

# VETOED MEASURES

## CHAPTER 581

HOUSE BILL NO. 1001  
(Committee on Appropriations)

### ELECTION SUPERVISOR

AN ACT making an appropriation for defraying expenses of various departments and various divisions thereof of the state of North Dakota; and declaring an emergency.

VETO

April 22, 1977

The Honorable Ben Meier  
Secretary of State  
Capitol - First Floor  
Bismarck, ND 58505

Dear Mr. Meier:

House Bill 1001 provides for an appropriation for the defraying of expenses for various departments within the executive branch of government. Included within this bill is a provision, subdivision 7 of section 1, which provides for the appropriation for an election supervisor.

The election supervisor was a position created by House Bill 1049 which is better known as "the Election Law Bill." I have vetoed that bill, and as such, this appropriation is unnecessary.

Therefore, I veto subdivision 7 of section 1 of House Bill 1001.

Sincerely yours,

ARTHUR A. LINK  
Governor

NOTE: For the full text of House Bill No. 1001 containing subdivision 7 of section 1, see chapter 1.

Disapproved April 22, 1977

Filed April 22, 1977

## CHAPTER 582

HOUSE BILL NO. 1002  
(Committee on Appropriations)

## REAP COMPUTER FACILITIES

AN ACT making an appropriation for defraying the expenses of various divisions thereof of the state of North Dakota and which are under the supervision of the director of accounts and purchases.

VETO

April 22, 1977

The Honorable Ben Meier  
Secretary of State  
State Capitol  
Bismarck, ND 58505

Dear Mr. Meier:

House Bill 1002 provides for an appropriation for the defraying of the expenses of various agencies within the executive branch of state government. Within Subdivision 2 of Section 1 of this bill, there is a specific appropriation in the amount of \$1,057,505 for the Regional Environmental Assessment Program. Then, in Section 5 of the bill, there are specific provisions directing how such appropriation should be expended.

This approach to providing appropriations marks the first time a general fund appropriation has been given to Central Data Processing. All other funds for Central Data Processing are normally appropriated within an agency's regular budget, and then such funds are appropriated as special funds in the Central Data Processing budget. The method used here sets a precedent for avoidance of regular legislative channels and an increase of legislative complication.

Furthermore, the funds set out in this bill to provide for computer facilities for the Regional Environmental Assessment Program were originally contained in Senate Bill 2004. When those funds could not gather sufficient support from a majority of the House of Representatives, they were placed in House Bill 1002. This procedure compelled legislators to accept all of the programs as a whole, rather than judge this program on its own as they had done when it was still included in Senate Bill 2004. This is an unacceptable method of establishing the laws of the State of North Dakota.

Therefore, I veto the line item appropriation for REAP in Subdivision 2 of Section 1 of House Bill 1001\* and I further veto Section 5 of House Bill 1001\*.

Sincerely yours,

ARTHUR A. LINK  
Governor

\*The original letter contained these incorrect references to House Bill 1001.

NOTE: For the full text of House Bill No. 1002 containing the REAP line item in subdivision 2 of section 1 and section 5, see chapter 2.

Approved April 22, 1977

## CHAPTER 583

HOUSE BILL NO. 1034  
(Legislative Council)  
(Interim Committee on Industry, Business & Labor "A")

## PUBLIC SERVICE COMMISSION JURISDICTION

AN ACT to amend and reenact section 49-02-01 of the North Dakota Century Code, relating to public service commission jurisdiction over public utilities.

VETO

March 11, 1977

The Honorable Oscar Solberg  
Speaker of the House  
House Chambers  
Bismarck, ND 50505

Dear Mr. Speaker:

House Bill 1034 is a bill that amends section 49-02-01 of the North Dakota Century Code which provides for the general jurisdiction of the Public Service Commission. This bill clarifies the present law as to what the Public Service Commission may or may not regulate, including making certain deletions from the Commission's present regulation.

The bill in its original form without the House amendments was a good bill and would have been acceptable as North Dakota law. The House amendments, however, deleted a very important part of the Commission's present jurisdiction. These amendments which delete subsection 10 of the present law prevent the Commission from regulating other public utilities engaged in business in this state which are not specifically named in this bill. This is not acceptable.

That subsection of the present law was designed to provide the Commission with broad powers to regulate those public utilities which were not visualized by the drafters of this law. It was meant to allow the Commission to take jurisdiction over new, incoming public utilities in the best interests of the citizens of North Dakota. It may be considered basic consumer protection law.

The amendments, however, repeal this consumer protection. Therefore, I veto House Bill 1034.

Sincerely yours,

ARTHUR A. LINK  
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 49-02-01 of the 1975 Supplement to the North Dakota Century Code is hereby amended and re-enacted to read as follows:

49-02-01. GENERAL JURISDICTION OF THE PUBLIC SERVICE COMMISSION OVER PUBLIC UTILITIES.) The general jurisdiction of the commission shall extend to and include:

1. Contract and common carriers engaged in the transportation of persons and property, excluding air carriers.
2. Telegraph, telephone, and communications utilities engaged in the transmission of messages or conversations.
3. Pipeline utilities engaged in the transportation of gas, oil, coal, and water.
4. Electric utilities engaged in the generation and distribution of light, heat, or power.
5. Gas utilities engaged in the distribution of natural, synthetic, or artificial gas.
6. Water utilities engaged in the storage and distribution of water for domestic or other beneficial use.
7. All heating utilities engaged in the distribution of heat.
8. Warehouse, packing, and cold-storage companies engaged in the marketing, storage, or handling of food and other agricultural products.

Disapproved March 11, 1977

Filed March 30, 1977

## CHAPTER 584

HOUSE BILL NO. 1049  
(Legislative Council)  
(Interim Committee on Judiciary "A")

## ELECTION LAW REVISION

AN ACT to create and enact chapter 16.1-01, 16.1-04, 16.1-05, 16.1-06, 16.1-07, 16.1-08, 16.1-09, 16.1-10, 16.1-12, 16.1-13, 16.1-15, and 16.1-16, and sections 16.1-11-03, 16.1-11-04, 16.1-11-05, 16.1-11-06, 16.1-11-07, 16.1-11-08, 16.1-11-09, 16.1-11-10, 16.1-11-11, 16.1-11-12, 16.1-11-13, 16.1-11-14, 16.1-11-15, 16.1-11-16, 16.1-11-17, 16.1-11-19, 16.1-11-20, 16.1-11-21, 16.1-11-22, 16.1-11-23, 16.1-11-24, 16.1-11-26, 16.1-11-27, 16.1-11-28, 16.1-11-29, 16.1-11-30, 16.1-11-31, 16.1-11-32, 16.1-11-33, 16.1-11-34, 16.1-14-01, 16.1-14-02, 16.1-14-03, 16.1-14-04, 16.1-14-05, 16.1-14-06, 16.1-14-07, 16.1-14-08, 16.1-14-09, 16.1-14-10, 16.1-14-11, 16.1-14-12, 16.1-14-13, 16.1-14-14, 16.1-14-15, 16.1-14-16, and 16.1-14-17 of the North Dakota Century Code, relating to a new election code establishing qualifications for electors, initiative and referendum procedures, election offenses, the administration of elections, the establishment of voting precincts, the qualifications and duties of election officers, election supplies, ballots and voting machines, absent voters' ballots, the disclosure of financial interests, corrupt practices, primary elections, nominations at the general election, the conduct of elections, presidential electors, election returns, recounts, and contests; and to repeal chapters 16-01, 16-03, 16-05, 16-06, 16-07, 16-08, 16-09, 16-10, 16-11, 16-12, 16-13, 16-14, 16-15, 16-18, 16-21, and 16-22, and sections 16-04-02.1, 16-04-03, 16-04-05, 16-04-06, 16-04-07, 16-04-08, 16-04-09, 16-04-10, 16-04-12, subsections 2, 3, and 4 of section 16-04-13, sections 16-04-15.2, 16-04-18, 16-04-19, 16-04-20, 16-04-25, 16-04-26, 16-04-27, 16-04-28, 16-04-29, 16-04-30, 16-04-31, 16-04-32, 16-04-33, 16-04-34, 16-04-35, 16-04-36, 16-16-01, 16-16-02, 16-16-03, 16-16-04, 16-16-05, 16-16-06, 16-16-07, 16-16-08, 16-16-09, 16-16-10, 16-16-11, 16-16-12, 16-16-13, 16-16-14, 16-16-15, 16-16-16, 16-20-04, 16-20-05, 16-20-07, 16-20-08, 16-20-09, 16-20-10, 16-20-12, 16-20-15, 16-20-16, 16-20-17, 16-20-18, 16-20-22, and 16-20-23 of the North Dakota Century Code, and sections 16-04-02, 16-04-04, subsection 1 of section 16-04-13, sections 16-04-16, 16-04-17, 16-04-21, 16-16-03.1, 16-20-01, 16-20-01.1, 16-20-06, 16-20-17.1, 16-20-17.2, 16-20-17.3, 16-20-19, and 16-20-24 of the 1975 Supplement to the North Dakota Century Code, relating to general election provisions, individual nominations,

primary elections, nominations for office, general and special elections, the no-party ballot, the establishment of precincts and voting places, election officers and supplies, the conduct of elections, returns and contests of elections, voting by new residents, absent voters' ballots, corrupt practices, voting machines, and the disclosure of financial interests.

## VETO

April 21, 1977

The Honorable Ben Meier  
Secretary of State  
Capitol - First Floor  
Bismarck, ND 58505

Dear Mr. Meier:

House Bill 1049, better known as "the Election Law Bill", provides for a complete redrafting of North Dakota's election laws. It is a very lengthy bill that was the subject of much controversy and amending during this past legislative assembly.

The need for election law reform was well exemplified in the last two state-wide general elections. In both cases, extremely important individual elections were decided because ballots were disqualified. As notable from those two elections is the percentage of eligible voters who cast their ballot. In the 1976 general election, 72.1% of the eligible voters in the state cast ballots, and in the 1974 general election, 61.8% of the eligible voters in this state cast ballots. These low percentages indicate nothing about those who voted and had their votes discounted.

Unfortunately, the area of election law reform that has been exemplified by these last two general elections has not been addressed. No provisions in this bill assure that persons who take the time to properly vote will have their vote counted. Instead, the provisions of this bill provide for a more technical approach to voting so that in essence it becomes more difficult to cast one's ballot.

Discouragement to go out to vote, in light of the unacceptably low percentages of those voting set out above, is not what the people of North Dakota want or need. To have more than the 30% to 40% of the people not represented in their elected officials would be tragic.

North Dakota does need election law reform, but House Bill 1049 does not provide that needed reform. That is why the bill had a difficult time during this session, and that is why I disagree with its passage into law.

Therefore, I veto House Bill 1049.

Sincerely yours,

ARTHUR A. LINK  
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Chapter 16.1-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-01-01. SECRETARY OF STATE TO SUPERVISE ELECTION PROCEDURES - ADVISORY COMMISSION ON ELECTIONS - COUNTY ADMINISTRATOR OF ELECTIONS.)

1. The secretary of state shall be, ex officio, supervisor of elections; he may employ a special deputy secretary to administer this title. The secretary of state shall supervise the conduct of elections and in that supervisory capacity shall have, in addition to other powers conferred on him by law, the power to examine upon his request or the request of any election official, any election ballot or other material, machine, or device used in connection with any election, for the purpose of determining sufficient compliance with the law. The secretary of state, upon determining that any ballot or other material, machine, or device is not in sufficient compliance with the law, shall direct the proper changes to be made.
2. In addition to other duties provided elsewhere by law, the secretary of state shall:
  - a. Develop and implement training programs for all election officials in the state.
  - b. Prepare information for voters on voting procedures.
  - c. Publish and distribute to each county a political calendar, a manual on election procedures, and a map of all election districts for state and national office in that county.
  - d. Convene an annual state election conference of county auditors to discuss uniform implementation of state election policies.
  - e. Prescribe the form of all ballots and the form and wording of ballots on state referendum questions, issues, and constitutional amendments.
  - f. Investigate nonperformance of duties or violations of election laws by election officers.

- g. Require such reports from county auditors on election matters as he deems necessary.
  - h. Certify results of statewide elections.
  - i. Establish and carry out accounting procedures designed to reflect all election expenditures incurred by the state.
  - j. Prepare and publish biennial reports on the conduct and costs of voting in the state, including a tabulation of election returns and such other information and statistics as he may deem appropriate.
3. In carrying out his duties and to assure uniform voting opportunities throughout the state, the secretary of state shall issue those rules and regulations he deems necessary.
4. There is hereby created an advisory commission on elections. The commission shall be composed of the attorney general, two representatives of the county auditors association, and the state chairmen of the two political parties whose candidates for governor received the highest number of votes in the most recent general election at which a governor was elected. The two representatives of the county auditors association shall be appointed by the governor from a list of four names submitted by the association, and one of those representatives shall be appointed from a county with a population of over fifteen thousand and the other from a county with a population of fifteen thousand or less.
5. The advisory commission on elections shall meet at least twice during any year in which a general election is held. One meeting shall be held at least forty days, but not more than forty-five days, prior to the date of the primary election. A second meeting shall be held not later than twenty days following the general election. The advisory commission shall also meet at the request of the secretary of state and at any other times as it may designate. Members of the commission shall be compensated only for their expenses incurred in attending meetings in accordance with sections 44-08-04 and 54-06-09. Such compensation shall be paid from the appropriation to the secretary of state.
6. The commission shall provide guidance and advice to the secretary of state at his request. The advisory commission shall report biennially to the secretary of state on its activities and recommendations.
7. In each county there shall be a county administrator of elections who shall be the county auditor. The county auditor shall be responsible to the secretary of state for

the proper administration within his county of state laws, rules, and regulations concerning election procedures.

8. In addition to other statutory duties, the county auditor shall:
  - a. Procure and distribute supplies required for voting in the county.
  - b. Prepare and disseminate voter information as prescribed by the secretary of state.
  - c. Carry out training programs for all county and precinct election officials as prescribed by the secretary of state.
  - d. Receive and handle complaints referred to him by any voter or precinct official involving circulation of petitions, challenges to voters, actions of election officials, or irregularities of any kind in voting. He shall refer complaints to the secretary of state or the proper prosecuting authority, as he deems appropriate.

16.1-01-02. APPLICABILITY OF PROVISIONS OF TITLE.) The provisions of this title shall govern all primary, general, and special statewide and legislative elections, and all other elections, unless otherwise provided by law.

16.1-01-03. OPENING AND CLOSING OF THE POLLS.) The polls at all primary, general, and special elections shall be opened at nine a.m. or at such earlier hour, but not earlier than seven a.m., that may be designated for any precinct by resolution of the governing body of the city or township in which such precinct is located. They shall remain open continuously until seven p.m. or such later hour, not later than nine p.m., as may be designated for a precinct by resolution of the governing body of the city or township in which the precinct is located. All electors standing in line to vote at the time the polls are set to close shall be allowed to vote, but electors arriving after closing time shall not be allowed to vote. The election officers present shall be responsible for determining who arrived in time to vote, and they shall establish appropriate procedures for making that determination. The polling hours for precincts located in unorganized townships shall be established by the county commission of the county in which the unorganized township is located, in accordance with this section. All determinations required to be made pursuant to this section relating to polling hours shall be made, and the county auditor notified of them, no later than thirty days prior to an election.

16.1-01-04. QUALIFICATIONS OF ELECTORS.)

1. Every citizen of the United States who is: eighteen years or older; a resident of this state; and has resided in the precinct at least thirty days next preceding any election, except as otherwise provided in regard to residency in

- chapter 16.1-14, shall be a qualified elector.
2. Every qualified elector of the state shall have only one voting residence.
  3. A person's voting residence shall be determined in accordance with the rules for determining residency as provided in section 54-01-26.
  4. Pursuant to section 127 of the Constitution of the state of North Dakota, voting by persons convicted and sentenced for treason or felony shall be limited according to chapter 12.1-33.
  5. Pursuant to section 127 of the Constitution of the state of North Dakota, no person who is under guardianship, non compos mentis, or insane shall be qualified to vote at any election. To be denied the right to vote under this subsection, a person must have a guardian duly appoint by a court of competent jurisdiction, upon a finding of incompetence or incapacitation due to mental illness or defect.

16.1-01-05. VOTING BY QUALIFIED ELECTOR MOVING FROM ONE PRECINCT TO ANOTHER.) Where a qualified elector moves from one precinct to another precinct within this state, he shall be entitled to vote in the precinct from which he moved until he has established his new voting residence.

16.1-01-06. HIGHEST NUMBER OF VOTES ELECTS.) Unless otherwise expressly provided by the laws of this state, in all elections for the choice of any officer, the person receiving the highest number of votes for any office shall be deemed to have been elected to that office.

16.1-01-07. CONSTITUTIONAL AMENDMENTS AND OTHER QUESTIONS TO BE ADVERTISED - NOTIFICATION BY SECRETARY OF STATE - MANNER OF PUBLISHING.) Whenever a proposed constitutional amendment or other question is to be submitted to the people of the state for popular vote, the secretary of state shall, not less than thirty days before the election, certify the amendment or other question to each county auditor and each auditor shall cause notice thereof to be included in the notice required by section 16.1-13-05. Questions to be submitted to the people of a particular county shall be advertised in the same manner.

The secretary of state shall, at the same time he certifies notice to the county auditors of the submission of a constitutional amendment or other question, certify the ballot form for such questions. The ballot form shall conform to the provisions of section 16.1-06-09 and shall be used by all county auditors in preparing ballots for submission to the electorate of each county and in the preparation of sample ballots. Sample ballots shall conform in form and style to samples of such ballots contained in the legal publications handbook prepared under subsection 5 of section 46-01-02. Any requirements in this title that a sample ballot be published will be met by the publication of either the paper ballot or the ballot

as it will appear to persons using a voting machine, depending upon the method of voting used in the area involved. Absentee voter ballots shall not be considered in determining which method of voting is used in an area. If both paper ballots and voting machines are used in an area, both forms must be published as sample ballots to meet publication and notice requirements.

At the same time as the sample ballot is published, the complete text of any constitutional amendment, initiated measure, or referred measure shall be published in columns to enable the electors to become familiar with the total text of the proposed constitutional amendment or initiated or referred measure, in addition to the sample ballot listing ballot titles. The advertisement of a proposed amendment to the Constitution, which is published in any newspaper or pamphlet under the authority of the secretary of state, shall include the complete text of both the current constitutional provision and the proposed amendment printed side by side so they may be easily compared by the electors.

16.1-01-08. CORRECTING ERRORS ON BALLOTS - REQUIRING PERFORMANCE OF DUTY - CORRECTING OR PROSECUTING WRONGFUL PERFORMANCE.) The secretary of state shall thoroughly investigate, when the matter comes to his attention, any of the following:

1. Any error or omission which has occurred or is about to occur in the placing of any name on an official election ballot.
2. Any error which has been or is about to be committed in printing the ballot.
3. Any wrongful act which has been or is about to be done by any judge or election clerk, county auditor, canvassing board, a canvassing board member, or any other person charged with any duty concerning the election.
4. Any neglect of duty which has occurred or is about to occur.

