Sixty-ninth
Legislative Assembly
of North Dakota

FIRST ENGROSSMENT

ENGROSSED SENATE BILL NO. 2269

Introduced by

Senators Roers, Rummel

Representatives Christy, Stemen

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. A request of the secretary of state for approval of a petition to recall an elected official or appointed official of a vacated elected office may be presented over the signatures of the sponsoring committee on individual signature forms that have been notarized. The secretary of state shall prepare a signature form that includes provisions for identification of the recall; the printed name, signature, and address of the committee member; and notarization of the signature. The filed signature forms must be originals. The secretary of state shall complete the review of the form of a recall petition in not less than five, nor more than seven, business days, excluding Saturdays.
2. An individual may not sign a recall petition circulated pursuant to article III of the Constitution of North Dakota ~~or,~~ section 44-08-21, or section 3 of this Act unless the individual is a qualified elector. An individual may not sign a petition more than once, and each signer shall also legibly print the signer's name, complete residential, rural route, or general delivery address, and the date of signing on the petition. Every

qualified elector signing a petition must do so in the presence of the individual circulating the petition. A petition must be in substantially the following form:

RECALL PETITION

We, the undersigned, being qualified electors request that _____(name of the individual being recalled) the_____(office of individual being recalled) be recalled for the reason or reasons of_____.

RECALL SPONSORING COMMITTEE

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

	Name	Complete Residential, Rural Route, or General Delivery Address
1.	_____(Chairperson)	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____

INSTRUCTIONS TO PETITION SIGNERS

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

QUALIFIED ELECTORS

Month, Day,	Signed Name of Qualified	Printed Name of Qualified	Complete Residential, Rural Route, or General	City State,

Year Elector Elector Delivery Address Zip Code

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____

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

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

State of North Dakota)
) ss.
County of_____)
(county where signed)

I,_____, being sworn, say that I am a qualified elector; that I
(circulator's name)
reside at_____;
(address)

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

_____
(signature of circulator)

Subscribed and sworn to before me on_____, _____, at
_____, North Dakota.
(city)

(Notary Seal) _____

(signature of notary)

Notary Public

My commission expires_____

4. A petition for recall must include, before the signature lines for the qualified electors as provided in subsection 2, the name of the individual being recalled, the office from which that individual is being recalled, and a list of the names and addresses of not less than five qualified electors of the state, political subdivision, or district in which the official is to be recalled who are sponsoring the recall.

5. For the recall of an elected official under article III of the Constitution of North Dakota, circulators have one year to gather the required number of signatures of qualified electors on the recall petition from the date the secretary of state approves the recall petition for circulation. For the recall of an elected official under section 44-08-21 or section 3 of this Act, circulators have ninety days from the date the secretary of state approves the recall petition for circulation to submit the recall petition to the appropriate filing officer.

6. A petition may not be circulated under the authority of article III of the Constitution of North Dakota ~~or~~, section 44-08-21, or section 3 of this Act by an individual who is less than eighteen years of age, nor may the affidavit called for by subsection 3 be executed by an individual who is less than eighteen years of age at the time of signing. All petitions circulated under the authority of the constitution and of this section must be circulated in their entirety.

7. When recall petitions are delivered to the secretary of state or other filing officer with whom a petition for nomination to the office in question is filed, the chairman of the sponsoring committee shall submit to the secretary of state or other filing officer an affidavit stating that to the best of that individual's knowledge, the petitions contain at least the required number of signatures. The chairperson also shall submit a complete list of petition circulators which must include each circulator's full name and residential address. The residential address must be in this state and identify the circulator's street address, city, and zip code. Upon submission of the petitions to the appropriate filing officer, the petitions are considered filed and may not be returned to the chairman

of the sponsoring committee for the purpose of continuing the circulation process or resubmitting the petitions at a later time. An elector's name may not be removed by the elector from a recall petition that has been submitted to and received by the appropriate filing officer.

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

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

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

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

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

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

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

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

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

1. An individual serving as a member of a governing body of a city or school board is subject to recall by petition of electors equal in number to thirty-five percent of the voters who voted in the most recent election that the member sought to be recalled was on the ballot, not including other recall elections. A member who was appointed to fill a vacancy is subject to recall by petition of electors equal in number to thirty-five percent of the voters who voted in the most recent election that the office of the member sought to be recalled was on the ballot, not including other recall elections. The provisions of section 16.1-01-09.1, as they relate to signing and circulating recall petitions, apply to petitions under this section, except petitions circulated under this section must have fifteen petition sponsors if the city population is greater than two hundred fifty or the school district has a fall enrollment of greater than two hundred fifty. Each petition sponsor shall provide on the petition the sponsor's name and address. Each petition sponsor must be a qualified elector of the city or the school district in which the member subject to the recall is serving.
2. A recall petition must include a stated reason for the recall and be approved as to form before circulation by the secretary of state. The secretary of state shall complete the

review of the form of a recall petition in not less than five, nor more than seven, business days, excluding Saturdays. To be effective, a recall petition must be submitted to the filing officer within ninety days after the date the recall petition is approved for circulation by the secretary of state.

3. Once circulated, the recall petition must be filed with the filing officer with whom a petition for nomination to the office in question is filed. The filing officer shall pass on the sufficiency of a petition by reviewing every signature affixed to the petition. Except as otherwise provided in this section, the filing officer shall call a special election to be held not sooner than ninety-five days nor later than one hundred five days following the date the filing officer certifies the petition valid and sufficient. A special election may not be called if that date would be within ninety-five days of the next scheduled election. An elector's name may not be removed from a recall petition that has been submitted to and received by the filing officer.

4. The name of the member to be recalled must be placed on the ballot unless the member resigns within ten days after the filing officer certifies the petition is valid and sufficient. Other candidates for the office may be nominated in a manner provided by law and shall file nominating papers with the appropriate filing officer by the sixty-fourth day before the scheduled recall election. A special recall election may not be held if candidate filings are not received by the filing officer before the candidate filing deadline. The filing officer shall declare the recall petition ineffective, and the member may continue to serve the remainder of the member's term. A notice of cancellation of the recall election due to no candidate filing received must be posted in the official newspaper within fifteen days following the candidate filing deadline.

5. If the member resigns, the filing officer may call a special election or appoint an individual to complete the unexpired term of the office. When the election results have been officially declared, the candidate receiving the highest number of votes is elected for the remainder of the term.

6. A member is not subject to recall twice during the term for which the member was elected. A member whose office is on the ballot at a regularly scheduled election occurring within one year is not subject to recall if the recall special election would

occur within one year of the next regularly scheduled election in which the member could be re-elected.