

# ELECTIONS

## CHAPTER 180

### HOUSE BILL NO. 1222

(Representatives Carlson, Devlin, Thoreson)  
(Senators Flakoll, O'Connell, Wardner)

## INITIATED MEASURE FISCAL IMPACT

AN ACT providing for determining the estimated fiscal impact of an initiated measure.

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

**SECTION 1. Estimated fiscal impact of an initiated measure.** At least ninety days before a statewide election at which an initiated measure will be voted upon, the legislative council shall coordinate the determination of the estimated fiscal impact of the initiated measure. Upon notification from the secretary of state that signed petitions have been submitted for placement of an initiated measure on the ballot, the legislative council shall hold hearings, receive public testimony, and gather information on the estimated fiscal impact of the measure. Each agency, institution, or department shall provide information requested in the format and timeframe prescribed by the legislative council or its designated committee for identifying the estimated fiscal impact of an initiated measure. At least thirty days prior to the public vote on the measure, the legislative council shall submit a statement of the estimated fiscal impact of the measure to the secretary of state. Upon receipt, the secretary of state shall include a notice within the analysis required by section 16.1-01-07 specifying where copies of the statement of the estimated fiscal impact can be obtained. Within thirty days of the close of the first complete fiscal year after the effective date of an initiated measure approved by the voters, the agencies, institutions, or departments that provided the estimates of the fiscal impact of the measure to the legislative council under this section shall submit a report to the legislative council on the actual fiscal impact for the first complete fiscal year resulting from provisions of the initiated measure and a comparison to the estimates provided to the legislative council under this section and the legislative council shall issue a report of the actual fiscal impact of the initiated measure.

Approved April 18, 2005

Filed April 20, 2005

## CHAPTER 181

### HOUSE BILL NO. 1452

(Representatives Horter, Grande, Klein)  
(Senator Klein)

### CENTRAL VOTER FILE

AN ACT to amend and reenact section 16.1-02-02, subsection 1 of section 16.1-02-03, and sections 16.1-02-07, 16.1-02-10, 16.1-02-12, and 16.1-02-13 of the North Dakota Century Code, relating to the central voter file; and to repeal section 16.1-02-08 of the North Dakota Century Code, relating to the central voter file.

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

**SECTION 1. AMENDMENT.** Section 16.1-02-02 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-02-02. Costs of creating and maintaining a central voter file.** The creation of the central voter file and its maintenance through June 30, ~~2009~~ 2011, must be paid for with funds from the state's election fund, provided the election fund contains adequate funding to create and maintain the central voter file. The creation of the central voter file and its maintenance through June 30, ~~2009~~ 2011, may not be paid for from funds in the secretary of state's budget, the state's general fund, or from county funds. Beginning July 1, ~~2009~~ 2011, the offices required to perform the functions and duties of this chapter shall bear the costs incurred in performing those duties and the secretary of state shall pay the costs of operating and maintaining the central voter file.

**SECTION 2. AMENDMENT.** Subsection 1 of section 16.1-02-03 of the North Dakota Century Code is amended and reenacted as follows:

1. Not later than the primary election in ~~2006~~ 2008, the secretary of state shall establish the central voter file in cooperation with the department of transportation and county auditors.

**SECTION 3. AMENDMENT.** Section 16.1-02-07 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-02-07. Reporting individuals placed under guardianship and changes of names - Changes to records in the central voter file.**

1. The state court administrator shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older who has been placed under a guardianship and as a result has been deprived of the legal right to vote since the last report. Within thirty days after receiving a report, the secretary of state shall designate each individual included in the report as "ineligible" in the central voter file. The secretary of state shall prepare and distribute a list of individuals designated as "ineligible" to each county auditor.

- 2- The state court administrator shall provide for the regular reporting to the secretary of state the name, address, and date of birth, if available, of each individual eighteen years of age or older whose legal right to vote has been restored by the court since the last report. Within thirty days after receiving a report, the secretary of state shall remove the "ineligible" designation of the individual in the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.
- 3- The state court administrator shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older whose name was changed by divorce or any order or decree of the court since the last report. Within sixty days after receiving the report, the secretary of state shall make the name changes in the central voter file and notify by mail each individual whose name was changed that the individual's name has been changed accordingly in the central voter file. The secretary of state shall prepare and distribute a list of those individuals to each county auditor.

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

**16.1-02-10. Posting voting history - Failure to vote - Individuals designated inactive.** Within ninety days after each election, each county auditor shall post the voting history for each individual who voted in the election. After the close of the ~~2008~~ 2010 calendar year, the secretary of state shall determine if any individual has not voted during the preceding four years and shall change the status of each such individual to "inactive" in the central voter file. The secretary of state shall prepare a report to each county auditor which contains the name of each individual who has been designated as "inactive" in the central voter file. Although not counted in an election, a late absentee ballot from an individual may not be used to designate an individual as "inactive" in the central voter file.

**SECTION 5. AMENDMENT.** Section 16.1-02-12 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-02-12. Information contained and maintained in the central voter file.** The central voter file must contain the following information for each individual included in the file:

1. The complete legal name of the individual.
2. The complete residential address of the individual.
3. The complete mailing address of the individual, if different from the individual's residential address.
4. The unique identifier generated and assigned to the individual.
5. A designation showing whether the individual's ability to vote in a precinct has been inactivated as a result of death, ~~incarceration, or because of a change in guardianship status,~~ or because the individual is no longer a resident of the precinct according to section 16.1-01-04.

6. ~~A designation showing whether the individual must be challenged according to section 16.1-05-06.~~
7. The county, legislative district, city or township, school district, county commissioner district, if applicable, precinct name, and precinct number in which the individual resides.
8. ~~7.~~ Beginning in 2008, four years of an individual's voting history, if applicable.
9. ~~8.~~ Any other information requested of and obtained from the individual deemed necessary by the secretary of state for the proper administration of the central voter file.

**SECTION 6. AMENDMENT.** Section 16.1-02-13 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-02-13. Information contained in pollbooks generated from the central voter file.** The county auditor shall generate a pollbook for each precinct in the county from the central voter file by the ~~fifteenth~~ day before an election. With the exception of the unique identifier, which is an exempt record, the precinct pollbooks are open records under section 44-04-18. Between the ~~fifteenth~~ day before the election and the day of the election, no changes or updates to records of individuals contained in the central voter file or a pollbook generated from the central voter file may be made, other than changes related to the status of an individual voting early or an individual requesting and returning an absent voter's ballot. The secretary of state shall prescribe procedures for generating pollbooks and for transporting the pollbooks to the election judges for use on election day. Pollbooks generated from the central voter file must contain the following information for each individual contained therein:

1. The complete legal name of the individual.
2. The complete residential address of the individual.
3. The complete mailing address of the individual, if different from the individual's residential address.
4. The unique identifier generated and assigned to the individual.
5. ~~A designation showing whether the individual must be challenged according to section 16.1-05-06.~~
6. The county, legislative district, city or township, school district, county commissioner district, if applicable, precinct name, and precinct number in which the individual resides.
7. ~~6.~~ Any other information requested of and obtained from the individual deemed necessary by the secretary of state for the proper administration of the pollbook.

**SECTION 7. REPEAL.** Section 16.1-02-08 of the North Dakota Century Code is repealed.

## CHAPTER 182

### HOUSE BILL NO. 1431

(Representatives Herbel, Devlin)

(Senator Lyson)

## ELECTION PRECINCTS, POLLS, AND OFFICERS

AN ACT to amend and reenact sections 16.1-04-03 and 16.1-05-01 and subdivision a of subsection 1 of section 16.1-05-02 of the North Dakota Century Code, relating to precincts, polling places, and election officers.

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

**SECTION 1. AMENDMENT.** Section 16.1-04-03 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-04-03. Time limitations.** The authority granted by this chapter must be exercised by the respective governing bodies no later than December thirty-first of the year immediately preceding an election cycle and no later than seventy days before an a special election. If legislative reapportionment occurs, the authority granted by this chapter must be exercised, as it relates to the establishment or reestablishment of voting precincts that may be required because of any change in legislative districts, within thirty-five days after the effective date of the reapportionment.

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

**16.1-05-01. Election officers.** At each primary, general, and special statewide or legislative district election, and at county elections, each polling place must have an election board in attendance. The election board must consist of an election inspector and at least two election judges. Counties utilizing polling places containing more than one precinct may choose to use one election board to supervise all precincts even if the precincts are within different legislative districts so long as each district chairman of each qualified political party is given the opportunity to have representation on the election board if desired.

1. The election inspector must be selected in the following manner:
  - a. In all precincts established by the governing body of an incorporated city pursuant to chapter 16.1-04, the governing body shall appoint the election inspectors for those precincts and fill all vacancies occurring in those offices.
  - b. In all other precincts, the county auditor, with the approval of the majority of the board of county commissioners, shall appoint the election inspectors and fill all vacancies occurring in those offices. The selection must be made on the basis of the inspector's knowledge of the election procedure.
  - c. The election inspector shall serve until a successor is named. If an inspector fails to appear for any training session without excuse,

the office is deemed vacant and the auditor shall appoint an individual to fill the vacancy.

Except in the case of special elections, all appointments required to be made under this section must be made at least twenty-one days preceding an election.

2. The election judges and poll clerks for each ~~precinct~~ polling place 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. In ~~voting precincts or districts~~ polling places 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~~ polling places 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~~ boundaries of the precincts within the polling place 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 polling place's legislative district~~ districts. If vacancies still remain, the county auditor may select election judges and clerks who reside outside of the legislative ~~district~~ districts 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.

**SECTION 3. AMENDMENT.** Subdivision a of subsection 1 of section 16.1-05-02 of the North Dakota Century Code is amended and reenacted as follows:

1. a. Except as provided in subdivisions b and d, every member of the election board and each poll clerk must be a qualified elector of ~~the~~ a precinct within the polling place boundaries in which the person is assigned to work and must be eligible to vote at the polling place to which the person is assigned unless the county auditor has exhausted all means to appoint election judges and clerks from within the voting precinct under subsection 2 of section 16.1-05-01.

## CHAPTER 183

### HOUSE BILL NO. 1254

(Representatives Onstad, Keiser, Kerzman)  
(Senators Fairfield, Warner)

## IDENTIFICATION FOR VOTING PURPOSES

AN ACT to amend and reenact section 16.1-05-07 of the North Dakota Century Code, relating to approved forms of identification for voting purposes.

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

**SECTION 1. AMENDMENT.** Section 16.1-05-07 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-05-07. Poll clerks to check identification and verify eligibility - Poll clerks to request, correct, and update incorrect information contained in the pollbook.**

1. Before delivering a ballot to an individual according to section 16.1-13-22, the poll clerks shall request the individual to show ~~a driver's license issued by the state, another form of identification displaying a photograph of the individual and the individual's date of birth, or another appropriate form of identification prescribed by the secretary of state,~~ which includes the individual's residential address and date of birth. The identification may include:
  - a. An official form of identification issued by the state;
  - b. An official form of identification issued by a tribal government;
  - c. A form of identification prescribed by the secretary of state; or
  - d. A combination of any of the forms of identification under subdivisions a through c.
2. If an individual offering to vote ~~fails~~ does not have or refuses to show an appropriate form of identification, the individual may be allowed to vote without being challenged according to section 16.1-05-06 if the individual provides to the election board the individual's date of birth and if a member of the election board or a clerk knows the individual and can personally vouch that the individual is a qualified elector of the precinct. ~~After verifying that the individual's name is contained in the pollbook generated from the central voter file, poll clerks shall verify the individual's residential address and mailing address, if different from the individual's residential address.~~
- 2-. If the individual's name is not contained in the pollbook generated from the central voter file, the individual may be challenged according to section 16.1-05-06 and the individual's name must be recorded in the pollbook. The poll clerks shall request and obtain any additional information for the individual required to be included in the pollbook.

3. If an individual offering to vote does not meet either of the options set forth in subsection 1 or 2, the election board shall challenge the individual's right to vote and the individual may not vote unless the individual executes a voter's affidavit, as provided in section 16.1-05-06.
4.
  - a. When verifying an individual's eligibility or when entering the name of an individual into the pollbook, poll clerks shall request, correct, and update any incorrect or incomplete information about an individual ~~that is required to be contained~~ included in the pollbook generated from the central voter file.
  - b. If the individual's name is contained in the pollbook generated from the central voter file, the poll clerks shall verify the individual's residential address and mailing address, if different from the individual's residential address.
  - c. If the individual's name is not contained in the pollbook generated from the central voter file but the individual is determined eligible to vote, the poll clerks shall record the individual's name in the pollbook. The poll clerks shall request and obtain any additional information for the individual required to be included in the pollbook.
4. 5. Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct to the proper precinct and voting location.

