

**PROPOSED AMENDMENTS TO**

**SENATE BILL NO. 2269**

Introduced by

Senators Roers, Rummel

Representatives Christy, Stemen

1 A BILL for an Act to create and enact a new section to chapter 44-08 of the North Dakota  
2 Century Code, relating to recall elections for members of a governing body of a city; and to  
3 amend and reenact section 16.1-01-09.1 and subsection 1 of section 44-08-21 of the North  
4 Dakota Century Code, relating to recall petitions and recall elections for political subdivision  
5 officials.

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

7 **SECTION 1. AMENDMENT.** Section 16.1-01-09.1 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **16.1-01-09.1. Recall petitions - Signature - Form - Circulation.**

- 10 1. A request of the secretary of state for approval of a petition to recall an elected official  
11 or appointed official of a vacated elected office may be presented over the signatures  
12 of the sponsoring committee on individual signature forms that have been notarized.  
13 The secretary of state shall prepare a signature form that includes provisions for  
14 identification of the recall; the printed name, signature, and address of the committee  
15 member; and notarization of the signature. The filed signature forms must be originals.  
16 The secretary of state shall complete the review of the form of a recall petition in not  
17 less than five, nor more than seven, business days, excluding Saturdays.
- 18 2. An individual may not sign a recall petition circulated pursuant to article III of the  
19 Constitution of North Dakota ~~or~~, section 44-08-21, or section 3 of this Act unless the  
20 individual is a qualified elector. An individual may not sign a petition more than once,

1 and each signer shall also legibly print the signer's name, complete residential, rural  
2 route, or general delivery address, and the date of signing on the petition. Every  
3 qualified elector signing a petition must do so in the presence of the individual  
4 circulating the petition. A petition must be in substantially the following form:

5 RECALL PETITION

6 We, the undersigned, being qualified electors request that  
7 \_\_\_\_\_(name of the individual being  
8 recalled) the \_\_\_\_\_(office of individual being recalled) be  
9 recalled for the reason or reasons of \_\_\_\_\_.

10 RECALL SPONSORING COMMITTEE

11 The following are the names and addresses of the qualified electors of the state  
12 of North Dakota and the political subdivision who, as the sponsoring committee  
13 for the petitioners, represent and act for the petitioners in accordance with law:

14 Complete Residential,  
15 Rural Route,  
16 or General

17 Name Delivery Address

- 18 1. \_\_\_\_\_(Chairperson) \_\_\_\_\_
- 19 2. \_\_\_\_\_
- 20 3. \_\_\_\_\_
- 21 4. \_\_\_\_\_
- 22 5. \_\_\_\_\_

23 INSTRUCTIONS TO PETITION SIGNERS

24 You are being asked to sign a petition. You must be a qualified elector. This  
25 means you are eighteen years old, you have lived in North Dakota for thirty days,  
26 and you are a United States citizen. All signers shall also legibly print their name,  
27 complete residential, rural route, or general delivery address, and date of signing  
28 on the petition. Every qualified elector signing a petition must do so in the  
29 presence of the individual circulating the petition.

30 QUALIFIED ELECTORS

31 Signed Printed Complete Residential,

Sixty-ninth  
Legislative Assembly

1	Month,	Name of	Name of	Rural Route,	City
2	Day,	Qualified	Qualified	or General	State,
3	Year	Elector	Elector	Delivery Address	Zip Code
4	1.	_____			
5	2.	_____			
6	3.	_____			
7	4.	_____			
8	5.	_____			
9	6.	_____			
10	7.	_____			
11	8.	_____			

12 The number of signature lines on each page of a printed petition may vary if  
13 necessary to accommodate other required textual matter.

14 3. Each copy of a petition provided for in this section, before being filed, must have  
15 attached an affidavit executed by the circulator in substantially the following form:

16 State of North Dakota )  
17 ) ss.  
18 County of \_\_\_\_\_ )  
19 (county where signed)  
20 I, \_\_\_\_\_, being sworn, say that I am a qualified elector; that I  
21 (circulator's name)  
22 reside at \_\_\_\_\_;  
23 (address)

24 that each signature contained on the attached petition was executed in my  
25 presence; and that to the best of my knowledge and belief each individual whose  
26 signature appears on the attached petition is a qualified elector; and that each  
27 signature contained on the attached petition is the genuine signature of the  
28 individual whose name it purports to be.

29 \_\_\_\_\_  
30 (signature of circulator)

31 Subscribed and sworn to before me on \_\_\_\_\_, \_\_\_\_\_, at



1 street address, city, and zip code. Upon submission of the petitions to the appropriate  
2 filing officer, the petitions are considered filed and may not be returned to the chairman  
3 of the sponsoring committee for the purpose of continuing the circulation process or  
4 resubmitting the petitions at a later time. An elector's name may not be removed by  
5 the elector from a recall petition that has been submitted to and received by the  
6 appropriate filing officer.

7 8. The filing officer has a reasonable period, not to exceed thirty days, in which to pass  
8 upon the sufficiency of a recall petition. The filing officer may conduct a representative  
9 random sampling of the signatures contained in the petitions by the use of  
10 questionnaires, postcards, telephone calls, personal interviews, or other accepted  
11 information-gathering techniques, or any combinations thereof, to determine the  
12 validity of the signatures. Signatures determined by the filing officer to be invalid may  
13 not be counted and all violations of law discovered by the filing officer must be  
14 reported to the state's attorney for possible prosecution.

15 9. The filing officer shall call a special recall election to be held no sooner than ninety-five  
16 days nor later than one hundred five days following the date the filing officer certifies  
17 the petition valid and sufficient. No special recall election may be called if that date  
18 would be within ninety-five days of the next scheduled election.

