voter to swear or affirm specific representations pertaining to the voter's identity, eligibility to vote, status as a covered voter, and timely and proper completion of an overseas-military ballot. The declaration must be based on the declaration prescribed to accompany a federal write-in absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act [103, 42 U.S.C. 1973ff-2], as modified to be consistent with sections 3 through 18 of this Act. The secretary of state shall ensure that a form for the execution of the declaration, including an indication of the date of execution of the declaration, is a prominent part of all balloting materials for which the declaration is required.

**SECTION 6.** A new section to chapter 16.1-07 of the North Dakota Century Code is created and enacted as follows:

**Methods of applying for military-overseas ballot.**

1. A covered voter may apply for a military-overseas ballot using either the absentee ballot application under this chapter or the federal postcard application, as prescribed under the Uniformed and Overseas Citizens Absentee Voting Act [42 U.S.C. 1973ff(b)(2)] or the application's electronic equivalent if approved under guidelines established by the secretary of state.
2. The secretary of state shall ensure that the electronic transmission system described in section 5 of this Act is capable of accepting the submission of both a federal postcard application and any other approved electronic military-overseas ballot application sent to the appropriate election official. The voter may use the electronic transmission system or any other method approved under guidelines established by the secretary of state to apply for a military-overseas ballot.
3. A covered voter may use the declaration accompanying the federal write-in absentee ballot, as prescribed under the Uniformed and Overseas Citizens Absentee Voting Act [42 U.S.C. 1973ff-2] as an application for a military-overseas ballot simultaneously with the submission of the federal write-in absentee ballot, if the declaration is received by the appropriate election official by midnight on the day before the election.
4. To receive the benefits of sections 3 through 18 of this Act, a covered voter must inform the appropriate election official that the voter is a covered voter. Methods of informing the appropriate election official that a voter is a covered voter include:

- a. The use of a federal postcard application or federal write-in absentee ballot;
- b. The use of an overseas address on a ballot application; and
- c. The inclusion on a ballot application of other information sufficient to identify the voter as a covered voter.

**SECTION 7.** A new section to chapter 16.1-07 of the North Dakota Century Code is created and enacted as follows:

**Timeliness and scope of application for military-overseas ballot.**

An application for a military-overseas ballot is timely if received by the appropriate election official before the close of business on the day before the election. An application for a military-overseas ballot for a primary election, whether or not timely, is effective as an application for a military-overseas ballot for the general election.

**SECTION 8.** A new section to chapter 16.1-07 of the North Dakota Century Code is created and enacted as follows:

**Transmission of unvoted ballots.**

1. For all covered elections for which this state has not received a waiver under the Military and Overseas Voter Empowerment Act [42 U.S.C. 1973ff-1(q)(2)] not later than forty-five days before the election or, if the forty-fifth day before the election is a weekend or holiday, not later than the business day preceding the forty-fifth day, the appropriate election official shall transmit ballots and balloting materials to all covered voters who by that date submit a valid military-overseas ballot application.
2. A covered voter who requests a ballot and balloting materials be sent to the voter by electronic transmission may choose facsimile transmission, electronic mail, or other electronic delivery approved by the secretary of state. The election official charged with distributing a ballot and balloting materials shall transmit the ballot and balloting materials to the voter using the means of transmission chosen by the voter.
3. If a ballot application from a covered voter arrives after the election official begins transmitting ballots and balloting materials to voters, the official shall transmit them to the voter not later than two business days after the application arrives.

**SECTION 9.** A new section to chapter 16.1-07 of the North Dakota Century Code is created and enacted as follows:

**Timely casting of ballot.**

To be valid, a military-overseas ballot must be submitted for mailing or other authorized means of delivery not later than 11:59 p.m. on the day before the election at the place where the voter completes the ballot. A military-overseas ballot must be received by the appropriate election official before the canvassing board meeting.

**SECTION 10.** A new section to chapter 16.1-07 of the North Dakota Century Code is created and enacted as follows:

**Federal write-in absentee ballot.**

A covered voter may use the federal write-in absentee ballot, in accordance with the Uniformed and Overseas Citizens Absentee Voting Act [42 U.S.C. 1973ff-2], to vote for all offices and ballot measures in a covered election.