Approved March 23, 2005

Filed March 23, 2005



## CHAPTER 184

### HOUSE BILL NO. 1497

(Representatives Grande, Belter, DeKrey, Timm)  
(Senators Christmann, Klein)

## ELECTION PROCESS ADMINISTRATION

AN ACT to amend and reenact sections 15.1-09-11, 16.1-06-04, 16.1-06-05, 16.1-06-06, 16.1-06-07.1, 16.1-06-08, 16.1-06-09, 16.1-06-18, 16.1-11-22, 16.1-11-24, and 16.1-11-35, subsection 1 of section 16.1-12-02.2, and sections 16.1-13-20, 16.1-13-22, 16.1-13-23, 16.1-13-25, and 16.1-15-08 of the North Dakota Century Code, relating to election process administration; and to repeal section 16.1-13-26 of the North Dakota Century Code, relating to election process administration.

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

**SECTION 1. AMENDMENT.** Section 15.1-09-11 of the North Dakota Century Code is amended and reenacted as follows:

#### **15.1-09-11. School district elections - Preparation of ballots - ~~Stickers.~~**

1. At least twenty days before the election, the business manager shall prepare and cause to be printed, or otherwise uniformly reproduced, an official ballot containing the names of all individuals who have indicated their intent to be candidates by meeting the provisions of section 15.1-09-08. The business manager shall ~~determine by lot, in the presence of the candidates or their representatives, the arrangement of the candidates' names upon the ballot~~ notify the candidates as to the time and place of the drawing for position on the ballot.
2. The ballot must be nonpartisan in form and include:
  - a. The words "official ballot" at the top;
  - b. The name of the school district;
  - c. The date of the election;
  - d. The number of persons to be elected to each office; and
  - e. Below the list of candidates for each office, blank spaces in which names not printed on the ballot may be written.
3. ~~An individual who wishes to be a candidate for election, is qualified to hold office, and has failed to meet the filing requirements of section 15.1-09-08 may provide stickers to be attached to the official ballot by the electors. A sticker must have the name and address of the individual printed on it. The sticker may not be more than one-half inch [42.7 millimeters] in height.~~

**SECTION 2. AMENDMENT.** Section 16.1-06-04 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-06-04. Form and quality of ballots generally.** All official ballots prepared under this title for use in precincts in which electronic voting systems are not used must:

1. Be a specific color, and the secretary of state shall prescribe a different color for each separate type of ballot used.
2. Be printed on uniform quality and color of paper in an ink color suitable to make the ballot clearly legible and compatible with the electronic voting system requirements necessary to tabulate the votes.
3. 2. Be of sufficient length to contain the names of all candidates to be voted for at that election.
4. 3. Have the language "Vote for no more than \_\_\_\_\_ name (or names)" placed immediately under the name of each office.
5. 4. Have printed thereon "Place a cross mark (X) by the name of the person for whom you wish to vote. To vote for a person whose name is not printed on the ballot write or paste that person's name in the blank space provided for that purpose." "To vote for the candidate of your choice, you must darken the oval opposite the name of the candidate. To vote for a person whose name is not printed on the ballot, write that person's name in the blank space provided for that purpose and darken the oval opposite the space provided."
6. 5. Leave sufficient space for each office to write or paste a name, or names, as the case may be, in lieu of those printed on the ballot.
7. 6. Provide a space enclosed in a square in which the voter may designate by a cross or other mark the voter's choice for each candidate opposite the name of that candidate, and the space must precede or follow the candidate's name on the same line in a uniform manner. Immediately preceding and on the same line as the name of each candidate must be printed an oval in which the voter is to mark the voter's choice by darkening the oval next to the name of the candidate chosen.
8. 7. Provide a space enclosed in a rectangle and have printed next to the rectangle the following language: "All ballots, other than those used to vote absentee, must first be stamped and initialed by appropriate election officials in order to be counted." If a stamp with an inkpad is not required under section 16.1-06-18, the language next to the rectangle must be: two text boxes in the bottom right-hand corner of the party ballot. The first text box is to contain the words "All ballots, other than those used to vote absentee, must first be initialed by appropriate election officials in order to be counted." The second text box is to contain the words "Official Ballot", the name of the county, the name or number of the precinct or the word "precinct" preceding a blank line upon which the judge or the inspector shall write the name or number of the precinct, the date of the election, and the word "initials" preceding a blank line where the judge or inspector shall initial the ballot.

All ballots, other than  
those used to vote absentee,  
must first be initialed by

Official Ballot  
County  
Precinct

appropriate election officials  
in order to be counted

(Date of the Election)  
Initials

Any precinct that uses an electronic counting machine may require the use of a particular writing instrument to mark the ballot so the ballots may be properly counted.

~~In precincts in which electronic voting systems are used, the~~ The ballot must contain the names of all candidates, the contents of measures as required by section 16.1-06-09, and the statements of questions to be submitted to the voters. The ballot must ~~otherwise~~ be arranged in a manner and form approximating as far as possible the requirements of this section.

**SECTION 3. AMENDMENT.** Section 16.1-06-05 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-06-05. Form of general election ballot.** The official ballots provided for in this title for partisan election at general elections ~~in precincts in which electronic voting systems are not used~~ must be prepared as follows:

1. The ballots must be of sufficient length and width to contain a continuous listing of the designation of all the offices to be voted for.
2. On the top left-hand side of such ballot must begin a continuous listing of the designation of each office to be voted for, and under the designation of each office all of the names of the candidates duly nominated for that office must be printed.
3. The names of candidates nominated for each office must appear under the designation of that office, and under each candidate's name must appear, in smaller type, the appropriate party designation for each candidate. Where a candidate has been nominated by petition, the designation under that candidate's name, in smaller type, must be "independent nomination".
4. The names of candidates under the designation of each office must be alternated in the printing of the official ballot in the same manner as is provided for the primary election ballot.
5. The size of type must be as specified by the secretary of state.

~~In precincts in which electronic voting systems are used, the~~ The list of offices and candidates and the statements of measures and questions to be submitted to the voters must be arranged on the ballot in a manner and form approximating as far as possible the requirements of this section.

**SECTION 4. AMENDMENT.** Section 16.1-06-06 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-06-06. General election ballots for persons authorized to vote for presidential electors only - Prepared separately - General law governs.** In addition to the ballots prepared pursuant to section 16.1-06-05, ballots must be prepared containing only the names of duly certified candidates for presidential electors for use by persons authorized to vote for those offices by law. The provisions of this title regarding the preparation, form, arrangement of names, ~~delivering, and stamping and delivering~~ of ballots must govern in regard to the

general election ballot prepared pursuant to this section. The ballots prepared pursuant to this section must be delivered to electors who qualify only to vote for presidential electors pursuant to sections 16.1-14-18 and 16.1-14-19.

**SECTION 5. AMENDMENT.** Section 16.1-06-07.1 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-06-07.1. Arrangement of names on ballot - Presidential electors.** In presidential election years the ballot provided for in section 16.1-06-05 must include the designation of the office of president and vice president as the first listing of the continuous listing of the designation of each office to be voted for. The names of presidential electors, presented in one certificate of nomination, must be arranged in a group enclosed in brackets under the designation of the office of president and vice president on the right side of the ballot column. To the ~~right~~ left and opposite the center of each group of electors' names must be printed in bold type the surname of the presidential candidate represented and in line with such surname must be placed a single ~~square~~ oval. A mark within such ~~square~~ oval by the voter must be designated as a vote for all the electors. The appropriate party designation must appear, in smaller type, under the surname of the presidential candidate represented.

**SECTION 6. AMENDMENT.** Section 16.1-06-08 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-06-08. No-party ballot at general elections - Contents - Delivered to elector.** There must be a separate no-party ballot at the general election upon which must be placed the names of all candidates who have been nominated on the no-party primary ballot at the primary election. Such ballots must be in the same form as the no-party primary ballot and must be delivered to each elector by the proper election official. In precincts in which electronic voting systems are used, The separate ballot may be on the same paper or electronic ballot, but the list of offices and candidates must be entitled "no-party ballot" in a manner to clearly indicate the separation of the no-party list of offices and candidates from the party list of offices and candidates.

**SECTION 7. AMENDMENT.** Section 16.1-06-09 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-06-09. Constitutional amendments and initiated and referred measures - Manner of stating question - Explanation of effect of vote - Order of listing.** Constitutional amendments or measures, initiated measures, and referred measures, duly certified to the county auditor by the secretary of state, or any other question or measure to be voted on, except the election of public officers at any primary, general, or special election including officers subject to a recall petition, must, unless otherwise determined by the secretary of state, be stated in full in a legible manner on the ~~paper ballot or the ballot card when using an electronic voting system purchased after June 30, 1985, and the ballot label when using an electronic voting system purchased before July 1, 1985.~~ If the secretary of state concludes the amendment or measure is too long to make it practical to print in full, the secretary of state in consultation with the attorney general shall cause to be printed a short, concise summary, which must fairly represent the substance of the constitutional amendment or initiated or referred measure. After the foregoing statement, the secretary of state shall cause to be printed another short, concise statement of the effect of an affirmative or negative vote on the constitutional amendment or initiated or referred measure. This explanatory statement must be drafted by the secretary of state in consultation with the attorney general. The words "Yes" and "No" must be

printed on the ballot at the close of the statement regarding the effect of an affirmative or negative vote, in separate lines with a ~~square formed of black lines after an oval before~~ each statement in which the voter ~~may is to indicate by a cross or other mark~~ how the voter desires to vote on the question by darkening the oval. Where two or more amendments or questions are to be voted on, they must be printed on the same ballot.

The measures to be submitted to the electors must be grouped and classified as constitutional measures, initiated statutes, or referred statutes and must be placed within such groups or classifications by the secretary of state in the order received, for the purpose of placing them on the ballot. Measures submitted by the legislative assembly must be placed first on the ballot within their classification in the order approved by the legislative assembly. Constitutional measures shall be placed first on the ballot, initiated statutes second, and referred statutes third. After all the measures have been placed within the appropriate group or classification, all measures must be numbered consecutively, without regard to the various groups or classifications.

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

**16.1-06-18. Delivery of ballots - Official stamp delivered.** At the ~~meeting~~ precinct election officials' training sessions provided for in section 16.1-05-03, the county auditors shall deliver, or cause to be delivered, by mail or other reliable method, to the inspector of elections in each precinct the official ballots, if available. The ballots must be delivered in sealed packages marked plainly on the outside designating the number of ballots enclosed and the precinct for which the ballots are intended. ~~The county auditor shall deliver or cause to be delivered to the inspector, or if that is impracticable, to one of the election judges of the precinct, a stamp and inkpad for the purpose of stamping each ballot with the words "official ballot" and the name or number of the precinct; the name of the county; the date of the election; and providing for a blank line preceded by the word "initials" for the purpose of providing a space where the judge or inspector shall initial the ballot. The stamp and inkpad are not required if that information is preprinted on the ballot. If the information is preprinted on the ballot, the name or number of the precinct may be replaced by the word "precinct" followed by a blank line where the judge or inspector shall write in the name or number of the precinct. The county auditor shall deliver or cause to be delivered a suitable seal for the purpose of wrapping and sealing the stamp and inkpad at the close of the voting but before the counting of the ballots if a stamp is required. The county auditor also shall deliver or cause to be delivered a suitable seal, which has the name of the county inscribed thereon, for the purpose of sealing the wrapper containing the ballots as provided in section 16.1-15-08.~~

**SECTION 9. AMENDMENT.** Section 16.1-11-22 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-22. Primary election ballot - Form - Voters to vote for candidates of only one party.** At the primary election there may be only one ballot for all parties or ~~principals~~ principles. The ballot must be in the following form:

1. The ballot must be entitled the "consolidated primary election ballot".
2. Each party or ~~principal~~ principle having candidates at the primary election must have a separate column on the ballot; ~~the columns must be separated by a solid six-point rule.~~

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

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

**SECTION 10. AMENDMENT.** Section 16.1-11-24 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-24. No-party primary ballot - Contents.** There must be a separate ballot at all primary elections which must be entitled "no-party primary ballot". The names of aspirants for nomination to each office must be arranged on the no-party primary ballot in separate groups in their order. ~~In precincts in which voting machines are used,~~ The separate ballot may be on the same paper or electronic ballot, but the list of offices and candidates must be entitled "no-party primary ballot" in a manner to indicate clearly the separation of the no-party list of offices and candidates from the party list of offices and candidates. The names of all candidates for any of the offices mentioned in section 16.1-11-08 must be placed on the ballot without party designation. Immediately under the name of each office must be

placed the language "Vote for no more than \_\_\_\_\_ name (or names)." The number inserted must be the number to be elected to the office at the next succeeding general election.