If required, the secretary of state shall order the officer or person charged with such error, wrong, or neglect to correct the error, desist from the wrongful act, or perform any required duty. The secretary of state may call upon any county auditor for aid in investigation and correction of the problem. The secretary of state shall cause any person who violates his order to be prosecuted, if the violation constitutes an offense pursuant to this chapter. If the administrative remedies fail to correct the problem, any person may petition the supreme court, or the district court of the relevant county where the election of a county officer is involved, for an order compelling the correction of the error, wrong, neglect, or act.

16.1-01-09. REGULATIONS GOVERNING INITIATIVE, REFERENDUM, OR RECALL PETITIONS.)

1. No person shall sign any initiative, referendum, or recall petition circulated pursuant to the provisions of sections 25 and 202 of the Constitution of this state, and article 33 of the amendments of the Constitution, unless he is a qualified elector. No person shall sign any petition more than once, and each signer shall add, after his signature, his post-office address, telephone number if he has one, and the date of signing. Every qualified elector signing a petition shall do so in the presence of the person circulating the petition. Each copy of any petition provided for in this section, before being filed, shall have attached thereto an affidavit executed by the circulator to the effect that each signature was signed in his presence, and that the petition was circulated in its entirety. Each affidavit prepared pursuant to this section shall be accompanied by a typed or printed list of the names, addresses, and telephone numbers of the persons who signed the copy of the petition to which the affidavit is attached.
2. No petition shall be circulated under the authority of section 25 or 202 of the Constitution, or of article 33 of the amendments to the Constitution, by a person who is less than eighteen years of age, nor shall the affidavit called for by subsection 1 of this section be executed by a person 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.

16.1-01-10. SECRETARY OF STATE TO PASS UPON SUFFICIENCY OF PETITIONS - METHOD - TIME LIMIT.) The secretary of state shall have a reasonable period, not to exceed thirty-five days, in which to pass upon the sufficiency of any petition mentioned in section 16.1-01-09. The form and style of the verification procedure shall be determined by the secretary of state. Signatures determined by the secretary of state to be invalid shall not be counted, and all violations of law discovered by the secretary of state shall be reported to the attorney general for prosecution. The secretary of state may call upon the advisory commission on elections for guidance and advice relating to the verification process.

16.1-01-11. CERTAIN QUESTIONS NOT TO BE VOTED UPON FOR THREE MONTHS.) Whenever at any election a bond issue or mill levy question has failed to receive the required number of votes for approval by the electors, the matter shall not again be submitted to a vote until a period of at least three months shall have expired, and in no event shall more than two elections on the same general matter be held within twelve consecutive calendar months.

16.1-01-12. ELECTION OFFENSES - PENALTY.) It shall be unlawful for a person to:

1. Fraudulently alter another person's ballot or substitute one ballot for another, or to otherwise defraud a voter of his vote.
2. Obstruct an elector on the way to a polling place.
3. Vote or offer to vote more than once in any election.
4. Knowingly vote in the wrong election precinct or district.
5. Disobey the lawful command of an election officer as defined in chapter 16.1-05.
6. Knowingly exclude a qualified elector from voting, or knowingly allow an unqualified person to vote.
7. Knowingly vote when not qualified to do so.
8. Sign an initiative, referendum, recall, or any other election petition when not qualified to do so.
9. Sign a name other than his own name to an initiative, referendum, recall, or any other election petition.
10. Circulate an initiative, referendum, recall, or any other election petition not in its entirety, or circulate such a petition when unqualified to do so.
11. Willfully fail to perform any duty of an election officer after having accepted the responsibility of being an election officer by taking the oath as prescribed in this title.
12. Willfully violate any rule or regulation promulgated by the secretary of state pursuant to this title.
13. Willfully make any false canvass of votes, or make, sign, publish, or deliver any false return of an election, knowing the same to be false, or willfully deface, destroy, or conceal any statement or certificate entrusted to his care.
14. Destroy ballots, ballot boxes, election lists, or other election supplies except as provided by law.

A violation of subsections 1 through 13 of this section shall be a class A misdemeanor. A violation of subsection 14 occurring after an election but before the final canvass, or during an election, shall be a class C felony, and in other cases shall be a class A misdemeanor.

Every act which by the provisions of this chapter is made criminal when committed with reference to the election of a candidate

is equally criminal when committed with reference to the determination of a question submitted to electors to be decided by votes cast at an election.

SECTION 2.) Chapter 16.1-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-04-01. PRECINCTS AND VOTING PLACES - DUTIES AND RESPONSIBILITIES OF THE BOARD OF COUNTY COMMISSIONERS.) The board of county commissioners of each county:

1. Shall divide the county into precincts and establish the precinct boundaries, except that within the boundaries of any incorporated city, the governing body of the city shall divide the city into precincts and establish their boundaries pursuant to title 40. Any number of townships or parts of townships may be joined into a single precinct.
2. May alter the number and size of precincts within the county by combining or dividing precincts. However, the governing body of any incorporated city shall have the authority to alter the number and size of precincts located within its boundaries. The board of county commissioners may relinquish the jurisdiction provided under subsection 1 of this section over all or any portion of a township or townships under its jurisdiction to a city for the purpose of establishing a voting precinct if a majority of the governing body of the city agrees to assume such jurisdiction. The governing body of a city, by majority vote, may return jurisdiction granted herein to the county and the county shall accept that jurisdiction.
3. Shall designate a voting place for each precinct and may alter such voting places when there is a good and sufficient reason. However, the voting places for precincts located within the boundaries of any incorporated city shall be designated, and altered if required, by the governing body of the city.
4. The authority granted by this section shall be exercised by the respective governing bodies no later than thirty days before an election. If legislative apportionment occurs, the authority granted by this section shall be exercised, as it relates to the establishment or reestablishment of voting precincts that may be required because of any change in legislative districts, within ten days after the effective date of the apportionment.

SECTION 3.) Chapter 16.1-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-05-01. ELECTION OFFICERS.) At each primary, general, and special statewide or legislative district election, and at county elections, each polling place shall have an election board in attendance. The election board shall consist of an election inspector and two election judges.

1. The election inspector shall be selected in the following manner:
  - a. In all precincts established by the governing body of an incorporated city pursuant to chapter 16.1-04, the governing body shall appoint the election inspectors for those precincts and shall fill all vacancies occurring in those offices.
  - b. In all other areas, the board of county commissioners shall appoint the election inspectors and shall fill all vacancies occurring in those offices.
  - c. Except in the case of special elections, all appointments required to be made under this section shall be made at least twenty-one days preceding an election. The governing body or board shall notify the county auditor of the appointments, and of any vacancies filled, within twenty-four hours of its action.
2. The election judges for each precinct shall be the precinct committeemen receiving the largest number of votes at the precinct caucus at which they were elected, and representing the two parties which cast the largest and next largest number of votes in the state at the last general election. If for any reason a precinct committeeman does not wish to serve as an election judge, he shall appoint from his precinct a member of his party to serve as election judge. Should such appointment not be made, the position shall be filled by appointment by the district party chairman. Each election judge shall be given a certificate of appointment signed by the chairman of the district committee of his party. The district committee chairman shall notify the county auditor of the counties in which the precincts are located of the appointment of the election judges at least two weeks prior to the primary, general, or special election. If this notice is not received within the time specified in this section, the election inspector shall appoint the judge no later than one week prior to the election. If at any time before or during an election, it shall be made to appear to an election inspector, by the affidavit of two or more qualified electors of the precinct, that either of the election judges or any poll clerk is disqualified under the provisions of this chapter, the inspector shall remove such judge or clerk at once and shall fill the vacancy by appointing a qualified person of the same political party as that of the judge or clerk removed. If the disqualified judge or clerk had taken the oath of office as prescribed in this chapter, the inspector shall place such oath or affidavit before the state's attorney of the county.
3. Poll clerks shall be appointed by the election judges. Each election judge may appoint one poll clerk. However, in voting precincts or districts in which over three hundred votes are cast in any election, election judges may each appoint one additional poll clerk. The appointment of poll

clerks by the election judges shall be made on the basis of the prospective clerks' knowledge of the election procedure and ability to write legibly. All election precincts that use voting machines as authorized in chapter 16.1-06 may, in addition to all other authorized poll clerks, have as many as two additional poll clerks appointed by each election judge. The additional poll clerks shall be appointed on the same basis as other poll clerks.

16.1-05-02. QUALIFICATIONS OF MEMBERS OF THE BOARD OF ELECTION - OATH OF OFFICE.)

1. Every member of the election board and each poll clerk must be a qualified elector of the precinct in which he is assigned to work and must be eligible to vote at the polling place to which he is assigned.
2. No person may serve as a member of the election board or as a poll clerk who:
  - a. Has anything of value bet or wagered on the result of an election.
  - b. Is a candidate in the election at which he is serving.
  - c. Is the husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage, of the whole or the half-blood, of any candidate in the election at which he is serving.
3. Prior to assuming their duties, all members of the election board and the poll clerks severally shall take and subscribe an oath in the following form:

I do solemnly swear (or affirm as the case may be), that I will perform the duties of inspector, judge, or clerk (as the case may be) according to law and to the best of my ability, and that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same.

Such oath may be taken before any officer authorized by law to administer oaths, and in case no such officer is present at the opening of the polls, the inspector or election judges shall administer the oath to each other and to the poll clerks. The person administering the oath shall cause an entry thereof to be made and subscribed by him and prefixed to the pollbook.

4. A person serving as a member of the election board shall, prior to each election, attend a period of instruction conducted by the county auditor or his designated representative, provided that such period of instruction has been conducted since the appointment of the election judges or election inspector.

5. If any member of the election board fails to appear at the hour appointed for the opening of the polls, the remainder of the board shall select a person to serve in the absent person's place. In filling a vacancy in the office of election judge, the remainder of the board shall select a person of the absent person's political party if such a person is reasonably available. The office of election inspector may be filled by any qualified person without regard to political affiliation. If no members of the election board appear at the hour appointed for opening the polls, the qualified electors present shall orally elect a board as nearly as possible in conformity with the provisions of this section. If any poll clerk fails to appear at the opening of the polls, the election judge who appointed the absent clerk may appoint a person from the same political party to fill the vacancy.

16.1-05-03. SECRETARY OF STATE AND COUNTY AUDITORS TO DISTRIBUTE ELECTION INFORMATION - COUNTY AUDITOR TO PROVIDE INSTRUCTION.)

1. Not less than thirty days before any primary, general, or special election, the secretary of state shall provide an instruction manual approved by the attorney general, which in layman's terms presents in detail the responsibilities of each election official. The secretary of state shall forward sufficient copies of this manual to each county auditor who shall distribute them to each member of all the election boards in the county.
2. Not more than eight days nor less than three days before each primary, general, or special statewide or legislative district election, each county auditor or his designated representative shall conduct a course on election laws and election procedures for all members of each election board in the county. The course shall be conducted at such place or places throughout the county as the county auditor deems necessary. Attendance at the course is mandatory, and the auditor shall notify the members of the election boards of the time and place of the course. The county auditor shall also notify the state's attorney of the time and place of the course. The state's attorney shall attend all sessions of the course to give advice on election laws. On the date of such course or courses, the county auditor may deliver to all election inspectors at such meeting the official ballots, suitable manila envelopes, and all other materials as provided in chapter 16.1-06. Each person attending the course or courses provided for herein shall be compensated as hereinafter provided.

16.1-05-04. DUTIES OF THE MEMBERS OF THE ELECTION BOARD DURING POLLING HOURS.)

1. It shall be the duty of the election inspector to assign ministerial duties to poll clerks, who shall carry out the

ministerial duties assigned by the election inspector. In voting precincts not using voting machines, the election inspector may instruct two poll clerks to assume their duties at the close of the polls to assist the election board in opening, counting, and telling of the ballots.

2. It shall be the duty of the election inspector to assign two poll clerks, one from each political party represented on the election board to perform the function of maintaining the pollbooks. It shall be the duty of the two designated poll clerks to each maintain a pollbook. Each pollbook shall contain the name and address of each person voting at the precinct, and shall be arranged in the form and manner prescribed by the secretary of state.
3. It shall be the duty of the members of the election board to challenge the right of anyone to vote whom they know or have reason to believe is not a qualified elector. Pollbooks from previous elections shall be used as one of the bases for identifying electors. If the challenged person signs an affidavit indicating he is qualified to vote, the officer shall allow the challenged person to vote. All affidavits shall be executed in duplicate as provided in this chapter, and one copy shall be turned over to the appropriate county auditor for verification.
4. It shall be the duty of each member of the election board to 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.
5. It shall be the duty of all members of the election board to distribute ballots and other election materials to electors. It shall be the duty of both election judges together to give any assistance requested by electors in marking ballots or operating voting machines. It shall be the duty of the election officers to instruct voters on how to open and close voting machines and how to move the levers to cast and change votes. The election inspector shall supervise the conduct of the election at the polling place, and shall assign duties so as to equally and fairly include both political parties represented on the election board.
6. It shall be the duty of each member of the election board to maintain order in the polling place.
7. It shall be the duty of the election inspector to determine which voters were in line at the poll closing hour and to allow those in line at that time to vote.

16.1-05-05. COMPENSATION OF ELECTION OFFICERS - COMMISSIONER OF LABOR TO CERTIFY MINIMUM WAGE APPLICABLE TO ELECTION OFFICIALS - SECRETARY OF STATE TO CERTIFY AMOUNT TO COUNTY AUDITORS.) The state

commissioner of labor, before each statewide primary, general, or special election, shall determine the state minimum wage applicable to election inspectors, election judges, poll clerks, or any other private individual who performs duties in the election process, and shall certify the amounts to the secretary of state. The secretary of state shall then certify the amounts to the county auditors. As required by this title, the secretary of state and the county auditors shall pay the amounts so determined to the relevant election officials. State, county, or other election officials who are required to incur expenses while performing duties in the election process shall be reimbursed only for their actual and necessary expenses and mileage in the performance of those duties, in accordance with sections 54-06-09, 44-08-04, and 11-10-15. Other persons performing election duties shall also be paid for expenses and mileage in like manner and amounts. Members of election boards who attend the training sessions provided by section 16.1-05-03 shall be paid twenty-five percent more than the minimum wage determined in this section, during the time spent in the performance of their election duties; however, they shall receive only their actual and necessary expenses and mileage for attendance at the training session.

16.1-05-06. POLL CHALLENGERS.)

1. One poll challenger appointed by the district chairman of each political party represented on the election board shall be entitled to be in attendance at each polling place. If any person offering to vote is challenged by a poll challenger or by a member of the election board, the challenged person, unless the challenge is withdrawn, shall stand aside and shall not vote unless he executes an affidavit, acknowledged before the election inspector, that he is a legally qualified elector of the precinct. The affidavit shall be executed in duplicate and shall include the name, age, street address, phone number, occupation, name of employer, and the period of time the affiant has lived in the precinct. The person offering to vote shall also be required to produce a driver's license or some other form of identification. Before allowing any person to sign an affidavit, the election inspector shall advise the person of the penalty for making a false affidavit and of the fact that the affidavit will be turned over to the county auditor for verification. Written notice of the penalty for making a false affidavit and that the county auditor will verify the affidavits shall be prominently displayed at the polling place in a form prescribed by the secretary of state. Any person who falsely swears in order to cast his vote shall be guilty of an offense and shall be punished pursuant to chapter 16.1-01. The county auditor shall verify randomly at least ten percent of the affidavits signed in the county, and shall report all violations to the state's attorney.
2. In addition to the poll challenger, not more than two poll checkers appointed by the district chairman of each

political party represented on the election board may be in attendance at each polling place, provided such poll checkers do not interfere with the election process or with the members of the election board or poll clerks in the performance of their duties. The poll challengers and poll checkers shall be qualified electors of the district in which they are assigned.

SECTION 4.) Chapter 16.1-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-06-01. BALLOTS FURNISHED AT PUBLIC EXPENSE - EXCEPTIONS.) Except for local elections, election ballots shall be printed and distributed at county expense. For a local election, the expense shall be a charge against the local subdivision in which the election is held. For the purpose of this chapter, local elections shall include elections in townships, school districts, cities, and park districts.

16.1-06-02. BALLOTS PREPARED BY COUNTY AUDITOR OR LOCAL OFFICIAL.) For a local election, the ballots shall be printed and distributed under the direction of the auditor or clerk of the local subdivision. For all other elections, ballots shall be printed and distributed under the direction of the county auditor, subject to the supervision and approval of the secretary of state as to the legal sufficiency of the form, style, wording, and contents of the ballots.

16.1-06-03. OFFICIAL BALLOTS ONLY TO BE USED.) The official ballot prepared by the county auditor or the local auditor or clerk shall contain the name of each candidate whose name has been certified to or filed with such auditor or clerk in the manner provided in this title. Ballots other than official ballots prepared by the county auditor or local auditor or clerk shall not be cast or counted in any election governed by this title. The list of officers and candidates and the statements of measures and questions to be submitted to the voters shall be deemed an official ballot in precincts in which voting machines are used.

16.1-06-04. FORM AND QUALITY OF BALLOTS GENERALLY.) All official ballots prepared under the provisions of this title for use in precincts in which voting machines are not used shall:

1. Be a specific color, and the secretary of state shall prescribe a different color for each separate type of ballot used.
2. Be printed on uniform quality paper in an ink color suitable to make the ballot clearly legible.
3. Be of sufficient length to contain the names of all candidates to be voted for at such election.
4. Have the language "Vote for \_\_\_\_\_ name (or names) only" placed immediately under the name of each office.
5. Have printed thereon "Place a crossmark (X) following the

name of the person for whom you wish to vote."

6. Leave sufficient space under the name of each candidate to write or paste a name in lieu of the one printed on the ballot.
7. Provide a space enclosed in a square in which the voter may designate by a cross or other mark his choice for each candidate opposite the name of such candidate, and such space shall follow the candidate's name on the same line. In precincts in which voting machines are used, the list of officers and candidates and the statements of measures and questions to be submitted to the voters shall be arranged in a manner and form approximating the requirements of this section.

16.1-06-05. FORM OF GENERAL ELECTION BALLOT.) The official ballots provided for partisan election at general elections in precincts in which voting machines are not used shall be prepared as follows:

1. The ballots shall be of sufficient width to contain all of the political party tickets to be voted for, under the appropriate party designation for each.
2. On the left-hand side of such ballot shall be a column designating the office to be voted for, and on the same line, in the column under the appropriate party designation of each, all of the names of the candidates duly nominated for that office shall be printed.
3. The names of candidates under headings designating each official position shall be alternated in the printing of the official ballot in the same manner as is provided for the primary election ballot.
4. The names of all persons nominated by petition shall be placed in one column under the designation "independent nominations" in the lines respectively specifying the offices for which they are nominated.
5. The size of types shall be specified by the secretary of state.

In precincts in which voting machines are used, the list of offices and candidates and the statements of measures and questions to be submitted to the voters shall be arranged in a manner and form approximating the requirements of this section.