**SECTION 11.** A new section to chapter 16.1-07 of the North Dakota Century Code is created and enacted as follows:

**Receipt of voted ballot.**

1. A valid military-overseas ballot cast in accordance with section 9 of this Act must be counted if it is delivered before the canvassing board meets to canvass the returns.
2. If, at the time of completing a military-overseas ballot and balloting materials, the voter has affirmed under penalty of perjury under section 12 of this Act that the ballot was timely submitted, the ballot may not be rejected on the basis that it has a late postmark, an unreadable postmark, or no postmark.

**SECTION 12.** A new section to chapter 16.1-07 of the North Dakota Century Code is created and enacted as follows:

**Declaration.**

Each military-overseas ballot must include or be accompanied by a declaration signed by the voter declaring that a material misstatement of fact in completing the document may be grounds for a conviction of perjury under the laws of the United States or this state.

**SECTION 13.** A new section to chapter 16.1-07 of the North Dakota Century Code is created and enacted as follows:

**Confirmation of receipt of application and voted ballot.**

The secretary of state, in coordination with local election officials, shall implement an electronic free-access system by which a covered voter may determine by telephone, electronic mail, or internet access whether:

1. The voter's military-overseas ballot application has been received and accepted; and
2. The voter's military-overseas ballot has been received and the current status of the ballot.

**SECTION 14.** A new section to chapter 16.1-07 of the North Dakota Century Code is created and enacted as follows:

**Use of voter's electronic mail address.**

1. A covered voter who provides an electronic mail address to a local election official may request that the voter's application for a military-overseas ballot be considered a standing request for electronic delivery of a ballot for all elections held through December thirty-first of the year following the calendar year of the date of the application or another shorter period the voter specifies. An election official shall provide a military-overseas ballot to a voter who makes a request for each election to which the request is applicable. A covered voter

entitled to receive a military-overseas ballot for a primary election under this subsection also is entitled to receive a military-overseas ballot for the general election.

2. An electronic mail address provided by a covered voter is a confidential record. An election official may use the address only to communicate with the voter about the voting process, including transmitting military-overseas ballots and election materials if the voter has requested electronic transmission, and verifying the voter's mailing address and physical location, as needed.

**SECTION 15.** A new section to chapter 16.1-07 of the North Dakota Century Code is created and enacted as follows:

**Publication of election notice.**

1. Not later than one hundred days before a regularly scheduled election to which sections 3 through 18 of this Act apply, and as soon as practicable in the case of a special election, the secretary of state and each local election official charged with printing and distributing ballots and balloting materials for that election shall prepare an election notice, to be used in conjunction with the federal write-in absentee ballot described in section 10 of this Act. The election notice must contain a list of all of the ballot measures and federal, state, and local offices that as of that date the secretary of state and the local election official expect to be on the ballot on the date of the election. The notice also must contain specific instructions for how a voter is to indicate on the federal write-in absentee ballot the voter's choice for each office to be filled and for each ballot measure to be contested.
2. A covered voter may request a copy of an election notice. The officials charged with preparing the election notice shall send the notice to the voter by facsimile, electronic mail, or regular mail, as the voter requests if the voter is not able to obtain that same notice from the secretary of state's website.
3. At least fifty-five days before an election, the officials charged with preparing the election notice shall update the notice with the certified candidates for each office and ballot measure questions and make the updated notice publicly available.
4. A local election official who maintains an internet website shall make updated versions of its election notices regularly available on the website.

**SECTION 16.** A new section to chapter 16.1-07 of the North Dakota Century Code is created and enacted as follows:

**Prohibition of nonessential requirements.**

1. If a voter's mistake or omission in the completion of a document under sections 3 through 18 of this Act does not prevent determining whether a covered voter is eligible to vote, the mistake or omission does not invalidate the document. Failure to satisfy a nonessential requirement, such as using paper or envelopes of a specified size or weight, does not invalidate a document submitted under this chapter. In any write-in ballot authorized by law, if the intention of the voter is discernable, as provided under the Help America Vote Act [42 U.S.C. 15481(a)(6)], an abbreviation, misspelling, or other minor variation in the form of the name of a candidate or a political party must be accepted as a valid vote.

