

**SENATE BILL NO. 2394**

Introduced by

Senators Krebsbach, J. Lee, Nelson, Traynor

Representatives Froelich, Koppelman

1 A BILL for an Act to create and enact chapter 16.1-02 and three new sections to chapter  
2 16.1-05 of the North Dakota Century Code, relating to providing a central voter file for the  
3 purpose of preventing and determining voter fraud, election boards checking identification and  
4 verifying voter eligibility, provisional voting, and election boards being provided with precinct  
5 maps and precinct locators; to amend and reenact sections 16.1-01-04, 16.1-05-06, 16.1-15-17,  
6 and 54-09-08 of the North Dakota Century Code, relating to qualifications of voters, challenging  
7 voters, and fees received by the secretary of state; and to provide a penalty.

**8 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Section 16.1-01-04 of the North Dakota Century Code is  
10 amended and reenacted as follows:

**11 16.1-01-04. Qualifications of electors.**

- 12 1. Every citizen of the United States who is: eighteen years or older; a resident of this  
13 state; and has resided in the precinct at least thirty days next preceding any  
14 election, except as otherwise provided in regard to residency in chapter 16.1-14, is  
15 a qualified elector.
- 16 2. ~~Every~~ As it pertains to this title, every qualified elector of the state may have only  
17 one ~~voting~~ residence, shown by an actual fixed permanent dwelling or  
18 establishment.
- 19 3. ~~A~~ Except as otherwise provided in this section, a person's ~~voting~~ residence must  
20 be determined in accordance with the rules for determining residency as provided  
21 in section 54-01-26.
- 22 4. Pursuant to section 2 of article II of the Constitution of North Dakota, voting by  
23 persons convicted and sentenced for treason or felony must be limited according to  
24 chapter 12.1-33.

1           5. As it pertains to this title, a person may not be deemed to have gained or lost a  
2           residence solely by reason of the person's presence or absence while enrolled as  
3           a student at a college, university, or other postsecondary institution of learning in  
4           this state.

5           6. As it pertains to this title, a member of the armed forces of the United States may  
6           not be deemed to have acquired a residence in this state solely by reason of the  
7           member being stationed on duty in this state.

8           7. As it pertains to this title, a person may not be deemed to have lost residence in  
9           the person's precinct or in the state by reason of the person engaging in temporary  
10          government service or private employment outside the person's precinct or outside  
11          the state.

12          **SECTION 2.** A new section to chapter 16.1-02 of the North Dakota Century Code is  
13 created and enacted as follows:

14          **Permanent central voter file.** A permanent, centralized, electronic data base of  
15 voters, to be known as the central voter file is established with the offices of the secretary of  
16 state and county auditors linked together by a centralized statewide system. The county auditor  
17 is chief custodian of the central voter file records in each county. The secretary of state is  
18 responsible for maintaining the central voter file. The central voter file must be accessible by  
19 the secretary of state and all county auditors for purposes of preventing and determining voter  
20 fraud, making changes and updating the central voter file, and generating information, including  
21 pollbooks, reports, inquiries, forms, and voter lists.

22          **SECTION 3.** A new section to chapter 16.1-02 of the North Dakota Century Code is  
23 created and enacted as follows:

24          **Costs of creating and maintaining a central voter file.** The creation of a central  
25 voter file and its maintenance through December 31, 2008, must be paid for with funds from the  
26 state's election fund, provided the election fund contains adequate funding to create and  
27 maintain a central voter file according to this chapter. The creation of a central voter file and its  
28 maintenance through the general election in 2008, may not be paid for from funds in the  
29 secretary of state's budget or the state's general fund or from county funds. Beginning  
30 January 1, 2009, the office required to perform the functions and duties of this chapter must

1 bear the costs incurred and the secretary of state shall pay the costs of operating and  
2 maintaining the statewide registration system.

