

ELECTIONS

CHAPTER 200

HOUSE BILL NO. 1331

(Representatives Haas, L. Thoreson)

(Senators Urlacher, Wardner)

INITIATIVE AND REFERENDUM PETITIONS

AN ACT to amend and reenact section 16.1-01-09 of the North Dakota Century Code, relating to initiative and referendum petitions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁰⁶ **SECTION 1. AMENDMENT.** Section 16.1-01-09 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

16.1-01-09. Initiative, referendum, or recall petitions - Signature - Form - Circulation.

1. a. A request of the secretary of state for approval of a petition to initiate or refer a measure may be presented over the signatures of the sponsoring committee on individual signature forms that have been notarized. The secretary of state shall prepare a signature form that includes provisions for identification of the measure; the printed name, signature, and address of the committee member; and notarization of the signature.
- b. Upon receipt of a petition to initiate or refer a measure, the secretary of state shall draft a short and concise statement that fairly represents the measure. The statement must be submitted to the attorney general for approval or disapproval. An approved statement must be affixed to the petition before it is circulated for signatures, must be called the "ballot title", and must be placed immediately before the full text of the measure.
- c. The secretary of state and the attorney general shall complete their review of a petition in not less than five, nor more than seven, business days, excluding Saturdays.
2. No person may sign any initiative, referendum, or recall petition circulated pursuant to article III of the Constitution of North Dakota unless the person is a qualified elector. No person may sign any petition more than once, and each signer shall add the signer's ~~post-office address including the signer's~~ complete residential address

¹⁰⁶ Section 16.1-01-09 was also amended by section 2 of House Bill No. 1352, chapter 201.

or ~~post-office box number~~ rural route or general delivery address and the date of signing. Every qualified elector signing a petition shall do so in the presence of the person circulating the petition. A referendum or initiative petition must be in substantially the following form:

REFERENDUM [INITIATIVE] PETITION
TO THE SECRETARY OF STATE,
STATE OF NORTH DAKOTA

We, the undersigned, being qualified electors request [House (Senate) Bill _____ passed by the _____ Legislative Assembly] [the following initiated law] be placed on the ballot as provided by law.

SPONSORING COMMITTEE

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

Name	Address
_____(Chairman)	_____
_____	_____

BALLOT TITLE

(To be drafted by the secretary of state, approved by the attorney general, and attached to the petition before circulation.)

FULL TEXT OF THE MEASURE

IF MATERIAL IS UNDERSCORED, IT IS NEW MATERIAL WHICH IS BEING ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS BEING DELETED. IF NO MATERIAL IS UNDERSCORED OR OVERSTRUCK, THE MEASURE CONTAINS ALL NEW MATERIAL WHICH IS BEING ADDED.

[The full text of the measure must be inserted here.]

INSTRUCTIONS TO PETITION SIGNERS

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota thirty days, and you are a United States citizen. All signers must add their ~~entire post-office address, including post-office box number,~~ complete residential address or rural route or general delivery address and the date of signing. Every qualified elector signing a petition must do so in the presence of the person circulating the petition.

QUALIFIED ELECTORS

Month, Day, Year	Name of Qualified Elector	Post Office Address Residential Address or P.O. Box No. <u>Complete Rural Route or</u> <u>General Delivery Address</u>	City, State
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			

The number of signature lines on each page of a printed petition may vary if necessary to accommodate other required textual matter. In this section for referral petitions "full text of the measure" means the bill as passed by the legislative assembly excluding the session and sponsor identification. In this section for initiative petitions "full text of the measure" means an enacting clause which must be: "BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA" and the body of the bill. If the measure amends the law, all new statutory material must be underscored and all statutory material to be deleted must be overstruck by dashes. When repealing portions of the law, the measure must contain a repealer clause and, in brackets, the text of the law being repealed.

3. Each copy of any petition provided for in this section, before being filed, must have attached an affidavit executed by the circulator in substantially the following form:

State of North Dakota)
) ss.
 County of _____)
 (county where signed)
 I, _____, being sworn, say that I am a qualified
 (circulator)
 elector; that I reside at _____;
 (address)

that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each person whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the person whose name it purports to be.

 (signature of circulator)

Subscribed and sworn to before me on _____, _____,
at

_____, North Dakota.
(city)

(Notary Seal)

(signature of notary)

Notary Public

My commission expires _____

4. A petition for recall must include, before the signature lines for the qualified electors as provided in subsection 2, the name of the person being recalled, the office from which that person is being recalled, and a list of the names and ~~post-office addresses including the complete residential addresses or post-office box numbers~~ rural route or general delivery addresses of not less than five qualified electors of the state, political subdivision, or district in which the official is to be recalled who are sponsoring the recall.
5. No petition shall be circulated under the authority of article III of the Constitution of North Dakota by a person who is less than eighteen years of age, nor shall the affidavit called for by subsection 3 be executed by a person who is less than eighteen years of age at the time of signing. All petitions circulated under the authority of the constitution and of this section must be circulated in their entirety. A petition may not include a statement of intent or similar explanatory information.
6. When signed petitions are delivered to the secretary of state, the chairperson of the sponsoring committee shall submit to the secretary of state an affidavit stating that to the best of that person's knowledge, the petitions contain at least the required number of signatures.
7. An initiative or referendum petition may be submitted to the secretary of state until midnight of the day designated as the deadline for submitting the petition.
8. An initiative petition may be circulated for one year from the date it is approved for circulation by the secretary of state.

Approved March 27, 2001

Filed March 27, 2001

CHAPTER 201

HOUSE BILL NO. 1352

(Representatives N. Johnson, Disrud, Hawken)
(Senator Watne)

RECALL PETITIONS

AN ACT to create and enact a new section to chapter 16.1-01 of the North Dakota Century Code, relating to recall petitions; and to amend and reenact sections 16.1-01-09 and 44-08-21 of the North Dakota Century Code, relating to initiative and referendum petitions and recall petitions of political subdivision officials.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 16.1-01 of the North Dakota Century Code is created and enacted as follows:

Recall petitions - Signature - Form - Circulation.