2. Notarization is not required for the execution of a document under sections 3 through 18 of this Act. An authentication, other than the declaration specified in section 12 of this Act or the declaration on the federal postcard application and federal write-in absentee ballot, is not required for execution of a document under sections 3 through 18 of this Act. The declaration and any information in the declaration may be compared against information on file to ascertain the validity of the document.

**SECTION 17.** A new section to chapter 16.1-07 of the North Dakota Century Code is created and enacted as follows:

**Issuance of injunction or other equitable relief.**

A court may issue an injunction or grant other equitable relief appropriate to ensure substantial compliance with, or enforce, sections 3 through 18 of this Act on application by:

1. A covered voter alleging a grievance under sections 3 through 18 of this Act;  
or
2. An election official in this state.

**SECTION 18.** A new section to chapter 16.1-07 of the North Dakota Century Code is created and enacted as follows:

**Relation to Electronic Signatures in Global and National Commerce Act.**

Sections 3 through 18 of this Act modify, limit, and supersede the Electronic Signatures in Global and National Commerce Act [15 U.S.C. 7001 et seq.] but do not modify, limit, or supersede section 101(c) of that Act [15 U.S.C. 7001(c)] or authorized electronic delivery of any of the notices described in section 103(b) of that Act [15 U.S.C. 7003(b)].

**SECTION 19. REPEAL.** Sections 16.1-07-03 and 16.1-07-08.1 of the North Dakota Century Code are repealed.

Approved April 7, 2011  
Filed April 7, 2011

## CHAPTER 155

### SENATE BILL NO. 2073

(Judiciary Committee)

(At the request of the Secretary of State)

AN ACT to amend and reenact section 16.1-08.1-01, subsection 1 of section 16.1-08.1-03.3, and section 16.1-08.1-03.5 of the North Dakota Century Code, relating to the definition of direct expenditures and campaign contribution statements.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 16.1-08.1-01 of the North Dakota Century Code is amended and reenacted as follows:

##### **16.1-08.1-01. Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "Association" means any club, association, union, brotherhood, fraternity, organization, or group of any kind of two or more persons, including labor unions, trade associations, professional associations, or governmental associations, which is united for any purpose, business, or object and which assesses any dues, membership fees, or license fees in any amount, or which maintains a treasury fund in any amount. The term does not include corporations, cooperative corporations, limited liability companies, political committees, or political parties.
2. "Candidate" means an individual who seeks nomination for election or election to public office, and includes:
  - a. A person holding public office;
  - b. A person who has publicly declared that person's candidacy for nomination for election or election to public office or has filed or accepted a nomination for public office;
  - c. A person who has formed a campaign or other committee for that person's candidacy for public office;
  - d. A person who has circulated a nominating petition to have that person's name placed on the ballot; and
  - e. A person who has, in any manner, solicited or received a contribution for that person's candidacy for public office, whether before or after the election for that office.
3. "Contribution" means a gift, transfer, conveyance, provision, receipt, subscription, loan, advance, deposit of money, or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to public office or aiding or opposing the circulation or passage of a

statewide initiative or referendum petition or measure. The term also means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any of the above purposes. The term includes funds received by a candidate for public office or a political party or committee which are transferred or signed over to that candidate, party, or committee from another candidate, party, or political committee or other source. The term "anything of value" includes any good or service of more than a nominal value. The term "nominal value" means the cost, price, or worth of the good or service is trivial, token, or of no appreciable value. The term "contribution" does not include:

- a. A loan of money from a bank or other lending institution made in the regular course of business.
  - b. Time spent by volunteer campaign or political party workers.
  - c. Money spent by a candidate on the candidate's own behalf.
  - d. Money or anything of value received for commercial transactions, including rents, advertising, or sponsorships made as a part of a fair market value bargained-for exchange.
  - e. Money or anything of value received by a candidate in that person's personal capacity, including pursuant to a contract or agreement made for personal or private employment purposes, and not received for a political purpose or to influence the performance of that person's official duty.
  - f. Contributions of products or services for which the actual cost or fair market value are reimbursed by a payment of money.
4. "Cooperative corporations", "corporations", and "limited liability companies" are as defined in this code, and for purposes of this chapter "corporations" includes nonprofit corporations.
5. "Direct expenditure" means an expenditure made by a corporation, cooperative corporation, limited liability company, or association for the specific purpose of promoting passage or defeat of an initiated or referred measure without the express or implied consent, authorization, or cooperation of, and not in concert with or at the request or suggestion of a measure committee.
6. "Expenditure" means a gift, transfer, conveyance, provision, loan, advance, payment, distribution, disbursement, outlay, or deposit of money or anything of value, except a loan of money from a bank or other lending institution made in the regular course of business, made for the direct purpose of influencing the passage or defeat of a measure or the nomination for election, or election, of any individual to office. The term also means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure and includes the transfer of funds by a political committee to another political committee.
- ~~6-7.~~ "Patron" means a person who owns equity interest in the form of stock, shares, or membership or maintains similar financial rights in a cooperative corporation.

- ~~7-8.~~ "Person" means an individual, partnership, political committee, association, corporation, cooperative corporation, limited liability company, or other organization or group of persons.
- ~~8-9.~~ "Political committee" means any committee, club, association, or other group of persons which receives contributions or makes expenditures for political purposes and includes the following:
- a. A political action committee, derived from a corporation, cooperative corporation, limited liability company, or an association that is prohibited from making direct contributions for political purposes under section 16.1-08.1-03.3, and which solicits or receives contributions or makes expenditures for political purposes;
  - b. A candidate committee, established to support an individual candidate seeking statewide office, that solicits or receives contributions for political purposes;
  - c. An organization governed by section 527 of the Internal Revenue Code [26 U.S.C. 527], which solicits or receives contributions or makes expenditures for political purposes;
  - d. A multicandidate political committee, established to support multiple groups or slates of candidates seeking public office, that solicits or receives contributions for political purposes; and
  - e. A measure committee that solicits or receives contributions for the purpose of aiding or opposing a measure to be voted upon by the voters of the state.
- ~~9-10.~~ "Political party" means any association, committee, or organization which nominates a candidate for election to any office which may be filled by a vote of the electors of this state or any of its political subdivisions and whose name appears on the election ballot as the candidate of such association, committee, or organization.
- ~~40-11.~~ "Political purpose" means any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office and includes using "vote for", "oppose", or any similar support or opposition language in any advertisement whether the activity is undertaken by a candidate, a political committee, a political party, or any person. In the period thirty days before a primary election and sixty days before a special or general election, "political purpose" also means any activity in which a candidate's name, office, district, or any term meaning the same as "incumbent" or "challenger" is used in support of or in opposition to the election or nomination of a candidate to public office. The term does not include activities undertaken in the performance of a duty of a state office or any position taken in any bona fide news story, commentary, or editorial.
- ~~44-12.~~ "Public office" means every office to which persons can be elected by vote of the people under the laws of this state.

**SECTION 2. AMENDMENT.** Subsection 1 of section 16.1-08.1-03.3 of the North Dakota Century Code is amended and reenacted as follows:

1. A corporation, cooperative corporation, limited liability company, or association may not make a direct contribution:
  - a. To aid any political party, political committee, or organization except that a direct contribution may be made to a measure committee as provided in section 16.1-08.1-03.5.
  - b. To aid any corporation, limited liability company, or association organized or maintained for political purposes as defined in this chapter.
  - c. To aid any candidate for public office or for nomination to public office.
  - d. For any political purpose or the reimbursement or indemnification of any person for money or property so used.
  - e. For the influencing of any measure before the legislative assembly, except in accordance with chapter 54-05.1.