3       **SECTION 4.** A new section to chapter 16.1-02 of the North Dakota Century Code is  
4 created and enacted as follows:

5       **Secretary of state and county auditors to establish central voter file.**

- 6       1. Before the primary election in 2004, the secretary of state shall establish the  
7       central voter file in cooperation with county auditors.
- 8       2. The initial central voter file must be created from all precinct pollbooks used during  
9       and created from the general election in 2002 and any reasonably reliable updates  
10       made by county auditors since the general election in 2002. A county auditor is  
11       authorized to include in the initial central voter file any voter who voted at the  
12       general election in 2000, but did not vote at the general election in 2002, provided  
13       the county auditor can determine that the voter continues to reside at the same  
14       residential address listed in the pollbook from the general election in 2000.
- 15       3. The secretary of state shall match the initial central voter file compiled according to  
16       subsection 1 against records maintained by the department of transportation for  
17       the purpose of assigning the last four digits of a voter's driver's license number to  
18       the name of a voter contained in the initial central voter file. If it is impossible to  
19       assign the last four digits of a voter's driver's license number to a voter contained in  
20       the initial central voter file, the voter must be assigned the six digits of the voter's  
21       date of birth. If it is impossible to assign the last four digits of a voter's driver's  
22       license number or the six digits of a voter's date of birth to a voter contained in the  
23       initial central voter file, the voter must be designated in the initial central voter file  
24       as a voter whose unique identifier will be required to be generated when voting for  
25       the first time at a future state election.
- 26       4. The last four digits of a voter's driver's license number or the six digits of the voter's  
27       date of birth and the voter's last name serve as a voter's unique identifier in the  
28       initial central voter file.
- 29       5. When matching the initial central voter file against the records maintained by the  
30       department of transportation, the secretary of state shall attempt to correct address  
31       errors and misspellings of voters' names.

1           **SECTION 5.** A new section to chapter 16.1-02 of the North Dakota Century Code is  
2 created and enacted as follows:

3           **Precinct boundaries changed - Change of central voter file.** When the boundaries  
4 of a precinct are changed, the county auditor shall immediately update the voter records for that  
5 precinct in the central voter file to accurately reflect those changes.

6           **SECTION 6.** A new section to chapter 16.1-02 of the North Dakota Century Code is  
7 created and enacted as follows:

8           **Query of central voter file for double voting - Verification by mail - Challenges -**  
9 **Post-election verification.**

- 10           1. To prevent fraudulent voting and to eliminate excess names, the secretary of state,  
11 with the assistance of the county auditors, within ten days following an election,  
12 shall query the central voter file to determine if any voter voted more than once  
13 during the preceding election. The secretary of state shall immediately notify the  
14 county auditors and state's attorneys in the affected county or counties for further  
15 investigation according to section 17 of this Act.
- 16           2. To prevent fraudulent voting and to eliminate excess names, the county auditor  
17 may mail to any voter contained in the central voter file a notice stating the voter's  
18 name and address as they appear in the central voter file. The notice must request  
19 the voter to notify the county auditor if there is any mistake in the information.
- 20           3. Upon return of any nonforwardable mailing from an election official, the county  
21 auditor or the auditor's staff shall ascertain the name and address of that individual.  
22 If the individual is no longer at the address recorded in the central voter file, the  
23 county auditor shall designate the voter as challenged in the central voter file. An  
24 individual designated as challenged in accordance with this subsection shall  
25 comply with the provisions of section 16.1-05-06 before being allowed to vote at  
26 the next election in that precinct. If a notice mailed at least sixty days after the  
27 return of the first nonforwardable mail is also returned by the postal service, the  
28 county auditor shall designate the voter as inactive in the central voter file.
- 29           4. Within twenty days after an election, the county auditor shall send the notice  
30 provided for under subsection 2 to a random sampling of the voters who voted on  
31 election day and to each voter who was challenged on election day according to

1           section 16.1-05-06. The random sampling must be determined in accordance with  
2           rules established by the secretary of state. If a notice is returned as not  
3           deliverable, the county auditor shall attempt to determine the reason for the return.  
4           A county auditor who does not receive or obtain satisfactory proof of an individual's  
5           eligibility to vote shall immediately notify the state's attorney and the secretary of  
6           state.