1. A person may not sign a recall petition circulated pursuant to article III of the Constitution of North Dakota or section 44-08-21 unless the person is a qualified elector. A person may not sign a petition more than once, and each signer shall add the signer's complete residential, rural route, or general delivery address and the date of signing. Every qualified elector signing a petition must do so in the presence of the person circulating the petition. A petition must be in substantially the following form:

RECALL PETITION

We, the undersigned, being qualified electors request that _____
(name of the person
being recalled) the _____
(office of person being
recalled) be recalled for the reason or reasons
of _____:

RECALL SPONSORING COMMITTEE

The following are the names and addresses of the qualified electors of the state of North Dakota and the political subdivision who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

	<u>Name</u>	<u>Complete Residential, Rural Route, or General Delivery Address</u>
1.	_____ (Chairman)	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____

Subscribed and sworn to before me on _____, at

_____, North Dakota.

(city)

(Notary Seal)

(signature of notary)

Notary Public

My commission expires _____

3. A petition for recall must include, before the signature lines for the qualified electors as provided in subsection 1, the name of the person being recalled, the office from which that person is being recalled, and a list of the names and addresses of not less than five qualified electors of the state, political subdivision, or district in which the official is to be recalled who are sponsoring the recall.
4. A petition may not be circulated under the authority of article III of the Constitution of North Dakota or section 44-08-21 by a person who is less than eighteen years of age, nor may the affidavit called for by subsection 2 be executed by a person who is less than eighteen years of age at the time of signing. All petitions circulated under the authority of the constitution and of this section must be circulated in their entirety.
5. When recall petitions are delivered to the secretary of state or other filing officer with whom a petition for nomination to the office in question is filed, the chairman of the sponsoring committee shall submit to the secretary of state or other filing officer an affidavit stating that to the best of that person's knowledge, the petitions contain at least the required number of signatures.
6. The filing officer has a reasonable period, not to exceed thirty days, in which to pass upon the sufficiency of a recall petition. The filing officer may conduct a representative random sampling of the signatures contained in the petitions by the use of questionnaires, postcards, telephone calls, personal interviews, or other accepted information gathering techniques, or any combinations thereof, to determine the validity of the signatures. Signatures determined by the filing officer to be invalid may not be counted and all violations of law discovered by the filing officer must be reported to the state's attorney for possible prosecution.

¹⁰⁷ **SECTION 2. AMENDMENT.** Section 16.1-01-09 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

¹⁰⁷ Section 16.1-01-09 was also amended by section 1 of House Bill No. 1331, chapter 200.

16.1-01-09. Initiative, or referendum, ~~or recall~~ petitions - Signature - Form - Circulation.

1. a. A request of the secretary of state for approval of a petition to initiate or refer a measure may be presented over the signatures of the sponsoring committee on individual signature forms that have been notarized. The secretary of state shall prepare a signature form that includes provisions for identification of the measure; the printed name, signature, and address of the committee member; and notarization of the signature.
- b. Upon receipt of a petition to initiate or refer a measure, the secretary of state shall draft a short and concise statement that fairly represents the measure. The statement must be submitted to the attorney general for approval or disapproval. An approved statement must be affixed to the petition before it is circulated for signatures, must be called the "ballot title", and must be placed immediately before the full text of the measure.
- c. The secretary of state and the attorney general shall complete their review of a petition in not less than five, nor more than seven, business days, excluding Saturdays.
2. No person may sign any initiative, or referendum, ~~or recall~~ petition circulated pursuant to article III of the Constitution of North Dakota unless the person is a qualified elector. No person may sign any petition more than once, and each signer shall add the signer's post-office address including the signer's residential address or post-office box number and the date of signing. Every qualified elector signing a petition shall do so in the presence of the person circulating the petition. A referendum or initiative petition must be in substantially the following form:

REFERENDUM [INITIATIVE] PETITION
TO THE SECRETARY OF STATE,
STATE OF NORTH DAKOTA

We, the undersigned, being qualified electors request [House (Senate) Bill _____ passed by the _____ Legislative Assembly] [the following initiated law] be placed on the ballot as provided by law.

SPONSORING COMMITTEE

The following are the names and addresses of the qualified electors of the state of North Dakota who, as the sponsoring committee for the petitioners, represent and act for the petitioners in accordance with law:

Name

Address

_____(Chairman)

BALLOT TITLE

(To be drafted by the secretary of state, approved by the attorney general, and attached to the petition before circulation.)

FULL TEXT OF THE MEASURE

IF MATERIAL IS UNDERSCORED, IT IS NEW MATERIAL WHICH IS BEING ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS BEING DELETED. IF NO MATERIAL IS UNDERSCORED OR OVERSTRUCK, THE MEASURE CONTAINS ALL NEW MATERIAL WHICH IS BEING ADDED.

[The full text of the measure must be inserted here.]

INSTRUCTIONS TO PETITION SIGNERS

You are being asked to sign a petition. You must be a qualified elector. This means you are eighteen years old, you have lived in North Dakota thirty days, and you are a United States citizen. All signers must add their entire post-office address, including post-office box number, and the date of signing. Every qualified elector signing a petition must do so in the presence of the person circulating the petition.

QUALIFIED ELECTORS

	Month, Day, Year	Name of Qualified Elector	Post-Office Address Residential Address or P.O. Box No.	City, State
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____
7.	_____	_____	_____	_____
8.	_____	_____	_____	_____

The number of signature lines on each page of a printed petition may vary if necessary to accommodate other required textual matter. In this section for referral petitions "full text of the measure" means the bill as passed by the legislative assembly excluding the session and sponsor identification. In this section for initiative petitions "full text of the measure" means an enacting clause which must be: "BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA" and the body of the bill. If the measure amends the law, all new statutory material must be underscored and all statutory material to be deleted must be overstruck by dashes. When repealing portions of the law, the measure must contain a repealer clause and, in brackets, the text of the law being repealed.