16.1-06-06. GENERAL ELECTION BALLOTS FOR PERSONS AUTHORIZED TO VOTE FOR FEDERAL OFFICES ONLY - PREPARED SEPARATELY - GENERAL LAW GOVERNS.) In addition to the ballots prepared pursuant to section 16.1-06-05, ballots shall be prepared containing only the names of duly certified candidates for presidential electors for use by persons authorized to vote for those offices by law. The provisions of this title regarding the preparation, form, arrangement of

names, delivering, and stamping of ballots shall govern in regard to the general election ballot prepared pursuant to this section. The ballots prepared pursuant to this section shall be delivered to electors who qualify only to vote for presidential electors pursuant to sections 16.1-14-18, 16.1-14-19, and 16.1-01-04.

16.1-06-07. ARRANGEMENT OF NAMES ON BALLOT - PRESIDENTIAL ELECTORS.) The ballot provided for in section 16.1-06-05 shall be arranged as follows: The names of the candidates of the party casting the highest number of votes in the state for members of Congress at the last preceding general election shall be arranged in the first or left-hand column of such ballot; of the party casting the next highest number of votes in the second column; of the party casting the next highest number of votes in the third column; and of such other party as the secretary of state may direct in the fourth and successive columns. In presidential election years the names of presidential electors presented in one certificate of nomination, shall be arranged in a group enclosed in brackets to the right and opposite the center of which shall be printed in bold type the surname of the presidential candidate represented. To the right and in a line with such surname, near the margin, shall be placed a single square, and a mark within such square shall be designated a vote for all the electors, and such group shall be placed at the head of the column under the party designated or represented in such certificate.

16.1-06-08. NO-PARTY BALLOT AT GENERAL ELECTIONS - CONTENTS - DELIVERED TO ELECTOR.) There shall be a separate no-party ballot at the general election upon which shall be placed the names of all candidates who have been nominated on the no-party primary ballot at the primary election. Such ballots shall be in the same form as the no-party primary ballot and shall be delivered to each elector by the proper election official. In precincts in which voting machines are used, the list of offices and candidates shall be entitled "no-party ballot" in a manner to clearly indicate the separation of the no-party list of offices and candidates from the party list of offices and candidates.

16.1-06-09. CONSTITUTIONAL AMENDMENTS AND INITIATED AND REFERRED MEASURES - PLACED ON SEPARATE BALLOT - MANNER OF STATING QUESTION - EXPLANATION OF EFFECT OF VOTE - ORDER OF LISTING.) Constitutional amendments or measures, initiated measures, and referred measures, duly certified to the county auditor by the secretary of state, or any other question or measure to be voted on, except the election of public officers at any primary, general, or special election including officers subject to a recall petition, shall be printed on a separate ballot by ballot title only and in the manner specified by the secretary of state and shall be deposited in a box separate from that provided to receive the ballots for public officers. The size of type to be used on such ballots shall be specified by the secretary of state. Immediately preceding the ballot title of the constitutional amendment or measure, initiated measure, or referred measure on the printed ballot, the secretary of state shall cause to be printed a short, concise statement in boldface type,

which statement shall fairly represent the substance of the constitutional amendment or measure, initiated measure, or referred measure. The attorney general shall approve all such statements written by the secretary of state. Immediately subsequent to the foregoing statement, the secretary of state shall cause to be printed another short, concise statement of the effect of an affirmative or negative vote on the constitutional amendment or measure, initiated measure, or referred measure in terms of whether the proposal will or will not enact, amend, or repeal a portion or portions of the Constitution or laws of the state of North Dakota if an affirmative or negative vote should prevail. This explanatory statement shall be drafted by the secretary of state and shall be approved by the attorney general. The words "Yes" and "No" shall be printed on the ballot at the close of the statement regarding the effect of an affirmative or negative vote, in separate lines with a square formed of black lines after each statement in which the voter may indicate by a cross or other mark how he desires to vote on the question. Where two or more amendments or questions are to be voted on, they shall be printed on the same ballot. In precincts in which voting machines are used, the ballot title, in the case of amendments or measures submitted by the people, or the title of the legislative bill or resolution, which shall serve as the ballot title, in the case of proposed amendments submitted by the legislative assembly, shall be set forth in full. Provided, however, in such cases where the ballot title or the title of the legislative bill or resolution is of such length to make it physically impossible to fit such titles upon voting machines, the attorney general shall reduce such titles to a length which will allow the placing of such titles upon voting machines, but shall fully express the purpose of such amendments or questions, and the reduced version of the titles shall be used on the voting machines.

The measures to be submitted to the electors shall be grouped and classified as constitutional measures, initiated statutes, or referred statutes and shall be numbered within such groups or classifications by the secretary of state in the order received, for the purpose of placing them on the ballot. Measures submitted by the legislative assembly shall be placed first on the ballot within their classification in the order approved by the legislative assembly. Constitutional measures shall be placed first on the ballot, initiated statutes second, and referred statutes third.

16.1-06-10. VOTING MACHINES AUTHORIZED.) The use of voting machines, in accordance with the provisions of this chapter, is hereby authorized in any election precinct upon finding and declaration by resolution of the city or township governing body, and also of the board of county commissioners of the county in which such election precinct is located, that such use is advisable or necessary in that precinct. Thereafter, the machines shall be procured, on a temporary or permanent basis, under terms and conditions, including assumption and division of cost of acquisition and maintenance by the city or township and county, agreed upon by the respective governing bodies,

the machines may then be used in any state, county, city, or district election in that precinct or other voting area of which that precinct is a part.

16.1-06-11. REQUIREMENTS FOR VOTING MACHINES.) Any voting machine used in an election in this state shall:

1. Provide facilities for voting for nominated candidates, for persons not in nomination, and upon questions or measures submitted to the voters.
2. Permit each voter to vote for as many persons for any office as he is entitled to vote for, and shall allow each voter to vote in primary elections for candidates for nomination by the political party of his choice, but it shall preclude each voter from voting for more persons for any office than he is entitled to vote for, from voting more than once for the same candidate or upon the same measure or question submitted to the voters, or voting the ballot of more than one political party in any primary election.
3. Permit each voter to change his vote for any candidate, or upon any measure or question submitted to the voters, up to the time he begins the final operation to register his vote.
4. Permit and require voting in absolute secrecy, and shall be so constructed and controlled that no person can see or know for whom any other elector has voted or is voting, save a voter whom he has assisted or is assisting in voting, as prescribed by law, and that no person may see or know the number of votes registered for any candidate or tamper with any of the registering mechanism.
5. Have a counter, or other device, the register of which is visible at all times from the outside of the machine, which shall show during any period of voting the total number of voters who have operated the machine during said period of voting and have a protective counter, or other device, which shall record the cumulative total number of movements of the operating mechanism.
6. Be provided with a lock or locks, by the use of which, immediately after the polls are closed, or the operation of the machine for an election is completed, all movement of the registering mechanism is absolutely prevented.
7. Be so constructed that when properly operated it shall register or record correctly and accurately every vote cast.
8. Be so constructed that a voter may readily learn the method of operating it.

16.1-06-12. COUNTY AUDITOR TO PROVIDE AND DISTRIBUTE BALLOTS - OTHER ELECTION SUPPLIES DELIVERED AT SAME TIME.) For each election precinct in his county, the county auditor shall provide the number of ballots he deems necessary. At least five days before any election, each county auditor shall:

1. Have the ballots printed and the same may be inspected by any person at the auditor's office.
2. Deliver to the inspector in each precinct the number of ballots and blank forms of pollbooks, blanks for election returns with the proper captions, forms of oaths and certificates, and tally sheets necessary to carry out the provisions of this title.

16.1-06-13. DELIVERY OF BALLOTS AND MANILA WRAPPERS - OFFICIAL STAMP DELIVERED.) At the meeting provided for in section 16.1-05-03, the county auditors shall deliver, or cause to be delivered, by mail or other reliable method, to the inspector of elections in each precinct the official ballots, if available, together with suitable manila wrappers. Such ballots and manila wrappers shall be delivered in sealed packages marked plainly on the outside designating the number of ballots enclosed and the precinct for which they are intended. The county auditor also shall deliver or cause to be delivered to such inspector, or if that is impracticable, to one of the election judges of such precinct, a stamp with an inkpad for the purpose of stamping each ballot with the words "official ballot" and the name or number of the precinct, the name of the county, the date of the election, and providing for a blank line preceded by the word "initials" for the purpose of providing a space where the judge or inspector shall place his initials. He also shall deliver or cause to be delivered a suitable seal, which has the name of the county inscribed thereon, for the purpose of sealing the wrapper containing the ballots as provided in section 16.1-15-08.

16.1-06-14. INSTRUCTIONS, ADVERTISEMENTS, AND BALLOTS POSTED IN POLLING PLACES.) Each county auditor shall have cards printed, in large type, containing full instructions to electors on obtaining and preparing ballots and a copy of section 16.1-01-12. He shall furnish ten such cards to the election inspector in each election precinct who, prior to the opening of the polls, shall post at least one of the cards in each booth or compartment provided for the preparation of ballots and at least three of the cards in and about the polling place. Three of the official ballots without the official stamp thereon shall be posted conspicuously in the polling place on the morning of the election. The county auditor, at the time of delivering the ballots to the inspector of elections in each precinct, shall deliver at least five copies of the newspaper publication or other copy of the complete text of any constitutional amendment or initiated or referred measure to such inspector of elections. Not less than three of such newspaper publications or copies shall be posted conspicuously in the polling place on the morning of the election.

16.1-06-15. POLLBOOKS DELIVERED BY COUNTY AUDITOR - CONTENTS - INSPECTOR OF ELECTIONS TO DELIVER.) The county auditor of each county shall see that two copies of the new pollbook and one copy of the pollbook used at the last election are delivered to the election inspector in each election precinct in the county. Each new pollbook shall contain:

1. A copy of the law prescribing the qualifications of electors.
2. The provisions of this title relating to the duties of inspectors, judges, and clerks of election.
3. The penalties imposed for offenses against the election laws.
4. Blanks for all entries required to be made therein.

The election inspector shall deliver such pollbooks, or cause them to be delivered, to the clerks of election in his precinct on election day prior to the opening of the polls. The copy of the pollbook used at the last election shall be used as a basis for identifying electors who have previously voted in that precinct.

16.1-06-16. COUNTY TO PROVIDE BALLOT BOXES.) The board of county commissioners, at the expense of the county, shall provide suitable ballot boxes for each election precinct in the county.

16.1-06-17. SECRETARY OF STATE TO SEND BLANKS AND ENVELOPES TO COUNTY AUDITOR TO MAKE RETURNS.) The secretary of state shall send blank forms and envelopes, for all returns of votes required to be made to his office, to each county auditor with such printed directions on the envelope as he deems necessary for the guidance of election officers in making returns according to law. The expense of furnishing such blanks and envelopes shall be paid by the state.

16.1-06-18. VOTING MACHINES - VIOLATIONS - PENALTY.) Any person who violates any of the provisions of this chapter or who tampers with or injures any voting machine to be used or being used in any election, or who prevents the correct operation of any such machine, or any unauthorized person who makes or has in his possession a key to a voting machine to be used or being used in an election shall be guilty of a class A misdemeanor.

SECTION 5.) Chapter 16.1-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-07-01. ABSENT VOTER - WHO MAY VOTE.) Any qualified elector of this state who, at any general, special, or primary state election, at any county election, or at any city or school district election, is absent from the city, township, or consolidated voting precinct in which he is an elector, is in the armed forces of the United States, is in the merchant marine of the United States, is

physically disabled, or is a United States citizen living outside the United States who resided in this state immediately prior to his departure from the United States, may vote an absent voter's ballot at that election. A qualified elector who is a citizen of the United States and lives outside the United States may vote absentee in this state pursuant to this chapter if he does not maintain a domicile, is not registered to vote, and is not voting in any other state, territory, or possession of the United States, and possesses a valid passport or card of identity and registration issued under the authority of the secretary of state of the United States; such an elector may vote only in federal elections, which means any election held solely or in part for the purpose of electing or nominating any candidate for the office of president, vice president, presidential elector, member of the United States senate, or member of the United States house of representatives.

16.1-07-02. ELECTOR MAY VOTE BEFORE LEAVING - NO VOTING IN PERSON UPON RETURN.) Any qualified elector of this state who is present in his city, township, or consolidated voting precinct after the official ballots have been printed, and who has reason to believe that he will be absent on election day as provided in section 16.1-07-01, may vote before he leaves in the same manner as an absent voter. Any elector who casts his vote by means of an absentee ballot shall not thereafter vote in person at the same election, even if he returns to his city, township, or consolidated voting precinct on or before election day.

16.1-07-03. PREPARATION AND PRINTING OF BALLOTS.) For all general, primary, or special state elections, for all other special elections held at the same time as a general or primary election, for all county elections, and for all city and school elections, official ballots shall be prepared within the time limits provided in section 16.1-07-04. In the case of special elections wherein the election is called less than twenty or fourteen days, as the case may be, before the election day, or where certification of candidates does not take place before the twenty-day or fourteen-day limitations, the ballots for the use of absentee voters shall be made available as soon as possible. Only official ballots shall be used as absentee ballots and no indication shall be noted on such ballots that they are used by absentee voters except that the return envelope shall be marked "ballot of absentee voter". The county auditor, at the same time other absentee ballots are prepared, shall prepare, and have printed and available, ballots for use by overseas citizens qualified to vote in this state pursuant to section 16.1-07-01.

16.1-07-04. WHEN BALLOTS FURNISHED PROPER OFFICIALS.) The county auditor, or any other officer required by law to prepare any general, special, or primary state election ballots or any county election ballots, shall prepare, have printed, and deliver to the county auditor at least twenty days prior to the holding of any general, special, or primary state election, a sufficient number of absent voter ballots for the use of all voters likely to require such ballots for that election. In city or school elections the auditor or clerk of the city, the clerk of the school district, or

any other officer required by law to prepare city or school election ballots, shall prepare, have printed and available for distribution to the public at least fourteen days prior to the holding of any city or school election, a sufficient number of absent voter ballots for the use of all voters likely to require such ballots for that election.

16.1-07-05. TIME FOR MAKING APPLICATION FOR BALLOT.) At any time within thirty days next preceding an election, any qualified elector expecting to be absent on election day as provided in section 16.1-07-01 may make application to the county auditor, the auditor or clerk of the city, or the clerk of the school district, as the case may be, for an official ballot to be voted at such election. No auditor or clerk shall issue ballots for absentee voters on the day of the election.

16.1-07-06. APPLICATION FORM.) Application for an absent voter's ballot shall be made on a blank furnished by the proper officer of the county, city, or school district of which the applicant is an elector, or on any blank containing the required information and in substantially the following form:

I, \_\_\_\_\_, a duly qualified elector of the township of \_\_\_\_\_, or of the \_\_\_\_\_ precinct of the \_\_\_\_\_ ward and residing at \_\_\_\_\_ in the city of \_\_\_\_\_ of the county of \_\_\_\_\_ of the state of North Dakota, to my best knowledge and belief entitled to vote in such precinct at the next election, hereby make application for an official absent voter's ballot to be voted by me at such election. I understand that it is a criminal offense to make a false statement in order to obtain an absentee ballot.

I have resided in my precinct for at least thirty days.

My phone number is \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
(signature of applicant)

\_\_\_\_\_  
(mailing address)

Witness:

16.1-07-07. DELIVERING APPLICATION BLANK FOR BALLOT.) The officers specified in section 16.1-07-05, upon request, shall mail an application blank for an absent voter's ballot to the voter, or they may deliver the application blank to the voter upon a personal application made at the officer's office.

16.1-07-08. DELIVERING BALLOTS - ENVELOPE ACCOMPANYING - STATEMENT ON ENVELOPE - INABILITY OF ELECTOR TO SIGN NAME.) Upon receipt of an application for an official ballot properly filled out and signed, or as soon thereafter as the official ballot for the precinct in which the applicant resides has been prepared, the county auditor, auditor of the city, or clerk of the school district, as the case may be, shall mail to the absent voter, postage prepaid, one official ballot, or personally deliver said ballot to the applicant, only after the auditor or clerk has determined the application to be reasonable under the law. If there is more than one ballot to be voted by an elector of such precinct, one of each kind shall be included and an envelope shall be enclosed with such ballot or ballots. Such envelope shall bear upon the front thereof the name, official title, and post-office address of the officer supplying the voter with the ballot, and upon the other side a printed statement in substantially the following form:

State of \_\_\_\_\_ }  
 County of \_\_\_\_\_ } ss.

I, \_\_\_\_\_, under penalty of criminal prosecution for making a false statement, do solemnly swear that I am a legal resident for voting purposes of the township of \_\_\_\_\_, or of the \_\_\_\_\_ precinct of the \_\_\_\_\_ ward in the city of \_\_\_\_\_, residing at \_\_\_\_\_ in said county, county of \_\_\_\_\_ and state of North Dakota, and entitled to vote in such precinct at the next election; that I expect to be absent from the city, township, or consolidated voting precinct of my residence on the day of holding such election or that by reason of physical disability I am unable to attend at the polling place for such election, and that I will have no opportunity to vote in person on that day. I understand that this statement will be verified, and that I cannot vote in person at my precinct in this election even if I return there on or before election day.

\_\_\_\_\_  
 (signature)

If the absent voter is unable to sign his name, he shall make his mark (X) in the presence of a disinterested person. Such disinterested person shall print the name of the person marking his X below the X, and shall sign his own name following the printed name with the notation "witness to his mark". The officer issuing absent voters' ballots pursuant to this chapter shall verify a random sample of at least ten percent of the applications and statements filed with him, and shall report any violations of this chapter to the state's attorney.

16.1-07-09. CANVASSING OF MAILED ABSENT VOTERS' BALLOTS RECEIVED LATE.) In the case of congressional, state, or county

elections, if any envelope postmarked prior to the date of the election and containing an absent voter's ballot is received by the proper officer too late to be forwarded to the proper voting precinct in time to be canvassed, the same shall be retained by him and tallied by the canvassing board of the county of such officer at any time prior to the meeting of the state canvassing board or any adjourned meeting of said board where the same has been received by such officer in time to canvass and transmit the results to the state canvassing board. In the case of city or school district elections, if an envelope postmarked prior to the date of election and containing an absent voter's ballot is received by the officer too late to be forwarded to the proper voting precinct in time to be tabulated, the same shall be tallied by the governing body of the city, or the school board of the school district, as the case may be, at such time as the other ballots are canvassed. Any envelope without a postmark or with an illegible postmark and containing an absentee voter's ballot must be received by the proper officer before the meeting of the county canvassing board, city governing body, or school board, as the case may be, in order to be canvassed and counted. Before forwarding any ballot to a canvassing board pursuant to this section, the officer forwarding such ballot shall print the date and hour of receipt on the envelope. Upon receipt, the canvassing board shall first determine that the elector was qualified to vote in that precinct and that the elector did not previously vote in that precinct on the date of the election before allowing such ballot to be tallied.