7           **SECTION 7.** A new section to chapter 16.1-02 of the North Dakota Century Code is  
8 created and enacted as follows:

9           **Report of deceased voters - Changes to voter records in central voter file.**

- 10          1.   The state health officer shall report monthly to the secretary of state the name,  
11           address, date of birth, and county of residence of each individual eighteen years of  
12           age or older who has died while maintaining residence in this state since the last  
13           previous report. The secretary of state shall determine if any of the persons listed  
14           in the report are contained in the central voter file and shall prepare a list of those  
15           voters for each county auditor. Within sixty days after receiving the list from the  
16           secretary of state, the county auditor shall designate those voters as deceased in  
17           the central voter file.
- 18          2.   After receiving notice of death of a voter who has died outside the county, the  
19           county auditor shall designate that voter as deceased in the central voter file.  
20           Notice must be in the form of a printed obituary or a written statement signed by a  
21           voter of the county.
- 22          3.   The county auditor may delete the records in the central voter file of voters whose  
23           change of address can be confirmed by the United States postal service. The  
24           secretary of state may provide the county auditors with periodic reports on voters  
25           whose change of address can be confirmed by the United States postal service.
- 26          4.   If a voter makes a written request for removal of the voter's record from the central  
27           voter file, the county auditor shall remove the record of the voter from the central  
28           voter file.

29           **SECTION 8.** A new section to chapter 16.1-02 of the North Dakota Century Code is  
30 created and enacted as follows:

1        **Clerk of district court to report changes of names.** The clerk of district court in each  
2 county shall report monthly to the county auditor the name and address of each individual,  
3 eighteen years of age or older, who maintains residence in that county and whose name was  
4 changed during the month preceding the date of the report, by marriage, divorce, or any order  
5 or decree of the court. Upon receipt of the report, the county auditor shall notify by mail each  
6 voter whose name was changed that the voter's name will be changed accordingly in the  
7 central voter file.

8        **SECTION 9.** A new section to chapter 16.1-02 of the North Dakota Century Code is  
9 created and enacted as follows:

10        **District judge to report guardianships and commitments.**

11        1. The clerk of district court shall report monthly to the county auditor the name,  
12 address, and date of birth of each individual eighteen years of age or older, who  
13 during the month preceding the date of the report was:

14        a. Placed under a guardianship of the person; or

15        b. Adjudged legally incompetent.

16        The clerk of district court shall also report the same information for each individual  
17 transferred to the jurisdiction of the court who meets a condition specified in  
18 subdivision a or b. The county auditor shall determine if any of the names of the  
19 persons in the report are contained in the central voter file and shall designate the  
20 voter as ineligible in the central voter file.

21        2. Restoration to capacity. The clerk of district court shall report monthly to the  
22 county auditor the name, address, and date of birth of each individual transferred  
23 from guardianship to conservatorship or who is restored to capacity by the court  
24 after being ineligible to vote for any of the reasons specified in subsection 1. The  
25 county auditor shall determine if any of the names of the persons in the report are  
26 contained in the central voter file and shall remove the designation of the voter  
27 from ineligible in the central voter file.

28        **SECTION 10.** A new section to chapter 16.1-02 of the North Dakota Century Code is  
29 created and enacted as follows:

30        **Report on incarcerations.** The director of the department of corrections and  
31 rehabilitation shall report monthly to the secretary of state the name, address, date of birth, date

1 of sentence, effective date of the sentence, and county in which the conviction occurred of each  
2 person who has been convicted of a felony. The director of the department of corrections and  
3 rehabilitation shall also report the name, address, and date of birth of each person previously  
4 convicted of a felony whose civil rights have been restored as provided in section 12.1-33-02.  
5 The secretary of state shall determine if any of the names of the persons in the report are  
6 contained in the central voter file and shall prepare a list of those voters for each county auditor.  
7 The county auditor shall designate those voters as inactive in the central voter file.