- Each copy of any petition provided for in this section, before being filed, must have attached an affidavit executed by the circulator in substantially the following form:

State of North Dakota)

44-08-21. Recall of elected officials of political subdivisions. An elected official of a political subdivision, except an official subject to recall pursuant to section 10 of article III of the Constitution of North Dakota, is subject to recall by petition of electors equal in number to twenty-five percent of the voters who voted in the most recent election that the office of the official sought to be recalled was on the ballot, not including other recall elections; ~~except in any political subdivision with a population of not more than one hundred, the petition must be signed by at least six electors.~~ An official who was appointed to fill a vacancy is subject to recall by petition of electors equal in number to twenty-five percent of the voters who voted in the most recent election that the office of the official sought to be recalled was on the ballot, not including other recall elections. The provisions of section ~~46.1-01-09~~ 1 of this Act, as they relate to signing and circulating recall petitions, apply to petitions under this section.

A recall petition must include a stated reason for the recall and be approved as to form prior to circulation by the secretary of state. The secretary of state shall complete the review of the form of a recall petition in not less than five, nor more than seven, business days, excluding Saturdays. To be effective, a recall petition must be submitted to the appropriate filing officer within ninety days after the date the recall petition is approved for circulation by the secretary of state.

~~The petition may include the stated reason for the recall and~~ Once circulated, the recall petition must be filed with the official filing officer with whom a petition for nomination to the office in question is filed unless that official filing officer is the person subject to recall, in which case the petition must be filed with the secretary of state. The official filing officer with whom the petition is filed shall pass on the sufficiency of a petition under this section in the manner required of the secretary of state under section 16.1-01-10 pursuant to section 1 of this Act. Except as otherwise provided in this section, the official filing officer shall call a special election to be held within sixty days if the official finds not sooner than fifty days nor later than sixty days following the date the filing officer certifies the petition valid and sufficient. No special election may be called if the that date would be within ninety days of the next scheduled election. An elector's name may not be removed from a recall petition.

The name of the official to be recalled must be placed on the ballot unless the official resigns within ten days after the ~~filing of the petition~~ filing officer certifies the petition is valid and sufficient. Other candidates for the office may be nominated in a manner provided by law and shall file nominating papers with the appropriate ~~official filing officer~~ official filing officer by the thirty-third day before the scheduled recall election. If the official resigns, the appropriate political subdivision governing body may call a special election or appoint a person to complete the unexpired term of the office. When the election results have been officially declared, the candidate receiving the highest number of votes is elected for the remainder of the term. No official is subject to recall twice during the term for which the official was elected. An official whose term expires at a regularly scheduled election occurring within one hundred ninety days after the date the petition is submitted to the secretary of state for approval for circulation is not subject to recall.

Approved March 27, 2001
Filed March 27, 2001

CHAPTER 202

HOUSE BILL NO. 1426

(Representatives Grande, Belter, Herbel, Kingsbury)

INITIATED AND REFERRED MEASURE CONTRIBUTIONS

AN ACT to amend and reenact subsection 11 of section 16.1-01-12, subsection 4 of section 16.1-08.1-01, section 16.1-08.1-03.1, subsection 3 of section 16.1-08.1-03.3, sections 16.1-08.1-04, and 16.1-08.1-06 of the North Dakota Century Code, relating to initiated or referred measure contribution statements definitions and contribution reporting; and to repeal section 16.1-08.1-03.6 of the North Dakota Century Code, relating to federal campaign committee contributions and contributions made to other candidates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 11 of section 16.1-01-12 of the North Dakota Century Code is amended and reenacted as follows:

11. Pay or offer to pay any person, or receive payment or agree to receive payment, on a basis related to the number of signatures obtained for circulating an initiative, referendum, or recall petition. This subsection does not prohibit the payment of salary and expenses for circulation of the petition on a basis not related to the number of signatures obtained, as long as the circulators file their intent to remunerate prior to submitting the petitions and fully disclose all expenditures and revenues upon submission of the petitions to the secretary of state, in the case of initiative and referendum petitions, fully disclose all contributions received pursuant to chapter 16.1-08.1 to the secretary of state upon submission of the petitions. The disclosure of contributions received under this section does not affect the requirement to file a pre-election report by persons soliciting or accepting contributions 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 under chapter 16.1-08.1.

SECTION 2. AMENDMENT. Subsection 4 of section 16.1-08.1-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. "Cooperative corporations", "corporations", and "limited liability companies" are as defined in this code, and for purposes of this chapter "corporations" includes nonprofit corporations.

SECTION 3. 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 promoting passage or defeat of initiated or referred measure.

1. Any person who 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 if the person has received any contributions from a person in excess of one hundred dollars. The statement must include the name and mailing address of all contributors who contributed in excess of one hundred dollars to the person, the amount of each reportable contribution, and the date each reportable contribution was received.
2. ~~A 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 any statewide initiated or referred measure~~ A person who 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 political committee unless the contribution is accompanied by a certified statement from the contributor listing the name, address, and amount contributed by each person who 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 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 include this statement with the contribution statement required to be filed under subsection 1.
3. The statement required of a person under subsection 1 must be filed with the secretary of state no later than the twelfth day prior to 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 the date of the election. A complete statement for the entire calendar year 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.

SECTION 4. AMENDMENT. Subsection 3 of section 16.1-08.1-03.3 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. All political committees formed for the purpose of administering the segregated fund provided for in this section shall file a statement showing the name and mailing address of each contributor of an amount in excess of two hundred dollars in the aggregate for the

reporting period and a listing of all expenditures of an amount in excess of two hundred dollars in the aggregate made for political purposes with the secretary of state. The statement must include the amount of each reportable contribution and the date it was received and the amount of each reportable expenditure and the date it was made. A yearend statement covering the entire calendar year must be filed no later than the thirty-first day of the following year. A preelection statement must be filed no later than the twelfth day before any primary, special, or general election and must be complete from the beginning of the calendar year through the twentieth day before the election. Even if a political committee has not received any contributions or made any expenditures in excess of two hundred dollars during the reporting period, the political committee shall file a statement as required by this chapter.

