

ALVIN A. JAEGER
SECRETARY OF STATE

WEBSITE sos.nd.gov



PHONE (701) 328-2900
EMAIL sos@nd.gov

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

February 5, 2020

Ms. Vonette Richter
Legal Division Director
North Dakota Legislative Council
State Capitol
600 East Boulevard Ave 2nd Floor
Bismarck ND 58505-0360

Dear Ms. Richter:

The Notice of Intent to adopt Administrative Rules and a copy of the proposed rules are enclosed as required by N.D.C.C. § 28-32-10(1).

Governor Doug Burgum has approved our request for emergency effectiveness based upon Section 2 of S.B. 2002, the North Dakota Legislative Assembly appropriated one-time funding of \$11,200,000 for an electronic voting system and electronic pollbooks, which my office is currently working with two vendors to implement. The election processes governed by the enclosed rules must be incorporated into the new electronic pollbooks, which is a detailed and time-consuming process. I have included copies of the letter I provided to the Governor and of the one he sent to me granting his authority.

Sincerely,

A handwritten signature in blue ink that reads "Alvin A. Jaeger".

Alvin A Jaeger
Secretary of State

Enclosures:

- Proposed Rules
- Full Notice
- Letters between Governor Burgum and me

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

January 31, 2020

The Honorable Doug Burgum
Governor
State of North Dakota
600 E Boulevard Ave
Bismarck ND 58505-0001

Dear Governor Burgum:

Enclosed please find the proposed new North Dakota Administrative Code 72-06-03 put forward by my office. These proposed rules seek to codify the process utilized by my office to make it easier for qualified voters who are members of Native American Tribes in North Dakota to obtain a valid form of identification and supplemental documentation for voting purposes. This will assist individual Native American citizens in their efforts to obtain the documents they need in order to vote. The rules also streamline the process for tribal governments that want to offer tribal identification to their members for voting purposes and significantly reduce if not eliminate related costs to tribes. These proposed rules are crafted to foster a closer working relationship between state and tribal officials on election issues.

In Section 2 of S.B. 2002, the North Dakota Legislative Assembly appropriated one-time funding of \$11,200,000 for an electronic voting system and electronic pollbooks, which my office is currently working with two vendors to implement. The election processes governed by the enclosed rules must be incorporated into the new electronic pollbooks, which is a detailed and time-consuming process. In order to avoid a delay in the implementation of the new electronic pollbooks, I have found that emergency rulemaking is necessary and am requesting your approval of that determination.

The authority of an administrative agency to adopt administrative rules is governed by N.D.C.C. Chapter 28-32, the Administrative Agencies Practice Act. According to N.D.C.C. § 28-32-03, an agency, with the Governor's approval, may have a rule declared effective on the date it is first filed with the Legislative Council if the agency finds emergency rulemaking necessary on at least one of several enumerated grounds. One of those grounds is that "[e]mergency effectiveness is reasonably necessary to avoid a delay in implementing an appropriations measure." I have determined that emergency rulemaking is necessary on that ground. Further, it is imperative that all qualified electors who wish to vote are able to do so, and these proposed rules will help to ensure that all Native American voters have access to the documents they need in order to vote in the fast-approaching 2020 elections.

Accordingly, I request your approval of the finding that emergency rulemaking is necessary.

Sincerely,

Handwritten signature of Alvin A. Jaeger in blue ink.

Alvin A Jaeger
Secretary of State

Handwritten signature of Jim Silrum in blue ink.

Jim Silrum
Deputy Secretary of State



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SEC. OF STAT.

February 4, 2020

Honorable Alvin A. Jaeger
Secretary of State
State of North Dakota
600 E. Boulevard Ave.
Bismarck, ND 58505

Dear Mr. Secretary:

Your letter requesting approval of emergency rulemaking for the adoption of rules within Chapter 72-06-03, North Dakota Administrative Code entitled "*Tribal Identification for Voting*", was received in my office on January 31, 2020. The proposed rules and the basis for emergency rulemaking as explained in your letter, have been thoroughly reviewed.

Pursuant to North Dakota Century Code § 28-32-03, it appears that emergency rulemaking is necessary to prevent a delay in implementing the funds appropriated for a voting system and electronic poll books. *ND Session Laws 2019, ch. 27, § 2.*

The request for adoption of the rules included under Chapter 72-06-03, North Dakota Administrative Code, as interim final rules, is hereby approved.

Regards,

A handwritten signature in blue ink that reads "Doug Burgum".

Doug Burgum
Governor

NOTICE OF INTENT TO
ADOPT ADMINISTRATIVE RULES

TAKE NOTICE that the Secretary of State will hold a public hearing to address proposed new North Dakota Administrative Code Chapter 72-06-03 at 9:30 am on Thursday, April 2, 2020, in the Coteau meeting room at the North Dakota State Capitol, 600 East Boulevard Avenue Bismarck ND 58505. The purpose of the proposed rule is to implement Administrative Rules relating to the Central Voter File under the authority granted in section 16.1-02-11 of the North Dakota Century Code. The proposed rules address the documentation that constitutes tribal identification, the opportunity for data sharing from tribal offices to the Secretary of State for inclusion in the Central Voter File, the creation of a form that may be utilized by tribal governments to provide supplemental documentation to a tribal member, and an expedited method in which set aside ballots marked by tribal members may be verified by a tribe so the ballots may be included in the final vote tally.

The proposed rulemaking implements bill number 2002, enacted during the most recent legislative session, concerning the appropriation given to the Secretary of State to procure and implement a new voting system and electronic pollbooks to be utilized statewide. The proposed rules are not expected to have an impact on the regulated community in excess of \$50,000. These rules are emergency rules with an effective date of February 5, 2020.

The proposed rules may be reviewed at the office of the Secretary of State, 600 East Boulevard Avenue Bismarck ND 58505. A copy of the proposed rules and/or a regulatory analysis may be requested by writing the above address, emailing sos@nd.gov or calling (701) 328-4146. Written or oral comments on the proposed rules sent to the above address or telephone number and received by Friday, April 17, 2020 will be fully considered.

If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Secretary of State at the above telephone number or address at least one week prior to the public hearing.

Dated this fifth day of February 2020.

Alvin A. Jaeger
Secretary of State