16.1-07-10. CARE AND CUSTODY OF BALLOT.) Upon receipt of an envelope containing the absent voter's ballot, the proper officer forthwith shall enclose the same unopened, together with the written application of such absent voter, in a larger envelope which shall be sealed securely and shall be endorsed with the name of the proper voting precinct, the name and official title of the officer, and the words "This envelope contains an absent voter's ballot and must be opened only on election day at the polls while the same are open." Such officer shall keep the envelope safely in his office until it is delivered by him as provided in this chapter.

16.1-07-11. SUBMITTING BALLOT TO INSPECTOR OF ELECTIONS.) If the envelope containing the absent voter's ballot is received by the county auditor, auditor or clerk of the city, or clerk of the school district, as the case may be, prior to his delivery of the sealed package containing the official ballots to the inspector of elections of the precinct in which such absent voter resides, such ballot, after having been enclosed with the application in an envelope as required by section 16.1-07-10, shall be enclosed in such package and delivered therewith to the inspector of the precinct. If the official ballots for the precinct have been delivered to the election inspector at the time of receipt by the proper officer of the absent voter's ballot, then the officer shall immediately mail the same postage prepaid to the election inspector, or he, or his deputy may personally deliver it to the inspector. Any absent voter's ballot sent to the wrong precinct by the official whose duty it is to forward such ballots to the precincts, shall be returned to

the official by the election inspector, and shall be tallied by the county canvassing board, the governing body of the city, or the school board, as the case may be.

16.1-07-12. OPENING BALLOT - VOTING OR REJECTING - DEPOSITING IN BALLOT BOX - PRESERVING.) At any time between the opening and closing of the polls on election day, the election judges of the relevant precinct first shall open the outer envelope and compare the signature on such application for an absent voter's ballot with the signature on the statement provided for in section 16.1-07-08. If the judges find that the statement is sufficient and that the signatures correspond, and that the applicant is then a duly qualified elector of such precinct and has not voted at the election, they shall open the absent voter's envelope in such manner as not to destroy the statement thereon. They shall take out the ballot or ballots contained therein without unfolding the same, or permitting the same to be opened or examined, and after endorsing the same as other ballots are endorsed, they shall deposit the ballot in the proper ballot box and show in the pollbook of the election that the elector has voted. If the statement is found to be insufficient, or that the signatures do not correspond, or that the applicant is not then a duly qualified elector of the precinct, the vote shall not be allowed, but without opening the absent voter's envelope, the election inspector or election judge shall mark across the face thereof "rejected as defective" or "rejected as not an elector", as the case may be. The subsequent death of an absentee voter after having voted by absentee ballot shall not constitute grounds for rejecting such ballot.

16.1-07-13. REGISTRATION OF ABSENT VOTERS' BALLOTS ON VOTING MACHINES.) Absent voters' ballots, if any, shall be registered on voting machines by the two election judges. The voting of absent voters' ballots on voting machines shall be done in secrecy by the two election judges during the voting day at times when the voting machines are not in use by voters, or after the close of the voting day and before the machines are unlocked for tallying.

16.1-07-14. PENALTY.) Any person who violates any of the provisions of this chapter is guilty of a class A misdemeanor.

SECTION 6.) Chapter 16.1-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-08-01. DEFINITIONS.) As used in this chapter, unless the context otherwise plainly requires:

1. "Association" means any club, association, union, brotherhood, fraternity, organization, or group of any kind of two or more persons, including, but not limited to, labor unions, trade associations, professional associations, or governmental associations, which is united for any purpose, business, or object and which assesses any dues, membership fees, or license fees in any amount, or which maintains a treasury fund in any amount. Association shall not include corporations, cooperative corporations, political committees, or political parties.

2. "Candidate" means a person whose name is presented for nomination to public office at any primary election or convention, whether the person is actually nominated or not; a person whose name is printed as a candidate on an official ballot used at any election; or a person who seeks election through write-in votes.
3. "Contribution" means a gift, subscription, loan, advance, or deposit of money, except a loan of money from a bank or other lending institution made in the regular course of business, made for the purpose of influencing the nomination for election, or election, of any person to office, or in furtherance of or to defeat any constitutional amendment, initiated measure, referred measure, or other question submitted to the electors of the state or political subdivision. Contribution also means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any of the above purposes, and includes funds received by a political committee which are transferred to that committee from another political committee or other source.
4. "Expenditure" means a purchase, payment, distribution, loan, advance, deposit, or gift of money, except a loan of money from a bank or other lending institution made in the regular course of business, made for the purpose of influencing the nomination for election, or election, of any person to office, or in the furtherance of or to defeat any constitutional amendment, initiated measure, referred measure, or other question submitted to the electors of the state or political subdivision. Expenditure also means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure and includes the transfer of funds by a political committee to another political committee.
5. "Person" means an individual, partnership, committee, association, corporation, cooperative corporation, or other organization or group of persons.
6. "Political committee" means any committee, club, association, or other group of persons which receives contributions or makes expenditures for political purposes.
7. "Political party" means any association, committee, or organization which nominates a candidate for election to any office which may be filled by a vote of the electors of this state or any of its political subdivisions and whose name appears on the election ballot as the candidate of such association, committee, or organization.

8. "Political purpose" or "political purposes" means any activity undertaken in support of or in opposition to the election or nomination of a candidate, or in support of or in opposition to the adoption of any question or measure submitted to the electors of the state or political subdivision, whether the activity is undertaken by a candidate, a political committee, a political party, or any person.

16.1-08-02. CAMPAIGN CONTRIBUTIONS BY CORPORATIONS OR COOPERATIVE CORPORATIONS PROHIBITED.) No corporation or cooperative corporation doing business in this state, directly or indirectly, shall pay, use, offer, consent, or agree to pay or use, any money, property, or any thing of value for any of the following:

1. To aid any political party, committee, or organization.
2. To aid any corporation or association organized or maintained for political purposes.
3. To aid any candidate for political office or for nomination for such office.
4. For any political purpose or the reimbursement or indemnification of any person for money or property so used.
5. For the influencing of legislation of any kind, except in accordance with chapter 54-05.

If an officer, employee, agent, attorney, or other representative of a corporation or cooperative corporation makes any payments prohibited by this section out of corporate funds or otherwise violates the provisions of this section, it shall be prima facie evidence of a violation by such corporation or cooperative corporation. No person shall solicit or receive such payment or other thing of value from any corporation.

16.1-08-03. PENALTY FOR CORPORATION OR OFFICER THEREOF CONTRIBUTING FOR POLITICAL PURPOSES.)

1. It shall be a class A misdemeanor for an officer, director, stockholder, attorney, agent, or representative of any corporation or association to violate any of the provisions of section 16.1-08-02, or to counsel or consent to any such violation. Any person who solicits or knowingly receives any money or property in violation of the provisions of section 16.1-08-02 shall be guilty of a class A misdemeanor.
2. Any officer, director, stockholder, attorney, agent, or representative who makes, counsels, or consents to, the making of a contribution in violation of section 16.1-08-02 shall be liable to the company, corporation, or association for the amount so contributed.

16.1-08-04. PERSON NOT EXCUSED FROM TESTIFYING AS TO VIOLATION - PROSECUTION OR PENALTY WAIVED UPON TESTIFYING.) No person shall be excused from attending and testifying or producing any books, papers, or other documents before any court upon any investigation, proceeding, or trial for a violation of any of the provisions of this chapter, upon the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate or degrade him. No person shall be prosecuted nor subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be used against him in any criminal investigation or proceeding.

SECTION 7.) Chapter 16.1-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-09-01. DECLARATION OF POLICY.) The legislative assembly declares that public office is a public trust, and in order to continue the faith and confidence of the people of the state in that trust and in their government, the people have a right to be assured that the interest of holders of or candidates for public office present no conflict with the public trust.

16.1-09-02. STATEMENT OF INTERESTS TO BE FILED.) Every candidate for elective office shall file a statement of interests as required by this chapter. A candidate for a statewide elective office shall file the statement of interests with the secretary of state. A candidate for election as a member of the legislative assembly and for offices other than statewide shall file the statement of interests with the county auditor, or the city auditor if the candidate is running for city office, of the candidate's county or city of residence. Candidates for elective office who are required to file such statements shall do so at the time of filing a certificate of nomination, a certificate of endorsement, or a petition of nomination, pursuant to chapters 16.1-11, 16.1-12, or 40-21, as is appropriate, provided that any person who has filed a statement as the result of candidacy in a primary election need not refile prior to running in the following general election. Every person who is appointed by the governor to a state agency, board, bureau, commission, department, or occupational licensing board shall file a statement of interests as required by this chapter with the secretary of state simultaneously with announcement of the appointment.

16.1-09-03. CONTENTS OF STATEMENT OF INTERESTS.) The statement of interests required to be filed under this chapter shall apply to the candidate and his spouse and shall include:

1. An identification of the principal source of income, defined in the state income tax return as "principal occupation", of both the candidate and his spouse.

2. The name of each business or trust, not the principal source of income, in which the person making the statement, and that person's spouse, having a financial interest.
3. A list of the associations or institutions with which the person making the statement, and that person's spouse, are closely associated, or for which they serve as a director or officer, and which may be affected by legislative action, in the case of a statement submitted by a legislative candidate, or action by the candidate or appointee in his capacity as an officeholder.
4. The identity by name of all business offices, business directorships, and fiduciary relationships the person making the statement, and that person's spouse, have held in the preceding calendar year.

16.1-09-04. POWERS AND DUTIES OF THE ATTORNEY GENERAL.) The attorney general shall:

1. Prescribe the forms for statements of interests required to be filed under this chapter and furnish such forms, on request, to persons subject to this chapter.
2. Prepare and publish guidelines setting forth recommended uniform methods of reporting for use by persons required to file statements under this chapter.
3. Adopt such rules and regulations, in the manner prescribed by chapter 28-32, as may be appropriate to effectuate the purposes of this chapter.

16.1-09-05. POWERS AND DUTIES OF THE SECRETARY OF STATE AND COUNTY AND CITY AUDITORS.) The secretary of state, or the county or city auditor, where appropriate shall:

1. Accept and file any statement submitted pursuant to this chapter.
2. Make statements filed available for public inspection and copying during regular office hours. A reasonable fee may be charged to cover the cost of copying. Proceeds from any fees charged shall be deposited in the general fund of the appropriate governmental entity.
3. Preserve statements filed under this chapter for the term of office to which the person making disclosure is elected or appointed or until a new statement is filed, and preserve statements filed pursuant to this chapter by those candidates who are not elected or appointed for a period of one year after the date of receipt.

16.1-09-06. PROCEDURE FOR ENFORCEMENT - INVESTIGATION BY ATTORNEY GENERAL OR STATE'S ATTORNEY.) Upon a complaint, signed under penalty of perjury, by any person, or upon the motion of the attorney general or a state's attorney, the attorney general or state's attorney shall investigate any alleged violation of this chapter. The investigation and its proceedings shall be confidential until a determination has been reached by the investigating officer that enough incriminating evidence exists to bring an action and such action is commenced in the appropriate district court.

16.1-09-07. EFFECT OF INTENTIONAL VIOLATION OF CHAPTER - PENALTY.) Intentional violation of this chapter shall constitute an infraction and shall result in the person being deprived of the nomination or office, as the case may be. The vacancy created by the intentional violation of this chapter shall be filled in the manner provided by law.

SECTION 8.) Chapter 16.1-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-10-01. CORRUPT PRACTICE - WHAT CONSTITUTES.) A person shall be guilty of corrupt practice within the meaning of this chapter, if he engages in any of the following:

1. Expends any money for election purposes contrary to the provisions of this chapter.
2. Engages in any of the practices prohibited by section 12.1-14-02 or 12.1-14-03.
3. Is guilty of the use of state services or property for political purposes.

16.1-10-02. USE OF STATE SERVICES OR PROPERTY FOR POLITICAL PURPOSES.)

1. No person shall use any property belonging to or leased by any service which is provided to or carried on by, either directly or by contract, the state or any agency, department, bureau, board, or commission thereof, for any political purpose.
2. The following definitions shall be used for the purposes of this section:
  - a. "Property" includes, but is not limited to, motor vehicles, telephones, typewriters, adding machines, postage or postage meters, funds of money, and buildings. However, nothing in this section shall be construed to prohibit any candidate, political party, committee, or organization from using any public building for such political meetings as may be required by law, or to prohibit such candidate, party, committee, or organization from hiring the use of any public building for any political purpose if such lease or hiring is otherwise permitted by law.

- b. "Services" includes, but is not limited to, the use of employees during regular working hours for which such employees have not taken annual or sick leave or other compensatory leave.
- c. "Political purpose" means any activity directly undertaken by a candidate for any office in support of his own election to such office; or aid and assistance to any candidate, political party, political committee, or organization, but shall not include activities undertaken in the performance of a duty of state office.

16.1-10-03. POLITICAL BADGE, BUTTON, OR INSIGNIA AT ELECTIONS.) No person shall, on the day of an election, buy, sell, give, or provide any political badge, button, or any insignia to be worn at or about the polls on that day. No such political badge, button, or insignia shall be worn at or about the polls on any election day.

16.1-10-04. POLITICAL ADVERTISING TO BE LABELED PAID.) No publisher of a newspaper or other periodical shall insert either in its advertising or reading columns any paid matter which is designed, or which tends, to aid, injure, or defeat any candidate, political party, organization, or measure before the people, unless it is stated therein that it is a paid advertisement.

16.1-10-05. POLITICAL ADVERTISEMENTS TO DISCLOSE NAME AND ADDRESS OF SPONSOR.) Every political advertisement, whether on behalf of or in opposition to any candidate for public office, initiated measure, referred measure, or constitutional amendment, and whether such advertisement shall be by newspaper, pamphlet or folder, display cards, signs, posters or billboard advertisements, or by any other public means, shall disclose at the bottom or end of same the name or names and address or addresses of the sponsors of such advertisement, and the name or names and address or addresses of the person, persons, associations, or partnerships promoting or paying for such advertisement, except however, this section shall not apply to campaign buttons. At the close of every radio or television broadcast containing any advertising announcements or talk for or against any candidate for public office, any initiated measure, referred measure, or constitutional amendment to be voted on by the people, there shall be announced at the close of said broadcast the name or names of the person, persons, associations, or partnerships promoting or paying for such radio or television broadcast.

16.1-10-06. PENALTY.) Any person who violates the provisions of section 16.1-10-05 and who fails or neglects to disclose the name or names of the sponsors of such political advertisement, or the name or names of the persons paying for such advertisement, or who shall print, distribute, or cause to be printed or distributed, any matter described in section 16.1-10-05 which does not comply with the provisions of that section, shall be guilty of a class B misdemeanor. Any editor of a newspaper, managing officer of any printing

establishment, radio station, television station, novelty concern, or poster or billboard advertising company printing or furnishing such political advertisement without disclosing the information as provided in section 16.1-10-05, shall also be guilty of a class B misdemeanor.

16.1-10-07. PUBLICATION OF FALSE INFORMATION IN POLITICAL ADVERTISEMENTS - PENALTY.) No person shall knowingly sponsor with actual malice any political advertisement containing deliberately calculated falsehoods, whether on behalf of or in opposition to any candidate for public office, initiated measure, referred measure, or constitutional amendment, and whether such publication shall be by radio, television, newspaper, pamphlet, folder, display cards, signs, posters or billboard advertisements, or by any other public means. Any person who shall violate the provisions of this section shall be guilty of a class A misdemeanor.

16.1-10-08. PAYING OWNER, EDITOR, PUBLISHER, OR AGENT OF NEWSPAPER TO ADVOCATE OR OPPOSE CANDIDATE EDITORIALY PROHIBITED.) No person shall pay the owner, editor, publisher, or agent of any newspaper or other periodical, or radio or television station, to induce him to advocate editorially or to oppose any candidate for nomination or election, and no such owner, editor, publisher, or agent shall accept such payment.

16.1-10-09. ELECTIONEERING ON ELECTION DAY - PENALTY.) Any person asking, soliciting, or in any manner trying to induce or persuade, any voter on an election day to vote or refrain from voting for any candidate or the candidates or ticket of any political party or organization, or any measure submitted to the people, shall be guilty of an infraction. The display upon motor vehicles of adhesive signs which are not readily removable and which promote the candidacy of any individual, any political party, or a vote upon any measure, and political advertisements promoting the candidacy of any individual, political party, or a vote upon any measure which are displayed on fixed permanent billboards, shall not, however, be deemed a violation of this section.

16.1-10-10. CANDIDATE GUILTY OF CORRUPT PRACTICE TO VACATE NOMINATION OF OFFICE - FILLING VACANCY.) Upon the trial of an action or proceeding under the provisions of this chapter to contest the right of any person declared to be nominated or elected to any office, to annul or set aside such election, or to remove any person from his office, if it shall be proved that such person was guilty of any corrupt practice, illegal act, or undue influence in or about such nomination or election, he shall be punished by being deprived of the nomination or office, as the case may be. Such vacancy shall be filled in the manner provided by law.

16.1-10-11. WHEN ACTION TO CONTEST ELECTION TO BE COMMENCED.) Any action to contest the right of any person declared elected to any office, or to annul and set aside such election, or to remove from or deprive any person of an office of which he is the incumbent, for any offense mentioned in this chapter, shall be commenced and pursued in accordance with chapter 16.1-16.

16.1-10-12. PENALTY FOR VIOLATION OF CHAPTER.) Any person violating any provision of this chapter, for which another penalty is not specifically provided, shall be guilty of a class A misdemeanor.

SECTION 9.) Chapter 16.1-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-11-03. STATE CANDIDATE'S PETITION OR POLITICAL PARTY CERTIFICATE OF ENDORSEMENT REQUIRED TO GET NAME ON BALLOT - CONTENTS - FILING.) Every candidate for United States senator, United States representative, a state office except the office of state senator or state representative, and judges of the supreme and district courts shall, not more than sixty-six nor less than forty-six days and before four p.m. of the forty-sixth day prior to any primary election, present to the secretary of state either:

1. A certificate of endorsement signed by the state chairman of any legally recognized political party containing the candidate's name, post-office address, the title of the office to which he aspires, and the party which he represents; or
2. A petition containing the following:
  - a. The candidate's name, post-office address, and the title of the office to which he aspires.
  - b. The name of the party the candidate represents if the petition is for an office under party designation.
  - c. The signatures of qualified electors, the number of which shall be determined as follows:
    - (1) If the office is under party designation, the signatures of three percent of the total vote cast for the candidates of the party with which the candidate affiliates, for the same position at the last general election. However, no more than three hundred signatures shall be required.
    - (2) If there was no candidate of a party for a position at the preceding general election, at least three hundred signatures.
    - (3) If the office is under the no-party designation, at least three hundred signatures.
  - d. The mailing address and the date of signing for each signer.

If the petition or certificate of endorsement is for the office of governor or lieutenant governor, it shall contain the names and

other required information of candidates for both those offices. If the petition or certificate of endorsement is mailed, it shall be in the possession of the secretary of state before four p.m. of the forty-sixth day prior to the primary election.