¹⁰⁸ **SECTION 5. AMENDMENT.** Section 16.1-08.1-04 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-04. Supplemental statement required on large contributions received after original statement - Filing time. If any candidate, political party, committee, or person soliciting or accepting contributions for the purpose of aiding the circulation of statewide initiative or referendum petitions or of promoting passage or defeat of a statewide initiated or referred measure, receives any contribution in excess of five hundred dollars or more in the twenty-day period prior to before any election from any individual contributor, that candidate, political party, committee, or person shall make and file a supplemental statement in the same form as required by section 16.1-08.1-02 ~~or~~, 16.1-08.1-03, 16.1-08.1-03.1, or 16.1-08.1-03.3 stating the name and street address of such contributor and the amount of the contribution, and file the statement in the appropriate office within forty-eight hours of the receipt of the contribution.

SECTION 6. AMENDMENT. Section 16.1-08.1-06 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-06. Contributions statement requirements.

1. A statement required by this chapter to be filed with the secretary of state must be:
 - a. Deemed properly filed when deposited ~~in an established post office within the prescribed time, postage affixed, and directed with or delivered~~ to the secretary of state; but if it within the prescribed time. A statement that is mailed is deemed properly filed when it is postmarked and directed to the secretary of state within the prescribed time. If a statement is not received by the secretary of state, a duplicate of the statement must be promptly filed upon notice by the secretary of state of its nonreceipt.
 - b. Preserved by the secretary of state for a period of four years from the date of filing. The statement is to be considered a part of the

¹⁰⁸ Section 16.1-08.1-04 was also amended by section 1 of House Bill No. 1370, chapter 208.

public records of the secretary of state's office and must be open to public inspection.

2. If the filing date falls on a Saturday or Sunday or a holiday on which the office of the secretary of state is closed, the statement must be filed on the next available day on which the office of the secretary of state is open. In determining the amount of individual contributions from any contributor, all amounts received from the same contributor during the reporting period must be aggregated to report an overall total contribution for the purposes of the statements required by this chapter. Aggregate contributions must reference the date of the most recent contribution. Contributions made separately by different persons from joint accounts are considered separate contributions for reporting purposes.
3. Unless otherwise provided by law, any candidate, political party, committee, or person may not be charged a fee for filing any statement with the secretary of state under this chapter.

SECTION 7. REPEAL. Section 16.1-08.1-03.6 of the North Dakota Century Code is repealed.

Approved April 13, 2001
Filed April 13, 2001

CHAPTER 203

HOUSE BILL NO. 1318

(Representatives Tieman, DeKrey, Eckre, Haas, Niemeier)

ELECTION LAW REVISIONS

AN ACT to amend and reenact subsection 2 of section 16.1-05-01, subsection 2 of section 16.1-07-08, subsection 3 of section 16.1-10-01, sections 16.1-10-02, 16.1-10-04.1, 16.1-11-18, 16.1-11-19, and 16.1-15-25 of the North Dakota Century Code, relating to political party reorganization, election officer appointment, absentee ballot affidavits, corrupt election practices, and filling vacancies; and to repeal sections 16.1-12-08 and 46-05-05 of the North Dakota Century Code, relating to filling vacancies and rates for political announcements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 16.1-05-01 of the North Dakota Century Code is amended and reenacted as follows:

2. The election judges and poll clerks for each precinct must be appointed in writing by the district chairs representing the two parties that cast the largest number of votes in the state at the last general election. ~~Each election judge and poll clerk must be given a certificate of appointment signed by the chair of the district committee of the judge's party.~~ In voting precincts or districts in which over one thousand votes are cast in any election, the county auditor may request each district party chair to appoint an additional election judge. In voting precincts or districts in which over three hundred votes are cast in any election each district party chair may appoint additional poll clerks as determined by the county auditor. The district party chair shall notify the county auditor of the counties in which the precincts are located of the appointment of the election judges and poll clerks at least twenty-one days before the primary, general, or special election. If this notice is not received within the time specified in this section, the county auditor shall appoint the judges and poll clerks. If the county auditor has exhausted all practicable means to select judges and clerks from within the voting precinct and vacancies still remain, the county auditor may select election judges and clerks who reside outside of the voting precinct but who reside within the precinct's legislative district. If vacancies still remain, the county auditor may select election judges and clerks who reside outside of the legislative district but who reside within the county. If at any time before or during an election, it shall be made to appear to an election inspector, by the affidavit of two or more qualified electors of the precinct, that any election judge or poll clerk is disqualified under this chapter, the inspector shall remove that judge or clerk at once and shall fill the vacancy by appointing a qualified person of the same political party as that of the judge or clerk removed. If the disqualified judge or clerk had taken the oath of office as prescribed in this chapter, the inspector shall place the oath or affidavit before the state's attorney of the county.

¹⁰⁹ **SECTION 2. AMENDMENT.** Subsection 2 of section 16.1-07-08 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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 an envelope must be enclosed with the ballot or ballots. The front of the 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 statement 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) that statement in the presence of a disinterested person. The disinterested person shall print the name of the person marking the X below the X and shall sign that person's own name following the printed name with the notation "witness to the mark".

SECTION 3. AMENDMENT. Subsection 3 of section 16.1-10-01 of the North Dakota Century Code is amended and reenacted as follows:

3. Is guilty of the use of state services or property or the services or property of a political subdivision of the state for political purposes.

SECTION 4. AMENDMENT. Section 16.1-10-02 of the North Dakota Century Code is amended and reenacted as follows:

16.1-10-02. Use of state or political subdivision services or property for political purposes.