19 10. A notice of the recall election must be posted in the official newspaper thirty days  
20 before the candidate filing deadline, which is by four p.m. on the sixty-fourth day  
21 before the election. The official notice must include the necessary information for a  
22 candidate to file and have the candidate's name included on the ballot.

23 11. A special recall election may not be held if candidate filings are not received by the  
24 filing officer before the candidate filing deadline. The filing officer shall declare the  
25 recall petition ineffective, and the elected or appointed official may continue to serve  
26 the remainder of their term. A notice of cancellation of the recall election due to no  
27 candidate filing received must be posted in the official newspaper within fifteen days  
28 following the candidate filing deadline.

29 12. An official may not be recalled if the recall special election would occur within one year  
30 of the next regularly scheduled election in which the official could be re-elected.

1       **SECTION 2. AMENDMENT.** Subsection 1 of section 44-08-21 of the North Dakota Century  
2 Code is amended and reenacted as follows:

3       1. An elected official of a political subdivision, except a township officer, an individual  
4 serving as a member of a governing body of a city or as a member of a school board  
5 subject to recall under section 3 of this Act, or an official subject to recall under  
6 section 10 of article III of the Constitution of North Dakota, is subject to recall by  
7 petition of electors equal in number to twenty-five percent of the voters who voted in  
8 the most recent election that the official sought to be recalled was on the ballot, not  
9 including other recall elections. An official who was appointed to fill a vacancy is  
10 subject to recall by petition of electors equal in number to twenty-five percent of the  
11 voters who voted in the most recent election that the office of the official sought to be  
12 recalled was on the ballot, not including other recall elections. The provisions of  
13 section 16.1-01-09.1, as they relate to signing and circulating recall petitions, apply to  
14 petitions under this section.

15       **SECTION 3.** A new section to chapter 44-08 of the North Dakota Century Code is created  
16 and enacted as follows:

17       **Recall of elected members of a governing body of a city or school board.**

18       1. An individual serving as a member of a governing body of a city or school board is  
19 subject to recall by petition of electors equal in number to thirty-five percent of the  
20 voters who voted in the most recent election that the member sought to be recalled  
21 was on the ballot, not including other recall elections. A member who was appointed to  
22 fill a vacancy is subject to recall by petition of electors equal in number to thirty-five  
23 percent of the voters who voted in the most recent election that the office of the  
24 member sought to be recalled was on the ballot, not including other recall elections.  
25 The provisions of section 16.1-01-09.1, as they relate to signing and circulating recall  
26 petitions, apply to petitions under this section, except ~~all~~ petitions circulated under this  
27 section must have fifteen petition sponsors if the city population is greater than  
28 two hundred fifty or the school district has a fall enrollment of greater than two hundred  
29 fifty. Each petition sponsor shall provide on the petition the sponsor's name and  
30 address. Each petition sponsor must be a qualified elector of the city or the school  
31 district in which the member subject to the recall is serving.

- 1       2. A recall petition must include a stated reason for the recall and be approved as to form  
2       before circulation by the secretary of state. The secretary of state shall complete the  
3       review of the form of a recall petition in not less than five, nor more than seven,  
4       business days, excluding Saturdays. To be effective, a recall petition must be  
5       submitted to the ~~city auditor~~ filing officer within ninety days after the date the recall  
6       petition is approved for circulation by the secretary of state.
- 7       3. Once circulated, the recall petition must be filed with the ~~city auditor~~ filing officer with  
8       whom a petition for nomination to the office in question is filed. The ~~city auditor~~ filing  
9       officer shall pass on the sufficiency of a petition by reviewing every signature affixed to  
10       the petition. Except as otherwise provided in this section, the ~~city auditor~~ filing officer  
11       shall call a special election to be held not sooner than ninety-five days nor later than  
12       one hundred five days following the date the ~~city auditor~~ filing officer certifies the  
13       petition valid and sufficient. A special election may not be called if that date would be  
14       within ninety-five days of the next scheduled election. An elector's name may not be  
15       removed from a recall petition that has been submitted to and received by the ~~city-~~  
16       ~~auditor~~ filing officer.
- 17       4. The name of the member to be recalled must be placed on the ballot unless the  
18       member resigns within ten days after the ~~city auditor~~ filing officer certifies the petition is  
19       valid and sufficient. Other candidates for the office may be nominated in a manner  
20       provided by law and shall file nominating papers with the appropriate ~~city auditor~~ filing  
21       officer by the sixty-fourth day before the scheduled recall election. ~~If the member-~~  
22       ~~subject to the recall election is the only individual placed on the ballot for that election,~~  
23       ~~the city auditor shall cancel the election.~~ A special recall election may not be held if  
24       candidate filings are not received by the filing officer before the candidate filing  
25       deadline. The filing officer shall declare the recall petition ineffective, and the member  
26       may continue to serve the remainder of the member's term. A notice of cancellation of  
27       the recall election due to no candidate filing received must be posted in the official  
28       newspaper within fifteen days following the candidate filing deadline.
- 29       5. If the member resigns, the ~~governing body of the city~~ filing officer may call a special  
30       election or appoint an individual to complete the unexpired term of the office. When

- 1           the election results have been officially declared, the candidate receiving the highest  
2           number of votes is elected for the remainder of the term.
- 3        6. A member is not subject to recall twice during the term for which the member was  
4           elected. A member whose office is on the ballot at a regularly scheduled election  
5           occurring within one year is not subject to recall if the recall special election would  
6           occur within one year of the next regularly scheduled election in which the member  
7           could be re-elected.