

Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO.

Introduced by

Representative Wald

1 A BILL for an Act to create and enact a new section to chapter 16.1-02 of the North Dakota
2 Century Code, relating to voter registration registration; and to amend and reenact section
3 16.1-02-03, 16.1-02-05, 16.1-02-09, 16.1-02-10, 16.1-02-11, subsection 7 of section
4 16.1-02-12, 16.1-02-13, subsections 2 and 3 of section 16.1-05-06, and subsection 4 of section
5 16.1-05-07 of the North Dakota Century Code, relating to the registration of voters and the
6 central voter file.

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

8 **SECTION 1. AMENDMENT.** Section 16.1-02-03 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **16.1-02-03. Secretary of state to establish the central voter file with ~~department of~~**
11 **~~transportation and county auditors.~~**

- 12 1. ~~Not later than the primary election in 2008, the~~ The secretary of state shall
13 establish the central voter file in cooperation with the ~~department of transportation~~
14 ~~and county auditors.~~
- 15 2. ~~The secretary of state shall establish the initial central voter file from records~~
16 ~~maintained by the department of transportation. Each county auditor shall~~
17 ~~compare the initial central voter file against all precinct pollbooks used in the~~
18 ~~auditor's county during and created from the general elections in the two previous~~
19 ~~election years and any reasonably reliable updates made by the county auditor~~
20 ~~since the general elections in the two previous election years. Any individual~~
21 ~~contained in the initial central voter file who voted at either of the general elections~~
22 ~~in the two previous election years must be designated as "active" in the initial~~
23 ~~central voter file. Any individual contained in the initial central voter file who did not~~
24 ~~vote at either of the general elections in the two previous election years must be~~

~~designated as "inactive" in the initial central voter file~~ county auditor of each county
is responsible for and shall supervise the registration of qualified electors within the
county. The county auditor shall maintain within the central order file a list of each
qualified elector who is registered in that county.

3. Each individual contained in the ~~initial~~ central voter file must be assigned a unique identifier. ~~An individual's unique identifier must be created from unique information and data obtained from records maintained by the department of transportation and the pollbooks from the general elections in the two previous election years.~~ If it is not possible to assign a unique identifier to an individual contained in the initial central voter file, a unique identifier must be randomly generated and assigned to the individual.
4. The secretary of state shall adopt rules for generating and assigning a unique identifier to each individual contained in the central voter file according to section 16.1-02-11 and subsection 3 of section 16.1-01-01.
5. ~~When establishing the initial central voter file from the records maintained by the department of transportation and the pollbooks from the general elections in the two previous election years, the secretary of state and county auditors shall attempt to correct address errors and misspellings of names.~~

SECTION 2. AMENDMENT. Section 16.1-02-05 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-05. ~~Entry of new voters into the central voter file~~ Registration of electors -
Query of the central voter file for double voting - Verification by mail - Challenges -
Postelection verification.

1. ~~Within sixty days following an election, the county auditor shall enter the name and required information of each individual who voted at the last election who is not already contained in the central voter file and update any required information requested and obtained at the last election for any individual contained in the central voter file.~~ Every qualified elector must be registered in the central voter file of the election precinct in which that elector resides to be entitled to vote at any statewide special, primary, or general election. A qualified elector may register by mail by submitting a completed registration form to the county auditor at any time

1 except during the thirty days before any statewide special, primary, or general
2 election. Except during the thirty days before a statewide election, a qualified
3 elector may register to vote when applying for or renewing a motor vehicle
4 operators license, when providing a notice of change of name or address with
5 respect to a motor vehicle operators license, or when applying for or receiving
6 public assistance. A qualified elector may register at the office of the county
7 auditor by completing a registration form at anytime except during the thirty days
8 before a statewide special, primary, or general election. If a qualified elector
9 applies to the county auditor for an absentee ballot, the elector may request a
10 registration form and may complete and submit the form with the absentee ballot if
11 the registration form is submitted by mail within thirty days of the election. Upon
12 receipt of a registration form, properly completed and signed by the applicant, the
13 county auditor shall register the individual as a qualified elector in the central voter
14 file. Except as otherwise provided under this chapter, the registration of a qualified
15 elector is permanent.