1. No person may use any property belonging to or leased by, or any service which is provided to or carried on by, either directly or by contract, the state or any agency, department, bureau, board, ~~or~~ commission, or political subdivision thereof, for any political purpose.
2. The following definitions must be used for the purposes of this section:

¹⁰⁹ Section 16.1-07-08 was also amended by section 2 of Senate Bill No. 2372, chapter 205.

- a. "Political purpose" means any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office whether the activity is undertaken by a candidate, political committee, political party, or any other person but does not include activities undertaken in the performance of a duty of state or political subdivision office.
- b. "Property" includes, but is not limited to, motor vehicles, telephones, typewriters, adding machines, postage or postage meters, funds of money, and buildings. However, nothing in this section may be construed to prohibit any candidate, political party, committee, or organization from using any public building for such political meetings as may be required by law, or to prohibit such candidate, party, committee, or organization from hiring the use of any public building for any political purpose if such lease or hiring is otherwise permitted by law.
- c. "Services" includes, but is not limited to, the use of employees during regular working hours for which such employees have not taken annual or sick leave or other compensatory leave.

SECTION 5. AMENDMENT. Section 16.1-10-04.1 of the North Dakota Century Code is amended and reenacted as follows:

16.1-10-04.1. Certain political advertisements to disclose name of sponsor - Name disclosure requirements. Every political advertisement by newspaper, pamphlet or folder, display card, sign, poster, or billboard, or by any other similar public means, on behalf of or in opposition to any candidate for public office, designed to assist, injure, or defeat the candidate by reflecting upon the candidate's personal character or political action, must disclose ~~at the bottom of~~ on the advertisement the name ~~or names of the sponsor or sponsors of the advertisement, and the name or names of the person, persons, associations, or partnerships~~ as defined in section 16.1-08.1-01, or political party paying for the advertisement. If the name of ~~an~~ a political party, association, or partnership is used, the disclaimer must also include the name of the chairman or other responsible person from the political party, association, or partnership. The name ~~or names of the person, persons, associations, or partnerships~~ or political party paying for any radio or television broadcast containing any advertising announcement for or against any candidate for public office must be announced at the close of the broadcast. If the name of ~~an~~ a political party, association, or partnership is used, the disclaimer must also include the name of the chairman or other responsible person from the political party, association, or partnership. In every political advertisement in which the name of the ~~sponsor or person, association, or partnership~~ or political party paying for the advertisement is disclosed, the first and last name of any named person must be disclosed. An advertisement paid for by an individual candidate or group of candidates must disclose that the advertisement was paid for by the individual candidate or group of candidates. The first and last name or names of the candidates paying for the advertisement are not required to be disclosed. This section does not apply to campaign buttons.

SECTION 6. AMENDMENT. Section 16.1-11-18 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-18. Party committees to fill vacancy occurring in nomination for party office.

1. If a vacancy occurs in any party certificate of endorsement at the primary election for any state or legislative district office, the proper state or district executive committee of the political party may fill the vacancy by filing another certificate of endorsement with the proper officer as provided in sections 16.1-11-06 and 16.1-11-11.
2. If no party endorsement has been made by certificate and a vacancy occurs in a slate of candidates seeking party nomination by petition at the primary election, the proper state or district executive committee may fill the vacancy by filing a certificate of endorsement with the proper officer as provided in sections 16.1-11-06 and 16.1-11-11.
3. If party endorsements by certificate have been made for any state or district office and a vacancy occurs in the slate of persons seeking nomination at the primary election because of the unavailability of the person who is seeking nomination by petition, that vacancy may not be filled except by petition.
4. If a vacancy occurs in a slate of statewide candidates after the candidates have been nominated at the primary election, the proper state executive committee may fill any vacancy by filing a certificate of nomination with the secretary of state. The chairman and secretary of the committee shall make and file with the secretary of state a certificate setting forth the cause of the vacancy, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and any further information as may be required to be given in an original certificate of nomination. When such a certificate is filed, the secretary of state shall certify the new nomination and the name of the person who has been nominated to fill the vacancy in place of the original nominee to the various auditors. If the secretary of state already has forwarded the certificate, the secretary of state forthwith shall certify to the auditors the name and address of the new nominee, the office the new nominee is nominated for, the party or political principle the new nominee represents, and the name of the person for whom the new nominee is substituting. Failure to publish the name of a new nominee does not invalidate the election.
5. If a vacancy occurs in a slate of legislative candidates after the candidates have been nominated at the primary election, the proper district executive committee may fill the vacancy by filing a certificate of nomination with the county auditor of the new nominee's county of residence. The chairman and secretary of the committee shall make and file with the county auditor of the new nominee's county of residence a certificate setting forth the cause of the vacancy, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and any further information as may be required to be given in an original certificate of nomination. When the certificate is filed, the county auditor of the new nominee's county of residence shall certify the new nomination to the various auditors affected by the change and to the secretary of state by forwarding to them the name of the person who has been nominated to fill the vacancy in place of the original nominee. The certification must include the name and address of the new nominee, the office the new

nominee is nominated for, the party or political principle the new nominee represents, and the name of the person for whom the new nominee is substituting. Failure to publish the name of a new nominee does not invalidate the election.

~~With the exception of vacancies filled pursuant to section 16.1-12-08, vacancies~~
Vacancies to be filled according to the provisions of this section may be filled not later than sixty days prior to the election.

SECTION 7. AMENDMENT. Section 16.1-11-19 of the North Dakota Century Code is amended and reenacted as follows:

16.1-11-19. Filling vacancy existing on no-party ballot - Petition required - Time of filing. If a vacancy exists on a no-party ballot for a state office or for judge of a district court, the vacancy may be filled by filing with the secretary of state, before four p.m. on the ~~fifty-sixth~~ sixtieth day prior to the primary election, a written petition as provided in section 16.1-11-06, stating that the petitioner desires to become a candidate for nomination to the office for which a vacancy exists. If the petition is mailed, it must be in the possession of the secretary of state before four p.m. on the ~~fifty-sixth~~ sixtieth day prior to the primary election. The petition for the nomination of any person to fill the vacancy must be signed by qualified electors equal in number to at least two percent of the total vote cast for governor at the most recent general election in the state or district at which the office of governor was voted upon, but in no case may more than three hundred signatures be required.