8       **SECTION 11.** A new section to chapter 16.1-02 of the North Dakota Century Code is  
9 created and enacted as follows:

10       **Posting voting history - Failure to vote - Voters designated inactive.** Within eight  
11 weeks after every election, the county auditor shall post the voting history for every person who  
12 voted in the election. After the close of the 2006 calendar year, the secretary of state shall  
13 determine if any voters have not voted during the preceding four years and shall change the  
14 status of those voters to inactive in the central voter file. The secretary of state shall also  
15 prepare a report to the county auditor containing the names of all voters designated as inactive  
16 in the central voter file. Although not counted in an election, a late absentee ballot from a voter  
17 may not be used to designate a voter as inactive in the central voter file according to this  
18 section.

19       **SECTION 12.** A new section to chapter 16.1-02 of the North Dakota Century Code is  
20 created and enacted as follows:

21       **Secretary of state to adopt rules for the purpose of maintaining the central voter**  
22 **file.** The secretary of state shall adopt uniform rules and procedures according to subsection 3  
23 of section 16.1-01-01 for the purposes of implementing the provisions of this chapter and for  
24 updating and maintaining the central voter file that are consistent with federal and state election  
25 laws. The rules shall:

- 26       1. Provide for the establishment and maintenance of a central voter file.
- 27       2. Provide procedures for entering data into the central voter file.
- 28       3. Provide for interaction with the records maintained by the department of  
29 transportation.

- 1           4.   Allow the offices of all county auditors and the secretary of state to add, modify,  
2                   and delete information from the central voter file to ensure accurate and up-to-date  
3                   records.
- 4           5.   Allow the offices of all county auditors and the secretary of state to have access to  
5                   the central voter file for review, search, and inquiry capabilities.
- 6           6.   Provide security and protection of all information contained in the central voter file  
7                   and to ensure that unauthorized access and entry is prohibited.
- 8           7.   Provide a system for each county to identify the precinct to which a voter should be  
9                   assigned for voting purposes.

10           **SECTION 13.** A new section to chapter 16.1-02 of the North Dakota Century Code is  
11 created and enacted as follows:

12           **Information contained and maintained in the central voter file.** The central voter file  
13 must contain the following information for each voter contained therein:

- 14           1.   The complete name of a voter;
- 15           2.   The complete residential address of a voter;
- 16           3.   The complete mailing address of a voter if different from a voter's residential  
17                   address;
- 18           4.   The last four digits of a voter's driver's license issued by the state or the six digits  
19                   of the voter's date of birth;
- 20           5.   The former name of a voter if applicable;
- 21           6.   The former residential address or addresses of a voter if applicable;
- 22           7.   Designations showing whether the voter's ability to vote in that precinct has been  
23                   inactivated as a result of death, incarceration, or because of a change in  
24                   guardianship or commitment status, or because the voter is no longer a resident of  
25                   the precinct according to section 16.1-01-04;
- 26           8.   Designations showing whether the voter must be challenged according to section  
27                   16.1-05-06;
- 28           9.   The county, legislative district, precinct name, and precinct number in which the  
29                   voter resides; and
- 30           10.   Beginning in 2006, four years of a voter's voting history if applicable.



1           **SECTION 14.** A new section to chapter 16.1-02 of the North Dakota Century Code is  
2 created and enacted as follows:

3           **Information contained in pollbooks generated from the central voter file.** The  
4 pollbook generated from the central voter file for each precinct must be used to indicate  
5 whether the voter has voted in a given election. The secretary of state shall prescribe  
6 procedures for generating pollbooks and for transporting the pollbooks to the election judges for  
7 use on election day. Pollbooks generated from the central voter file must contain the following  
8 information for each voter contained therein:

- 9           1. The complete name of a voter;
- 10          2. The complete residential address of a voter;
- 11          3. The last four digits of a voter's driver's license issued by the state or the six digits  
12             of the voter's date of birth;
- 13          4. The former name of a voter if applicable;
- 14          5. The former residential address or addresses of a voter if applicable;
- 15          6. Designations showing whether the voter's ability to vote in that precinct has been  
16             inactivated as a result of death, incarceration, or because of a change in  
17             guardianship or commitment status, or because the voter is no longer a resident of  
18             the precinct according to section 16.1-01-04;
- 19          7. Designations showing whether the voter must be challenged according to section  
20             16.1-05-06; and
- 21          8. The county, legislative district, precinct name, and precinct number in which the  
22             voter resides.