16.1-11-04. REFERENCE TO PARTY AFFILIATION IN PETITION AND AFFIDAVIT PROHIBITED FOR CERTAIN OFFICES.) No reference shall be made to a party ballot or to the party affiliation of a candidate in a petition and affidavit filed by or on behalf of a candidate for nomination in the primary election to an elective county office, the office of judge of the supreme court, judge of the district court, commissioner of labor, superintendent of public instruction, or tax commissioner.

16.1-11-05. FORM OF CERTIFICATE OF ENDORSEMENT.) A certificate of endorsement filed with the proper officer as provided in this Act shall be in substantially the following form:

CERTIFICATE OF ENDORSEMENT

I, \_\_\_\_\_, do certify that I am the state (district) chairman of the \_\_\_\_\_ political party of the \_\_\_\_\_ legislative district of the state of North Dakota and that \_\_\_\_\_ (insert name of endorsee), residing at \_\_\_\_\_, was duly endorsed for nomination to the office of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, by the \_\_\_\_\_ political party of the \_\_\_\_\_ legislative district (if appropriate), duly convened and organized in accordance with the bylaws of the \_\_\_\_\_ political party and the laws of this state, and do hereby request \_\_\_\_\_ name be printed upon the ballot as a candidate for nomination to the office of \_\_\_\_\_ at the forthcoming primary election to be held on \_\_\_\_\_ of this year.

Dated this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
(signature of state or district chairman)

16.1-11-06. APPLICANT'S NAME PLACED UPON BALLOT - AFFIDAVIT TO ACCOMPANY PETITION.) Upon receipt by the secretary of state of the petition or certificate of endorsement provided for in section 16.1-11-02 accompanied by the following affidavit, he shall place the applicant's name upon the primary election ballot in the columns of his party as hereinafter provided. The affidavit shall be substantially as follows:

State of North Dakota }  
County of \_\_\_\_\_ } ss.

I, \_\_\_\_\_, being duly sworn, depose and say that I reside in the county of \_\_\_\_\_ and state of North Dakota; that I am a qualified voter therein; that I am a

candidate for nomination to the office of \_\_\_\_\_ to be chosen at the primary election to be held on the \_\_\_\_\_, 19\_\_\_\_, and I do hereby request that my name be printed upon the primary election ballot as provided by law, as a candidate of the \_\_\_\_\_ party for said office.

Subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary Public, North Dakota

16.1-11-07. COUNTY AND LEGISLATIVE DISTRICT CANDIDATES' PETITIONS - FILING - CONTENTS.) Every candidate for a county or district office shall, not more than sixty-six nor less than forty-six days and before four p.m. of the forty-sixth day prior to any primary election, present to the county auditor of the county in which he resides either:

1. A certificate of endorsement signed by the district chairman of any legally recognized political party containing the candidate's name, post-office address, the title of the office to which he aspires, and the party which he represents; or
2. A petition containing the following:
  - a. The candidate's name, post-office address, and the title of the office to which he aspires.
  - b. The name of the party the candidate represents, only if it is a petition for an office which is under party designation.
  - c. The signatures of qualified electors, the number of which shall be determined as follows:
    - (1) If the office is under no party designation, the signatures of not less than two percent and not more than five percent of the total vote cast for the office at the most recent general election at which the office was voted upon.
    - (2) If the office is under a party designation, the signatures of the same percentage as provided in paragraph (1) of the total vote cast for the candidate of the party represented for the same position at the most recent general election at which the office was voted upon.
    - (3) If there were more than one party candidate, the signatures of the same percentage as provided in paragraph (1) of the total number of votes for all party candidates divided by the number of party candidates.

- (4) If no candidate was elected or no votes were cast for an office at any general election, the number of signers equal to the percentage as provided in paragraph (1) applied to the total average vote cast for the offices of sheriff and county auditor at the most recent general election at which those officers were elected in the petitioner's county or district. This average shall be determined by dividing by two the total vote cast for those offices.
- (5) In no case shall more than three hundred signatures be required.

d. The mailing address and date of signing for each signer.

If the petition or certificate of endorsement is mailed, it shall be in the possession of the county auditor before four p.m. on the forty-sixth day prior to the primary election.

16.1-11-08. COUNTY AUDITOR TO PLACE APPLICANT'S NAME ON BALLOT.) Upon receipt of the petition or certificate of endorsement provided for in section 16.1-11-07 by the county auditor and when accompanied by an affidavit as provided in section 16.1-11-06, the county auditor shall place the name of the applicant upon the primary election ballot in the party or appropriate column, as the case may be.

16.1-11-09. FILING PETITION OR CERTIFICATE OF ENDORSEMENT WHEN LEGISLATIVE DISTRICT COMPOSED OF MORE THAN ONE COUNTY.) When a legislative district is composed of more than one county, the certificate of endorsement or the petition provided for in section 16.1-11-07 shall be filed with the county auditor of the county where the candidate resides, and that county auditor shall certify to the county auditors of the other counties comprising the legislative district the names of the candidates filing the petitions or certificates.

16.1-11-10. APPLICATION BY OTHER PERSONS TO PLACE NAME ON BALLOT - PETITION - AFFIDAVIT.) An application to have a name placed on the primary election ballot for nomination for any office designated in this chapter may be made by five qualified electors by presenting the petition required in section 16.1-11-03 or 16.1-11-07 to the proper official, and subscribing and filing an affidavit in substantially the following form:

State of North Dakota }  
 County of \_\_\_\_\_ } ss

A \_\_\_\_\_, B \_\_\_\_\_, C \_\_\_\_\_, D \_\_\_\_\_, and E \_\_\_\_\_, being duly sworn, each for himself, deposes and says that he is a qualified elector in the state of North Dakota, that he hereby makes application to have the

name of \_\_\_\_\_ printed on the primary election  
 ballot of the \_\_\_\_\_ party for the office \_\_\_\_\_,  
 to be voted for at the primary election to be held on the  
 \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_; that said  
 \_\_\_\_\_ is, to the best of his knowledge,  
 information, and belief, a \_\_\_\_\_ and a qualified  
 voter and eligible to hold the office of \_\_\_\_\_  
 under the Constitution.

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day  
 of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
 Notary Public, North Dakota

However, an affidavit relating to a candidate on the no-party ballot shall not contain any reference to party affiliation. When the application is received by the proper officer, he shall place the name on the primary election ballot as a party or no-party candidate, as the case may be. The petition and affidavit provided for in this section shall not be filed without the written consent of the person to be nominated endorsed thereon.

16.1-11-11. NOMINATING PETITION NOT TO BE CIRCULATED MORE THAN NINETY DAYS PRIOR TO FILING TIME.) No petition provided for in this chapter shall be circulated or signed more than ninety days previous to the time when any petition must be filed under the provisions of this chapter. Any signatures to a petition secured more than ninety days before that time shall not be counted.

16.1-11-12. FORM OF PETITION.) A petition required in this chapter may be one continuous list of names under the proper political title or principle or there may be a number of petitions using the same title, containing the aggregate of names required.

16.1-11-13. FILLING VACANCY IN PARTY PRIMARY ELECTION BALLOT PERMISSIBLE - PETITION - AFFIDAVIT.) When the time for filing a petition or certificate of endorsement provided for in this chapter has expired, and a vacancy exists in the primary election ballot of any political party because no petition or certificate of endorsement has been filed for the nomination, the vacancy may be filled by a certificate of endorsement and affidavit or a petition and affidavit as provided in section 16.1-11-10. The certificate of endorsement and affidavit or petition and affidavit shall be filed with the proper officer at least forty-one days before the primary election

and before four p.m. on the forty-first day. If the forms are mailed, they shall be in the possession of the designated officer before four p.m. on the day due.

16.1-11-14. PARTY COMMITTEES TO FILL VACANCY OCCURRING IN NOMINATION FOR PARTY OFFICE.)

1. If a vacancy occurs in any party certificate of endorsement at the primary election for any state or legislative district office, the proper state or district executive committee of the political party may fill the vacancy by filing another certificate of endorsement with the proper officer as provided in sections 16.1-11-03 and 16.1-11-07.
2. If no party endorsement has been made by certificate and a vacancy occurs in a slate of candidates seeking party nomination by petition at the primary election, the proper state or district executive committee may fill the vacancy by filing a certificate of endorsement with the proper officer as provided in sections 16.1-11-03 and 16.1-11-07.
3. If party endorsements by certificate have been made for any state or district office and a vacancy occurs in the slate of persons seeking nomination at the primary election because of the unavailability of the person who is seeking nomination by petition, that vacancy shall not be filled except by petition.
4. If a vacancy occurs in a slate of candidates after the candidates have been nominated at the primary election, the proper state or district executive committee may fill any vacancy by filing a certificate of nomination with the secretary of state. The chairman and secretary of the committee shall make and file with the secretary of state the certificate setting forth the cause of the vacancy, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and any further information as may be required to be given in an original certificate of nomination. When such a certificate is filed, the secretary of state, in certifying the nomination to the various auditors, shall insert the name of the person who has been nominated to fill the vacancy in place of the original nominee. If the secretary of state already has forwarded his certificate, he forthwith shall certify to the auditor of the proper county or counties the name and post-office address of the person nominated to fill a vacancy, the office he is nominated for, the party or political principle he represents, and the name of the person for whom the nominee is substituted. Failure to publish the name of a person substituted shall not invalidate the election.

With the exception of vacancies filled pursuant to section 16.1-12-08, vacancies to be filled according to the provisions of subsection 1, 2, or 3 of this section may be filled not later than forty-one days prior to the election, and vacancies to be filled according to the provisions of subsection 4 of this section may be filled not later than thirty-five days prior to the election.

16.1-11-15. FILLING VACANCY EXISTING ON NO-PARTY BALLOT - PETITION REQUIRED - TIME OF FILING.) If a vacancy exists on a no-party ballot for a state office or for judge of a district court, the vacancy may be filled by filing with the secretary of state, before four p.m. on the forty-first day prior to the primary election, a written petition as provided in section 16.1-11-03, stating that the petitioner desires to become a candidate for nomination to the office for which a vacancy exists. If the petition is mailed, it shall be in the possession of the secretary of state before four p.m. on the forty-first day prior to the primary election. The petition for the nomination of any person to fill the vacancy shall be signed by qualified electors equal in number to at least two percent of the total vote cast for governor at the most recent general election in the state or district at which the office of governor was voted upon, but in no case shall more than three hundred signatures be required.

If a vacancy exists on a no-party ballot in a county or district within a county, the vacancy may be filled by filing with the county auditor, before four p.m. of the forty-first day prior to the primary election, a written petition as provided in section 16.1-11-07, stating that the petitioner desires to become a candidate for nomination to the office for which a vacancy exists. If the petition is mailed, it shall be in the possession of the county auditor before four p.m. on the forty-first day prior to the primary election. The petition for the nomination of any person to fill the vacancy shall be signed by qualified electors equal in number to at least thirty percent of the total vote cast for governor at the most recent general election in the county or district at which the office of governor was voted upon, but in no case shall more than three hundred signatures be required.

A vacancy in the no-party ballot shall be deemed to exist when a candidate who was qualified by filing a petition pursuant to section 16.1-11-03 or 16.1-11-07 shall die, resign, or otherwise become disqualified to have his name printed on the ballot.

16.1-11-16. CERTIFIED LIST OF NOMINEES TRANSMITTED TO COUNTY AUDITOR BY SECRETARY OF STATE.) At least thirty-five days before any primary preceding a general election, the secretary of state shall transmit to each county auditor a certified list containing the names and post-office addresses of each person for whom nomination papers have been filed in his office and who are entitled to be voted for at the primary. A designation of the office for which each is a candidate, and if applicable, the party or principle represented by each shall be included.

16.1-11-17. COUNTY AUDITOR TO PUBLISH SAMPLE PRIMARY ELECTION BALLOT AND NOTICE OF TIME AND PLACE OF ELECTION.) The county auditor shall publish in the official county newspaper, and if no newspaper is published in the county then in a newspaper published in an adjoining county in the state, the following:

1. A copy of the sample ballot of the primary election, as arranged by order and direction of the county auditor. The form of the sample ballot shall conform in all respects to the form prescribed by the legal publications handbook under subsection 5 of section 46-01-02 for the sample primary ballot. The county auditor shall publish the sample ballot form appropriate for the method of voting in his county. Sample ballots with inverted columns must be printed twice in each issue of the newspaper and in such manner as to assure that the column of each political party shall be displayed once in each issue in an upright position. If both paper ballots and voting machines are used, both forms of the sample ballot must be published to meet publication and notice requirements. Absent voters' ballots shall not be considered in determining which form of voting is used. Candidates from each legislative district which falls within the boundaries of the county shall be listed in a separate box or category by legislative district number to enable the voters in each legislative district to ascertain the legislative candidates in their specific district.
2. The date of the primary election.
3. The hours during which the polls will be open.
4. The statement that the primary election balloting will be held in the regular polling place in each precinct.

The notice shall be published in the official county newspaper once each week for two consecutive weeks prior to the primary election.

16.1-11-19. NO-PARTY PRIMARY BALLOT - CONTENTS.) There shall be a separate ballot at all primary elections which shall be entitled "no-party primary ballot". The names of aspirants for nomination to each office shall be arranged on the no-party primary ballot in separate groups in their order. In precincts in which voting machines are used, the list of offices and candidates shall be entitled "no-party primary ballot" in a manner to clearly indicate the separation of the no-party list of offices and candidates from the party list of offices and candidates. The names of all candidates for any of the offices mentioned in section 16.1-11-04 shall be placed thereon without party designation. Immediately under the name of each office shall be placed the language, "Vote for \_\_\_\_\_ name (or names) only.". The number inserted shall be the number to be elected to the office at the next succeeding general election.

16.1-11-20. PREPARATION, PRINTING, DISTRIBUTING, CANVASSING, AND RETURNING OF NO-PARTY BALLOT.) The no-party ballot shall be prepared, printed, distributed, canvassed, and returned in the same manner provided for other primary election ballots.

16.1-11-21. ORDER IN WHICH NAMES OF OFFICES SHALL APPEAR ON BALLOT.) The primary election ballot for party nominations shall contain the following offices in the following order under each party column:

1. Congressional:

United States senator  
Representative in Congress

2. Legislative:

State senator \_\_\_\_\_ district  
Member of house of representatives \_\_\_\_\_ district

3. State offices:

governor and lieutenant governor  
secretary of state  
state auditor  
state treasurer  
attorney general  
commissioner of insurance  
commissioner of agriculture  
commissioner of public service

16.1-11-22. ARRANGEMENT OF NAMES ON BALLOTS AND VOTING MACHINES.)

1. On sample ballots, the names of candidates for each office shall be arranged alphabetically according to surnames.
2. On the official ballot used at the election, the names of candidates under headings designating each office to be voted for shall be alternated in the following manner:
  - a. The ballot shall first be arranged with the names in the order in which they are submitted for use on the sample ballots by the secretary of state for the state and district offices, and prepared by the county auditor for the state, district, and county offices.
  - b. In printing each set of official ballots for the various election precincts, the position of the names shall be changed in each office division as many times as there are candidates in the office division in which there are the most names. The same number of ballots shall be printed after each change of position.

- c. In making the changes of position, the printer shall take the candidate's name at the head of each office division and place it at the bottom of that division, moving the column up so the name that was second before the change is first after the change.
3. In precincts employing voting machines, the position of names which require alternating under the provisions of this section shall be alternated as follows:
    - a. The names shall be alternated on voting machines so the name appearing first in one precinct will be last in the next precinct, and the name that appeared second shall be first in the next precinct, and so on until each name has been moved up or over one space accordingly. This process shall be continued from one precinct to another and for as many names as are involved. There shall be a different alternation sequence for each of the following, based on the geographical area by which the office is filled:
      - (1) Offices to be filled by the electors of the state, the entire county, or any district which includes the entire county.
      - (2) Offices to be filled by the electors of districts smaller than the county, with a different rotation for each of those districts.
    - b. The precincts shall be arranged according to the total votes cast for governor at the last general election in which the office of governor was filled, starting with the precinct having the highest total votes cast and ending with the precinct having the lowest total votes cast in that election.
    - c. The initial location of the names in the precinct having the highest total votes shall be determined by lot by the city or county auditor or responsible election official.
    - d. If there are more than three candidates for any office, and it is not possible to place all of the names on one line, the names shall be placed in two or more lines having an equal or nearly equal number of names on each line; provided that in no event shall only one name appear on any line.

16.1-11-23. PILING, CUTTING, AND BLOCKING BALLOTS.) After the ballots are printed as provided in section 16.1-11-22, and before being cut, they shall be kept in separate piles for each change of position, and then shall be repiled by taking one from each pile and placing it upon the other pile to be cut, so that every other ballot in the pile of printed sheets shall have names in different positions.

After the piles are made in this manner, they shall be cut and placed in blocks as provided by the general election laws.

16.1-11-24. PREPARATION OF BALLOT.) Unless otherwise provided in this chapter, the primary election ballot shall be prepared as provided in chapter 16.1-06.

16.1-11-26. TALLY BOOKS OR SHEETS PROVIDED FOR ELECTION PRECINCTS - FORM AND CONTENTS.) Two tally books or two sets of tally sheets shall be provided for each voting precinct. The books or sheets shall contain a column for each political party or principle having candidates to be voted for at the voting precinct. Two tally books or two sets of tally sheets for candidates on the no-party ballot shall be provided for each voting precinct. The books or sheets shall be furnished by the county auditor at the same time and in the same manner as the pollbooks and ballots are furnished. The names of the candidates shall be placed on the tally books or sheets in the order in which they appear on the official sample ballot, and, as appropriate, shall have the proper party or no-party designation at the head thereof.

16.1-11-27. POLL LISTS KEPT BY CLERKS OF ELECTIONS.) The clerks of primary elections shall keep two lists of the names of all persons voting at each primary election. The clerks shall return one list and one tally sheet, which shall be a part of the records and filed with other election returns. Only two complete lists of voters shall be kept whether or not a special election is held simultaneously with the primary election.

16.1-11-28. JUDGES OF PRIMARY ELECTION TO MAKE STATEMENT OF PRIMARY ELECTION - CONTENTS.) The judges of a primary election in each precinct shall make a separate statement, on blanks provided for that purpose, for each political party or principle, containing the names of all persons voted for at the primary election, the number of votes cast for each candidate, and for what office. The statement shall be subscribed by the election judges and shall be filed with the returns in the office of the county auditor.

16.1-11-29. NOMINATIONS BY STICKERS.) On both the party and the no-party ballot, a candidate may be nominated by having his name written on the ballot, or by a printed sticker being placed over the name or in a blank line left for that purpose underneath the group of candidates in each official position. Not more than one name shall be written or printed on any sticker.

16.1-11-30. VOTE REQUIRED AT PRIMARY ELECTION FOR NOMINATION.) No person shall be deemed nominated as a candidate for any office at any primary election unless he receives a number of votes equal to the number of signatures required, or which would have been required had he not had his name placed upon the ballot through a certificate of endorsement, on a petition to have a candidate's name for that office placed on the primary ballot.