**SECTION 3. AMENDMENT.** Section 16.1-08.1-03.5 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-08.1-03.5. ~~Direct~~Allowable corporate contributions and expenditures - Passage or defeat of a measure or state political party building funds– Report required.**

1. ~~This chapter does not prohibit the exercise by corporations~~Corporations, cooperative corporations, limited liability companies, and associations of the right to~~may~~ make expenditures and contributions to a measure committee, as described in section 16.1-08.1-01, for the purpose of promoting passage or defeat of initiated or referred measures, ~~or. Corporations, cooperative corporations, limited liability companies, and associations may make expenditures and contributions~~ for promoting any general political philosophy or belief deemed in the best interest of the employees, stockholders, patrons, or members of the corporation, cooperative corporation, limited liability company, or association other than a "political purpose" as defined by this chapter. ~~Any corporation, cooperative corporation, limited liability company, or association that receives contributions pursuant to section 16.1-08.1-03.1 or spends money for the purpose of promoting passage or defeat of initiated or referred measures, other than a contribution to another person or measure committee promoting passage or defeat of an initiated or referred measure, shall file a statement pursuant to section 16.1-08.1-03.1 along with a statement listing the total amount of money spent for that purpose. The statements filed pursuant to section 16.1-08.1-03.1 must be filed with the secretary of state no later than the twelfth day before the date of the election in which the measure appears or would have appeared on the ballot complete from the beginning of that calendar year through the twentieth day before the date of the election. Statements showing the total amount of money spent for the purpose of promoting passage or defeat of initiated or referred measures must be filed with the secretary of state through the end of the calendar year in which the measure appeared on the ballot.~~
2. A corporation, cooperative corporation, limited liability company, or association may make a donation of property or money to a state political party or nonprofit entity affiliated with or under the control of a state political party for deposit in a separate and segregated fund. Money in the fund must be used exclusively by the state political party or nonprofit entity affiliated with or under

the control of a state political party for purchasing, maintaining, or renovating a building and for the purchase of fixtures for the building. A state political party or nonprofit entity affiliated with or under the control of a state political party receiving a donation under this subsection shall file a statement with the secretary of state no later than the thirty-first day of January of each calendar year. The statement must include the name and mailing address of each donor, the amount of each donation, the date each donation was received, all expenditures made from the fund during the previous calendar year, and cash on hand in the fund at the start and close of the reporting period. Any income and financial gain generated from a building purchased, maintained, or renovated from donations authorized under this subsection and not otherwise authorized by law must be deposited in the building fund and must be reported when the political party or nonprofit entity files the statement required under this subsection.

3. A corporation, cooperative corporation, limited liability company, or association may make a direct expenditure for the purpose of promoting passage or defeat of initiated or referred measures. A direct expenditure statement must be filed with the secretary of state within forty-eight hours after making the expenditure. The statement must include:
  - a. The full name of the corporation, cooperative corporation, limited liability company, or association;
  - b. The complete address of the corporation, cooperative corporation, limited liability company, or association;
  - c. The name and telephone number of the person completing the report;
  - d. The title of the measure and whether the expenditure is made in support of or opposition to the measure;
  - e. The election date on which the measure either will appear or did appear on the ballot;
  - f. The amount of the expenditure;
  - g. The cumulative total amount of expenditures since the beginning of the calendar year in support of or opposition to the measure;
  - h. The printed name and signature of the person completing the report, attesting to the report being true, complete, and correct; and
  - i. The date on which the report was signed.

Approved April 27, 2011  
Filed April 27, 2011

## CHAPTER 156

### HOUSE BILL NO. 1311

(Representatives S. Meyer, Headland, Kretschmar, Boe)  
(Senators Bowman, Olafson)

AN ACT to amend and reenact section 16.1-08.1-03.1 of the North Dakota Century Code, relating to contribution and expenditure statements filed by persons sponsoring the circulation of initiated measure petitions.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 16.1-08.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-08.1-03.1. Contributions statement required of persons and measure committees circulating or promoting passage or defeat of initiated or referred measure.**