23           **SECTION 15.** A new section to chapter 16.1-02 of the North Dakota Century Code is  
24 created and enacted as follows:

25           **Voter lists and reports may be made available for election-related purposes only -**  
26 **Funds received.** Voter lists or reports generated from the central voter file may be made  
27 available to the public by the secretary of state or for election-related purposes only. Any  
28 information obtained by the public from lists or reports generated from the central voter file may  
29 not be sold or distributed for purposes that are not election-related. Moneys received by the  
30 secretary of state to pay the costs of producing reports or lists of voters contained in the central

voter file must be deposited in the secretary of state's general services operating fund according to section 54-09-08.

**SECTION 16.** A new section to chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

**Violations - Penalty.**

1. An officer, deputy, clerk, or other employee may not intentionally:

a. Fail to perform or enforce any of the provisions of this chapter except subsection 2;

b. Remove a voter from the central voter file or change a record of a voter contained in the central voter file in a manner or for a purpose not authorized by law; or

c. Add a name or names of voters to the central voter file or add a record or records of a voter contained in the central voter file in a manner or for a purpose not authorized by law.

An individual who violates this subsection is guilty of a class C felony.

2. A deputy, clerk, employee, or other subordinate of a county auditor who has knowledge or reason to believe that a violation of this chapter has occurred shall immediately transmit a report of the knowledge or belief to the county auditor, together with any possessed evidence of the violation. A county auditor who has knowledge or reason to believe that a violation of this chapter has occurred shall immediately transmit a report of the knowledge or belief to the state's attorney of the county where the violation is thought to have occurred, together with any possessed evidence of the violation. The county auditor shall also immediately send a copy of the report to the secretary of state. A violation of this subsection is a misdemeanor.

3. An individual who intentionally violates a provision of this chapter is guilty of a class C felony, unless a different penalty is specifically provided by law.

**SECTION 17.** A new section to chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

**Investigations - Prosecutions.** A state's attorney who is notified of an alleged violation of this chapter shall promptly investigate. If there is probable cause for instituting a

1 prosecution, the state's attorney shall proceed by complaint or present the charge, with  
2 whatever evidence has been found, to the grand jury or file an information. A state's attorney  
3 who refuses or intentionally fails to faithfully perform this or any other duty imposed by this  
4 chapter is guilty of a misdemeanor and upon conviction must forfeit office. The state's attorney,  
5 under the penalty of forfeiture of office, shall prosecute all violations of this chapter except  
6 violations of this section. If, however, a complainant withdraws an allegation under this chapter,  
7 the state's attorney is not required to proceed with the prosecution.

8       **SECTION 18. AMENDMENT.** Section 16.1-05-06 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10       **16.1-05-06. Challenging right of person to vote - Identification or affidavit**  
11 **required - Penalty for false swearing - Optional poll checkers.**