**SECTION 11. AMENDMENT.** Section 16.1-11-35 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-35. Nominations by stickers write-in.** On both the party and the no-party ballot, a candidate may be nominated by having the candidate's name written on the ballot or by a printed sticker being placed in a blank line left for that purpose underneath the group of candidates in each official position. Not more than one name may be written or printed on any sticker. The provisions of this title do not prevent any elector from writing on the paper ballot, or in the case of direct-recording electronic voting system devices, entering by touchscreen or other data entry device, the name of any person for whom the elector desires to vote, and such vote must be counted according to the provisions for the counting of write-in votes found in section 16.1-12-02.2.

**SECTION 12. AMENDMENT.** Subsection 1 of section 16.1-12-02.2 of the North Dakota Century Code is amended and reenacted as follows:

1. An election board or canvassing board may not count or be required to officially report any write-in vote for any:
  - a. Person who is required to file a certificate of write-in candidacy under this section but who has not filed a certificate of candidacy and been certified as a write-in candidate.
  - b. Fictitious person, nonperson, or person clearly not eligible to qualify for the office for which the vote was cast.
  - c. Statement concerning the candidates.
  - d. Name written or printed by the voter for an office that did not also include the darkening of the oval next to the write-in line, except that a write-in candidate for a nonfederal office may make a timely written demand to a county canvassing board to identify and preserve any write-in vote cast for the office sought by the write-in candidate for canvass by the board. The candidate shall deliver the demand to the county auditor and a copy to the clerk of district court no later than thirty-six hours before the time the county canvassing board is scheduled to meet. A demand only may be made if the unofficial election results maintained by the county auditor demonstrate that the write-in candidate's known vote total is within the pertinent percentage limits provided in subsection 1 or 2 of section 16.1-16-01 and a statement to that effect is included in the demand. After delivery of the ballots as provided by section 16.1-15-08, the canvassing board shall review the ballots to identify any ballot that contains a write-in vote. The county canvassing board shall tally and canvass any write-in vote in the same manner as lawful or qualifying write-in votes if the canvassing board is able to clearly ascertain the intent of the voter from examining the ballot because the write-in candidate's name has been written on the ballot opposite the office to be voted for or because of any other cogent evidence of intent.

- e. Write-in votes which constitute five percent or less of the votes cast by the voters for the candidate receiving the most votes for that office, except in the case of a primary election where enough votes were cast as write-in votes to qualify a name for the general election ballot. This percentage is to be calculated based on the total number of write-in votes tabulated by the voting equipment in the precincts of the county in which that office was on the ballot.
- f. Write-in votes that do not need to be individually canvassed based on the requirements of this subsection must be listed on the county canvass report as "scattered write-ins".

**SECTION 13. AMENDMENT.** Section 16.1-13-20 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-13-20. Examination of ballot box before opening of polls - Regulations for ballot box while polls are open.** Before declaring the polls open, the inspector and the election judges shall inspect the ballot box to assure that it is empty. The ballot box must then be locked. While the polls are open, the ballot box must remain locked except as may be necessary to clear a ballot jam or to move voted ballots to a separate locked ballot box to make room for additional ballots.

**SECTION 14. AMENDMENT.** Section 16.1-13-22 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-13-22. Delivering ballot to elector - Stamping Initialing.** The inspector or one of the election judges shall deliver ballots to the qualified electors. The inspector or judge delivering the paper ballot shall inform each elector that if the ballot is not stamped and initialed by an election official it will be invalidated and to protect the elector's right to vote the elector should verify that the ballot has been stamped and initialed.

1. ~~The paper ballot is considered stamped if it is either stamped with a stamp and an inkpad or has the stamped information preprinted on the paper ballot, as provided in section 16.1-06-18.~~
2. At primary elections, the inspector or judge shall also inform each elector that if the elector splits the party ballot or votes for candidates of more than one party the elector's party ballot will be rejected.
3. 2. Before delivering any paper ballot to an elector, the inspector or judge shall stamp once in the rectangle provided on the ballot, if required under subsection 1, the designation "official ballot" and the other words provided for in section 16.1-06-18, and also shall initial the ballot. Failure to stamp and initial a paper ballot in the proper place does not invalidate the ballot, but a complete failure to stamp and initial a paper ballot does invalidate the ballot.

**SECTION 15. AMENDMENT.** Section 16.1-13-23 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-13-23. Preparation of ballot by elector - Folding - Depositing - Second-chance voting.** Upon receipt of a ballot within the provided secrecy sleeve, the elector, forthwith and without leaving the polling place, shall retire alone to one of the voting booths or compartments to prepare the elector's ballot by placing a crossmark (X) or other mark which clearly shows the intention of the elector within



~~the square darkening the oval~~ opposite the name of each person for whom the elector wishes to vote. In the case of a ballot containing a constitutional amendment, an initiated or referred measure, or any other question to be submitted to a vote of the people, the elector shall ~~place the crossmark (X) or other mark within the square~~ darken the oval opposite the word or words expressing the elector's wish. After preparing the ballot, the elector shall ~~fold it so the face of~~ place the ballot back in the provided secrecy sleeve so it is concealed and so the endorsement of the inspector or election judge stamped thereon may be seen. The elector then shall ~~hand the ballot to the judge, who, without opening the same or permitting it to be opened or examined except to ascertain whether it is a single ballot and whether it has been stamped and initialed,~~ shall deposit it the ballot in the optical scanning device and wait to determine if the ballot is deposited into the ballot box or if the optical scanning device has indicated a possibility for a second-chance voting condition. In precincts which use an electronic counting device, the ballot need not be folded before handing the ballot to the judge. If a second-chance voting condition is indicated, a voter may spoil and receive up to two additional ballots. The voter's third ballot must be cast as is even if errors exist causing certain votes not to be counted.

**SECTION 16. AMENDMENT.** Section 16.1-13-25 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-13-25. Elector may write or paste name on ballot - Counting.** The provisions of this title do not prevent any elector from writing ~~or pasting~~ on the paper ballot, or in the case of direct-recording electronic voting system devices, entering by touchscreen or other data entry device, the name of any person for whom the elector desires to vote, and such vote must be counted ~~the same as if printed on the ballot and marked by the elector according to the provisions for the counting of write-in votes found in section 16.1-12-02.2.~~

<sup>112</sup> **SECTION 17. AMENDMENT.** Section 16.1-15-08 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-08. Wrapping and returning of ballots to clerk of the district court.** After having prepared the reports and poll lists provided for in section 16.1-15-06 for delivery to the county auditor, the election board shall cause the ballots of each kind cast at the election to be placed in a suitable wrapper to form a complete wrapper for the ballots. The ballots and wrappers must then be tightly secured at the outer end to completely envelop and hold the ballots together. Ballots that are void must be secured in a separate wrapper and must be marked "void". Ballots that are spoiled must be separately secured and marked "spoiled". In sealing ballots, the various classes of ballots must be kept separate. Each wrapper must be endorsed with the name or number of the precinct and the date on which the election was held. The wrappers must be sealed securely in a manner prescribed by the secretary of state so the wrappers cannot be opened without an obvious and permanent breaking of the seal. The ballots, together with those found void or spoiled, and the opened envelopes from voted absentee ballots and the unopened envelopes of absentee ballots rejected as defective, must be returned in person to the clerk of the district court. At the meeting of the county canvassing board, the clerk of the district court shall deliver each ballot that may contain a write-in vote referenced in a demand made under subsection 1 of section 16.1-12-02.2. Ballots

<sup>112</sup> Section 16.1-15-08 was also amended by section 9 of House Bill No. 1417, chapter 191.

used with any electronic voting system or counted by an electronic counting machine must be sealed and returned as provided in this section.

**SECTION 18. REPEAL.** Section 16.1-13-26 of the North Dakota Century Code is repealed.

Approved April 12, 2005

Filed April 13, 2005

## CHAPTER 185

### HOUSE BILL NO. 1433

(Representative Boehning)

(Senator Krebsbach)

## ELECTION MECHANICS

AN ACT to amend and reenact sections 15.1-09-09, 16.1-01-09.1, 16.1-06-15, 16.1-06-16, 16.1-06-19, 16.1-06-20, 16.1-06-23, 16.1-11-01, 16.1-11-27, 16.1-11-30, 16.1-11-31, 16.1-11-32, 16.1-11-33, 16.1-13-06, 40-21-02, 44-02-05, and 44-02-08 of the North Dakota Century Code, relating to election mechanics; and to repeal sections 16.1-11-23, 16.1-11-34, and 40-21-12 of the North Dakota Century Code, relating to election mechanics.

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

**SECTION 1. AMENDMENT.** Section 15.1-09-09 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-09. School district elections - Notice.** Thirty days before the filing deadline for candidate names to be printed on the ballot, an official notice of this deadline must be published in the official newspaper of the city or county. At least fourteen days before the date of an annual or special school district election, the school board shall publish a notice in the official newspaper of the district stating the time and place of the election and the purpose of the vote. If a school board agrees to hold the election in conjunction with a primary election, the deadline for giving notice of the school district election and the purpose of the vote must meet the publishing requirements of the county. The governing body of the city of Fargo shall publish notice with respect to Fargo school district elections.

**SECTION 2. AMENDMENT.** Section 16.1-01-09.1 of the North Dakota Century Code is amended and reenacted as follows:

#### **16.1-01-09.1. Recall petitions - Signature - Form - Circulation.**

1. A request of the secretary of state for approval of a petition to recall an elected official or appointed official of a vacated elected office 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 recall; the printed name, signature, and address of the committee member; and notarization of the signature.
2. 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:

	Name (Chairman)	Complete Residential, Rural Route, or General Delivery Address
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____

## 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 for thirty days, and you are a United States citizen. All signers must add their complete residential, rural route, or general delivery address and 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	Complete Residential, Rural Route, or General Delivery Address	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.



- 6- 7. 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.

**SECTION 3. AMENDMENT.** Section 16.1-06-15 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-06-15. Mandatory testing of electronic voting systems before election and before and after tabulation of ballots.**

1. All electronic voting systems used in this state must be tested to ascertain whether the automatic tabulating equipment will accurately count the votes cast for all offices and measures. The testing must be conducted prior to each election at which the system will be used. The testing must be done by the county auditor or county auditor's designee, and after each test, the testing materials and any preaudited ballots used during the test must be sealed and retained in the same manner as election materials after an election.
2. The test of an electronic voting system employing paper ballots must be conducted by processing a preaudited group of ballots on which are recorded a predetermined number of valid votes for each candidate and measure and must include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. During the test a different number of valid votes must be assigned to each candidate for an office and for and against each measure. If an error is detected, the cause of it must be ascertained and corrected, and an errorless count must be secured and filed as provided in this section.
3. The test must be conducted at least one week before the election. One week before the test is conducted, the county auditor must send the district chairman of each political party having a candidate on the ballot a notice of the test. The notice must state the time, place, and date of the test or tests and that the district chairman or district chairman's designee may attend.

**SECTION 4. AMENDMENT.** Section 16.1-06-16 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-06-16. County auditor to provide and distribute ballots - Other election supplies delivered at same time.** For each election precinct in the county, the county auditor shall provide the number of ballots the auditor determines to be necessary. Each county auditor shall:

1. Have the ballots printed at least fifteen days before the election; and ~~the ballots may be inspected by any person~~ available for public inspection at the auditor's office.

2. Deliver to the inspector in each precinct ~~at least three days but not more~~ or cause to be delivered in a secure manner to the polling location ~~no later than fifteen days the day before the election~~ the number of ballots, pollbooks, ~~blanks for election returns with the proper captions if ballots are to be hand-counted~~ ballot boxes, voting equipment, forms of oaths, and ~~certificates, tally sheets necessary to carry out this title, and~~ other election supplies as the county auditor determines necessary.

**SECTION 5. AMENDMENT.** Section 16.1-06-19 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-06-19. Instructions, advertisements, maps, and ballots posted in polling places.** Each county auditor shall have cards printed, in large type, containing full instructions to electors on obtaining and voting ballots and a copy of section 16.1-01-12, any federal laws regarding prohibitions on acts of fraud and misrepresentations, and general information on voting rights under applicable federal and state laws, including instructions on how to contact the appropriate officials if these rights are alleged to have been violated. The county auditor shall furnish ten such cards to the election inspector in each election precinct who, before the opening of the polls, shall post at least one of the cards in each booth or compartment provided for the preparation of ballots and at least ~~three~~ one of the cards in ~~and about~~ the polling place. Three of the official ballots without the ~~official stamp~~ initials of an election board member thereon must be posted conspicuously in the polling place on the morning of the election. The county auditor, at the time of delivering the ballots to the inspector of elections in each precinct, shall deliver at least five copies of the newspaper publication or other copy of the complete text of any constitutional amendment or initiated or referred measure to such inspector of elections. ~~Not less than three~~ One of the newspaper publications or copies must be posted conspicuously in the polling place on the morning of the election. Each county auditor shall furnish the election inspector in each precinct with four copies of a map showing the election precinct's boundaries and information regarding the date of the election and the hours during which polling places will be open. The inspector shall, before the opening of the polls, post the maps and information regarding the date of the election and the hours during which polling places will be open at the entry to and in other conspicuous places around the polling place.