- 16 2. The secretary of state, with the assistance of the county auditors, within seventy
17 days following an election, shall query the central voter file to determine if any
18 individual voted more than once during the preceding election. The secretary of
19 state shall immediately notify the county auditor and state's attorney in each
20 affected county for further investigation.
- 21 3. The county auditor shall mail to a random sampling of individuals contained in the
22 central voter file a notice stating the individual's name and address as the name
23 and address appear in the central voter file. The random sampling must be
24 determined in the manner established by the secretary of state. The notice must
25 request the individual to notify the county auditor if there is any mistake in the
26 information.
- 27 4. Upon return of any nonforwardable mail from an election official, the county auditor
28 shall ascertain the name and address of that individual. If the individual is no
29 longer at the address recorded in the central voter file, the county auditor shall
30 designate the individual as "challenged" in the central voter file. An individual
31 designated as "challenged" shall comply with section 16.1-05-06 before being

1 allowed to vote at the next election in that precinct. If a notice mailed at least sixty
2 days after the return of the first nonforwardable mail is also returned by the postal
3 service, the county auditor shall designate the individual as "inactive" in the central
4 voter file.

5 5. Within ninety days after an election, the county auditor shall send the notice
6 provided for under subsection 3 to each individual who was challenged on election
7 day according to section 16.1-05-06. If a notice is returned as not deliverable, the
8 county auditor shall attempt to determine the reason for the return. A county
9 auditor who does not receive or obtain satisfactory proof of an individual's eligibility
10 to vote shall immediately notify the state's attorney to conduct an investigation of
11 the individual's eligibility to vote in that election.

12 **SECTION 3. AMENDMENT.** Section 16.1-02-09 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **16.1-02-09. Department of transportation to report updates to the secretary of**
15 **state - Changes to records in the central voter file.**

16 1. The department of transportation shall report regularly to the secretary of state any
17 relevant changes and updates to records maintained by the department of
18 transportation which may require changes and updates to be made to records of
19 individuals contained in the central voter file.

20 2. The county auditor may change the designation of individuals contained in the
21 central voter file whose change of address can be confirmed by the United States
22 postal service. The secretary of state may provide each county auditor with
23 periodic reports on any individual whose change of address can be confirmed by
24 the United States postal service.

25 ~~3. If a qualified elector makes a written request to the county auditor for inclusion in~~
26 ~~the central voter file, the county auditor shall collect the required information from~~
27 ~~the individual and add the individual's name to the central voter file with the~~
28 ~~designation of "inactive".~~

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

31 **Transfer of registration.**

- 1 1. When an elector changes residence from one precinct to another within a county,
2 the county auditor, upon application of the elector, shall transfer the electors
3 registration record to the proper precinct.
- 4 2. When an elector changes residence from one county to another county, the county
5 auditor of the county from which the elector moved, upon application of the elector,
6 shall transfer the elector's registration record to the county auditor of the elector's
7 county for transfer to the proper precinct.
- 8 3. When a county auditor receives a registration form that indicates that the elector
9 was previously registered in another county, that county auditor shall notify the
10 county auditor of the county in which the elector was previously registered so that
11 the name of the elector may be removed from the central voter file in that county.

12 **SECTION 5. AMENDMENT.** Section 16.1-02-10 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **16.1-02-10. Posting voting history - Failure to vote ~~Individuals designated~~**
15 **~~inactive.~~** Within ninety days after each election, each county auditor shall post the voting
16 history for each individual who voted in the election. ~~After the close of the 2010 calendar year,~~
17 ~~the secretary of state shall determine if any individual has not voted during the preceding four~~
18 ~~years and shall change the status of each such individual to "inactive" in the central voter file.~~
19 The secretary of state shall ~~prepare a report to each county auditor which contains the name of~~
20 ~~each individual who has been designated as "inactive" in the central voter file. Although not~~
21 ~~counted in an election, a late absentee ballot from an individual may not be used to designate~~
22 ~~an individual as "inactive" in the central voter file~~ establish a procedure through which a name
23 may be removed from the central voter file which must be consistent with the Federal Voter
24 Registration Act [42 U.S.C. 1973gg] a county auditor shall remove the name of an elector from
25 the central voter file upon the written request of the elector.