- 12       1. One poll challenger appointed by the district chairman of each political party  
13       represented on the election board is entitled to be in attendance at each polling  
14       place. Individual poll challengers may be replaced at any time during the hours of  
15       voting, but no more than one poll challenger from each political party is entitled to  
16       be in attendance at each polling place at any one time.
- 17       2. ~~The members~~ A member of the election board ~~and poll challengers~~ may challenge  
18       the right of ~~anyone~~ an individual to vote whom they know or have reason to believe  
19       is not a qualified elector. ~~Members~~ A poll challenger may request members of the  
20       election board ~~or poll challengers may~~ to challenge a voter if the right of an  
21       individual to vote whom they know or have reason to believe is not a qualified  
22       elector of the precinct. A challenge may be based upon any one of the following:
  - 23       a. The ~~person~~ individual offering to vote does not meet the age or citizenship  
24       requirements.
  - 25       b. The ~~person~~ individual offering to vote has never voted in the precinct before  
26       and the name of the individual offering to vote does not appear in the pollbook  
27       generated from the central voter file, and the individual fails to provide  
28       reasonable evidence of residency in the precinct.
  - 29       c. Except as provided in section 16.1-01-05, the ~~person~~ individual offering to  
30       vote physically resides outside of the precinct.

- 1 d. The ~~person~~ individual offering to vote does not meet the residency  
2 requirements provided in section ~~46.1-01-05~~ 16.1-01-04.
- 3 3. ~~A poll-challenger or~~ If after an election board member may request has requested  
4 that the ~~person~~ individual offering to vote provide an appropriate form of  
5 identification, as provided under section 19 of this Act, to address any of the voting  
6 eligibility concerns listed in subsection 2. ~~If~~, the identification provided does not  
7 adequately ~~resolve~~ confirm the voter eligibility ~~concerns of the poll-challenger or~~  
8 ~~election board member of the challenged individual~~, the challenged ~~person~~  
9 individual may not vote unless the challenged ~~person~~ individual executes an  
10 affidavit, acknowledged before the election inspector, that the challenged ~~person~~  
11 individual is a legally qualified elector of the precinct.
- 12 4. The affidavit must include:
- 13 a. The name and present address of the affiant and the address of the affiant at  
14 the time the affiant last voted.
- 15 b. The previous last name of the affiant if it was different when the affiant last  
16 voted.
- 17 c. A recitation of the qualifications for voting as set forth in section 16.1-01-04  
18 and the rules for determining residence.
- 19 d. Notice of the penalty for making a false affidavit and that the county auditor  
20 may verify the affidavit.
- 21 e. A place for the affiant to sign and swear to the affiant's qualifications as a  
22 voter.
- 23 f. A space to insert the page number of the pollbook on which the challenged  
24 voter's name appears along with the statement of the reason for the challenge  
25 if the challenge results in the voter voting a provisional ballot according to  
26 subsection 5 and section 20 of this Act.
- 27 5. An individual offering or who fails or refuses to provide an appropriate form of  
28 identification, as provided under section 19 of this Act, and who insists to being a  
29 qualified elector of the precinct must be allowed to vote a provisional ballot, as  
30 provided in section 20 of this Act, after completing and signing a voter's affidavit as  
31 provided in subsection 4.

6. 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.

9. The district chairman shall notify the county auditor of each county contained in the legislative district before the third day before the day of the election of the names of persons who the district chairman has appointed to serve as poll challengers and poll checkers in the various precincts in the legislative district.

**SECTION 19.** A new section to chapter 16.1-05 of the North Dakota Century Code is created and enacted as follows:

**Poll clerks to check identification and verify voter eligibility against the pollbook generated from the central voter file.**

1. Before delivering a ballot to a voter according to section 16.1-13-22, the poll clerks shall request the voter show a driver's license issued by the state or another appropriate form of identification displaying a photograph of the voter and the voter's date of birth. The last four digits of a voter's driver's license number or the six digits of the voter's date of birth, together with the voter's last name serve as a voter's unique identifier in the central voter file, as provided in section 4 of this Act. Using the voter's name and unique identifier, the poll clerks shall verify that a voter's name is contained in the precinct's pollbook generated from the central

1           voter file. After verifying that a voter's name is contained in the pollbook generated  
2           from the central voter file, poll clerks shall verify the voter's residential address and  
3           mailing address.

