Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013

HOUSE BILL NO. 1332
(Representatives Boehning, Grande, Nathe, Streyle, Thoreson, Wieland)
(Senator Berry)

AN ACT to amend and reenact section 16.1-02-05, subsection 9 of section 16.1-02-12, and sections 16.1-02-13, 16.1-05-04, 16.1-05-07, 16.1-07-06, and 39-06-03.1 of the North Dakota Century Code, relating to eligibility to vote; and to repeal sections 16.1-05-06 and 58-04-09 of the North Dakota Century Code, relating to eligibility to vote.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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 - Query of the central voter file for double voting - ~~Challenges -~~ Postelection verification.

1. Within forty-five 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.

2. The secretary of state, with the assistance of the county auditors, within eighty-five days following an election, shall query the central voter file to determine if any individual voted more than once during the preceding election. The secretary of state shall immediately notify the county auditor and state's attorney in each affected county for further investigation.

3. Upon return of any nonforwardable mail from an election official, the county auditor shall ascertain the name and address of that individual. If the individual is no longer at the address recorded in the central voter file, the county auditor shall transfer the voter to the correct precinct in the central voter file or notify the county of the voter's new residence so the voter record can be transferred to the correct county. If a notice mailed at least sixty days after the return of the first nonforwardable mail is also returned by the postal service, the county auditor shall designate the individual as "inactive" in the central voter file.

~~4. Within forty-five days after an election, the county auditor shall send a notice to each individual who was challenged on election day according to section 16.1-05-06. If a notice is returned as not deliverable, the county auditor shall attempt to determine the reason for the return. A county auditor who does not receive or obtain satisfactory proof of an individual's eligibility to vote shall notify immediately the state's attorney to conduct an investigation of the individual's eligibility to vote in that election.~~

SECTION 2. AMENDMENT. Subsection 9 of section 16.1-02-12 of the North Dakota Century Code is amended and reenacted as follows:

9. The individual's driver's license or nondriver identification card number ~~and state of any state-issued identification regardless of the state in which the identification was issued, if available~~issued by the department of transportation.

SECTION 3. 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 voter's birth date and driver's license or nondriver identification card number ~~of any state-issued identification regardless of the state in which the identification was~~ issued by the department of transportation, which are exempt records, the precinct pollbooks are open records under section 44-04-18. 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. The county, legislative district, city or township, school district, county commissioner district, if applicable, precinct name, and precinct number in which the individual resides. A ballot-style code identifying this information may be used in place of the information required by this subsection.
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 4. AMENDMENT. Section 16.1-05-04 of the North Dakota Century Code is amended and reenacted as follows:

16.1-05-04. Duties of the members of the election board during polling hours.

1. The election inspector shall supervise the conduct of the election to ensure all election officials are properly performing their duties at the polling place. The election inspector shall assign duties so as to equally and fairly include both parties represented on the election board.
2. The election inspector shall assign ministerial duties to poll clerks, who shall carry out the ministerial duties assigned by the election inspector.
3. The election inspector shall assign the poll clerks to perform the function of maintaining the pollbook. The designated poll clerks shall maintain the pollbook. The pollbook must contain the name and address of each individual voting at the precinct and must be arranged in the form and manner prescribed by the secretary of state.
4. ~~The members of the election board shall challenge the right of anyone to vote whom they know or have reason to believe is not a qualified elector by requiring the elector to complete and sign a voter's affidavit.~~
5. ~~5.~~ Each member of the election board shall remain on the premises of the polling place during the time the polls are open to prevent the occurrence of fraud, deceit, or other irregularity in the conduct of the election.
6. ~~6.~~5. All members of the election board shall distribute ballots and other election materials to electors. An election judge from each party represented on the election board shall give any assistance requested by electors in marking ballots or operating electronic voting system devices.
7. ~~7.~~6. Each member of the election board shall maintain order in the polling place.

SECTION 5. 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~~require the individual to show identification, which includes the individual's residential address and date of birth. The identification may include:

   a. ~~An~~A driver's license or nondriver identification card issued by the department of transportation or other official form of identification issued by the state;

   b. An official form of identification issued by a tribal government;

   c. ~~A~~An alternative form of identification prescribed by the secretary of state, if the individual does not possess an official form of identification provided for under subdivision a or b; or

   d. A combination of any of the forms of identification under subdivisions a through c.

2. ~~If an individual offering to vote 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.~~

~~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 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.

   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.

~~5.~~3. Poll clerks shall direct an individual who is attempting to vote in the incorrect precinct to the proper precinct and voting location.