**SECTION 6. AMENDMENT.** Section 16.1-06-20 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-06-20. Election inspector and judges to display material and provide instruction.** In addition to other duties provided by law, the election inspector in ~~precincts using an electronic voting system~~ shall post in a conspicuous manner at the voting place the ~~four~~ two facsimile diagrams of the voting devices used to vote with electronic voting systems and three copies of the official ballot used with electronic voting systems. The election inspector and judges shall provide adequate instruction on the use of the electronic voting device to each voter before the voter enters the voting booth.

**SECTION 7. AMENDMENT.** Section 16.1-06-23 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-06-23. Secretary of state to send blanks instructions and envelopes to county auditor to make returns.** The secretary of state shall send ~~blank forms~~ instructions for generating reports and envelopes, for all returns of votes required to be made to the secretary of state's office, to each county auditor with such printed directions on the envelope as the secretary of state deems necessary

for the guidance of election officers in making returns according to law. The expense of furnishing such ~~blank~~ instructions and envelopes must be paid by the state.

**SECTION 8. AMENDMENT.** Section 16.1-11-01 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-01. Primary election - When held - Nomination of candidates - Nomination for special elections.** On the second Tuesday in June of every general election year, a primary election must be held for the nomination of candidates for the following offices in the years of their regular election: United States senators, member of the United States house of representatives, county officers, state officers, judges of the supreme court and district court, members of the legislative assembly, elected state officials, judges of the supreme court and district court, county officers, and county commissioners, and United States senators. In special elections the nominations for the officers enumerated in this section must be made as provided in this title.

**SECTION 9. AMENDMENT.** Section 16.1-11-27 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-27. Arrangement of names on ballots.** Sample ballots used for publication purposes must be arranged using the rotation of the ballot in the precinct in the county which cast the highest total vote for governor at the last general election at which the office of governor was filled. In the event that this determination is no longer possible due to changes in precinct boundaries, the precincts are to be ordered according to the precincts with the greatest voting age population to the least. This information is to be provided by the North Dakota state data center or based on the best available data as determined by the county auditor. On the official ballot used at the election, including electronic voting system ballots, the names of candidates beside or under headings designating each office to be voted for must be alternated in the following manner:

1. The ballot must first be arranged with all the names for each office on the ballot in an order determined by lot by the county auditor and prepared by the county auditor for all state, district, and county offices.
2. The position of names that require alternating under the provisions of this section must be alternated so the name appearing first in one precinct will be last in the next precinct, and the name that appeared second must be first in the next precinct, and so on until each name has been moved up or over one space accordingly. This process must be continued from one precinct to another and for as many names as are involved by an algorithm approved by the secretary of state designed to ensure to the extent possible that each name on the ballot for an office is listed in each position order on an equal number of precinct ballots spread across the county. There must be a different alternation sequence for each of the following, based on the geographical area by which the office is filled:
  - a. Offices to be filled by the electors of the state, the entire county, or any district which includes the entire county.
  - b. Offices to be filled by the electors of districts smaller than the county, with a different rotation for each of those districts.



- 3- 2. The precincts must be arranged according to the total votes cast for governor at the last general election in which the office of governor was filled, starting with the precinct having the highest total votes cast and ending with the precinct having the lowest total votes cast in that election. Although the names are to be alternated within the offices on the ballot, the name order for an office is to be the same for all ballots within a precinct.

**SECTION 10. AMENDMENT.** Section 16.1-11-30 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-30. Separate column on primary election ballot required for each political party.** Any party that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election; any party that had printed on the ballot at the last preceding nonpresidential election a candidate for attorney general or secretary of state, and the candidate received at least five percent of the total vote cast for the office the candidate was seeking at the election; or any party that has organized according to all the requirements of chapter 16.1-03 must be provided with a separate column on primary election ballots.

Any other political organization is entitled to endorse candidates or have candidates petition to be included on the primary ballot in a consolidated column or on a special election ballot, if a petition signed by at least seven thousand qualified electors of this state is filed with the secretary of state before four p.m. of the sixtieth day before a primary or special election, naming the political organization, stating the platform principles of the party, and requesting the names of its candidates to be included on the state's primary ballot in a consolidated column. If the petition is mailed, it must be in the possession of the secretary of state before four p.m. on the sixtieth day prior to a primary or special election. Candidates of that party are entitled to the same rights and privileges as those of other parties. Petitions circulated according to this section must be filed with the secretary of state in accordance with section 1-01-50.

A political organization that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election are entitled to organize according to the requirements of chapter 16.1-03.

**SECTION 11. AMENDMENT.** Section 16.1-11-31 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-31. Tally books or sheets provided for election precincts - Form and contents Precinct election reports.** Two tally books or two sets of tally sheets must be provided for each voting precinct not using electronic ballot counters. The books or sheets must contain a column for each political party or principle having candidates to be voted for at the voting precinct. Two tally books or two sets of tally sheets for candidates on the no-party ballot must be provided for each voting precinct. The books or sheets must be furnished by the county auditor at the same time and in the same manner as the pollbooks and ballots are furnished. The names

of the candidates must be placed on the tally books or sheets in the order in which they appear on the official sample ballot and, as appropriate, must have the proper party or no-party designation at the head thereof. Optical scan ballot tabulation machines must print reports detailing the election results from the precinct after the close of the polls.

**SECTION 12. AMENDMENT.** Section 16.1-11-32 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-32. Poll lists kept by clerks of elections.** The clerks of primary elections shall keep two lists of the names of all persons voting at each primary election. Each clerk shall return one list ~~and one tally sheet~~, which must be a part of the records and filed with other election returns. Only two complete lists of voters may be kept whether or not a special election is held simultaneously with the primary election.

**SECTION 13. AMENDMENT.** Section 16.1-11-33 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-33. Judges of election to ~~make statement~~ run report of primary election - Contents.** The judges of a primary election in each precinct shall ~~make run~~ a separate ~~statement, on blanks provided for that purpose,~~ report for each political party or principle, containing the names of all persons voted for at the primary election, the number of votes cast for each candidate, and for what office. The ~~statement report~~ must be subscribed by the election judges and must be filed with the returns in the office of the county auditor.

**SECTION 14. AMENDMENT.** Section 16.1-13-06 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-13-06. Defeated primary candidate ineligible to have name printed on general ballot - Exception.** Except to fill a vacancy occurring on the ballot, an individual who was a candidate for nomination by any party or a candidate for a no party office at any primary election in any year and who was defeated for the nomination may not have that individual's name printed upon the official ballot at the ensuing general election for the same office.

**SECTION 15. AMENDMENT.** Section 40-21-02 of the North Dakota Century Code is amended and reenacted as follows:

**40-21-02. City elections - When held - Notice - Polls - Agreements with counties - Judges and inspectors.** Biennial municipal elections must be held on the second Tuesday in June in each even-numbered year.

1. Thirty days before the filing deadline for candidate names to be printed on the ballot, an official notice of this deadline must be published in the official newspaper of the city as provided by section 40-01-09.
2. Ten days' notice of the time and place of the election and of the offices to be filled at the election must be given by the city auditor by publication in the official newspaper of the city as provided by section 40-01-09.
3. The governing body of a city shall enter into an agreement with the governing body of the county or counties in which the city lies concerning the use of a single canvassing board, the sharing of election

personnel, the printing of election materials, the publishing of legal notices, and the apportioning of election expenses.

4. For city elections that are not held under an agreement with any county, the governing body of the city shall appoint one inspector and two judges of election for each precinct in the city at least ten days before the election is held and the polls must be opened and closed as provided for the opening and closing of polls at statewide elections. In voting precincts in which over three hundred votes are cast in any previous election, two election clerks may be appointed by the governing body. For a city election that is not held under an agreement with any county in a precinct in which seventy-five or fewer votes were cast in the last city election, the governing body of the city may appoint one inspector and one judge.
5. When a city enters into an agreement with the county to hold the city election in conjunction with the county election, the deadline for giving notice of the city election along with the offices to be filled at the election may be adjusted in order to meet the publishing requirements of the county. Each city governing body that enters into an agreement with the county must notify the county auditor, in writing, at least fifty-five days before the election of the offices to be filled at the election and any measures to appear on the ballot.

**SECTION 16. AMENDMENT.** Section 44-02-05 of the North Dakota Century Code is amended and reenacted as follows:

**44-02-05. Vacancy in board of county commissioners - How filled.** When a vacancy occurs in the board of county commissioners, the remaining members of the board, with the district judge selected by the remaining county commissioners, immediately shall appoint some suitable person to fill the vacancy from the district in which the vacancy occurred. If a majority of the officers fails to agree upon a person to fill the vacancy, the county treasurer or, if the county does not have an elected treasurer, another elective county officer must be called in and shall act as an additional member of the board to fill the vacancy. The appointee holds office until the appointee's successor is elected at the next general election that occurs at least sixty days after the vacancy and the successor has qualified.

**SECTION 17. AMENDMENT.** Section 44-02-08 of the North Dakota Century Code is amended and reenacted as follows:

**44-02-08. Appointment to be made in writing - Term.** Any appointment to fill a vacancy under ~~the provisions of~~ this chapter must be made in writing, and, except as otherwise expressly provided by law, continues in force until the first general election ~~thereafter~~ that occurs at least sixty days after the vacancy, when the vacancy will be filled by election, and thereafter until the appointee's successor by election is qualified.

**SECTION 18. REPEAL.** Sections 16.1-11-23, 16.1-11-34, and 40-21-12 of the North Dakota Century Code are repealed.

Approved April 12, 2005  
Filed April 13, 2005

## CHAPTER 186

### SENATE BILL NO. 2336

(Senator Krebsbach)  
(Representative Haas)

### ABSENTEE VOTING

AN ACT to amend and reenact sections 16.1-07-01, 16.1-07-05, 16.1-07-06, 16.1-07-08, 16.1-07-08.1, and 16.1-07-12 of the North Dakota Century Code, relating to absentee voting.

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

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

##### **16.1-07-01. Absent voter - Who may vote.**

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

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

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

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

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

1. At any time in an election year, any qualified elector may apply to the county auditor, the auditor or clerk of the city, or the business manager of the school district, as the case may be, by facsimile or otherwise, for an official ballot to be voted at that election. A voter may obtain an application form for an absent voter's ballot for a general, special, primary, or county election from either the county auditor or a city auditor. The application form, for a member of the United States armed forces or the United States merchant marine or for a qualified elector living outside the United States, must include a space for the applicant to indicate whether the application is for all statewide elections in the calendar year or only for the election that is immediately after the date of the application.
2. An applicant who is a qualified elector and on active duty as a member of the United States armed forces or the United States merchant marine may receive an absentee ballot by mail, facsimile, or electronic mail. In the event that returning the voted ballot by mail is not practicable, qualified electors meeting the stated criteria of this subsection may return a voted ballot and other required documents to the county auditor by means of facsimile transmission or electronic mail. To return a voted ballot and other required documents by electronic mail, the eligible voter must have access to the technology to scan the documents, save the documents in a secure format approved by the secretary of state, and return the documents as an electronic mail attachment directly to the electronic mail address assigned by the auditor, clerk, or business manager for that purpose prior to midnight in the voter's county of residence on the day before the election. The secretary of state shall develop written guidelines relating to security measures for voted ballots returned by electronic mail.
3. Spouses, children, or other dependents of active duty members of the United States armed forces or merchant marine who are qualified electors and stationed as a family outside the United States are granted the same absentee voting rights as the individual's spouse, parent, or guardian has under subsection 2.
4. An applicant who is a member of the United States armed forces or the United States merchant marine living outside the United States or is a qualified elector living outside the United States may apply for and vote by facsimile if otherwise qualified to apply for and vote by absentee ballot. An auditor, clerk, or business manager may send and receive facsimile absentee ballot applications and facsimile absentee ballots to any individual eligible to apply for and vote by facsimile under this section receive an absentee ballot by mail, facsimile, or electronic mail. If returning the voted ballot by mail is not practicable, a qualified elector may return a voted ballot and other required documents to the county auditor by means of facsimile transmission or electronic mail. The elector must have access to the technology to scan the documents, save the documents in a secure format approved by the secretary of

state, and return the documents as an electronic mail attachment directly to the electronic mail address assigned by the auditor, clerk, or business manager for that purpose before midnight in the voter's county of residence on the day before the election. The secretary of state shall develop written guidelines relating to security measures for voted ballots returned by electronic mail.

