

June 2009

TITLE 16.1 Elections Summary of Bills Enacted by 2009 Legislative Assembly

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 16.1. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

Senate Bill No. 2324 requires a school district business manager to have election ballots prepared at least 40 days before an election. The bill prohibits a qualified elector from authorizing an attorney in fact, guardian, or other individual to apply for any ballot or to vote in any election on behalf of or in place of the qualified elector. The bill prohibits an individual from removing the individual's name from an initiative, referendum, or recall petition. The bill sets timeframes for the calling of and providing notice of a recall election and provides that an official may not be recalled if the recall election would be held during the same year in which the official's office would be included on the ballot. The bill provides that the costs of annual software licenses, hosting costs for the software in the State Data Center, costs of necessary enhancements to software, and the costs for implementing the duties and responsibilities of the Secretary of State's office relating to the central voter file are the responsibility of the Secretary of State. The bill eliminates the requirement that each county auditor mail to a random sampling of individuals contained in the central voter file a notice stating the individual's name and address. The bill eliminates or reduces various timelines for reporting changes and posting information in the central voter file. The bill changes references and procedures relating to political party organization to account for organization in nonpresidential general election years. The bill provides that for special elections involving no-party offices, the appropriate election officer must appoint the election judges, with the approval of the applicable governing body. The bill increases the number of poll challengers allowed from each political party from one to three. The bill requires that an affidavit signed by an individual who has not provided appropriate identification to vote must include the birth date of the affiant; the identification number and state of any state-issued identification of the affiant, if available; and a notice indicating that the affidavit is not an open record. The bill prohibits a filing officer from including a candidate's name on the ballot if an error is discovered on the statement of interests filed by the candidate and the candidate is unable to or refuses to make the necessary correction before the 60th day before the election. The bill requires a measure committee or a corporation making a direct expenditure either for or against a measure to disclose on a political advertisement the name of the sponsor of the advertisement. The bill provides that spoiled ballots must be returned to the county recorder. The bill prohibits an individual who served on an election board during an election from serving as a political party representative on the canvassing board for the same election and prohibits any individual who has anything of value bet or wagered on the result of an election from serving on a county or the state canvassing board. The bill also requires a member of a county or the state canvassing board to be removed from any portion of the canvass for which that member has a family member as a candidate for an office. The bill includes references to presidential, judicial district, and multicounty district offices within provisions relating to election recount procedures.

Senate Bill No. 2319 provides that if an election official personally distributes and collects an absent voter's ballot outside the election official's office, appointed election judges from an election board must accompany the election official along with the ballot to and from the voter's location and be present while the voter is marking the ballot. The bill removes the requirement that a voter voting by absentee ballot include the voter's precinct or voting location on the ballot and includes on an absent voter's application form a space for the voter to indicate the voter's status as a citizen living outside the United States, a uniformed service member living away from the voter's North Dakota residence, or a family member of a uniformed service member living away from the voter's North Dakota residence. The bill allows an applicant for an absentee ballot to use the applicant's signature stamp if the applicant is unable to sign the applicant's name on the application and the voter's affidavit. The bill requires an election official to provide a voter with a secrecy envelope along with an absentee ballot. The bill allows election officials to begin processing absentee and vote by mail ballots on the day before the election, but prohibits counting of the votes before the polls have closed. The bill allows a county to provide more than one early voting location. The bill changes timelines for distribution of mail ballots to allow distribution by the county auditor no sooner than the 50th day before the election and no later than the 40th day before the election. With respect to obtaining a replacement mail ballot, the bill removes the requirement that an elector sign a sworn statement that the elector's ballot was destroyed, spoiled, lost, or not received. The bill allows a candidate for President of the United States to begin gathering signatures for the certificate of nomination on the first day of January in a presidential election year and requires that the petition be submitted to the Secretary of State before 4:00 p.m. on the 60th day before the general election. The bill revises the affidavit form for an applicant for placement on the general election ballot as

an independent candidate and includes on the affidavit a statement that the candidate may use a nickname on the ballot but may not use a title or campaign slogan. The bill extends by 60 days the time period during which an independent candidate is allowed to circulate petitions to place the individual's name on the ballot.

House Bill No. 1490 includes within the definition of an expenditure for the purposes of campaign finance regulation expenditures for the purpose of influencing the passage or defeat of a measure. The bill includes within the filing requirements for judicial candidates and candidate committees a requirement that the statement include the gross total of contributions received in excess of \$200.

Senate Bill No. 2307 repeals the statutory authorization for political parties to hold presidential preference caucuses.

House Bill No. 1452 establishes a procedure to hold a special election to fill a vacancy in the United States House of Representatives due to a catastrophic circumstance in which 100 or more representatives across the United States are no longer able to serve and the next regular or special election is more than 75 days in the future.

House Bill No. 1343 requires a board of county commissioners that determines to hold an election by mail ballot to have one or more polling places in the county open on the day of the election.

House Bill No. 1461 defines "election day" with respect to polling places at early voting precincts as any time an early voting precinct is open.

House Bill No. 1002 provides that any interest earnings on the election fund must be used for the exclusive purpose of carrying out activities of the Help America Vote Act of 2002.

House Bill No. 1042 clarifies that on an initiative or referendum petition, material that is not underscored or overstruck is existing law that is not being changed.

House Bill No. 1436 changes a reference from the Legislative Council to the Legislative Management to account for the changing of the name of the 17-member Legislative Council to Legislative Management.