SECTION 6. 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 contact 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 and will be a qualified elector of the precinct.

h. The applicant's signature.

i. 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 the uniformed service member living away from the voter's North Dakota residence.

j. The applicant's birth date and year.

k. The applicant's motor vehicle operator's license or nondriver identification number~~, if available~~ or tribal identification number or a copy of the voter's alternate form of identification approved by the secretary of state under subdivision c of subsection 1 of section 16.1-05-07.

2. If the applicant is unable to sign the applicant's name to the application, the applicant shall mark (X) or use the applicant's signature stamp on the application in the presence of a disinterested individual. The disinterested individual shall print the name of the individual marking the X or using the signature stamp below the X or signature stamp and shall sign the disinterested individual's own name following the printed name together with the notation "witness to the mark".

~~2.~~3. If the applicant does not possess an approved form of identification as provided for under subsection 1 of section 16.1-05-07, the application also must be signed by another qualified elector who, by signing, certifies that the applicant is a qualified elector. The secretary of state shall prescribe the form of the certification required under this subsection.

4. The application for a qualified elector serving on active duty as a uniformed service member or a family member who is a qualified elector and stationed at a location other than that individual's voting residential address must include the following additional information if the voter desires to vote by facsimile or electronic mail:

a. Facsimile telephone number; or

b. Electronic mail address.

~~3.~~5. 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.

6. Except for the applicant's date of birth and motor vehicle driver's license or nondriver identification card number, the application is an open record under section 44-04-18.

SECTION 7. AMENDMENT. Section 39-06-03.1 of the North Dakota Century Code is amended and reenacted as follows:

39-06-03.1. Nondriver photo identification card issued by director - Release of information - Penalty - Public awareness.

1. The director shall issue a nondriver color photo identification card to any North Dakota resident who fulfills the requirements of this section. An application for an identification card must be made on a form furnished by the director. Within thirty days from receipt of a complete application that includes the applicant's social security number, unless the applicant is a nonimmigrant who is not eligible for a social security number, the director shall determine whether to issue and, if appropriate, issue a nondriver photo identification card to an applicant. If the person is under the age of eighteen or at least the age of eighteen and under the age of twenty-one, the photo must be against the same color background required on a motor vehicle operator's license for an operator of that age. Subject to subsection 1 of section 39-06-19, identification cards expire eight years from the date of issue and may be renewed. The application must contain such other information as the director may require to improve identity security. The director may require an applicant for an identification card to provide a social security card and proof of residence address.

2. To confirm the identity, date of birth, and legal presence of the applicant, the director or examining officer shall require satisfactory evidence be provided by the applicant. Satisfactory evidence includes a certified copy of the applicant's birth certificate or other evidence reasonably calculated to permit the determination of the date of birth, identification, and legal presence of the applicant by the director or examining officer.

3. ~~The fee is eight dollars. Fees collected pursuant to this section must be paid monthly into the highway fund in the state treasury.~~Except as provided in subsections 9 and 11, the director may not charge a fee to provide a nondriver photo identification card to an eligible applicant.

4. Any information obtained by the director from an applicant for the issuance, renewal, or replacement of an identification card issuable pursuant to this chapter may only be released in accordance with the provisions of section 39-16-03.

5. It is a class B misdemeanor for any person, except the director or the director's authorized agent, to print or otherwise produce or reproduce cards or their components, which may be utilized as identification cards issued pursuant to this section.

6. The director may advertise the availability and the use of the card.

7. Identification cards issued pursuant to this section are sufficient identification for all identification purposes.

8. The director shall cancel any card upon determining that the holder is not entitled to the issuance of the card under the laws of this state, or the holder has failed to give the required or correct information to the director, or has committed fraud in making the application, or the fee was in the form of an insufficient or no-account check. Upon cancellation, the holder shall surrender the card to the director. When a cancellation is in effect, any law enforcement officer may take custody of the card.

9. A duplicate card may be obtained by making an application and paying an eight dollar fee. For a cardholder who has reached the age of eighteen or twenty-one, a replacement card may be obtained by making an application and paying an eight dollar fee.

10. The director may not withhold the issuance of a nondriver color photo identification card without reasonable cause.

11. An individual who possesses a driver's license may obtain a nondriver photo identification card. The fee is eight dollars.

SECTION 8. REPEAL. Sections 16.1-05-06 and 58-04-09 of the North Dakota Century Code are repealed.

_____	_____
Speaker of the House	President of the Senate
_____	_____
Chief Clerk of the House	Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1332.

House Vote:	Yeas 68	Nays 24	Absent 2
Senate Vote:	Yeas 30	Nays 16	Absent 1

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Chief Clerk of the House

Received by the Governor at _____M. on _____, 2013.

Approved at _____M. on _____, 2013.

_____
Governor

Filed in this office this _____day of _____, 2013,

at _____ o'clock _____M.

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Secretary of State