16.1-11-31. VOTE REQUIRED FOR NOMINATION ON NO-PARTY BALLOT - PARTISAN NOMINATIONS PROHIBITED.) The number of persons to be nominated as candidates for any one no-party office shall be that number of persons who receive the highest number of votes and who total twice the number of available positions for the office, if that many persons are candidates for nomination. Provided, however, that no person shall be deemed nominated as a candidate for any no-party office at any primary election unless the number of votes received by him equals the number of signatures required to be obtained on a petition to have a candidate's name for the office placed on the primary ballot. No partisan nominations shall be made for any of the offices mentioned in section 16.1-11-04.

16.1-11-32. TIE VOTE DETERMINATION.) In case of a tie vote the nominee or nominees shall be determined by lot, in the presence of the candidates upon at least five days' notice to each candidate, by the canvassing board or boards concerned, at a time and place designated by the board.

16.1-11-33. PERSONS NOMINATED IN ACCORDANCE WITH PROVISIONS OF CHAPTER ELIGIBLE AS CANDIDATES IN GENERAL ELECTION.) All persons nominated in accordance with the provisions of this chapter shall be eligible as candidates to be voted for at the ensuing general election.

16.1-11-34. PRIMARY ELECTION AND BALLOT GOVERNED BY GENERAL ELECTION PROVISIONS.) Except as otherwise provided in this chapter, the primary election ballot shall be arranged, and the primary election shall be provided for, conducted, and the expenses thereof paid as in the case of a general election.

SECTION 10.) Chapter 16.1-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-12-01. CERTIFICATE OF NOMINATION - PARTY AND INDEPENDENT.) A certificate of nomination shall be either:

1. The certificate of nomination required to be executed by the state or a county canvassing board pursuant to sections 16.1-15-39 and 16.1-15-20, respectively, for party nominations.
2. The certificate of nomination by petition for independent nominations provided for by this chapter.

16.1-12-02. CERTIFICATES OF NOMINATION BY PETITION - FORM AND CONTENTS.) Certificates of nomination for nominees for an office to be filled at a general or special election, except for an office appearing on the no-party ballot, may be made as provided by this section. The names of nominees so nominated shall appear on the ballot in a single column for independent candidates. Each certificate of nomination by petition shall contain:

1. The name of the nominee.
2. The office the nominee desires to fill.
3. The post-office address of the nominee.
4. A statement in not more than five words of the party or principle which the nominee represents.
5. Signatures of qualified electors, as defined in this title, who reside in the state, district, or political subdivision. The signatures need not be appended to one paper, and each person signing shall add his mailing address and the date of signing. The signatures on the petition shall be in the following number:
  - a. If the nomination is for an office to be filled by the electors of the entire state, there shall be not less than three hundred signatures.
  - b. If the nomination is for an office to be filled by the electors of a district less than the entire state, the number of signatures shall be ten percent of the number of votes cast in the district for governor at the last preceding general election, but in no case shall more than three hundred signatures be required.
6. If the petition is for the office of governor or lieutenant governor, it shall contain the names and other required information of candidates for both those offices.

16.1-12-03. CERTIFICATE OF NOMINATION TO CONTAIN ONLY ONE NAME - PERSON TO PARTICIPATE IN ONLY ONE NOMINATION.) No certificate of nomination provided for by this chapter, except in the case of presidential electors, shall contain the name of more than one nominee for each office to be filled. No person shall participate directly or indirectly in the nomination of more than one person for each office to be filled, and no person shall accept a nomination to more than one office. No political party shall be entitled to more than one set of nominees on the official ballot.

16.1-12-04. CERTIFICATES OF NOMINATION - TIME AND PLACE OF FILING.)

1. The following certificates of nomination shall be filed with the secretary of state, with written notice of that filing filed with the county auditor of each county included within the district wherein the offices are to be elected:
  - a. Certificates of nomination for nominees for offices to be filled by the electors of the entire state.
  - b. Certificates of nomination for nominees for offices

to be filled by the electors of any district greater than a county.

- c. Certificates of nomination for nominees for legislative offices.
2. Certificates of nomination for nominees for county offices shall be filed with the county auditor of the respective counties in which the officers are to be elected.
3. Certificates of nomination required to be filed with the secretary of state shall, without regard to the means of delivery, be filed and in the actual possession of the secretary of state not later than four p.m. on the fortieth day prior to the general election day.
4. Certificates of nomination required to be filed with the county auditor shall, without regard to the means of delivery, be filed and in the actual possession of the county auditor not later than four p.m. on the thirty-fifth day prior to the general election day.
5. In the case of special elections called to fill vacancies, certificates of nomination shall be filed and in the actual possession of the appropriate officer, regardless of the means of delivery, not later than four p.m. on the thirty-fifth day prior to the day of election.
6. The secretary of state and the several county auditors shall keep on file for six months all certificates of nomination filed with them under this chapter, and all certificates of nomination shall be open to public inspection during regular business hours.

16.1-12-05. SECRETARY OF STATE TO CERTIFY NOMINATIONS TO COUNTY AUDITOR - DUTY OF COUNTY AUDITOR.) Not less than thirty days prior to any general or special election to fill any state or district office, the secretary of state shall certify to the county auditor of each county in which any elector may by law vote for candidates for the office, the name and post-office address of each person nominated for the office as shown on the certificates of nomination filed in his office. Upon receipt of that certification, the county auditor shall compare it with the written notice of filing of certificates of nomination filed with the auditor pursuant to this Act, and shall report any discrepancies to the secretary of state, who shall take corrective action prior to sending the notice of officers to be chosen at the next general election as required by section 16.1-13-03.

16.1-12-06. PERSON NOMINATED BY MORE THAN ONE PARTY - COLUMN IN WHICH NAME PLACED.) When one person has been nominated for the same office by more than one body of electors qualified to make nominations for public office, the nominee shall file with the proper officer designated in this Act, on or before the last day fixed by law for filing certificates of nomination for the office, a signed statement designating the column on the official ballot in which the nominee desires his name to appear. The column so designated must

be the column allotted to one of the bodies of electors by whom the person was nominated. In the absence of a timely written designation as provided by this section, the appropriate officer shall place the person's name in the column allotted to the body of electors from which was first received notice of the person's nomination.

16.1-12-07. IF NOMINEE DECLINES - CERTIFICATE VOID.) Any person intending to decline a nomination shall do so by filing written notice of that intention with the officer with whom the certificate nominating him is filed. If the written notice is filed with the appropriate officer at least thirty-five days before the election, the nomination shall be void.

16.1-12-08. VACANCY OCCURRING ON BALLOT BEFORE ELECTION DAY BUT AFTER BALLOTS ARE PRINTED - STICKERS USED.) If a vacancy occurs before election day and after the printing of the ballots, and any person is nominated according to the provisions of this title to fill the vacancy, the officer whose duty it is to have the ballots printed and distributed shall have printed on a requisite number of stickers the name of the substitute candidate and no other name. Stickers shall be printed on the same color, texture, and grade of paper as the ballots to which they will be affixed. The officer shall send the stickers by a reliable method to the judges of election in the various precincts affected by the vacancy. The judges of election whose duty it is to distribute the ballots shall affix the stickers in the proper place on each ballot before it is given to the elector and shall cross out or otherwise obliterate the name of the original nominee causing the vacancy.

16.1-12-09. FILLING VACANCY EXISTING ON NO-PARTY BALLOT - PETITION REQUIRED - TIME OF FILING.) Whenever a vacancy shall exist on a no-party ballot for a state office or for judge of a district court, such vacancy may be filled by filing with the secretary of state, at least thirty-five days prior to the general election and before four p.m. on the thirty-fifth day, a written petition as provided in section 16.1-11-03, stating that the petitioner desires to become a candidate for election to the office for which a vacancy exists. If the petition is mailed, it shall be in the physical possession of the secretary of state before four p.m. on the thirty-fifth day prior to the general election. The petition for the nomination of any person to fill such vacancy shall be signed by qualified electors equal in number to at least two percent of the total vote cast for governor at the most recent general election in the state or district at which the office of governor was voted upon, but in no case shall more than three hundred signatures be required.

Whenever a vacancy shall exist on a no-party ballot in a county or district within a county, the vacancy may be filled by filing with the county auditor at least thirty-five days prior to the general election and before four p.m. of the thirty-fifth day a written petition as provided in section 16.1-11-07, stating that the petitioner desires to become a candidate for election to the office for which a vacancy exists. If such petition is mailed or otherwise

delivered, it shall be in the possession of the county auditor before four p.m. on the thirty-fifth day prior to the general election. The petition for the nomination of any person to fill the vacancy shall be signed by qualified electors equal in number to at least thirty percent of the total vote cast for governor at the most recent general election in the county or district at which the office of governor was voted upon, but in no case shall more than three hundred signatures be required.

A vacancy in the no-party ballot shall be deemed to exist when a candidate nominated at the primary election shall die, resign, or otherwise become disqualified to have his name printed on the ballot at the general election.

SECTION 11.) Chapter 16.1-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-13-01. DATE OF GENERAL ELECTION.) The general election shall be held in all the election districts of this state on the first Tuesday after the first Monday in November of each even-numbered year.

16.1-13-02. OFFICERS TO BE ELECTED AT GENERAL ELECTION.) All elective state, district, and county officers, and the United States senators, and the members of the United States house of representatives, shall be elected at the general election next preceding the expiration of the term of each such officer. In a year when a president and vice president of the United States are to be chosen, a number of presidential electors equal to the number of senators and representatives to which this state is entitled in the Congress of the United States shall be elected at such general election.

16.1-13-03. SECRETARY OF STATE TO GIVE NOTICE TO COUNTY AUDITOR OF OFFICERS TO BE ELECTED.) Not later than the tenth day of October in each general election year, the secretary of state shall direct and cause to be delivered to the county auditor of each county a notice specifying each officer to be chosen at the next general election. The publication of the sample ballot by the county auditor shall constitute the notice of the secretary of state in regard to the offices and candidates to be voted upon at the general election.

16.1-13-04. CANDIDATES' NAMES PLACED ON OFFICIAL GENERAL ELECTION BALLOT.) The names of all candidates of each political party or principle or no-party designation, who are shown to have been nominated for the several offices in accordance with the certificates of nomination filed in his office, shall be placed by the secretary of state on the official ballot to be voted for at the next general election following.

16.1-13-05. NOTICE OF ELECTION - CONTENTS - PUBLICATION WITH SAMPLE BALLOT.) Notice of all general elections shall be published by the county auditor in the official county newspaper at the same time as, and as a part of, the publication of the sample ballot preceding such election. The notice shall be substantially as follows:

Notice is hereby given that on Tuesday, the \_\_\_\_\_ day of November, 19\_\_\_\_, at the polling places in the various precincts in the county of \_\_\_\_\_, an election will be held for the election of state, district, and county officers, which election will be opened at \_\_\_\_\_ a.m. and will continue open until \_\_\_\_\_ p.m. of that day with the following exceptions:

\_\_\_\_\_  
 \_\_\_\_\_  
 Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Signed \_\_\_\_\_  
 County Auditor

The county auditor shall publish a copy of the sample ballot of the general election once each week for two consecutive weeks prior to the election in the official county newspaper. If no newspaper is published in the county, the publication shall be in a newspaper published in an adjoining county in the state. The form of the sample ballot as ordered and arranged by the county auditor shall conform in all respects to the form prescribed by the legal publications handbook, published pursuant to subsection 5 of section 46-01-02, for the sample general election ballot. The county auditor shall publish the sample ballot form appropriate for the method of voting in his county. If both paper ballots and voting machines are used, both forms of the sample ballot must be published to meet publication and notice requirements. Absentee voter ballots shall not be considered in determining which form of voting is used. Candidates from each legislative district which falls within the boundaries of the county shall be listed in a separate box or category by legislative district number to enable the voters in each legislative district to ascertain the legislative candidates in their specific district.

16.1-13-06. DEFEATED PRIMARY CANDIDATE INELIGIBLE TO HAVE NAME PRINTED ON GENERAL BALLOT.) A person who was a candidate for nomination by any party at any primary election in any year and who was defeated for the nomination shall not have his or her name printed upon the official ballot at the ensuing general election for the same office.

16.1-13-07. PREPARATION, PRINTING, DISTRIBUTING, CANVASSING, AND RETURNING OF NO-PARTY BALLOT.) The no-party ballot shall be prepared, printed, distributed, canvassed, and returned in the same manner provided for other general election ballots.

16.1-13-08. FILLING VACANCY IN OFFICE OF UNITED STATES SENATOR.) If a vacancy occurs in the office of United States senator from this state, the governor shall issue a writ of election to fill such vacancy at the next statewide election. The governor, by appointment, may fill such vacancy temporarily, and the person so

appointed shall serve only until the vacancy is filled at the next statewide election.

16.1-13-09. RESIGNATION OF MEMBERS OF LEGISLATIVE ASSEMBLY AFTER CERTIFICATE OF ELECTION.) Any person who receives a certificate of election as a member of the legislative assembly may resign such office although he may not have entered upon the execution of the duties thereof nor taken the requisite oath of office.

16.1-13-10. VACANCY EXISTING IN OFFICE OF MEMBER OF LEGISLATIVE ASSEMBLY - SPECIAL ELECTION TO FILL.) Whenever a vacancy in the office of a member of the legislative assembly occurs, the county auditor of the county in which such former member resides or resided shall notify the governor of the vacancy. The county auditor need not notify the governor of the resignation of a member of the legislative assembly when the resignation was made pursuant to section 44-02-02. Upon receiving such notification, the governor, if there is a session of the legislative assembly between the time such vacancy occurs and the time of the holding of the next general election, shall issue a writ of election directed to the auditor of each affected county commanding him to notify the several boards of election in the county or district in which the vacancy exists to hold a special election to fill such vacancy at a time designated by the governor. If there is no session of the legislative assembly between the time such vacancy occurs and the time of the holding of the next general election, the special election shall be held at the same time as the general election. If the term of office of the member whose office is vacated expires prior to the next session of the legislative assembly, no election shall be held to fill such vacancy.

16.1-13-11. VACANCY OCCURRING IN LEGISLATIVE ASSEMBLY DURING SESSION - DUTY OF GOVERNOR.) If a vacancy occurs in the office of a member of the legislative assembly while it is in session, the governor, immediately upon receiving official notice thereof, shall proceed in the manner prescribed in section 16.1-13-10.

16.1-13-12. NOTICE OF SPECIAL ELECTION.) A notice of a special election and the copy of the sample ballot shall be issued and published in substantially the form and manner prescribed by section 16.1-13-05.

16.1-13-13. CANVASSING AND RETURNING VOTES CAST AT ELECTIONS TO FILL VACANCIES.) Votes cast at special elections shall be canvassed and returned as provided for primary and general elections, and the county auditor within eight days shall forward to the secretary of state the abstracts of the same.

16.1-13-14. SPECIAL ELECTION TO FILL VACANCIES - PARTY COMMITTEE TO CALL CONVENTION TO NOMINATE - INDIVIDUAL NOMINATIONS.) If a special election is called to fill a vacancy in any office for which a party nomination may be made, the proper party committee shall call a convention to make a party nomination for such office,

and the precinct committeemen of the district shall be duly convened and shall elect the required number of delegates to such convention. Individual nominations for special elections shall be made in accordance with the provisions of chapter 16.1-12.

16.1-13-15. NOTICE OF HOLDING CONVENTION FOR SPECIAL ELECTION - MANNER OF GIVING.) Public notice of such a nominating convention shall be given at least six days before the holding of the convention by publication in the official newspaper in the county or counties in which the election will be held. Such nomination shall be made by delivering to and leaving with the officer charged with directing the printing of the ballots upon which the name is to be placed, within the time prescribed in this title, a certificate of nomination for each candidate.

16.1-13-16. BASIS OF REPRESENTATION AT CONVENTION - HOW DETERMINED.) The basis of representation of delegates to a convention, unless otherwise provided by law, shall be fixed and determined by the authorized district or state committee of each political party entitled by law to make nominations for office by delegate convention.

16.1-13-17. CERTIFICATE OF NOMINATION BY CONVENTION - CONTENTS - DELIVERY.) All nominations made by a convention as provided in this chapter shall be certified. The certificates of nomination shall be in writing and shall contain all of the following:

1. The name of each person nominated, his post-office address, and the office for which he is nominated.
2. A designation in not more than five words of the party or principle which the convention represents.
3. The signature, post-office address, and verification of the presiding officer and secretary of the convention.

The certificate as prescribed in this section shall be delivered by the secretary or president of the convention by registered or certified mail or in person, without charge, to the secretary of state or the county auditor, as the case may be.

16.1-13-18. TWO OR MORE ORGANIZATIONS FILING CERTIFICATES REPRESENTING SAME PARTY - SECRETARY OF STATE TO DETERMINE AUTHORIZED ORGANIZATION - REVIEW OF DETERMINATION.) If two or more organizations claiming or purporting to represent the same political party shall file certificates of nomination under the same party designation, or if the certificates indicate that the nominations were made by any person or organization representing the same political party, the secretary of state, within the time prescribed by law for certifying state nominations to the county auditor, shall determine from the best available sources of information which organization filing the certificates is the legally authorized representative of the party.

The decision of the secretary of state in determining which organization is the legally authorized representative of the party shall be subject to review by the district court in a proper action instituted for such purpose.

16.1-13-19. ELECTION NOT TO BE HELD IN ROOM WHERE ALCOHOLIC BEVERAGES SOLD.) No election shall be held in a room in which alcoholic beverages commonly are sold.

16.1-13-20. EXAMINATION OF BALLOT BOX BEFORE OPENING OF POLLS.) Before declaring the polls open, the inspector and the election judges shall inspect the ballot box to assure that it is empty. The ballot box shall then be locked.

16.1-13-21. PRODUCING, OPENING, AND DELIVERING BALLOTS UPON OPENING OF POLLS.) Upon the opening of the polls, the inspector of election in each precinct shall produce the sealed package of official ballots and publicly open them.

16.1-13-22. DELIVERING BALLOT TO ELECTOR - STAMPING.) The inspector or one of the election judges shall deliver ballots to the qualified electors. At primary elections, the inspector or judge delivering the ballot shall inform each elector that if he splits his ballot or votes for candidates of more than one party his ballot will be rejected. Before delivering any ballot to an elector, the inspector or judge shall stamp once at the top of the back of the ballot the designation "official ballot" and the other words provided for in section 16.1-06-13, and also shall write his initials thereon. Failure to stamp and initial a ballot in the proper place on the ballot shall not invalidate such ballot, but a complete failure to stamp and initial a ballot shall invalidate the ballot.