5. No auditor or clerk may issue ballots for absentee voters on the day of the election except to persons prevented from voting in person on the day of the election due to an emergency. A person requesting an absentee ballot on the day of the election due to an emergency must do so through an agent as set forth in this chapter. An agent may represent only one person. The absentee ballot must be returned to the county auditor's office by four p.m. on the day of the election.
6. A completed application must be submitted to the appropriate election official in a timely manner so as to allow the applicant to receive, complete, and mail the absent voter's ballot before the day of the election.

**SECTION 3. AMENDMENT.** Section 16.1-07-06 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-06. Application form.**

1. Application for an absent voter's ballot must be made on a form, prescribed by the secretary of state, to be furnished by the proper officer of the county, city, or school district in which the applicant is an elector, on any form, approved by the secretary of state, or any blank containing the following information:
  - a. The applicant's name.
  - b. The applicant's current or most recent North Dakota residential address.
  - c. The applicant's mailing address.
  - d. The applicant's current home telephone number.
  - e. The election for which the ballot is being requested.
  - f. The date of the request.
  - g. An affirmation that the applicant has resided, or will reside, in the precinct for at least thirty days next preceding the election.
  - h. The applicant's signature.
  - i. A space for the voter to include the voter's precinct or voting location, if known.

If the applicant is unable to sign the applicant's name, the applicant shall mark (X) on the application 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~~ the disinterested person's own name

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

2. A The application for a qualified elector absent from the state is not required to file an application for an absent voter's ballot for any statewide election if either of the following apply serving on active duty as a member of the United States armed forces, merchant marine, or a family member who is a qualified elector and stationed outside the United States together with the individual's spouse, parent, or guardian must include the following additional information if the voter desires to vote by facsimile or electronic mail:
  - a. ~~The elector is a member, or spouse or dependent of a member, of the United States armed forces or merchant marine living outside the United States.~~ Facsimile telephone number; or
  - b. ~~The elector is a United States citizen living outside the United States~~ Electronic mail address.

~~If the qualified elector furnishes the county auditor with a current mailing address and the elector's residential address, the county auditor either shall mail to the qualified elector a ballot with a return envelope and instructions or send to the qualified elector the ballot and instructions by facsimile for voting for any statewide election in that calendar year.~~

3. The application for a qualified elector living outside the United States must include a facsimile telephone number or electronic mail address if the voter desires to vote by facsimile or electronic mail.

**SECTION 4. AMENDMENT.** Section 16.1-07-08 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Upon receipt of an application for an official ballot properly filled out and duly signed, or as soon thereafter as the official ballot for the precinct in which the applicant resides has been prepared, the county auditor, city auditor, or business manager of the school district, as the case may be, shall send to the absent voter by mail, at the expense of the political subdivision conducting the election, one official ballot, or personally deliver the ballot to the applicant or the applicant's agent, which agent may not, at that time, be a candidate for any office to be voted upon by the absent voter. The agent shall sign the agent's name before receiving the ballot and deposit with the auditor or business manager of the school district, as the case may be, authorization in writing from the applicant to receive the ballot or according to requirements set forth for signature by mark. The auditor or business manager of the school district, as the case may be, may not provide an absent voter's ballot to a person acting as an agent who cannot provide a signed, written authorization from an applicant. No person may receive compensation, including money, goods, or services, for acting as an agent for an elector, nor may a person act as an agent for more than four electors in any one election. A voter voting by absentee ballot may not require the

political subdivision providing the ballot to bear the expense of the return postage for an absentee ballot.

2. If there is more than one ballot to be voted by an elector of the precinct, one of each kind must be included and 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~~ voter's affidavit in substantially the following form:

Precinct \_\_\_\_\_  
Name \_\_\_\_\_  
Residential Address \_\_\_\_\_  
City \_\_\_\_\_ ND Zip Code \_\_\_\_\_  
Under penalty of possible criminal prosecution for making a false statement, I swear that I reside at the residential address provided above, that I have resided in my precinct for at least thirty days next preceding the election, and this is the only ballot I will cast in this election.  
Applicant's Signature \_\_\_\_\_  
Date \_\_\_\_\_

If the absent voter is unable to sign the voter's name, the voter shall mark (X) on the 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 the disinterested~~ person's own name following the printed name together with the notation "witness to the mark".

3. ~~The county auditor, city auditor, or business manager of the school district, as the case may be, may challenge the right of anyone to vote an absent voter's ballot whom that officer knows or has reason to believe is not a qualified elector. When challenging a voter who has applied for an absentee voter's ballot, the election official shall follow the procedures and use the affidavit provided for in section 16.1-05-06 and include a voter's affidavit with the outgoing absentee voter's ballot along with an explanation that the voter's right to vote is being challenged and that the voter's affidavit must be completed and returned with the voter's absentee voter's ballot to be accepted.~~
4. 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.
- 5- 4. Each individual requesting an absent voter's ballot under this chapter who cannot read the English language or who because of blindness or other disability is unable to mark the voter's ballot, upon request, may receive the assistance of any person of the voter's choice, other than the voter's employer, an officer or agent of the voter's union, a candidate running in that election, or a relative of a candidate as described in subsection 2 of section 16.1-05-02, in marking the voter's ballot.



**SECTION 5. AMENDMENT.** Section 16.1-07-08.1 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-08.1. Procedures for voting with special write-in or federal write-in absentee ballot.**

1. Notwithstanding any other provision of this chapter, a qualified absentee elector may apply to the county auditor for a special write-in absentee ballot. This ballot may be used to vote for presidential electors and members of the United States senate and of the United States house of representatives.
2. The application for a special write-in absentee ballot may be made on a form prescribed by the secretary of state. In order to qualify for a special write-in absentee ballot, the voter shall state on the application that the voter is unable to vote by regular absentee ballot or in person due to requirements of military service or due to living in isolated or extremely remote areas of the world.
3. Upon receipt of the application, the county auditor shall issue the special write-in absentee ballot, which must be in the form prescribed by the secretary of state. The ballot must permit the elector to vote by writing in a party preference for each office, the names of specific candidates for each office, or the name of the person whom the voter prefers for each office.
4. If the voter is temporarily residing outside the United States or is a member of the United States armed forces, merchant marine, or a family member and a qualified elector, the voter may use the federal write-in absentee ballot in general, special, and primary elections for local, state, or federal offices.
5. If the voter is residing outside the United States, or is a member of the United States armed forces, merchant marine, or a family member, and a qualified elector stationed outside the United States, the voter may use the federal write-in absentee ballot transmission envelope as an absentee ballot application simultaneously with the submission of the federal write-in absentee ballot if the voter is otherwise eligible to vote absentee in the jurisdiction where the request is submitted.

**SECTION 6. AMENDMENT.** Section 16.1-07-12 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-12. Opening ballot - Voting or rejecting - Depositing in ballot box - Preserving.** At any time between the opening and closing of the polls on election day, the election judges of the relevant precinct first shall open the outer envelope and compare the signature on such application for an absent voter's ballot with the signature on the statement provided for in section 16.1-07-08. If the judges find that the statement is sufficient and that the signatures correspond, and that the applicant is then a duly qualified elector of such precinct and has not voted at the election, they shall open the absent voter's envelope in such manner as not to destroy the statement thereon. They shall take out the ballot or ballots contained therein without unfolding the same, or permitting the same to be opened or examined, and after ~~stamping and initialing~~ or initialing the same as other ballots are ~~stamped and initialed~~ or initialed, they shall deposit the ballot in the proper ballot box and show in the pollbook of the election that the elector has voted. If the statement is found to be

insufficient, or that the signatures do not correspond, or that the applicant is not then a duly qualified elector of the precinct, the vote may not be allowed, but without opening the absent voter's envelope, the election inspector or election judge shall mark across the face thereof "rejected as defective" or "rejected as not an elector", as the case may be. These rejected ballots are then turned over to the county canvassing board for final determination of eligibility. The subsequent death of an absentee voter after having voted by absentee ballot does not constitute grounds for rejecting such ballot.

Approved April 7, 2005

Filed April 12, 2005

## CHAPTER 187

### HOUSE BILL NO. 1430

(Representative Klein)  
(Senator Krebsbach)

### EARLY VOTING

AN ACT to amend and reenact subdivisions d and e of subsection 2 of section 16.1-07-15 of the North Dakota Century Code, relating to early voting.

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

**SECTION 1. AMENDMENT.** Subdivisions d and e of subsection 2 of section 16.1-07-15 of the North Dakota Century Code are amended and reenacted as follows:

- d. At the close of each day of early voting, the inspector, along with a judge from each political party represented on the board, shall secure all election-related materials, including:
  - (1) The pollbooks and access to any electronically maintained pollbooks.
  - (2) ~~Any stamp and inkpad.~~
  - ~~(3)~~ The ballot boxes containing voted ballots.
  - ~~(4)~~ (3) Any void, spoiled, and unvoted ballots.
- e. Ballot boxes containing ballots cast at an early voting precinct may not be opened until the day of the election except as may be necessary to clear a ballot jam or to move voted ballots to a separate locked ballot box in order to make room for additional ballots.

Approved March 22, 2005

Filed March 22, 2005

## CHAPTER 188

### HOUSE BILL NO. 1432

(Representatives Kasper, Iverson, Thoreson)  
(Senator Brown)

### CAMPAIGN FINANCE

AN ACT to create and enact sections 16.1-08.1-03.10 and 16.1-08.1-03.11 of the North Dakota Century Code, relating to campaign finance; and to amend and reenact subsection 5 of section 16.1-08.1-01, subsections 2 and 3 of section 16.1-08.1-02, subsection 1 of section 16.1-08.1-03, subsection 3 of section 16.1-08.1-03.1, section 16.1-08.1-03.2, subsection 2 of section 16.1-08.1-03.8, and sections 16.1-08.1-03.9, 16.1-08.1-04, and 16.1-08.1-06.1 of the North Dakota Century Code, relating to campaign finance.

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

**SECTION 1. AMENDMENT.** Subsection 5 of section 16.1-08.1-01 of the North Dakota Century Code is amended and reenacted as follows:

5. "Expenditure" means a gift, transfer, conveyance, provision, loan, advance, payment, distribution, disbursement, outlay, or deposit of money or anything of value, except a loan of money from a bank or other lending institution made in the regular course of business, made for the direct purpose of influencing the nomination for election, or election, of any person to office. The term also means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure and includes the transfer of funds by a political committee to another political committee.

**SECTION 2. AMENDMENT.** Subsections 2 and 3 of section 16.1-08.1-02 of the North Dakota Century Code are amended and reenacted as follows:

2. The candidate committee, or candidate for statewide office who does not have a candidate committee, and any candidate for legislative office shall include in the statement the name and mailing address of all contributors who contributed in excess of two hundred dollars in the aggregate during the reporting period to the candidate committee, or candidate for statewide office who does not have a candidate committee, and any candidate for legislative office, the aggregated amount of each the reportable contribution contributions from each contributor and the date each the last reportable contribution from each contributor was received.
3. The candidate committee, or candidate for statewide office who does not have a candidate committee, and any candidate for legislative office shall file the statement in the office of the secretary of state no later than the twelfth day before the date of the election in which the candidate's name appears on the ballot or in which the candidate seeks election through write-in votes complete from the beginning of that calendar year through the twentieth day before the date of the election. Every candidate committee, or candidate for statewide office who does not

have a candidate committee, and every candidate for legislative office shall file a complete statement for each calendar year no later than the thirty-first day of January of the following year, regardless of whether the ~~candidate's name appeared on the ballot for any office during that calendar year or whether the candidate did not seek sought election at any election through write-in votes~~ during that calendar year.

**SECTION 3. AMENDMENT.** Subsection 1 of section 16.1-08.1-03 of the North Dakota Century Code is amended and reenacted as follows:

1. Any political party that receives contributions in excess of two hundred dollars in the aggregate during the reporting period shall file a statement containing ~~a detailed list~~ the aggregated total of all contributions received from a person or political committee which exceed two hundred dollars in amount. The statement must include the name and mailing address of all contributors listed; ~~the.~~ For each contributor listed, the statement must include the aggregated amount of each the reportable contribution, contributions and the date each the last reportable contribution was received, and for received. For a state political party, ~~the statement must include a listing that includes~~ list of the name and mailing address of each recipient of an expenditure exceeding two hundred dollars in the aggregate; ~~the.~~ For each expenditure recipient listed, the list must include the aggregated amount of each the reportable expenditure, expenditures and the date the last expenditure was made.