4           2. If the voter's name is not contained in the pollbook generated from the central voter  
5           file, the voter may be challenged according to section 16.1-05-06 and the voter's  
6           name must be recorded in the pollbook along with the last four digits of the voter's  
7           driver's license number, if the voter presents a driver's license issued by the state,  
8           or the six digits of the voter's date of birth, if the voter presents another appropriate  
9           form of identification displaying a photograph of the voter and the voter's date of  
10          birth as required by this section.

11          3. An individual who fails or refuses to provide an appropriate form of identification, as  
12          provided under this section, and who insists to being a qualified elector of the  
13          precinct, must be allowed to vote a provisional ballot, as provided in section 20 of  
14          this Act, after completing and signing a voter's affidavit as provided in subsection 4  
15          of section 16.1-05-06.

16          4. When verifying a voter's eligibility according to this section, poll clerks shall correct  
17          and update any incorrect or incomplete information about a voter contained in the  
18          pollbook generated from the central voter file, including the voter's name, or parts  
19          thereof, the voter's residential address, and the voter's mailing address.

20          5. A voter whose name appears in the pollbook generated from the central voter file  
21          and whose unique identifier, as provided in section 4 of this Act, is incomplete must  
22          be allowed to vote in the primary election and general elections in 2004 without  
23          being challenged according to section 16.1-05-06 by showing a driver's license  
24          issued by the state or another appropriate form of identification displaying a  
25          photograph of the voter and the voter's date of birth or another appropriate form of  
26          identification approved by the secretary of state, which displays the voter's date of  
27          birth, from which the voter's unique identifier may be generated and recorded in the  
28          pollbook and the central voter file.

29          6. Poll clerks shall direct a voter who is attempting to vote in the incorrect precinct  
30          and should be voting in another precinct to the proper precinct and voting location.

1           **SECTION 20.** A new section to chapter 16.1-05 of the North Dakota Century Code is  
2 created and enacted as follows:

3           **Provisional voting.**

- 4           1. Upon the completion of the affidavit and the marking of the ballot by an individual  
5 offering to vote who is challenged according to subsection 5 of section 16.1-05-06,  
6 the election board member shall insert the marked ballot in an envelope, seal the  
7 envelope, and mark the envelope with the word provisional. The election board  
8 member shall attach the affidavit to the envelope containing the provisional ballot.  
9 The affidavit must be numbered to correspond to the page number on which the  
10 challenged voter's name appears in the pollbook and must also include a  
11 statement of the reason for the challenge. The provisional voter's name must also  
12 be marked in the pollbook as a provisional voter.
- 13          2. A challenged individual who has completed an affidavit and whose ballot has been  
14 designated as provisional according to this subsection has until the closing of the  
15 polls in the precinct to offer any additional information or proof to the election  
16 inspector supporting the challenged individual's qualifications to vote in the  
17 precinct. At any time before the closing of the polls in a precinct, if presented with  
18 sufficient information or proof to confirm a challenged individual's qualifications to  
19 vote in the precinct, an election inspector may withdraw the challenge and order  
20 the election board to open the provisional envelope containing the challenged  
21 individual's ballot and deposit the challenged individual's ballot into the ballot box.
- 22          3. Before the meeting of the county canvassing board, the county auditor, with the  
23 assistance and advice of the state's attorney, shall review each completed affidavit  
24 along with the corresponding statement of the reason for the challenge and shall  
25 make a recommendation, in writing, based upon the qualifications of electors in  
26 section 16.1-01-04 and the rules for determining residence in section 54-01-26 to  
27 the county canvassing board as to whether the challenged voter is qualified to vote  
28 in the precinct and whether the challenged voter's provisional ballot, or portions of  
29 the provisional ballot, should be accepted and counted and canvassed by the  
30 county canvassing board or rejected.