If a vacancy exists on a no-party ballot in a county or district within a county, the vacancy may be filled by filing with the county auditor, before four p.m. of the ~~fifty-sixth~~ sixtieth day prior to the primary election, a written petition as provided in section 16.1-11-11, stating that the petitioner desires to become a candidate for nomination to the office for which a vacancy exists. If the petition is mailed, it must be in the possession of the county auditor before four p.m. on the ~~fifty-sixth~~ sixtieth day prior to the primary election. The petition for the nomination of any person to fill the vacancy must be signed by qualified electors as provided in subdivision c of subsection 2 of section 16.1-11-11. A vacancy in the no-party ballot must be deemed to exist when a candidate who was qualified by filing a petition pursuant to section 16.1-11-06 or 16.1-11-11 dies, resigns, or otherwise becomes disqualified to have the candidate's name printed on the ballot.

SECTION 8. 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 ten days and before four p.m. on the tenth day following any general election, the county auditor of each county, under official seal, shall return to the secretary of state a certified abstract of the votes cast in the county at the election for each candidate for state and congressional offices, judges of the district courts, candidates for the legislative assembly, and for amendments to the constitution and other measures. In presidential years the county auditor shall make a separate certified abstract of the votes cast for electors for president and vice president of the United States. The separate abstract for presidential electors must be sealed, endorsed "presidential election returns", and must be transmitted by registered or certified mail to the secretary of state. ~~At the time the county auditor transmits the certified abstract of the votes cast in the county, the county auditor shall file with the secretary of state the names and addresses of the persons who were elected to the various county offices in the county.~~

SECTION 9. REPEAL. Sections 16.1-12-08 and 46-05-05 of the North Dakota Century Code are repealed.

Approved April 13, 2001
Filed April 13, 2001

CHAPTER 204

HOUSE BILL NO. 1047

(Legislative Council)
(Judiciary Committee)

VOTE CHALLENGING

AN ACT to amend and reenact section 16.1-05-06 of the North Dakota Century Code, relating to challenging the right of a person to vote.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-05-06 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

16.1-05-06. Challenging right of person to vote - Affidavit Identification or affidavit required - Penalty for false swearing - Optional poll checkers.

1. One poll challenger appointed by the district chairman of each political party represented on the election board is entitled to be in attendance at each polling place. Individual poll challengers may be replaced at any time during the hours of voting, but no more than one poll challenger from each political party is entitled to be in attendance at each polling place at any one time.
2. The members of the election board and poll challengers may challenge the right of anyone to vote whom they know or have reason to believe is not a qualified elector. Members of the election board or poll challengers may challenge a voter if they know or have reason to believe any of the following:
 - a. The person offering to vote does not meet the age or citizenship requirements.
 - b. The person offering to vote has never voted in the precinct before and fails to provide reasonable evidence of residency in the precinct.
 - c. Except as provided in section 16.1-01-05, the person offering to vote physically resides outside of the precinct.
 - d. The person offering to vote does not meet the residency requirements provided in section 16.1-01-05.
3. A poll challenger or election board member may request that the person offering to vote provide an appropriate form of identification to address any of the voting eligibility concerns listed in subsection 2. If any person offering to vote is challenged by a the identification provided does not adequately resolve the voter eligibility concerns of the poll challenger or by a member of the election board member, the challenged person, unless the challenge is withdrawn, shall stand aside and may not vote unless the challenged person executes an affidavit, acknowledged

before the election inspector, that the challenged person is a legally qualified elector of the precinct.

4. The affidavit must include:
 - a. The name and present address of the affiant and the address of the affiant at the time the affiant last voted.
 - b. The previous last name of the affiant if it was different when the affiant last voted.
 - c. A recitation of the qualifications for voting as set forth in section 16.1-01-04 and the rules for determining residence.
 - d. Notice of the penalty for making a false affidavit and that the county auditor may verify the affidavit.
 - e. A place for the affiant to sign and swear to the affiant's qualifications as a voter.
5. Written notice of the penalty for making a false affidavit and that the county auditor may verify the affidavits must also be prominently displayed at the polling place in a form prescribed by the secretary of state. Any person who falsely swears in order to vote is guilty of a class A misdemeanor and must be punished pursuant to chapter 16.1-01.
6. The county auditor shall verify randomly at least ten percent of the affidavits signed in the county and shall report all known or suspected violations to the state's attorney for investigation and possible prosecution.
7. In addition to the poll challenger, not more than two poll checkers appointed by the district chairman of each political party represented on the election board may be in attendance at each polling place, provided such poll checkers do not interfere with the election process or with the members of the election board in the performance of their duties. The poll challengers and poll checkers must be qualified electors of the district in which they are assigned.
8. No poll challenger or checker may be a member of the election board.

Approved March 20, 2001
Filed March 20, 2001

CHAPTER 205

SENATE BILL NO. 2372

(Senator Dever)
(Representatives Dosch, Meier)

ABSENT VOTER'S BALLOTS

AN ACT to create and enact a new subsection to section 16.1-07-08 of the North Dakota Century Code, relating to absent voter's ballots; and to amend and reenact section 16.1-07-04 of the North Dakota Century Code, relating to the distribution of absent voter's ballots.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-07-04 of the North Dakota Century Code is amended and reenacted as follows:

16.1-07-04. When ballots furnished proper officials. The county auditor, or any other officer required by law to prepare any general, special, or primary state election ballots or any county election ballots, shall prepare, have printed, and deliver to the county auditor at least forty days ~~prior to~~ before the holding of any general, special, or primary state election a sufficient number of absent voter ballots for the use of all voters likely to require such ballots for that election. In city or school elections the auditor or clerk of the city, the business manager of the school district, or any other officer required by law to prepare city or school election ballots, shall prepare and have printed and available for distribution to the public at least twenty days ~~prior to~~ before the holding of any city or school election a sufficient number of absent voter ballots for the use of all voters likely to require such ballots for that election. Officers authorized to distribute absent voter's ballots under this chapter shall ensure all ballots used as absent voter's ballots are secure at all times and accessible only to those persons under the officer's supervision for distribution.