**SECTION 4. AMENDMENT.** Subsection 3 of section 16.1-08.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

3. The statement required of a person ~~or measure committee~~ 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. A statement filed according to this section during the reporting period must show the following:
  - a. The gross total of all contributions received and expenditures made in excess of one hundred dollars;
  - b. The gross total of all contributions received and expenditures made of one hundred dollars, or less; and
  - c. The cash on hand in the filer's account at the start and close of the reporting period.

**SECTION 5. AMENDMENT.** Section 16.1-08.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-08.1-03.2. Political committee registration.** A statewide candidate or ~~a~~ political committee, as described in section 16.1-08.1-01, other than a political

party and a committee organized in support of an individual legislative candidate, shall register its name, address, and its agent's name and address with the secretary of state each calendar year in which it receives any contribution. The registration must be completed within fifteen business days of the receipt of any contribution or expenditure made and must be submitted with a registration fee of twenty-five dollars. A political committee that organizes and registers according to federal law and makes a disbursement in excess of two hundred dollars to a nonfederal candidate seeking public office, a political party, or political committee in this state is not required to register as a political committee according to this section if the political committee reports according to section 16.1-08.1-03.7. Registration under this section does not reserve the name for exclusive use nor does it constitute registration of a trade name under chapter 47-25.

**SECTION 6. AMENDMENT.** Subsection 2 of section 16.1-08.1-03.8 of the North Dakota Century Code is amended and reenacted as follows:

2. A multicandidate political committee shall file a detailed list statement containing the aggregated total of all contributions 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 aggregated amount of each the reportable contribution contributions in excess of two hundred dollars, and the date each the last reportable contribution was received.

**SECTION 7. AMENDMENT.** Section 16.1-08.1-03.9 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-08.1-03.9. Contribution statements of other judicial district candidates or a candidate committees committee for elected office in the state except as otherwise defined a judicial district candidate.**

1. ~~Except a candidate otherwise defined in section 16.1-01-01, a candidate committee for a~~ A judicial district candidate ~~and or a candidate for a county or city office, in cities with a resident population of five thousand or more as determined by the last federal decennial census, committee for a judicial district candidate shall make and file a statement in accordance with this section. The candidate or candidate committee shall include in the statement:~~
  - a. The name and mailing address of all contributors who made contributions in excess of two hundred dollars in the aggregate for the purpose of influencing the nomination for election, or election, of the candidate;
  - b. The aggregated amount of the contributions from each reportable contribution listed contributor; and
  - c. The date each reportable the last contribution was received from each listed contributor.
2. A candidate ~~or a candidate committee for a judicial district candidate described in this section shall file a statement with the secretary of state no later than the thirtieth twelfth day following before the date of the election in which the candidate's name appeared appears on the ballot or in which the candidate sought seeks election through write-in votes. Any other~~ The reporting period for each of these statements is from the

beginning of that calendar year through the twentieth day before the date of the election.

3. A candidate or a candidate committee described in this section shall also be required to file a complete year-end statement under this section shall file the statement in the office of the county auditor in the candidate's county of residence with the secretary of state no later than the ~~thirtieth~~ thirty-first day of January in the year immediately following the date of the election in which the candidate's name appeared on the ballot or in which the candidate sought election through write-in votes. Even if the candidate or candidate committee has not received any contributions in excess of two hundred dollars during the reporting period, the candidate or candidate committee shall file a statement as required by this section.
- ~~3-~~ 4. A candidate or a candidate committee described in this section shall be required to file a year-end statement with the secretary of state for any year in which a contribution was received, regardless of whether the candidate sought election during that calendar year.
5. A statement required by this section to be filed with the ~~appropriate filing officer~~ secretary of state must be:

  - a. Deemed properly filed when deposited with or delivered to the ~~appropriate filing officer~~ secretary of state within the prescribed time. A statement that is mailed is deemed properly filed when it is postmarked and directed to the ~~appropriate filing officer~~ secretary of state within the prescribed time. If the ~~filing officer~~ secretary of state does not receive a statement, a duplicate of the statement must be promptly filed upon notice by the ~~filing officer~~ secretary of state of its nonreceipt.
  - b. Preserved by the ~~filing officer~~ secretary of state for a period of four years from the date of filing. The statement is to be considered a part of the public records of the ~~filing officer~~ secretary of state and must be open to public inspection.

**SECTION 8.** Section 16.1-08.1-03.10 of the North Dakota Century Code is created and enacted as follows:

**16.1-08.1-03.10. Contribution statements of county office candidates or a candidate committee for a county office candidate.**

1. A county office candidate or a candidate committee for a county office candidate shall make and file a statement in accordance with this section. The candidate or candidate committee shall include in the statement:

  - a. The name and mailing address of all contributors who made contributions in excess of two hundred dollars in the aggregate for the purpose of influencing the nomination for election, or election, of the candidate;
  - b. The aggregated amount of the contributions from each listed contributor; and

- c. The date the last contribution was received from each listed contributor.
2. A candidate or a candidate committee described in this section shall file a statement with the county auditor no later than the twelfth day before the date of the election in which the candidate's name appears on the ballot or in which the candidate seeks election through write-in votes. The reporting period for each of these statements is from the beginning of that calendar year through the twentieth day before the date of the election.
3. A candidate or a candidate committee described in this section shall also be required to file a complete year-end statement with the county auditor no later than the thirty-first day of January in the year immediately following the date of the election in which the candidate's name appeared on the ballot or in which the candidate sought election through write-in votes. Even if the candidate or candidate committee has not received any contributions in excess of two hundred dollars during the reporting period, the candidate or candidate committee shall file a statement as required by this section.
4. A candidate or a candidate committee described in this section shall be required to file a year-end statement with the county auditor for any year in which a contribution was received, regardless of whether the candidate sought election during that calendar year.
5. A statement required by this section to be filed with the county auditor must be:
  - a. Deemed properly filed when deposited with or delivered to the county auditor within the prescribed time. A statement that is mailed is deemed properly filed when it is postmarked and directed to the county auditor within the prescribed time. If the county auditor does not receive a statement, a duplicate of the statement must be promptly filed upon notice by the county auditor of its nonreceipt.
  - b. Preserved by the county auditor for a period of four years from the date of filing. The statement is to be considered a part of the public records of the county auditor and must be open to public inspection.

**SECTION 9.** Section 16.1-08.1-03.11 of the North Dakota Century Code is created and enacted as follows:

**16.1-08.1-03.11. Contribution statements of city office candidates or a candidate committee for a city office candidate in cities with a resident population of five thousand or more as determined by the last federal decennial census.**

1. A city office candidate or a candidate committee for a city office candidate in cities with a resident population of five thousand or more as determined by the last federal decennial census shall make and file a statement in accordance with this section. The candidate or candidate committee shall include in the statement:



- a. The name and mailing address of all contributors who made contributions in excess of two hundred dollars in the aggregate for the purpose of influencing the nomination for election, or election, of the candidate;
  - b. The aggregated amount of the contributions from each listed contributor; and
  - c. The date the last contribution was received from each listed contributor.
2. A candidate or a candidate committee described in this section shall file a statement with the county auditor no later than the twelfth day before the date of the election in which the candidate's name appears on the ballot or in which the candidate seeks election through write-in votes. The reporting period for each of these statements is from the beginning of that calendar year through the twentieth day before the date of the election.
3. A candidate or a candidate committee described in this section shall also be required to file a complete year-end statement with the county auditor no later than the thirty-first day of January in the year immediately following the date of the election in which the candidate's name appeared on the ballot or in which the candidate sought election through write-in votes. Even if the candidate or candidate committee has not received any contributions in excess of two hundred dollars during the reporting period, the candidate or candidate committee shall file a statement as required by this section.
4. A candidate or a candidate committee described in this section shall be required to file a year-end statement with the county auditor for any year in which a contribution was received, regardless of whether the candidate sought election during that calendar year.
5. A statement required by this section to be filed with the county auditor must be:
  - a. Deemed properly filed when deposited with or delivered to the county auditor within the prescribed time. A statement that is mailed is deemed properly filed when it is postmarked and directed to the county auditor within the prescribed time. If the county auditor does not receive a statement, a duplicate of the statement must be promptly filed upon notice by the county auditor of its nonreceipt.
  - b. Preserved by the county auditor for a period of four years from the date of filing. The statement is to be considered a part of the public records of the county auditor and must be open to public inspection.

**SECTION 10. 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 political committee receives ~~any contribution~~ contributions in excess of five hundred

dollars in the aggregate in the twenty-day period before any election from any individual contributor, that candidate, political party, political committee, 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, 16.1-08.1-03.1, 16.1-08.1-03.3, ~~or 16.1-08.1-03.8, 16.1-08.1-03.9, 16.1-08.1-03.10, or 16.1-08.1-03.11~~ stating the name and street address of the contributor and the aggregated amount of the contribution, and file the statement in the appropriate office within forty-eight hours of the receipt of the contribution.

**SECTION 11. AMENDMENT.** Section 16.1-08.1-06.1 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-08.1-06.1. Secretary of state Filing officer to charge and collect fees for late filing.** ~~Except for a statement required to be filed under section 16.1-08.1-03.9, any other~~

- ~~1. If a statement, registration, or report required to be filed according to this chapter, or any amended statement, registration, or report requested by the secretary of state, which is not filed within the prescribed time, the secretary of state shall~~ filing officer to whom the report was to be filed is authorized to charge and collect a late fee as follows:
  - ~~4. a.~~ Within six days after the prescribed time, twenty-five dollars;
  - ~~2. b.~~ Within eleven days after the prescribed time, fifty dollars; and
  - ~~3. c.~~ Thereafter, one hundred dollars.
- ~~2. A filing officer may require an amendment to be filed for any statement, registration, or report that is incorrect or incomplete. The amendment must be filed with the filing officer within ten business days after the amendment has been requested in writing. If an amendment is not filed within the prescribed time, the filing officer is authorized to charge and collect a late fee as follows:~~
  - ~~a.~~ Within six days after the date the amendment was due, fifty dollars;
  - ~~b.~~ Within eleven days after the date the amendment was due, one hundred dollars; and
  - ~~c.~~ Thereafter, two hundred dollars.
- ~~3. The secretary of state~~ filing officer may collect any payment obligation arising out of this section by civil action or by assignment to a collection agency, with any costs of collection to be added to the amount owed and to be paid by the delinquent filer.

Approved March 22, 2005  
Filed March 22, 2005

## CHAPTER 189

### HOUSE BILL NO. 1429

(Representatives Dietrich, Iverson, Kaldor)

## STATEMENT OF INTERESTS FILING

AN ACT to amend and reenact sections 15.1-09-08, 16.1-09-02, and 40-21-07 of the North Dakota Century Code, relating to the filing of statement of interests by candidates.

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

**SECTION 1. AMENDMENT.** Section 15.1-09-08 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-08. School district elections - Candidate filings.** An individual seeking election to the board of a school district shall prepare and sign a document stating the individual's name and the position for which that individual is a candidate. A candidate shall also file a statement of interests as required by section 16.1-09-02. If the election is held in conjunction with a statewide election, the document these documents must be filed with the school district business manager, or mailed to and in the possession of the business manager, by four p.m. of the sixtieth day before the election. If the election is not held in conjunction with a statewide election, the document must be filed with the school district business manager, or mailed to and in the possession of the business manager, by four p.m. of the thirty-third day before the election.

**SECTION 2. AMENDMENT.** Section 16.1-09-02 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-09-02. Statement of interests to be filed.** Every candidate for elective office shall file a statement of interests as required by this chapter. In a year when a president and vice president of the United States are to be chosen, presidential and vice presidential candidates shall file with the secretary of state either a statement of interests as required by this chapter or a copy of the personal disclosure statement that is required by the federal election commission. ~~A candidate for elective office shall file the statement of interests with the officer with whom the candidate filed the candidate's certificate of nomination, certificate of endorsement, petition of nomination, or certificate of write-in candidacy.~~ Candidates for elective office who are required to file such statements shall do so with the filing officer for that election at the time of filing a certificate of nomination, a certificate of endorsement, a petition of nomination, or a certificate of write-in candidacy, pursuant to chapter 16.1-11, 16.1-12, or 40-21, as is appropriate. A person who has filed a statement as the result of candidacy in a primary election need not refile before running in the following general election. A write-in candidate who is not required to file a certificate of write-in candidacy shall file the statement of interests after the candidate's election at the time of filing the required oath of office. Every person who is appointed by the governor to a state agency, board, bureau, commission, department, or occupational or professional licensing board shall file a statement of interests as required by this chapter with the secretary of state simultaneously with announcement of the appointment.