16.1-13-23. PREPARATION OF BALLOT BY ELECTOR - FOLDING - DEPOSITING.) Upon receipt of a ballot, the elector, forthwith and without leaving the polling place, shall retire alone to one of the voting booths or compartments to prepare his ballot by placing a crossmark (X) or other mark which clearly shows the intention of the elector within the square opposite the name of each person for whom he wishes to vote. In the case of a ballot containing a constitutional amendment, an initiated or referred measure, or any other question to be submitted to a vote of the people, the elector shall place the crossmark (X) or other mark within the square opposite the word or words expressing his wish. After preparing the ballot, the elector shall fold it so the face of the ballot is concealed and so the endorsement of the inspector or election judge stamped thereon may be seen. The elector then shall hand the ballot to the judge, who, without opening the same or permitting it to be opened or examined except to ascertain whether it is a single ballot and whether it has been stamped and initialed, shall deposit it in the ballot box.

16.1-13-24. ELECTOR MAY WRITE OR PASTE NAME ON BALLOT - COUNTING.) The provisions of this title shall not prevent any elector from writing or pasting on the ballot the name of any person for whom he desires to vote, and such vote shall be counted the same as if printed on the ballot and marked by the elector.

16.1-13-25. NAME WRITTEN OR PASTED ON BALLOT EVIDENCE OF VOTE WITHOUT MARKING "X".) If a name has been written or pasted opposite an office to be voted for, it shall be deemed sufficient evidence that the person depositing the ballot intended to vote for the person whose name is written or pasted thereon, and not for the person whose name originally was printed on the ballot, whether or not the elector made a mark or cross opposite the written or pasted name.

16.1-13-26. DISABILITY OF ELECTOR.) Any elector who declares to the judges of election that he or she cannot read the English language, or that because of blindness or other disability is unable to mark his or her ballot, upon request, shall receive the assistance of both election judges in the marking of his or her ballot. No one assisting any elector in marking a ballot under this chapter shall give information regarding the same. No elector, other than one who is unable to read the English language or one who because of disability is unable to mark a ballot, shall divulge to anyone within the polling place the name of any candidate for whom he or she intends to vote, nor ask, nor receive the assistance of any person within the polling place to mark his or her ballot.

16.1-13-27. PENALTY FOR REQUESTING VOTER TO VOTE IN CERTAIN MANNER.) Any person chosen to assist a voter who shall request the voter he is assisting to vote for or against any person, or any issue shall be guilty of a class B misdemeanor.

16.1-13-28. ELECTION BOOTHS OR COMPARTMENTS - NUMBER REQUIRED EXPENSE.) The inspector of elections shall provide a sufficient number of voting booths or compartments in his polling place which shall be designed to enable the elector to mark his ballot screened from observation. The number of booths or compartments in precincts in which voting machines are not used shall not be less than one for each fifty electors or fraction thereof in the precinct. The expense of providing the booths or compartments shall be paid in the same manner as other election expenses.

16.1-13-29. ONE PERSON TO OCCUPY BOOTH - TIME LIMIT IN BOOTH.) Not more than one person shall be permitted to occupy any one voting booth or compartment at one time. No person shall remain in or occupy a booth or compartment longer than necessary to prepare his ballot.

16.1-13-30. REMOVAL OF BALLOT FROM POLLING PLACE BEFORE CLOSING OF POLLS - PROHIBITED.) No person shall take or remove any ballot from the polling place before the close of the polls.

16.1-13-31. SECURING NEW BALLOT UPON SPOILING OF OTHERS.) If any elector spoils a ballot, he may obtain others successively, one at a time, not exceeding three in all, upon returning each spoiled ballot. Each ballot returned shall be canceled immediately and, together with those not distributed to the electors, shall be preserved and secured in sealed packages and returned to the county auditor from whom received.

16.1-13-32. VOTING MACHINES - ELECTION LAWS APPLY.) All provisions of law relating to the conduct of elections shall apply as closely as possible to elections at which voting machines are used.

SECTION 12.) Chapter 16.1-14 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-14-01. CANVASSING VOTES FOR PRESIDENTIAL ELECTORS - TIE VOTE.) The state canvassing board in examining and making a statement of the votes for, and in determining and certifying the persons chosen as, presidential electors shall proceed in the manner prescribed in this title for the canvass of votes for state officers. The secretary of state likewise shall file and record such statement and determination. In canvassing the returns for presidential electors, the group of electors having the greatest number of votes is to be declared elected. If two or more groups of electors are found to have an equal and the greatest number of votes, the election of one group shall be determined by lot, with the drawing made by the governor in the presence of the other members of the state canvassing board.

16.1-14-02. SECRETARY OF STATE TO PREPARE CERTIFICATES OF ELECTION.) The secretary of state shall prepare certificates of election for each presidential elector chosen at the election. Each certificate shall be signed by the governor and the secretary of state and the great seal of the state shall be affixed thereto. One certificate shall be delivered to each of the electors chosen.

16.1-14-03. PROCLAMATION OF RESULT BY GOVERNOR - PUBLISHING - CERTIFICATE OF ELECTION.) Within ten days after the state canvassing board completes the canvass of the votes cast for presidential electors, as certified by the auditors of the respective counties, the governor shall declare by proclamation, to be printed in the official county newspaper printed and published at the seat of government, the names of the persons who have received the highest number of votes returned for such office. If the election of such persons has not been contested by notice of contest having been filed with the governor within ten days after the date of such proclamation, then such persons shall be deemed elected, and the governor shall transmit to each person so chosen a certificate of election.

16.1-14-04. MEETING OF PRESIDENTIAL ELECTORS.) Presidential electors shall meet at one p.m. in the office of the governor in the state capitol on the first Monday after the second Wednesday in December next following their appointments by election for the purpose of casting their ballots as members of the electoral college. The secretary of state shall notify the electors of the date of the meeting.

16.1-14-05. FILLING OF VACANCY EXISTING IN OFFICE OF PRESIDENTIAL ELECTOR.) If a vacancy exists in the office of an

elector for any reason, the electors present at the meeting provided for in section 16.1-14-04 shall first proceed to fill such vacancy by ballot by a plurality of the votes. When all the electors appear, or the vacancies have been filled as provided in this section, they shall proceed to perform the duties required of them by the Constitution and laws of the United States.

16.1-14-06. COMPENSATION OF PRESIDENTIAL ELECTORS.) The electors provided for in this chapter shall receive the same per diem and the same mileage as members of the legislative assembly.

16.1-14-07. BOARD FOR TRIAL OF CONTEST OF PRESIDENTIAL ELECTORS - HOW CONSTITUTED - OATH.) The board for the trial of contests of elections for presidential electors shall consist of the chief justice of the supreme court, who shall be president of the board, and two judges of the district court designated by the governor. If the chief justice shall be unable to attend at such trial, the next senior judge on the supreme court shall preside in place of the chief justice. The secretary of state shall be the clerk of the board, or in his absence or inability to act, the clerk of the supreme court shall be the clerk. Each member of the board, before entering upon the discharge of his duties, shall take an oath, before the secretary of state or some other officer qualified to administer oaths, that without fear, favor, affection, or hope of reward, he will, to the best of his knowledge and ability, administer justice according to law and the facts of the case.

16.1-14-08. CONTESTANT MAY APPLY TO BOARD.) A group of electors appearing, by the proclamation of the governor, to have received not less than one-fifth of the votes cast at an election for presidential electors, may apply to the board provided for in section 16.1-14-07 for a declaration of election as presidential electors.

16.1-14-09. APPLICATION TO STATE GROUNDS OF CONTEST.) The application provided for in section 16.1-14-08 shall be made by petition in writing to be filed in the office of the secretary of state within ten days from the date of the proclamation provided for in section 16.1-14-03. The petition, regardless of its mode of delivery, shall be in the possession of the secretary of state before four p.m. on the tenth day as provided in this section, and the secretary of state shall convene the board forthwith. The petition shall set forth the names of the persons whose election is contested and the ground for such contest. The petitioner, before any proceedings are had upon the petition, except the convening of the board, shall file a bond to this state in a sum and with such surety as the board shall order, conditioned for the payment of all costs incurred in the prosecution of such contest in the case the contestants shall not prevail.

16.1-14-10. NOTICE TO PERSONS CONTESTED.) Upon the filing of the petition and bond as provided in section 16.1-14-09, the board for the trial of an election contest shall order written notice of the petition to be given to the governor and to the persons whose

election is contested. Notice shall also be published in a newspaper as the board shall order. Notices provided for by this section shall contain a concise statement of the facts alleged in the petition and a designation of the time and place fixed by the board for the hearing, which shall be not less than three nor more than fifteen days from the filing of the petition.

16.1-14-11. APPEARANCE BY PARTIES TO CONTEST.) At the time fixed for the hearing, the petitioners shall appear and produce their evidence, and the persons whose election is contested may appear and produce evidence in their behalf. Any party to the contest proceedings may appear in person or by attorney, and no other person shall be entitled to be made a party to the proceedings or to be heard personally or by counsel therein. If more than one petition is pending, the board, in its discretion, may order the contests to be heard together.

16.1-14-12. HEARING - HOW CONDUCTED.) The board shall hear the contest and decide all questions of law and fact involved. The burden of proof in each case shall be upon the petitioners, and the hearing shall be confined to the grounds stated in the petition, but the board in its discretion may allow the petition to be amended. No ex parte affidavits shall be competent evidence at the hearing. No person shall be excused from testifying or from producing papers or documents at the hearing on the ground that such testimony will tend to incriminate him, but no person so testifying shall be subject to any suit or prosecution, civil or criminal, for any matter or cause in respect to which he shall be examined or to which his testimony shall relate. The board shall have the same power to compel the attendance of witnesses as the district courts of this state possess, and nothing contained in this chapter shall be held to limit the power of the board to make such regulations as to the conduct of the proceedings as it may deem proper, not inconsistent with the provisions of this chapter. The board shall have all powers necessary to the complete performance of the duties and authority conferred upon it by this chapter.

16.1-14-13. CERTIFICATION OF DETERMINATION OF BOARD.) The board shall determine in each case which of the parties to the proceedings are entitled to the office of elector, and shall cause its determination to be entered of record in a manner and form as it shall direct, and shall certify the same to the governor and secretary of state. The certified determination shall be final and conclusive that the persons stated therein are duly elected. The governor shall transmit to such persons certificates of their election, and every such certificate shall recite that it is issued pursuant to a determination under the provisions of this chapter.

16.1-14-14. FAILURE OF PETITIONERS TO APPEAR - EFFECT.) If any petitioners fail to appear and prosecute their petition against the persons who have been made respondents thereto, according to the requirements of this chapter and of any rules made by the board, the board shall determine that they have failed, and shall

cause the determination to be entered of record in such manner and form as it shall direct, and forthwith shall certify the determination to the governor and secretary of state. The determination shall be a final and conclusive bar to the claim of the petitioners against such respondents as fully and completely as if the claim had been heard and determined on its merits, and the governor shall issue certificates of election as provided in section 16.1-14-13.

16.1-14-15. COSTS - TAXATION.) The costs of an election contest under the provisions of this chapter shall be taxed under the direction of the board. If two or more cases are heard together, the costs shall be apportioned as the board shall direct. In each case in which the petitioners do not prevail, the costs shall be paid by them, and in each case in which the petitioners prevail, the costs shall be paid by the state. If the costs are required to be paid by the state, the board shall certify the costs to the state auditor, who shall issue his warrant upon the state treasurer in payment of the same.

16.1-14-16. DETERMINATION OF FINAL HEARING.) The final hearing and determination under the provisions of this chapter shall be by a majority of the board, but any single member may exercise any of the other powers given to the board by this chapter.

16.1-14-17. MILEAGE AND PER DIEM OF BOARD MEMBERS.) The members of the board trying the presidential election contest shall be compensated in the same manner as state officers pursuant to sections 44-08-04 and 54-06-09.

SECTION 13.) Chapter 16.1-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-15-01. BALLOTS VOID AND NOT COUNTED - PART OF BALLOT MAY BE COUNTED.) In the canvass of the votes at any election, a ballot shall be void and shall not be counted if:

1. It is not endorsed with the official stamp and initials as provided in this title; or
2. It is impossible to determine the elector's choice from the ballot or parts of a ballot.

If a ballot is marked so only a part of the voter's intention can be determined, the election judges shall count such part. If a voter votes for more than the number of persons to be elected to any office, his ballot shall be invalidated only insofar as his vote for such office is concerned, and the balance of his ballot, if otherwise proper, shall not be invalidated. However, at primary elections only, a ballot shall be void if the elector votes for candidates of more than one party.

16.1-15-02. BOARD OF ELECTION TO CANVASS VOTES - LOCATION - PUBLIC MAY ATTEND.) After the polls are closed, the inspector of elections and the judges shall open the ballot boxes and count and compare the ballots with the poll clerks' lists. If the ballots compare and are equal in number with the names on the poll clerks'

lists, the election board shall proceed immediately to canvass the votes. The canvass shall continue without adjournment until completed, and shall be open to the public. Except in unusual and compelling circumstances, the vote canvass shall occur at the polling place. If good and substantial reasons exist for the removal of the ballots and election records to another location for canvass, the other location shall be in the same precinct and the removal shall be approved by the election board. In no case shall the ballots be removed to another location for tally after the ballot boxes have been opened. Upon approval of a change of location by the election board as provided in this section, the approximate time and location of the canvass shall be prominently posted on the main entrance to the polling place, the ballots and records shall be moved in the presence of the election board, and the canvass as provided in this chapter shall proceed immediately upon arrival at the alternate location.

16.1-15-03. MANNER OF CANVASSING ELECTION.) The canvass provided for in section 16.1-15-02 shall be conducted in the following manner: as each ballot is counted, the inspector and the election judges shall examine the ballot to ascertain the persons voted for, and either the inspector or one of the judges shall announce the votes disclosed by the ballot, which shall be marked in the tally books by two poll clerks of different political parties. After all of the votes are counted, the election board shall compare the count as disclosed by the poll clerks' books with the total number of ballots cast, and if there are any mistakes in the books kept by the clerks, they shall be corrected to conform exactly to the number of ballots cast. As soon as the count is completed, the inspector shall announce publicly the result thereof, specifying the whole number of votes cast for each office and for each candidate, and the number of votes cast for and against each proposition voted upon at the election.

16.1-15-04. DUPLICATE REPORTS PREPARED BY ELECTION BOARD - TALLY OF VOTES SEPARATE FOR EACH POLITICAL PARTY.) The election board shall prepare duplicate reports of the total votes cast for each candidate or measure. The figures shall agree with the poll clerks' books and the number of ballots. The ballots shall not be sealed, nor shall the election tally books or the duplicate reports be signed, by the election board or poll clerk until the figures and counts in the poll clerks' books and in the duplicate reports and the number of ballots cast all show the same totals. The tally of the votes shall be separate for each political designation or principle and shall be returned as such by the judges and inspector of elections, who shall give the full vote for each candidate.

16.1-15-05. OATH REQUIRED OF MEMBERS OF ELECTION BOARD UPON COMPLETION OF CANVASS - CONTENTS.) At the conclusion of the canvass of the votes, each member of the election board shall sign an affidavit to the effect that the ballots have been counted and the votes canvassed as provided in this chapter, and that the returns as disclosed by the tally books of election kept by the poll

clerks, and the duplicate reports, agree with the number of ballots cast and are true and correct of his own knowledge.

16.1-15-06. REPORTS AND POLLBOOKS SENT TO COUNTY AUDITOR - COMPENSATION FOR MAKING RETURNS - COUNTY AUDITOR TO FORWARD POLLBOOK TO CLERK OF UNITED STATES DISTRICT COURT AND TO THE CLERK OF THE NORTH DAKOTA DISTRICT COURT.) By twelve noon of the day following an election except in cases of emergency or inclement weather, the inspector of elections, or one of the judges appointed by him, shall personally deliver the duplicate reports provided for in section 16.1-15-04 to the county auditor. The reports, carefully sealed under cover, accompanied by both of the pollbooks provided for in section 16.1-06-15, and with the oaths of the inspector and poll clerks affixed thereto, shall be delivered properly to the county auditor. The person making the return shall receive compensation therefor in accordance with section 16.1-05-05. However, no compensation and no mileage shall be paid if delivery of the ballots is not made by twelve noon on the day following the election. The compensation and mileage shall be paid out of the county treasury on a warrant of the county auditor, and shall be full compensation for returning all used or voided ballots and for delivering the ballot boxes to the proper official. Within thirty days after receipt thereof following each presidential election, each county auditor shall forward one of the pollbooks to the clerk of the United States district court for the district encompassing that county for his official use. The county auditor shall request return of the pollbook thirty days after receipt thereof by the clerk of the United States district court. The county auditor shall provide the clerk of the North Dakota district court of said county with a pollbook to be used by the clerk for jury selection.

16.1-15-07. COUNTY AUDITOR NOT TO REFUSE ELECTION RETURNS IF DELIVERED IN UNDIRECTED MANNER - INFORMALITY IN HOLDING ELECTION.) A county auditor shall not refuse any election returns because they may have been returned or delivered to him in a manner other than that directed by this chapter, nor shall he refuse to include any returns because of any informality in holding an election or in making returns thereof.

16.1-15-08. WRAPPING AND RETURNING OF BALLOTS TO COUNTY JUDGE.) After having prepared the reports and poll lists provided for in section 16.1-15-06 for delivery to the county auditor, the inspector and election judges shall cause the ballots of each kind cast at the election to be smoothly spread upon a wrapper of strong durable paper of the same width as the ballots and of sufficient strength to permit its being folded to form a complete wrapper for the ballots. The ballots and wrappers shall then be folded tightly together and the wrapper shall be pasted or glued securely at the outer end to completely envelop and hold the ballots together. Ballots which are void shall be wrapped in a separate wrapper and shall be marked "void". Ballots which are spoiled shall be separately wrapped and marked "spoiled". In folding and sealing ballots, the various classes of ballots shall be kept separate. The

judges shall fold all ballots counted by them, except those which are void, and shall place them in manila wrappers, not exceeding two hundred ballots to each wrapper. Each wrapper shall be endorsed with the name or number of the precinct and the date on which the election was held. The wrappers shall be sealed securely in a manner prescribed by the secretary of state so the wrappers cannot be opened without an obvious and permanent breaking of the seal. The ballots, together with those found void or spoiled, and together with the opened envelopes from voted absentee ballots and the unopened envelopes of absentee ballots rejected as defective, shall be returned either in person or by mail to the county judge.

16.1-15-09. VOTING MACHINES - RETURNS.) Election officers shall make returns of votes cast upon voting machines for all candidates and for any measures or questions in the same manner as now or hereafter provided by law insofar as such provisions of law are applicable.

16.1-15-10. LOCKING AND EXAMINATION OF VOTING MACHINES - TALLY OF VOTING MACHINE VOTES - CERTIFICATION TO COUNTY JUDGES.) Voting machines shall remain locked for ten days next following use at an election and as much longer thereafter as necessary or advisable because of any existing or probable contest over the results of the election. They may be opened and all data and figures therein examined upon the order of any court of competent jurisdiction. A complete record of the tally of votes from each voting machine shall be made by the inspector and the election judges at the time votes are tallied. This record shall agree in every respect with the pollbooks and the original reports of the total votes cast for each candidate or measure. The record shall then be certified by the inspector and the election judges, and one copy shall be delivered to the county judge at the same time as the ballots are delivered to him pursuant to section 16.1-15-08. The records may be opened and all data and figures therein examined upon the order of any court of competent jurisdiction in the event of any existing or probable contest over the results of the election.