26 **SECTION 6. AMENDMENT.** Section 16.1-02-11 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **16.1-02-11. Secretary of state to adopt rules for the purpose of maintaining the**
29 **central voter file.** The secretary of state shall adopt rules and procedures according to
30 subsection 3 of section 16.1-01-01 for the purpose of implementing this chapter and for
31 updating and maintaining the central voter file. The rules must:

1. Provide for the establishment and maintenance of a central voter file.
2. Provide for the registration of electors consistent with the Federal Voter Registration Act [42 U.S.C. 1973gg]
3. Provide for the generation and assignment of a unique identifier to each individual contained in the central voter file.
- ~~3.~~ 4. Provide procedures for entering data into the central voter file.
4. 5. Provide for any additional information to be requested of and obtained from an individual which is to be maintained in the central voter file, not already provided by law, but necessary for the proper administration of the central voter file.
- ~~5.~~ 6. Provide for the exchange of records maintained by the appropriate state and county agencies and officials for receiving regular reports regarding individuals and records of individuals contained in the central voter file.
- ~~6.~~ 7. Allow each county auditor and the secretary of state to add, modify, and delete information from the central voter file to ensure accurate and up-to-date records.
- ~~7.~~ 8. Allow each county auditor and the secretary of state to have access to the central voter file for review, search, and inquiry capabilities.
- ~~8.~~ 9. Provide security and protection of all information contained in the central voter file and to ensure that unauthorized access and entry is prohibited.
- ~~9.~~ 10. Provide a system for each county to identify the precinct to which an individual should be assigned for voting purposes.

SECTION 7. AMENDMENT. Subsection 7 of section 16.1-02-12 of the North Dakota Century Code is amended and reenacted as follows:

7. ~~Beginning in 2008, for~~ Four years of an individual's voting history, if applicable.

SECTION 8. AMENDMENT. Section 16.1-02-13 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-13. Information contained in pollbooks generated from the central voter file. The county auditor shall generate a pollbook for each precinct in the county from the central voter file by the day before an election. With the exception of a record designated "secured active" and the unique identifier, which are exempt records, the precinct pollbooks are open records under section 44-04-18. Between the ~~fifteenth~~ thirtieth day before the election and the day of the election, no changes or updates to records of individuals contained in the

1 central voter file or a pollbook generated from the central voter file may be made, other than
2 changes related to the status of an individual voting early or an individual requesting and
3 returning an absent voter's ballot. The secretary of state shall prescribe procedures for
4 generating pollbooks and for transporting the pollbooks to the election judges for use on
5 election day. Pollbooks generated from the central voter file must contain the following
6 information for each individual contained therein:

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

18 **SECTION 9. AMENDMENT.** Subsections 2 and 3 of section 16.1-05-06 of the North
19 Dakota Century Code are amended and reenacted as follows:

- 20 2. Any member of the election board may challenge the right of an individual to vote if
21 the election board member has knowledge or has reason to believe the individual
22 is not a qualified elector. The fact that an individual is included in the central voter
23 file for a precinct constitutes prima facie evidence of the right of that individual to
24 vote in that precinct. A poll challenger may request members of the election board
25 to challenge the right of an individual to vote if the poll challenger has knowledge or
26 has reason to believe the individual is not a qualified elector of the precinct.—A
27 ~~challenge may be based upon any one of the following:~~
 - 28 a. ~~The individual offering to vote does not meet the age or citizenship~~
29 ~~requirements.~~
 - 30 b. ~~The individual offering to vote has never voted in the precinct before, the~~
31 ~~name of the individual offering to vote does not appear in the pollbook~~

generated from the central voter file, and the individual fails to provide reasonable evidence of residency in the precinct.

e. ~~Except as provided in section 16.1-01-05, the individual offering to vote physically resides outside of the precinct.~~

d. ~~The individual offering to vote does not meet the residency requirements provided in section 16.1-01-04.~~

e. ~~The individual offering to vote~~ or if the individual fails or refuses to provide an appropriate form of identification as requested under subsection 3.

3. If after an election board member has requested that the individual offering to vote provide an appropriate form of identification ~~to address any of the voting eligibility concerns listed in subsection 2~~ and the identification is not provided or does not adequately confirm the eligibility of the challenged individual, the challenged individual may not vote unless the challenged individual executes an affidavit, acknowledged before the election inspector, that the challenged individual is a legally qualified elector of the precinct.

SECTION 10. AMENDMENT. Subsection 4 of section 16.1-05-07 of the North Dakota Century Code is amended and reenacted as follows:

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 required to be 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.~~
- e. ~~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.~~