¹¹⁰ **SECTION 2.** A new subsection to section 16.1-07-08 of the 1999 Supplement to the North Dakota Century Code is created and enacted as follows:

Each person 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.

Approved March 22, 2001
Filed March 22, 2001

¹¹⁰ Section 16.1-07-08 was also amended by section 2 of House Bill No. 1318, chapter 203.

CHAPTER 206

HOUSE BILL NO. 1354

(Representatives Galvin, Byerly, Grande, M. Klein)
(Senator Thane)

ABSENTEE BALLOT COUNTING

AN ACT to amend and reenact sections 16.1-07-09 and 16.1-15-19 and subsections 5 and 6 of section 16.1-16-01 of the North Dakota Century Code, relating to the counting of absentee ballots.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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 voters' 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. 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. 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 first determine that the elector was qualified to vote in that precinct and that the elector did not previously vote in that precinct on the date of the election before allowing the ballot to be tallied.

SECTION 2. AMENDMENT. Section 16.1-15-19 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

16.1-15-19. County canvassing board to disregard technicalities, misspelling, and abbreviations - Votes from unestablished precincts disregarded. In canvassing the election returns, the county canvassing board shall disregard technicalities, misspelling, and the use of initial letters or abbreviations of the name of any candidate for office if it can be ascertained for whom the vote was intended. The board may not count votes polled in any place except at established precincts. The county canvassing board is authorized to stamp and initial ~~properly postmarked~~ all absentee ballots cast pursuant to section 16.1-07-09 that were not considered or counted or were rejected at the various precincts in the county for the reasons provided in sections 16.1-07-11 and 16.1-07-12.

SECTION 3. AMENDMENT. Subsections 5 and 6 of section 16.1-16-01 of the 1999 Supplement to the North Dakota Century Code are amended and reenacted as follows:

5. Except for recounts conducted by political subdivisions other than counties, recounts must be conducted by the county auditor who may employ up to four qualified electors of the county to assist in the recount. The county auditor shall review all paper, machine, and electronic voting system ballots, whether the ballots were counted at the precinct or the county canvass, and all ~~properly postmarked~~ absentee ballots cast pursuant to section 16.1-07-09 to determine which ballots were cast and counted according to the law. The county auditor shall check the precinct count and the count of the county canvassing board. If the county auditor is a candidate involved in the recount, the county auditor is disqualified from acting thereon, and the clerk of the district court of the county shall perform the duties required of the county auditor by this section. The election officer in a political subdivision other than a county which is conducting a recount shall administer a recount in the same manner as is required under this subsection for counties with respect to political subdivision ballot measures, questions, or bond issues.
6. The persons entitled to participate at the recount are:
 - a. Each candidate involved in the recount, either personally or by a representative.
 - b. A qualified elector favoring each side of a question if the recount involves a question or proposition submitted to a vote of the electorate.

The persons allowed to participate may challenge the acceptance or exclusion of any ballot. The person challenging a ballot must state the reason for the challenge based upon the law, and the county auditor or other political subdivision election official shall count the challenged ballot as the auditor or election official deems proper and shall then set the ballot aside with a notation that it was challenged and how it was counted. At the conclusion of the recount, the county auditor or other election official shall submit all challenged ballots to the recount board for decision. Except for political subdivision recounts other than counties, the recount board must be composed of the state's attorney of the county, the chairman of the board of county commissioners, and the clerk of the district court of the county. Unless otherwise specified by law, for a political subdivision other than a county, the governing body of the political subdivision shall appoint the recount board. No person may serve on the recount board if the person would not be qualified to serve on the election board pursuant to subsection 2 of section 16.1-05-02. If any of the members of the recount board are disqualified or cannot serve for any other reason, the members of the board of county commissioners or other political subdivision governing body who would be qualified to serve on the board shall appoint disinterested qualified electors of the county or other political subdivision to serve as alternates. The recount board shall review all challenged ballots and on majority vote shall decide how those ballots are counted. The recount board is authorized to stamp and initial ~~properly postmarked~~ all absentee ballots cast pursuant to section 16.1-07-09 that were not considered or counted or were rejected at the various precincts in the county for the reasons provided in sections 16.1-07-11 and 16.1-07-12 or by the county canvassing boards as provided in section 16.1-15-19. The decision of the recount board is final, subject to the right to contest the election as provided in this chapter. If during the recount a recess is

called, the county auditor or other political subdivision election official shall take appropriate steps to safeguard the ballots.

Approved April 5, 2001
Filed April 5, 2001

CHAPTER 207

HOUSE BILL NO. 1456

(Representatives Kroeber, Winrich)
(Senator Every)

CAMPAIGN CONTRIBUTION STATEMENT FILING

AN ACT to create and enact a new section to chapter 16.1-08.1 of the North Dakota Century Code, relating to the filing of campaign contribution statements by political committees; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 16.1-08.1 of the North Dakota Century Code is created and enacted as follows:

Contributions statement required of political committees.