- 1           4.   The county canvassing board shall review each recommendation made by the  
2               county auditor and may consider each completed affidavit, including the statement  
3               of the reason for the challenge, and accept or reject each provisional ballot, or  
4               portions of each provisional ballot, in writing, based upon the qualifications of  
5               electors in section 16.1-01-04 and the rules for determining residence in section  
6               54-01-26. The county canvassing board shall count those provisional ballots, or  
7               portions of those provisional ballots, deemed acceptable by the board.
- 8           5.   That portion of a challenged voter's provisional ballot that the challenged voter is  
9               authorized to vote must be counted.
- 10          6.   Provisional ballots, or portions of provisional ballots, rejected by the county  
11               canvassing board must be preserved and retained with all corresponding materials  
12               for further review and consideration in case of a recount or an election contest.  
13               The decision of the county canvassing board, as it pertains to the counting of  
14               provisional ballots, or portions of provisional ballots, is final, subject only to the  
15               recount and contesting provisions of chapter 16.1-16.
- 16          7.   An election board or county canvassing board shall take precautions to ensure that  
17               secrecy is maintained when opening and counting provisional ballots, or portions of  
18               provisional ballots, and shall proceed in the same manner as prescribed for  
19               opening and counting absent voter's ballots in section 16.1-07-12.
- 20          8.   An otherwise properly completed provisional ballot may not be rejected because an  
21               election official failed to comply with any of the procedures required by this section.
- 22          9.   The county auditor shall report all known or suspected violations to the state's  
23               attorney for investigation and possible prosecution.
- 24          10.   Within fifteen days following the day of the election, the county auditor shall  
25               establish a listing of all challenged voters who voted provisional ballots at the  
26               election in the county and whether or not the challenged voter's ballot, or portions  
27               of the provisional voter's ballot, counted. A challenged voter may contact the  
28               county auditor to determine how that challenged voter's ballot was counted.

29           **SECTION 21.** A new section to chapter 16.1-05 of the North Dakota Century Code is  
30   created and enacted as follows:



1           **County auditor to provide election board members with precinct maps or precinct**  
2 **finder.** The county auditor shall provide each precinct election board with an accurate precinct  
3 map or precinct finder to assist election board members in determining whether an address is  
4 located in that precinct and for determining which precinct and polling location to direct a voter  
5 who may be attempting to vote incorrectly in that precinct correctly.

6           **SECTION 22. AMENDMENT.** Section 16.1-15-17 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8           **16.1-15-17. Time of county canvassing board meeting - Oath required -**  
9 **Reconsideration of canvass.** Not earlier than the third day following each election, but not  
10 later than six days after each election, and provided the county auditor with the assistance and  
11 advice of the state's attorney has reviewed and made recommendations for all provisional  
12 ballots cast in the county at the election, the county canvassing board shall meet and, after  
13 taking the oath of office, shall proceed to open and publicly canvass the returns. After the initial  
14 meeting of the board as provided in this section, any two or more members may call a meeting  
15 of the board and upon approval of a majority of the members, the board shall recanvass the  
16 results of the election or any portion thereof and may correct any previous canvass or  
17 certification or both in regard to the election. Any correction of any previous certification of  
18 election results as provided in this section must be immediately dispatched to the secretary of  
19 state who shall call a meeting of the state canvassing board as provided in section 16.1-15-35  
20 for the purpose of recanvassing and, if necessary, correcting any previous certification of the  
21 election results. A county auditor may apply to the secretary of state not later than two days  
22 following an election for an extension, not to exceed three days, to conduct the meeting of the  
23 county canvassing board at a later date if the number of provisional ballots cast in the county at  
24 the election is greater than can reasonably be reviewed within six days following an election.

25           **SECTION 23. AMENDMENT.** Section 54-09-08 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27           **54-09-08. Secretary of state's general services operating fund.** The secretary of  
28 state's general services operating fund is a special fund in the state treasury. Moneys in the  
29 fund are to be used pursuant to legislative appropriations for the provision of services under  
30 section 15 of this Act, subsection 6 of section 41-09-94, subsection 9 of section 54-09-04, and  
31 sections 54-09-10 and 54-09-11. At the close of each fiscal year, the secretary of state shall

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- 1 transfer any unobligated balance remaining in the fund exceeding seventy-five thousand dollars
- 2 to the general fund.