**SECTION 3. AMENDMENT.** Section 40-21-07 of the North Dakota Century Code is amended and reenacted as follows:

**40-21-07. Petition for nomination of elective official in cities - Signatures required - Withdrawal of petition - Contents.** A candidate for any public office in an incorporated city may be nominated by filing with the city auditor, at least sixty days and before four p.m. on the sixtieth day before the holding of the election, a petition signed by not less than ten percent of the number of qualified electors who voted for that office in the last city election. A candidate shall also file a statement of interests as required by section 16.1-09-02. If multiple candidates were elected to the office at the preceding city election at which the office was voted upon, the number of signatures must equal at least ten percent of the total votes cast for all candidates divided by the number of candidates that were to be elected to that office at that election. Qualified electors who sign a petition must reside within the ward or precinct in and for which that officer is to be elected, if the election is by wards, or within the corporate limits of the city if the officer is elected at large. In cities operating under the commission system of government the required petition may be signed by the qualified electors at large residing within the city. If a petition is mailed, it must be in the possession of the city auditor before four p.m. on the sixtieth day prior to the holding of the election. However, no more than three hundred signatures may be required and the signatures may be on separate sheets of paper. Petitions must meet the specifications of nominating petitions pursuant to section 16.1-11-16. If a city election is not combined with a state or county election according to section 40-21-02, a candidate may be nominated by filing the required petition with the city auditor at least thirty-three days and before four p.m. on the thirty-third day before the holding of the election. A candidate may withdraw the candidate's nominating petition at any time before the applicable deadlines for filing nominating petitions provided for in this section. Nominating petitions required by this section may not be circulated or signed more than ninety days before the date when nominating petitions must be filed pursuant to this section. Any signatures to a nominating petition obtained more than ninety days before that date may not be counted.

Approved March 22, 2005

Filed March 22, 2005

## CHAPTER 190

### HOUSE BILL NO. 1103

(Government and Veterans Affairs Committee)  
(At the request of the Secretary of State)

### ELECTION NOMINATIONS

AN ACT to amend and reenact subdivision a of subsection 2 of section 16.1-11-06, subdivision a of subsection 2 of section 16.1-11-11, and subsection 1 of section 16.1-13-17 of the North Dakota Century Code, relating to nominating petitions and certificates of nomination filed by candidates and political parties.

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

**SECTION 1. AMENDMENT.** Subdivision a of subsection 2 of section 16.1-11-06 of the North Dakota Century Code is amended and reenacted as follows:

- a. The candidate's name, post-office address, and the title of the office to which the candidate aspires, the appropriate district judgeship number if applicable, and whether the petition is intended for nomination for an unexpired term of office.

**SECTION 2. AMENDMENT.** Subdivision a of subsection 2 of section 16.1-11-11 of the North Dakota Century Code is amended and reenacted as follows:

- a. The candidate's name, post-office address, and the title of the office to which the candidate aspires, the appropriate district number if applicable, and whether the petition is intended for nomination for an unexpired term of office.

**SECTION 3. AMENDMENT.** Subsection 1 of section 16.1-13-17 of the North Dakota Century Code is amended and reenacted as follows:

1. The name of each person nominated, that person's post-office address, and the office for which that person is nominated, the legislative district number if applicable, and whether the certificate is intended for an unexpired term of office.

Approved March 21, 2005  
Filed March 22, 2005

## CHAPTER 191

### HOUSE BILL NO. 1417

(Representative Froseth)  
(Senator Krebsbach)

### VOTE CANVASSING

AN ACT to amend and reenact sections 15.1-09-16, 16.1-11-38, 16.1-14-01, 16.1-15-01, 16.1-15-02, 16.1-15-04, 16.1-15-05, 16.1-15-06, and 16.1-15-08, subsections 1 and 2 of section 16.1-15-09, and sections 16.1-15-12, 16.1-15-13, 16.1-15-15, 16.1-15-16, 16.1-15-19, 16.1-15-21, 16.1-15-22, 16.1-15-24, 16.1-15-25, 16.1-15-29, 16.1-15-30, 16.1-15-33, 16.1-15-34, 16.1-15-35, 16.1-15-43, 40-21-17, and 58-04-15 of the North Dakota Century Code, relating to tie votes and the canvassing of votes; and to repeal sections 16.1-15-02.1 and 16.1-15-03 of the North Dakota Century Code, relating to canvassing of votes.

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

**SECTION 1. AMENDMENT.** Section 15.1-09-16 of the North Dakota Century Code is amended and reenacted as follows:

**15.1-09-16. School district election - Tie breaker.** If the election results in a tie, the business manager of the district shall notify, in writing, the candidates between whom the tie exists. Within three days after the election, at a time agreed upon by the candidates, the election must be decided in the presence of the judges and clerks of the election, in a manner agreed upon by the candidates by a drawing of names. A candidate involved in a tie vote may withdraw the candidate's name from consideration if the candidate is willing to sign a statement to that effect in the presence of and witnessed by the filing officer of the election. If no candidates remain, the office is to be filled according to the rules of filling an office when a vacancy exists. The school district business manager shall make and keep a record of the proceedings.

**SECTION 2. AMENDMENT.** Section 16.1-11-38 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-38. Tie vote determination.** In case of a tie vote the nominee or nominees must be determined by a ~~coin flip~~, drawing of names in the presence of the candidates upon at least five days' notice to each candidate, by the canvassing board or boards concerned, at a time and place designated by the board. A candidate involved in a tie vote may withdraw the candidate's name from consideration if the candidate is willing to sign a statement to that effect in the presence of and witnessed by the filing officer of the election. If no candidates remain, the office is to be filled according to the rules of filling an office when a vacancy exists.

**SECTION 3. AMENDMENT.** Section 16.1-14-01 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-14-01. Canvassing votes for presidential electors - Tie vote.** The state canvassing board in examining and making a statement of the votes for, and in determining and certifying the persons chosen as, presidential electors shall proceed

in the manner prescribed in this title for the canvass of votes for state officers. The secretary of state likewise shall file and record such statement and determination. In canvassing the returns for presidential electors, the group of electors having the greatest number of votes is to be declared elected. If two or more groups of electors are found to have an equal and the greatest number of votes, the election of one group must be determined by a coin flip drawing of names, with the governor flipping drawing the coin names in the presence of the other members of the state canvassing board.

**SECTION 4. AMENDMENT.** Section 16.1-15-01 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-01. Ballots void and not counted - Part of ballot may be counted.**

1. In the canvass of the votes at any election, a ballot is void and may not be counted if:
  - a. It is not endorsed with the official stamp and initials as provided in this title; or
  - b. It is impossible to determine the elector's choice from the ballot or parts of a ballot, and in the case of electronic voting systems, based upon the criteria established by the secretary of state for counting votes on each electronic voting system authorized for procurement and use in the state according to section 16.1-06-26.
2. If With the exception that a voter must, for paper ballots, darken the oval next to the preprinted name of a candidate or the name of a write-in candidate written on the ballot, if a ballot is marked so only a part of the voter's intention can be determined, the election judges shall count such part. If an elector votes for more than the number of persons to be elected to any office, the elector's ballot may be invalidated only insofar as the elector's vote for such office is concerned, and the balance of the elector's ballot, if otherwise proper, may not be invalidated. However, at primary elections only, a party ballot is void if the elector votes for candidates of more than one party.

**SECTION 5. AMENDMENT.** Section 16.1-15-02 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-02. Board of election to generate canvass votes reports - Location - Public may attend.** After the polls are closed, the inspector of elections and the judges shall immediately place the stamp and inkpad in the manila wrapper provided by the county auditor and seal it with the seal provided by the county auditor and then they shall open the ballot boxes and count and compare the ballots with the poll clerks' lists. If the generate the canvass report from the electronic voting system. The ballots compare and are counted by the machine must be equal in number with the names on the poll clerks' lists; the election board shall proceed immediately to canvass the votes. If the numbers are not equal, the pollbooks are to be rechecked to find the discrepancy. The canvass shall continue without adjournment until completed and must be open to the public. Except in unusual and compelling circumstances, the vote canvass shall occur at the polling place. If good and substantial reasons exist for the removal of the ballots and election records to another location for canvass, the other location must be in the same precinct and the removal must be approved by the election board. In no case may the ballots be removed to another location for tally prior to generating the canvass report after the

ballot boxes have been opened. Upon approval of a change of location by the election board as provided in this section, the approximate time and location of the canvass must be prominently posted on the main entrance to the polling place, the ballots and records must be moved in the presence of the election board, and the canvass as provided in this chapter must proceed immediately upon arrival at the alternate location.

**SECTION 6. AMENDMENT.** Section 16.1-15-04 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-04. Duplicate Three canvass reports prepared by election board - Tally of votes separate One for county auditor and one for each political party.** The election board shall ~~prepare duplicate~~ generate at least three canvass reports of the total votes cast for each candidate or measure from the electronic voting system. The figures must agree with the poll clerks' books and the number of ballots. The ballots may not be sealed, nor may the election tally books or the duplicate three canvass reports be signed, by the election board or poll clerk until the figures and counts in the poll clerks' books and in the duplicate canvass reports and the number of ballots cast all show the same totals for ballots cast. ~~The tally of the votes must be separate for each political designation or principle and must be returned as such by the judges and inspector of elections, who shall give the full vote for each candidate. A signed canvass report is to be given to each judge so that the political parties have a record of the votes cast.~~

**SECTION 7. AMENDMENT.** Section 16.1-15-05 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-05. Oath required of members of election board upon completion of canvass - Contents.** At the conclusion of the canvass of the votes, each member of the election board shall sign an affidavit to the effect that the ballots have been counted and the votes canvassed as provided in this chapter and that the returns as disclosed by the tally books of election kept by the poll clerks, and the duplicate canvass reports, agree with the number of ballots cast and are true and correct of the member's own knowledge.

**SECTION 8. AMENDMENT.** Section 16.1-15-06 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-06. Reports and pollbooks sent to county auditor - Compensation for making returns - County auditor to forward pollbook to clerk of United States district court and to the clerk of the North Dakota district court.** By twelve noon of the day Immediately following an election the canvass, except in cases of emergency or inclement weather, the inspector of elections, or one of the judges appointed by the inspector of elections, personally shall deliver one of the duplicate signed canvass reports provided for in section 16.1-15-04 to the county auditor. The reports, carefully sealed under cover, accompanied by both of the pollbooks provided for in section sections 16.1-02-13 and 16.1-06-21, and the wrapped and sealed stamp and inkpad, with the oaths of the inspector and poll clerks affixed thereto, must be delivered properly to the county auditor. The person making the return shall receive compensation therefor in accordance with section 16.1-05-05. ~~However, no compensation and no mileage may be paid if delivery of the ballots is not made by twelve noon on the day following the election.~~ The compensation and mileage must be paid out of the county treasury on a warrant of the county auditor and is full compensation for returning all used or voided ballots and for delivering the ballot boxes to the proper official. ~~Within thirty days after receipt thereof following each presidential election, each county auditor shall forward~~



one of the pollbooks to the clerk of the United States district court for the district encompassing that county for the clerk's official use. The county auditor shall request return of the pollbook thirty days after receipt thereof by the clerk of the United States district court. The county auditor shall provide the clerk of the North Dakota district court of said county with a pollbook to be used by the clerk for jury selection.

**113 SECTION 9. AMENDMENT.** Section 16.1-15-08 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-08. Wrapping and returning of ballots to clerk of the district court.** After ~~having prepared~~ generating the reports and poll lists provided for in section 16.1-15-06 for delivery to the county auditor, the election board shall cause the ballots of each kind containing lawful write-in votes cast at the election to be placed in a suitable wrapper to form a complete wrapper for the ballots. All ballots without write-in votes shall be wrapped in a similar manner. The ballots and wrappers must then be tightly secured at the outer end to completely envelop and hold the ballots together. Ballots that are void must be secured in a separate wrapper and must be marked "void". Ballots that are spoiled must be separately secured and marked "spoiled". In sealing ballots, the various classes of ballots must be kept separate. Each wrapper must be endorsed with the ~~name~~ names or ~~number~~ numbers of the precinct precincts and the date on which the election was held. The wrappers must be sealed securely in a manner prescribed by the secretary of state so the wrappers cannot be opened without an obvious and permanent breaking of the seal. The ballots, together with those found void or spoiled, and the opened envelopes from voted absentee ballots and the unopened envelopes of absentee ballots rejected as defective, must be returned in person to the clerk of the district court. At the meeting of the county canvassing board, the clerk of the district court shall deliver the ballots containing lawful write-in votes from all the precincts within the county. Ballots used with any electronic voting system or counted by an electronic counting machine must be sealed and returned as provided in this section.