1. A political committee that solicits or accepts contributions for any political purpose shall file statements as required by this section.
2. A political committee shall file a detailed list showing the name and mailing address of each contributor who contributed in excess of two hundred dollars in the aggregate to the committee during a reporting period, the amount of each reportable contribution in excess of two hundred dollars, and the date each reportable contribution was received.
3. A political committee required to file a statement under this section shall file the statement in the office of secretary of state no later than the twelfth day before the date of any primary, special, or general election. The statement must be complete from the beginning of that calendar year through the twentieth day before the date of the primary, special, or general election. The political committee shall file a complete statement for the entire calendar year no later than the thirty-first day of January of the following year in which the political committee received a reportable contribution.
4. Even if a political committee has not received any contribution in excess of two hundred dollars during the reporting period, the political committee shall file a statement as required by this chapter.

Approved April 13, 2001
Filed April 13, 2001

CHAPTER 208

HOUSE BILL NO. 1370

(Representatives Kroeber, Fairfield)

(Senators Heitkamp, C. Nelson)

SUPPLEMENTAL CAMPAIGN CONTRIBUTION STATEMENTS

AN ACT to amend and reenact section 16.1-08.1-04 of the North Dakota Century Code, relating to supplemental campaign contribution statements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹¹¹ **SECTION 1. AMENDMENT.** Section 16.1-08.1-04 of the North Dakota Century Code is amended and reenacted as follows:

16.1-08.1-04. Supplemental statement required on large contributions received after original statement - Filing time. If any candidate, political party, or person soliciting or accepting contributions for the purpose of aiding the circulation of statewide initiative or referendum petitions or of promoting passage or defeat of a statewide initiated or referred measure receives any contribution in excess of five hundred dollars ~~or more~~ in the twenty-day period ~~prior to~~ before any election from any individual contributor, that candidate, political party, or person shall make and file a supplemental statement in the same form as required by section 16.1-08.1-02, 16.1-08.1-03, or 16.1-08.1-03.1, stating the name and street address of ~~such~~ the contributor and the amount of the contribution, and file the statement in the appropriate office within forty-eight hours of the receipt of the contribution.

Approved April 5, 2001

Filed April 5, 2001

¹¹¹ Section 16.1-08.1-04 was also amended by section 5 of House Bill No. 1426, chapter 202.

CHAPTER 209

SENATE BILL NO. 2230

(Senators Solberg, G. Nelson, Traynor)
(Representatives Devlin, N. Johnson)

LEGISLATIVE VACANCY FILLING

AN ACT to amend and reenact sections 16.1-13-10 and 44-02-02 of the North Dakota Century Code, relating to filling a vacancy in a legislative office and resignation of a member of the legislative assembly; and to repeal section 16.1-13-11 of the North Dakota Century Code, relating to the duty of the governor when a vacancy occurs in the legislative assembly.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-13-10 of the North Dakota Century Code is amended and reenacted as follows:

16.1-13-10. Vacancy existing in office of member of legislative assembly
~~- **Special election to fill.** Whenever~~ If a vacancy in the office of a member of the legislative assembly occurs, the county auditor of the county in which ~~such the~~ former member resides or resided shall notify the ~~governor~~ chairman of the ~~legislative council~~ of the vacancy. The county auditor need not notify the ~~governor~~ chairman of the legislative council of the resignation of a member of the legislative assembly when the resignation was made pursuant to under section 44-02-02. ~~Upon receiving such notification, the governor, if there is a session of the legislative assembly between the time such vacancy occurs and the time of the holding of the next general election, shall issue a writ of election directed to the auditor of each affected county commanding the auditor to notify the several boards of election in the county or district in which the vacancy exists to hold a special election to fill such vacancy at a time designated by the governor. If there is no session of the legislative assembly between the time such vacancy occurs and the time of the holding of the next general election, the special election must be held at the same time as the general election. If the term of office of the member whose office is vacated expires prior to the next session of the legislative assembly, no election shall be held to fill such vacancy.~~ Upon receiving notification of a vacancy, the chairman of the legislative council shall notify the district committee of the political party that the former member represented in the district in which the vacancy exists. The district committee shall hold a meeting within twenty-one days after receiving the notification and select an individual to fill the vacancy. If the former member was elected as an independent candidate or if the district committee does not make an appointment within twenty-one days after receiving the notice from the chairman of the legislative council, the chairman of the legislative council shall appoint a resident of the district to fill the vacancy. If eight hundred twenty-eight days or more remain until the expiration of the term of office for that office, the individual appointed to fill the vacancy shall serve until a successor is elected at the next general election to serve for the remainder of the term of office for that office.

SECTION 2. AMENDMENT. Section 44-02-02 of the North Dakota Century Code is amended and reenacted as follows:

44-02-02. Resignations of officers - To whom made. The resignation of an officer must be in writing and must be made as follows:

1. The governor and lieutenant governor, to the legislative assembly, if it is in session, and if not, to the secretary of state.
2. Any other state or district officer, to the governor.
3. A member of the legislative assembly, to the presiding officer of the branch of which ~~he~~ the individual is a member, when in session, and when not in session, to the ~~governor~~ chairman of the legislative council. When made to the presiding officer, ~~he~~ the presiding officer at once shall notify the ~~governor thereof~~ chairman of the legislative council of the resignation.
4. An officer of the legislative assembly, to the branch of which ~~he~~ the individual is an officer.
5. An elective county officer, by filing or depositing ~~such~~ the resignation in the office of the county auditor, except that the resignation of the county auditor must be filed or deposited with the board of county commissioners. Any ~~such~~ resignation under this subsection, unless a different time is fixed therein, takes effect upon ~~such~~ the filing or deposit.
6. An officer of a civil township, to the board of supervisors of the township, except that a member of ~~such~~ the board shall submit ~~his~~ the member's resignation to the township clerk, and the township clerk forthwith shall give to the county auditor notice of the resignation of all officers whose bonds are filed with ~~such~~ that officer.
7. Any officer holding ~~his~~ office by appointment, to the body, board, court, or officer which appointed ~~him~~ the officer.

SECTION 3. REPEAL. Section 16.1-13-11 of the North Dakota Century Code is repealed.

Approved March 22, 2001
Filed March 22, 2001