

FIRST ENGROSSMENT

ENGROSSED SENATE BILL NO. 2175

Introduced by

Senators Roers, Boehm, Castaneda

Representatives Henderson, Hendrix, Satrom

1 A BILL for an Act to amend and reenact section 16.1-06-15 of the North Dakota Century Code,
2 relating to conducting and reporting postelection audits.

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

4 **SECTION 1. AMENDMENT.** Section 16.1-06-15 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **16.1-06-15. Mandatory testing of voting systems before each election and after**
7 **tabulation of ballots.**

- 8 1. All voting systems used in this state must be tested according to guidelines
9 established by the secretary of state and as follows to ascertain whether the automatic
10 tabulating equipment will accurately count the votes cast for all offices and measures.
11 The testing must be conducted ~~prior to~~before each election at which the system will be
12 used. The testing must be done by the county auditor or county auditor's designee,
13 and after each test, the testing materials and any preaudited ballots used during the
14 test must be sealed and retained in the same manner as election materials after an
15 election.
- 16 2. The test of a voting system employing paper ballots must be conducted by processing
17 a preaudited group of ballots on which are recorded a predetermined number of valid
18 votes for each candidate and measure and must include for each office one or more
19 ballots which have votes in excess of the number allowed by law in order to test the
20 ability of the automatic tabulating equipment to reject such votes. During the test a
21 different number of valid votes must be assigned to each candidate for an office and
22 for and against each measure. If an error is detected, the cause of it must be

1 ascertained and corrected, and an errorless count must be secured and filed as
2 provided in this section.

3 3. The test must be conducted at least one week before the election. One week before
4 the test is conducted, the county auditor must send the district chairman of each
5 political party having a candidate on the ballot a notice of the test. The notice must
6 state the time, place, and date of the test or tests and that the district chairman or
7 district chairman's designee may attend.

8 4. At the conclusion of the test, the programming for each voting device must be sealed
9 within the device with a unique numbered seal that must be verified by the election
10 inspector before the opening of the polls to make sure the programming has not been
11 removed from the device.

12 5. After each statewide primary, general, and special election, the secretary of state shall
13 order a random testing of the voting system programming postelection audit for one
14 precinct polling location selected randomly in each county of the state according to
15 logic and accuracy testing procedures detailed in subsection 2 and as may be further
16 defined by the. The postelection audit must be commenced on the sixth day following
17 election day and concluded by the eighth day following election day. The county
18 recorder shall deliver to the county auditor the wrapped ballots from the polling
19 location subject to the postelection audit. The secretary of state may further define the
20 procedure for conducting a postelection audit in writing. This test is to be conducted
21 before the meeting of the county canvassing board.

22 6. The county auditor shall appoint an election board consistent with the procedure under
23 section 16.1-05-01 to conduct the postelection audit. The county auditor shall notice
24 the date, time, and location of the postelection audit. The election board shall review
25 the ballots received under subsection 5 from one federal contest, one statewide
26 contest, one legislative contest if a legislative contest appeared on the ballot, and one
27 county contest. If the election board discovers a discrepancy between the automated
28 tabulating equipment and the results of the postelection audit, the secretary of state
29 may request additional postelection audits within the county, which must serve as the
30 official record used during canvassing.

- 1 7. Upon completion of the postelection audit, the election board shall prepare the ballots
- 2 as specified in section 16.1-15-08 and the county auditor shall deliver the ballots to the
- 3 county recorder for storage as required under section 16.1-15-13. The election board
- 4 shall submit the results of the postelection audit to the secretary of state, who shall
- 5 publish the results.