**SECTION 10. AMENDMENT.** Subsections 1 and 2 of section 16.1-15-09 of the North Dakota Century Code are amended and reenacted as follows:

1. Election officers shall ~~make returns~~ generate reports of votes cast upon electronic voting systems and counted on electronic counting machines for all candidates and for any measures or questions in the same manner as now or hereafter provided by law or rule insofar as such provisions of law or rule are applicable.
2. Within the ability of an electronic counting machine to accurately do so, all ~~ballots not containing write-in votes may~~ are to be counted by the machine prior to the counting and recording of the ballots containing write-in votes. After the election results have been accumulated centrally in the county auditor's office, if the number or percentage of write-in votes for an office meet the criteria established in section 16.1-12-02.2, the county canvassing board shall canvass the votes for the write-in names for that office to determine final election results.

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**113** Section 16.1-15-08 was also amended by section 17 of House Bill No. 1497, chapter 184.

**SECTION 11. AMENDMENT.** Section 16.1-15-12 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-12. Ballot boxes delivered to officers for custody Care and custody of ballot boxes and voting machines.** In organized townships or in cities, the inspector of elections, if the inspector is not the officer in question, shall deliver the ballot boxes to the chairman of the board of supervisors of the township or to the executive officer of the city in which the election precinct is situated, as the case may be. The officer shall keep the boxes in safe custody until the next election or hand them over to the officer's successor in office to be kept safely by the successor until such time. At the following general or primary election, the officers shall hand the ballot boxes over to the inspector of elections. In unorganized townships, the inspector of elections shall cause the ballot boxes to be delivered to the county auditor at the same time the ballots are returned to the county auditor. Ballot boxes and voting machines are to be under the care and custody of the county auditor and assigned staff members.

**SECTION 12. AMENDMENT.** Section 16.1-15-13 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-13. District judge or clerk of district court to keep ballots** ~~forty-five days - Exception - Use of ballots as evidence.~~ Immediately upon receiving the ballots as provided in section 16.1-15-08, the district judge or the clerk of district court shall give a receipt ~~therefor~~ to the election judges and shall place the ballots properly arranged in the order of the precinct number in boxes that shall be securely locked. The boxes must be placed in a fireproof vault and must be kept securely for forty-five days. They if the ballots do not contain federal offices and twenty-two months if the ballots contain federal offices. With the exception of the ballots containing lawful write-in votes that may be counted at the meeting of the county canvassing board, the ballots may not be opened nor inspected, except upon court order in a contested election, when it is necessary to produce them at a trial for any offense committed at an election, or to permit election officials to complete their duties. ~~Forty-five~~ Either forty-five days or twenty-two months after the election dependent upon the retention schedule outlined in this section, upon determination by the district judge or the clerk of district court that no contest is pending, the ballots must be destroyed. If any contest of the election of any officer voted for at the election or a prosecution under the provisions of this title is pending at the expiration of such time, the ballots may not be destroyed until the contest or prosecution is finally determined. The ballots returned to the district judge or clerk of district court as provided in this section must be received in evidence without introducing further foundation.

**SECTION 13. AMENDMENT.** Section 16.1-15-15 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-15. County canvassing board - Composition.** The county canvassing board must be composed of the clerk of the district court, county auditor, chairman of the board of county commissioners, and a representative of ~~the district committee of all legislative districts which wholly or partly fall within the boundaries of the county as appointed by the district chairmen~~ each of the two political parties ~~which~~ that received the highest number of votes cast for governor at the most recent general election at which a governor was elected. The district chairmen of the political parties from each legislative district within the county shall appoint the respective political party representative. The county canvassing board must be comprised of at least five members, and both political parties must be represented. Each political party from each legislative district within a county may request

representation on the canvassing board if there is equal representation from each of the political parties. For any special county election when the county is composed of more than one legislative district and the election does not involve any legislative or statewide office, the county canvassing board must be composed of the clerk of the district court, county auditor, chairman of the board of county commissioners, and one representative as appointed by the state chairman for each of the two political parties that received the highest number of votes cast for governor at the most recent general election at which a governor was elected.

**SECTION 14. AMENDMENT.** Section 16.1-15-16 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-16. Qualifications of members of canvassing board - Replacements - Quorum.** No member of the county canvassing board who would not be eligible to serve as a member of the election board pursuant to subsection 2 of section 16.1-05-02 may serve on the county canvassing board. If any of the members of the board other than the representatives of the two political parties are disqualified or cannot serve for any other reason, the county commissioners who would be qualified to serve on the board shall appoint alternates to serve in the place of those members of the board who are disqualified. If any of the representatives of the district committees of the two parties are disqualified or cannot serve for any other reason and if the party wishes to have representation, the district chairmen shall appoint an alternate from their respective district committees to act as a member of the county canvassing board. A majority of the confirmed members of the board or their duly appointed alternates constitute a quorum and may make the canvass provided for in this chapter and certify the results thereof.

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

**16.1-15-19. County canvassing board to disregard technicalities, misspelling, and abbreviations - Write-in votes canvassed - 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. Pursuant to section 16.1-12-02.2, the board shall canvass all qualifying write-in votes. The board may not count votes polled in any place except at established precincts. The county canvassing board is authorized to ~~stamp and~~ initial 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 16. AMENDMENT.** Section 16.1-15-21 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-21. Primary election statement prepared by county canvassing board - Contents.** The county canvassing board, upon canvassing the returns of a primary election, shall prepare a statement signed by the members of the board and filed in the office of the county auditor. The statement must contain all of the following:

1. The names of all candidates voted for at the primary election with the number of votes received by each and for what office. The statement must be made separately for each political party or principle.

2. The names of the persons or candidates of each political party or principle who receive the highest number of votes for the respective offices. If more than one person is required to be elected to a given office at the next ensuing general election, there must be included in the statement the names of so many of the candidates of the party receiving the next highest number of votes for that office as there are persons to be elected to the office at said ensuing general election. The statement must be made separately for each political party.
3. The total number of ballots cast at the primary election.

A separate statement of the votes cast for ~~United States senator, United States representative, state officers, judges of the supreme court, judges of the district courts, and members of the legislative assembly~~ must be transmitted to the secretary of state as provided in this chapter according to reporting instructions specified by the secretary of state.

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

**16.1-15-22. County auditor to transmit abstract of votes to secretary of state after primary election.** The county auditor of each county, under the auditor's official seal, shall return to the secretary of state by registered or certified mail within ten days after the day of any primary election, a certified abstract, under separate political designation or principle, or no-party designation, as the case may be, of the total number of votes cast in the auditor's county and the votes cast for every candidate for nomination for ~~United States senator, United States representative, state officers, judges of the supreme court, judges of the district courts, and members of the legislative assembly~~ according to reporting instructions specified by the secretary of state. The abstract must also include the total number of votes cast for initiated or referred measures and constitutional amendments. The certified abstract to be mailed under this section must be in the possession of the secretary of state before four p.m. on the tenth day after the primary election.

**SECTION 18. AMENDMENT.** Section 16.1-15-24 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-24. Abstracts of votes of general election made by county canvassing board - Contents.** The county canvassing board, when canvassing the returns of a general election, shall make abstracts of votes from the certified reports of the inspectors of elections ~~in the following manner:~~ according to the reporting instructions specified by the secretary of state.

1. ~~The abstract of votes for United States senator and United States representative and for all state officers, judges of the district courts, initiated or referred measures, and constitutional amendments must be on one sheet.~~
2. ~~The abstract of votes for members of the legislative assembly must be on one sheet.~~
3. ~~The abstract of votes for county officers must be on one sheet.~~

**SECTION 19. 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 according to the reporting instructions specified by the secretary of state. All certified abstract of votes must be transmitted by registered or certified mail to the secretary of state.

**SECTION 20. AMENDMENT.** Section 16.1-15-29 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-29. Determining tie vote in county offices.** If the requisite number of county officers are not elected because two or more persons have equal and the highest number of votes for one and the same office, a recount must be done pursuant to section 16.1-16-01. If a recount results in a tie vote, the county auditor shall give notice to the persons to appear at the county auditor's office at a time appointed by the county auditor. The persons then shall publicly decide by a ~~coin flip~~ drawing of names which of them must be declared elected. The county auditor shall prepare and deliver to the person elected an election certificate as provided in this chapter.

**SECTION 21. AMENDMENT.** Section 16.1-15-30 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-30. Determining tie vote for legislative assembly.** If the requisite number of persons are not elected to the state senate or house of representatives because two or more persons have equal and the highest number of votes for one and the same office, a recount must be done pursuant to section 16.1-16-01. If a recount results in a tie vote, the county auditor, if the legislative district in question is within one county, shall notify the secretary of state. The secretary of state shall notify the persons with equal and the highest number of votes to appear in the office of the secretary of state at a time fixed by the secretary of state. The time fixed may not be more than five days from the date the tie is determined by the county auditor. On the date fixed, the persons notified to appear shall publicly decide by ~~the toss of a coin~~ a drawing of names which of them must be declared elected, and the secretary of state shall prepare and deliver to the person elected a certificate of election as provided in this chapter. If the legislative district in question is within the boundaries of more than one county, the county auditor of the county which cast the greater number of votes for the office of governor at the last election at which a governor was elected shall proceed in accordance with this section.

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

**16.1-15-33. State canvassing board - Membership - Oath - Quorum - Compensation.** The clerk of the supreme court, the secretary of state, the state treasurer, and the chairman, or chairman's designee, of the state committee of the two political parties which cast the highest vote for governor at the last general election at which a governor was elected shall constitute the state canvassing board. The duties of the state canvassing board are ministerial, mandatory, and

nondiscretionary and consist of canvassing the results received from the various counties, ~~computing~~ verifying the computed final results, and certifying the results on the basis of the canvass. After taking the oath required of civil officers, the board shall proceed to canvass publicly the election returns made by the county auditors. Three members of the board constitute a quorum and may make the canvass provided for in this chapter and certify to the result thereof. If less than a quorum attend on the day appointed for a meeting of the board, the members attending may summon other state officers until there is a sufficient number to constitute a quorum. Any other state officer, upon being notified by the members of the board, shall attend without delay and act as a member of the board. Members of the board may be compensated only for their expenses incurred in attending meetings in accordance with sections 44-08-04 and 54-06-09. The compensation must be paid from the appropriation to the secretary of state.

**SECTION 23. AMENDMENT.** Section 16.1-15-34 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-34. Member of state canvassing board - When disqualified.**

When a member of the state canvassing board is a candidate for any office for which that member canvasses the votes, the ~~governor shall designate some other state officer to act in that member's stead at the session of the board while the votes given for that member are being canvassed~~ member shall be removed from that portion of the canvass. If a quorum still exists, the remaining members shall canvass the votes for that office. If a quorum does not exist, another state officer, summoned according to the authorization granted the state canvassing board in section 16.1-15-33, shall be required to canvass the votes for that office.

**SECTION 24. AMENDMENT.** Section 16.1-15-35 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-35. Meeting of state canvassing board.** Not later than seventeen days next following a primary, general, or special election, the state canvassing board shall meet at the office of the secretary of state for the purpose of canvassing and ascertaining the result of the election. The secretary of state shall notify the members of the board of the date and time of the meeting.

**SECTION 25. AMENDMENT.** Section 16.1-15-43 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-43. When special election ordered.** ~~If there is no choice a certificate of election cannot be issued for a judicial district office, other than the office of member of the legislative assembly,~~ If there is no choice a certificate of election cannot be issued for a judicial district office, other than the office of member of the legislative assembly, or a state office because any two or more persons have equal and the highest number of votes, the governor, by proclamation, shall order a new election.

**SECTION 26. AMENDMENT.** Section 40-21-17 of the North Dakota Century Code is amended and reenacted as follows:

**40-21-17. Highest number of votes elects in municipal election - Procedure on tie vote.** The person having the highest number of votes for any municipal office shall be declared elected to such office. In case of a tie vote in the election of any municipal officer, a recount must be conducted pursuant to section 16.1-16-01. If a recount results in a tie vote, the choice must be determined by a coin flip drawing of names in the presence of the governing body of the municipality and in a manner it directs. A candidate involved in a tie vote may withdraw the candidate's name from consideration if the candidate is willing to sign a statement to

that effect in the presence of and witnessed by the filing officer of the election. If no candidates remain, the office is to be filled according to the rules for filling an office when a vacancy exists.

**SECTION 27. AMENDMENT.** Section 58-04-15 of the North Dakota Century Code is amended and reenacted as follows:

**58-04-15. Tie vote - How determined.** If two or more persons have an equal and the highest number of votes for an office, the judges of election, immediately and publicly, shall determine by a ~~coin flip~~ drawing of names who of such persons shall be declared elected. A candidate involved in a tie vote may withdraw the candidate's name from consideration if the candidate is willing to sign a statement to that effect in the presence of and witnessed by the filing officer of the election. If no candidates remain, the office is to be filled according to the rules for filling an office when a vacancy exists.

**SECTION 28. REPEAL.** Sections 16.1-15-02.1 and 16.1-15-03 of the North Dakota Century Code are repealed.

Approved April 18, 2005

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