1. At the time the sponsoring committee for an initiated measure petition submits signed petitions to the secretary of state, the committee also shall submit a statement disclosing the total amount of contributions received by the committee to aid the committee in drafting and circulating the petition, the name and mailing address of each person that contributed more than one hundred dollars in the aggregate to the sponsoring committee, the date each such contribution was received, and the total amount of expenditures made by the committee to aid in the drafting and circulation of the petition.
2. Any person or measure committee, as described in section 16.1-08.1-01, ~~whethat~~ is soliciting or accepting a contribution for the purpose of aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure placed upon a statewide ballot by action of the legislative assembly at any election shall file a statement in accordance with this ~~section~~subsection if the person has received any ~~contributions from a person~~contribution in excess of one hundred dollars. The statement must include the name and mailing address of ~~all contributors who~~each person that contributed in excess of one hundred dollars to the person, the amount of each reportable contribution, and the date each reportable contribution was received. The statement must include the name and mailing address of each recipient of an expenditure exceeding one hundred dollars in the aggregate, the amount of each reportable expenditure, and the date the expenditure was made.
- ~~2-3.~~ A person or measure committee ~~whethat~~ is soliciting or accepting a contribution for the purpose of aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure placed upon a statewide ballot by action of the legislative assembly may not accept a contribution of more than one hundred dollars from a ~~person who does not reside in this state or from~~ an out-of-state person or political committee unless the contribution is accompanied by a certified statement from the contributor listing the name, address, and amount contributed by each person ~~whethat~~ contributed more than one hundred dollars of the contribution. The statement

must indicate if no ~~individual~~ person contributed in excess of one hundred dollars of the out-of-state person's or political committee's overall contribution. The certified statement must also list the occupation, employer, and principal place of business for each ~~person~~individual who contributed more than one hundred dollars of the contribution. The person soliciting or accepting a contribution for the purpose of aiding the circulation of a statewide initiative or referendum petition or of promoting passage or defeat of a statewide initiated or referred measure ~~must~~shall include this statement with the contribution statement required to be filed under subsection 42.

~~3-4.~~ The statement required of a person or measure committee under subsection 42 must be filed with the secretary of state no later than the twelfth day ~~prior to~~before the date of the election in which the measure appears or would have appeared on the ballot complete from the beginning of that calendar year through the twentieth day ~~prior to~~before the date of the election. A complete statement for the entire calendar year for each statement required to be filed under subsections 2 and 3 must be filed no later than the thirty-first day of January of the following year. Even if a person required to report according to this section has not received any contributions in excess of one hundred dollars during the reporting period, the person shall file a statement as required by this chapter. A statement filed according to ~~this section~~subsections 2 and 3 during the reporting period must show the following:

- a. The gross total of all contributions received and expenditures made in excess of one hundred dollars;
- b. The gross total of all contributions received and expenditures made of one hundred dollars, or less; and
- c. The cash on hand in the filer's account at the start and close of the reporting period.

Approved April 19, 2011  
Filed April 19, 2011

## CHAPTER 157

### SENATE BILL NO. 2327

(Senators Dever, J. Lee, Wanzek, Dotzenrod)  
(Representatives Koppelman, Weiler)

AN ACT to amend and reenact subdivision a of subsection 2 of section 16.1-10-02 of the North Dakota Century Code, relating to the use of state or political subdivision services or property for political purposes; and to provide a penalty.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subdivision a of subsection 2 of section 16.1-10-02 of the North Dakota Century Code is amended and reenacted as follows:

- a. "Political purpose" means any activity undertaken in support of or in opposition to a statewide initiated or referred measure, a constitutional amendment or measure, a political subdivision ballot measure, or the election or nomination of a candidate to public office and includes using "vote for", "oppose", or any similar support or opposition language in any advertisement whether the activity is undertaken by a candidate, a political committee, a political party, or any person. In the period thirty days before a primary election and sixty days before a special or general election, "political purpose" also means any activity in which a candidate's name, office, district, or any term meaning the same as "incumbent" or "challenger" is used in support of or in opposition to the election or nomination of a candidate to public office. The term does not include activities undertaken in the performance of a duty of a state public office or a position taken in any bona fide news story, commentary, or editorial. Factual information may be presented regarding a ballot question solely for the purpose of educating voters if the information does not advocate for or against or otherwise reflect a position on the adoption or rejection of the ballot question.

Approved April 27, 2011  
Filed April 27, 2011