

ALVIN A. JAEGER
SECRETARY OF STATE

HOME PAGE www.nd.gov/sos



PHONE (701) 328-2900
FAX (701) 328-2992

E-MAIL sos@nd.gov

SECRETARY OF STATE

STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

Post-Election Deadlines Sections 17 and 20 of HB 1253

In order to understand the deadlines the Secretary of State proposed in the original version of HB 1253, it is important to note that our starting point is the date by which an elected candidate takes office after the election.

1. Section 7 of Article IV says, "The terms of members of the legislative assembly begin on the first day of December following their election."
2. Section 5 of Article V says in part, "The terms of the governor and lieutenant governor begin on December fifteenth following their election."

Because December 1 is the earliest date by which a public official takes office, it makes good sense that the election should be finalized by that time so that the proper candidates are seated when the term of office begins. Although a weak argument could be made that legislators do not make significant decisions until the Legislative Assembly convenes, "on the first Tuesday after the third day in January or at such other time as may be prescribed by law but not later than the eleventh day of January," it is certainly true that the election should be finalized by December 15th when the Governor and Lt. Governor take office.

The other deadlines that were considered:

1. County Canvassing Board – NDCC § 16.1-15-17 – "On the sixth day following each election, the county canvassing board shall meet and, after taking the oath of office, shall proceed to open and publicly canvass the returns."
2. State Canvassing Board – NDCC § 16.1-15-35 – "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."
3. Contest of an election – NDCC § 16.1-16-04 – "Any action to contest an election must be commenced and the complaint must be filed in the district court of the contestee's county of residence within five days after final certification of a recount by the appropriate canvassing board or within fourteen days after the final certification by the appropriate canvassing board if no recount is to be conducted." (Approx. 30 days after the election)

The following are the deadlines listed in Sections 17 and 20 (highlighted area indicates deadlines passed in both the Senate and House versions of HB 1253):

Tasks to be done after an election	Section of Law	By Who	Current Deadlines	1253 from the House	Senate Amendments
Add new voters after election	16.1-02-05(1)	Counties	45 Days	6 Days	12 Bus. Days (14 Days)
Search for duplicate voting	16.1-02-05(2)	Secretary of State	85 Days	17 Days	17 Days
Post voting credit in Central Voter File	16.1-02-10	Counties	75 Days	Approx. 30 Days	50 Days

Election officials will comply with the deadlines prescribed in law. At the very least however, the deadlines should make sense. For example, it is not possible for the Secretary of State to determine whether anyone voted more than once in an election until the 53 counties have all posted voting credit in the Central Voter File. If the legislature gives the counties 50 days to post voting credit, then the deadline for the Secretary of State to determine voter fraud should be not less than 51 days.

The 2020 General Election was held on November 3rd, which is almost the earliest date in November that the election could be held. Even with such an early date, a 50-day deadline for posting voting credit would have allowed the counties until December 23rd, which was 8 days after the Governor and Lt. Governor took office. Since the state now has electronic pollbooks that allow for far greater efficiencies for election day and post-election work, is it wise to allow the completion of this work to be finalized so many days after 74 or 69 (depending on the election cycle) elected officials take office?

We appreciate that a small number of county auditors have brought forward concerns over the proposed deadlines. Although these concerns were not expressed when our office held a post-election debriefing with the counties in early December, we have already started looking into ways to make the electronic pollbooks more efficient for this post-election work with respect to voters. There will be nearly a 50% reduction in what the system considers as "new voters" based on what has been accomplished so far through our investigations. We will continue to work with the counties to make the system as efficient as possible so that everyone can work smarter rather than harder.

Finally, there were two counties from this past election that had to reconvene their County Canvassing Boards in April to resolve the discrepancies that existed between the number of ballots cast in relation to the number of people who voted in the election. It is fortunate that neither county had a single contest in which the wrong candidates were elected. If the opposite had been true and the contest was a legislative contest, the wrong individual would have been seated for nearly all of the legislative session, possibly impacting long-term North Dakota policy.

Regardless of what is ultimately decided and becomes law, the Secretary of State's office will do all it can to make sure this would never occur. Our sincere hope is that the counties will join us in this effort.

Respectfully submitted,

Jim Silrum
Deputy Secretary of State
April 21, 2021

HB 1253 Conference Committee

County	Address Updates	Voters Added	Voters Not Assigned a Precinct	Ballots Cast	Days to Complete Credits
Adams	52	5	8	1,278	10
Barnes	128	22	0	5,605	7
Benson	59	21	132	1,984	66
Billings	8	4	3	641	72
Bottineau	59	14	8	3,494	38
Bowman	56	4	4	1,670	62
Burke	9	28	54	1,157	63
Burleigh	1,859	303	163	51,145	69
Cass	4,662	839	1	86,897	133
Cavalier	23	6	12	2,039	9
Dickey	219	13	2	2,451	10
Divide	40	22	14	1,223	10
Dunn	56	30	53	2,350	10
Eddy	25	13	7	1,274	15
Emmons	68	1	4	2,021	10
Foster	57	8	13	1,789	9
Golden Valley	30	2	1	1,033	9
Grand Forks	2,409	253	85	31,142	2
Grant	25	16	12	1,398	29
Griggs	29	6	16	1,259	7
Hettinger	56	8	6	1,324	64
Kidder	19	29	4	1,477	9
LaMoure	40	11	7	2,237	10
Logan	23	0	0	1,090	14
McHenry	33	7	53	3,025	37
McIntosh	74	5	2	1,472	14
McKenzie	471	221	430	5,448	64
McLean	123	38	51	5,580	7
Mercer	125	42	107	4,703	65
Morton	891	123	54	16,702	17
Mountrail	187	98	97	4,183	62
Nelson	47	17	3	1,793	6
Oliver	50	20	58	1,074	7
Pembina	81	5	0	3,359	16
Pierce	44	1	6	2,143	10
Ramsey	140	12	29	5,430	63
Ransom	65	16	29	2,473	12
Renville	20	8	8	1,339	7
Richland	325	48	9	7,874	64
Rolette	297	70	218	3,843	12
Sargent	55	6	2	2,087	13
Sheridan	5	2	18	820	62
Sioux	134	34	124	1,011	112
Slope	5	5	2	431	62
Stark	1,045	156	71	15,129	16
Steele	20	8	7	1,100	29
Stutsman	410	54	41	10,044	63
Towner	26	4	9	1,188	63
Traill	32	0	28	4,173	62
Walsh	69	1	32	4,837	36
Ward	1,161	279	3	28,389	29
Wells	20	17	21	2,397	11
Williams	762	215	7	14,419	47

16,728	3,170	2,128	364,499
--------	-------	-------	---------