16.1-15-11. BALLOT BOXES DELIVERED TO OFFICERS FOR CUSTODY.) In organized townships or in cities, the inspector of elections, if he is not himself the officer in question, shall deliver the ballot boxes to the chairman of the board of supervisors of the township, or to the executive officer of the city, in which the election precinct is situated, as the case may be. The officer shall keep the boxes in safe custody until the next election or hand them over to his successor in office to be kept safely by him until such time. At the following general or primary election, the officers shall hand the ballot boxes over to the inspector of elections. In unorganized townships, the inspector of elections shall cause the ballot boxes to be delivered to the county auditor at the same time the ballots are returned to him.

16.1-15-12. COUNTY JUDGE TO KEEP BALLOTS FORTY-FIVE DAYS - EXCEPTION - USE OF BALLOTS AS EVIDENCE.) Immediately upon receiving the ballots as provided in section 16.1-15-08, the county judge shall

give receipt therefor to the election judges and shall place the ballots properly arranged in the order of the precinct number in boxes which shall be securely locked. The boxes shall be placed in a fireproof vault and shall be kept securely for forty-five days. They shall not be opened nor inspected, except upon court order in a contested election, when it is necessary to produce them at a trial for any offense committed at an election, or to permit election officials to complete their duties. Forty-five days after the election, upon determination by the county judge that no contest is pending, the ballots shall be destroyed. If any contest of the election of any officer voted for at the election or a prosecution under the provisions of this title is pending at the expiration of such time, the ballots shall not be destroyed until the contest or prosecution is finally determined. The ballots returned to the county judge as provided in this section shall be received in evidence without introducing further foundation.

16.1-15-13. FAILURE TO COMPLY WITH FORMALITIES NOT TO INVALIDATE ELECTION - EVIDENCE OF COMPLIANCE.) Failure by election board officers to comply with any of the formalities required by this chapter as to the return of the ballots shall not invalidate any election nor cause any ballot otherwise regular to be disregarded. Any omission or irregularity in the manner of identifying or returning the ballots of any precinct may be obviated by proof under the ordinary rules of evidence.

16.1-15-14. COUNTY CANVASSING BOARD - COMPOSITION.) The county canvassing board shall be composed of the clerk of the district court, county auditor, chairman of the board of county commissioners, and a representative of the district committee of all legislative districts which wholly or partly fall within the boundaries of the county as appointed by the district chairmen of the two political parties which received the highest number of votes cast for governor at the most recent general election at which a governor was elected.

16.1-15-15. QUALIFICATIONS OF MEMBERS OF CANVASSING BOARD - REPLACEMENTS - QUORUM.) No member of the county canvassing board who is a candidate for office at the election at which he would otherwise serve shall serve on the board. If the county auditor is disqualified or cannot serve for any other reason, he shall appoint an alternate to act in his place, but the county auditor shall act as clerk of the board. If the chairman of the board of county commissioners is disqualified or cannot serve for any other reason, he shall appoint a county commissioner of his county who is not a candidate for office at the election to act in his capacity as a member of the county canvassing board. If all county commissioners are disqualified or cannot serve for any other reason, the chairman of the board of county commissioners shall appoint a disinterested elector of the county to act as an alternate. If the clerk of court is disqualified or cannot serve for any other reason, he shall appoint an alternate to act in his place. If any of the representatives of the district committees of the two parties are disqualified

or cannot serve for any other reason, they shall appoint an alternate from their respective district committees to act in their capacity as a member of the county canvassing board. A majority of the members of the board or their duly appointed alternates shall constitute a quorum and may make the canvass provided for in this chapter and certify the results thereof.

16.1-15-16. TIME OF COUNTY CANVASSING BOARD MEETING - OATH REQUIRED - RECONSIDERATION OF CANVASS.) As soon as the returns are received by the county auditor, but not later than five days after each election, the county canvassing board shall meet and, after taking the oath of office, shall proceed to open and publicly canvass the returns. After the initial meeting of the board as provided in this section, any two or more members may call a meeting of the board and upon approval of a majority of the members, the board shall recanvass the results of the election or any portion thereof and may correct any previous canvass or certification or both in regard to the election. Any correction of any previous certification of election results as provided in this section shall be immediately dispatched to the secretary of state who shall call a meeting of the state canvassing board as provided in section 16.1-15-34 for the purpose of recanvassing and, if necessary, correcting any previous certification of the election results.

16.1-15-17. COMPENSATION AS MEMBERS OF BOARD.) Each member of the county canvassing board who is not a paid official of the county, while serving as a member of the county canvassing board, shall receive compensation in accordance with section 16.1-05-05. The compensation and mileage shall be audited, allowed, and paid by the board of county commissioners in each county.

16.1-15-18. COUNTY CANVASSING BOARD TO DISREGARD TECHNICALITIES, MISSPELLING, AND ABBREVIATIONS - VOTES FROM UNESTABLISHED PRECINCTS DISREGARDED.) In canvassing the election returns, the county canvassing board shall disregard technicalities, misspelling, and the use of initial letters or abbreviations of the name of any candidate for office, if it can be ascertained for whom the vote was intended. The board shall not count votes polled in any place except at established precincts.

16.1-15-19. COUNTY CANVASSING BOARD MAY SUBPOENA MEMBERS OF ELECTION BOARD TO CORRECT ERRORS - FAILURE TO OBEY SUBPOENA IS A CONTEMPT.) When the returns of the election board officers are made to the county canvassing board, if any provision of law relative to the duties of the election board officers has not been complied with by said officers and the provision of law is capable of correction by the election board, the county canvassing board may issue its subpoenas to the election board officers of the precinct wherein the defect occurs. The subpoenas shall require the election board officers to appear forthwith before the county canvassing board to correct any omission or mistake according to the facts. The amended or corrected returns then shall be acted upon by the board. If any election board officer, subpoenaed as

provided in this section, shall neglect or refuse to obey the subpoena, the person so neglecting or refusing shall be arrested upon a bench warrant issued out of the office of the clerk of the district court in the county where the proceedings occur. The person arrested shall be brought before the county canvassing board and shall make the necessary correction. A refusal on the part of an election board officer to make a correction shall be deemed a contempt of the district court.

16.1-15-20. PRIMARY ELECTION STATEMENT PREPARED BY COUNTY CANVASSING BOARD - CONTENTS.) The county canvassing board, upon canvassing the returns of a primary election, shall prepare a statement signed by the members of the board and filed in the office of the county auditor. The statement shall contain all of the following:

1. The names of all candidates voted for at the primary election, with the number of votes received by each and for what office. The statement shall be made separately for each political party or principle.
2. The names of the persons or candidates of each political party or principle who receive the highest number of votes for the respective offices. If more than one person is required to be elected to a given office at the next ensuing general election, there shall be included in the statement the names of so many of the candidates of the party receiving the next highest number of votes for that office as there are persons to be elected to the office at said ensuing general election. The statement shall be made separately for each political party.
3. The total number of ballots cast at the primary election.

A separate statement of the votes cast for United States senator, United States representative, state officers, judges of the supreme court, judges of the district courts, and members of the legislative assembly shall be transmitted to the secretary of state as provided in this chapter.

16.1-15-21. COUNTY AUDITOR TO TRANSMIT ABSTRACT OF VOTES TO SECRETARY OF STATE AFTER PRIMARY ELECTION.) The county auditor of each county, under his official seal, shall return to the secretary of state by registered or certified mail within eight days after the day of any primary election, a certified abstract, under separate political designation or principle, or no-party designation, as the case may be, of the total number of votes cast in his county and the votes cast for every candidate for nomination for United States senator, United States representative, state officers, judges of the supreme court, judges of the district court, and members of the legislative assembly. The county auditor also shall file with the secretary of state a certificate showing the names and addresses of the persons nominated under the several political designations

and principles in his county. The certified abstract and the certificate of nomination to be mailed under the provisions of this section shall be in the possession of the secretary of state before four p.m. on the eighth day after the primary election.

16.1-15-22. NOTICE OF NOMINATION GIVEN CANDIDATE FOR COUNTY OFFICE BY COUNTY AUDITOR - PUBLICATION OF FINDINGS OF CANVASSING BOARD.) Upon the completion of the canvass of the returns of a primary election by the county canvassing board, the county auditor shall mail or deliver in person to each candidate nominated for any county office a certificate of his nomination and notice that his name will be placed on the official ballot. If the election results indicate that any candidate is entitled to demand a recount pursuant to subsection 1 of section 16.1-16-01, the county auditor shall not prepare or deliver the certificate of nomination until the time to demand a recount has expired, or the recount results have been determined and the winner declared, whichever is later. Nomination notices for other than county offices shall be given by the secretary of state pursuant to section 16.1-15-39. The county auditor shall cause a copy of the findings of the canvassing board to be published in the official newspaper of the county.

16.1-15-23. ABSTRACTS OF VOTES OF GENERAL ELECTION MADE BY COUNTY CANVASSING BOARD - CONTENTS.) The county canvassing board, when canvassing the returns of a general election, shall make abstracts of votes from the certified reports of the inspectors of elections in the following manner:

1. The abstract of votes for United States senator, United States representative, all state officers, judges of the district courts, all initiated or referred measures, and constitutional amendments, shall be on one sheet.
2. The abstract of votes for members of the legislative assembly shall be on one sheet.
3. The abstract of votes for county officers shall be on one sheet.

16.1-15-24. COUNTY AUDITOR TO FORWARD ABSTRACT OF VOTES OF GENERAL ELECTION TO SECRETARY OF STATE - CONTENTS - ABSTRACT FOR PRESIDENTIAL ELECTORS.) Within eight days and before four p.m. on the eighth day following any general election, the county auditor of each county, under his official seal, shall return to the secretary of state a certified abstract of the votes cast in his county at such election for each candidate for state and congressional offices, judges of the district courts, candidates for the legislative assembly, and for amendments to the Constitution and other measures. In presidential years, the county auditor shall make a separate certified abstract of the votes cast for electors for president and vice president of the United States. The separate abstract for presidential electors shall be sealed, endorsed "presidential election returns", and shall be transmitted by

registered or certified mail to the secretary of state. At the time the county auditor transmits the certified abstract of the votes cast in his county, he shall file with the secretary of state a certificate showing the names and addresses of the persons who were elected to the various county offices in his county.

16.1-15-25. MEMORANDUM OF DATE OF RECEIVING RETURNS IN SECRETARY OF STATE'S OFFICE.) A memorandum of the date of reception of all returns of votes in the secretary of state's office shall be made on the envelope containing the returns.

16.1-15-26. ABSTRACT OF VOTES - SECRETARY OF STATE TO RECORD - FAILURE OF COUNTY AUDITOR TO SEND - MESSENGER DISPATCHED.) Upon receipt of the certified abstract of votes from the county auditors as provided in section 16.1-15-24, the secretary of state shall record the result of the election by counties and shall file and carefully preserve the certified statements received from the county auditors. If no certified statement is received by the secretary of state from the county auditor of any county prior to the time specified for the meeting of the state canvassing board, the secretary of state shall dispatch a special messenger to obtain the statement at the expense of the county. Upon demand, the county auditor shall make and deliver the required statement to the special messenger who shall deliver it to the secretary of state to be recorded and filed as provided in this section. The messenger shall receive the same mileage expense as other state officers and employees. The state treasurer shall present a bill for the amount audited against the county failing to send returns as provided in this section, and the bill shall be audited by the board of county commissioners of the county and paid by the county treasurer to the state treasurer.

16.1-15-27. CERTIFICATE OF ELECTION FOR OFFICERS ELECTED IN COUNTY AT GENERAL ELECTION.) Immediately after the canvass of the general election returns by the county canvassing board, the county auditor shall prepare a certificate of election for each of the persons having the highest number of votes for county offices, and shall deliver the certificate to the person entitled thereto on his making application to the county auditor therefor. If the election results indicate that any candidate is entitled to demand a recount pursuant to subsection 1 of section 16.1-16-01, the county auditor shall not prepare or deliver the certificate of election until the time to demand a recount has expired, or the recount results have been determined and the winner declared, whichever is later.

16.1-15-28. DETERMINING TIE VOTE IN COUNTY OFFICES.) If the requisite number of county officers are not elected because two or more persons have equal and the highest number of votes for one and the same office, the county auditor shall give notice to the persons to appear at his office at a time appointed by him. The persons then shall publicly decide by lot which of them shall be declared elected. The county auditor shall prepare and deliver to

the person elected an election certificate as provided in this chapter. If a demand for a recount is timely made, this section shall apply only if that recount results in a tie vote. No person who has assented to the determination of an election according to this section may thereafter demand a recount of that election.

16.1-15-29. DETERMINING TIE VOTE FOR LEGISLATIVE ASSEMBLY.)

If the requisite number of persons are not elected to the state senate or house of representatives because two or more persons have equal and the highest number of votes for one and the same office, the county auditor, if the legislative district in question is within one county, shall, by certified mail, notify the persons with equal and the highest number of votes to appear in his office at a time fixed by him. The time fixed shall not be more than ten days from the date the tie is determined by the county auditor. On the date fixed, the persons notified to appear shall publicly decide by lot which of them shall be declared elected, and the county auditor shall certify the results to the secretary of state who shall prepare and deliver to the person elected a certificate of election as provided in this chapter. If the legislative district in question is within the boundaries of more than one county, the county auditor of the county which cast the greater number of votes for the office of governor at the last election at which a governor was elected shall proceed in accordance with this section. If a demand for a recount is timely made, this section shall apply only if that recount results in a tie vote. No person who has assented to the determination of an election according to this section may thereafter demand a recount of that election.

16.1-15-30. COUNTY AUDITOR TO MAKE CERTIFICATE FOR PAYMENT OF ELECTION OFFICIALS - PAYMENT.) Upon receipt of the returns of any election, the county auditor shall prepare his certificate stating the compensation to which the inspectors, judges, and clerks of election shall be entitled for their services. He shall deliver the certificate to the board of county commissioners at its next session and the board shall order the compensation to be paid out of the county treasury.

16.1-15-31. COUNTY AUDITOR TO PUBLISH RETURNS OF ELECTION.) The county auditor shall cause to be published in tabular form in the official county newspaper the vote by precincts for each officer and each proposition voted for at any primary, special, or general election. The publication shall be paid for at a rate not to exceed the rate paid for publishing the proceedings of the board of county commissioners.

16.1-15-32. STATE CANVASSING BOARD - MEMBERSHIP - OATH - QUORUM - COMPENSATION.) The clerk of the supreme court, the secretary of state, the state treasurer, and the chairman, or his designee, of the state committee of the two political parties which cast the highest vote for governor at the last general election at which a governor was elected shall constitute the state canvassing board. After taking the oath required of civil officers, the board shall proceed to canvass publicly the election returns made by the county auditors. Three members of the board shall constitute

a quorum and may make the canvass provided for in this chapter and certify to the result thereof. If less than a quorum attend on the day appointed for a meeting of the board, the members attending may summon other state officers until there is a sufficient number to constitute a quorum. Any other state officer, upon being notified by the members of the board, shall attend without delay and act as a member of the board. Members of the board shall be compensated only for their expenses incurred in attending meetings in accordance with sections 44-08-04 and 54-06-09. The compensation shall be paid from the appropriation to the secretary of state.

16.1-15-33. MEMBER OF STATE CANVASSING BOARD - WHEN DISQUALIFIED.) When a member of the state canvassing board is a candidate for any office for which he canvasses the votes, the governor shall designate some other state officer to act in his stead at the session of the board while the votes given for that member are being canvassed.

16.1-15-34. MEETING OF STATE CANVASSING BOARD.) Not later than sixteen 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. The secretary of state shall notify the members of the board of the date of the meeting.

16.1-15-35. RETURNS TO BE CANVASSED BY STATE CANVASSING BOARD.) The state canvassing board, in canvassing to ascertain the result of any election, shall canvass only the regular returns made by the county canvassing board as provided in this chapter.

16.1-15-36. EXAMINATION OF ABSTRACTS BY STATE CANVASSING BOARD - MESSENGER DISPATCHES TO COUNTY WHEN ERROR DISCOVERED.) After the state canvassing board is formed, it shall examine the certified abstracts of the county canvassing boards and if it shall appear that:

1. Any material mistake has been made in the computation of votes cast for any person; or
2. The county canvassing board in any county has failed to canvass the votes or any part thereof cast in any precinct in its county,

the board may dispatch a messenger to the county auditor of the county, at the expense of the county, with the board's requirement in writing to the county auditor to certify the fact concerning the mistake or the reason why the votes were not canvassed. The county auditor, to whom the requirement is delivered, shall make a true and full answer thereto under his hand and official seal and shall deliver the answer with all convenient dispatch to the secretary of state.

16.1-15-37. ADJOURNMENT OF STATE CANVASSING BOARD.) The

state canvassing board may adjourn from day to day, not exceeding three days in all, except that the board may adjourn for the time necessary to await the return of a messenger dispatched as provided in section 16.1-15-36.

16.1-15-38. DISAGREEMENTS IN CANVASSING RETURNS BY CANVASSING BOARD - DISREGARDING TECHNICALITIES, MISSPELLED WORDS, AND ABBREVIATIONS.) In canvassing the returns, a majority of the members of the state canvassing board shall decide all matters of disagreement. The board shall disregard all technicalities, misspelling, the use of initial letters, and the abbreviations of the names of candidates, if it can be ascertained from the returns for whom the votes were intended.

16.1-15-39. STATEMENT PREPARED BY STATE CANVASSING BOARD FOR PRIMARY ELECTION - CONTENTS - SIGNING - CANDIDATE NOTIFIED OF NOMINATION.) The state canvassing board shall prepare the statement required by subsections 1, 2, and 3 of section 16.1-15-20, for primary elections. The certificate shall be signed by the members of the board and filed in the office of the secretary of state. Upon completion of the canvass, the secretary of state shall mail to each candidate nominated a notice of his nomination stating that his name will be placed upon the official ballot to be voted for at the ensuing general election. If the election results indicate that any candidate is entitled to demand a recount pursuant to subsection 1 of section 16.1-16-01, the secretary of state shall not prepare or deliver the notice of nomination until the time to demand a recount has expired, or the recount results have been determined and the winner declared, whichever is later. The secretary of state shall file a copy of the findings of the board and shall publish those findings in a newspaper printed in Burleigh County.

16.1-15-40. STATEMENTS OF GENERAL OR SPECIAL ELECTION PREPARED BY STATE CANVASSING BOARD - CONTENTS.) Upon receiving the certified abstracts on file with the secretary of state, the state canvassing board shall proceed publicly to examine and make statements of the whole number of votes cast at any general or special election for all state or district offices. The statements shall show the names of the persons for whom the votes were cast for the offices and the whole number of votes for each, distinguishing the several districts and counties in which they were cast.

16.1-15-41. CERTIFICATE OF RESULT OF GENERAL OR SPECIAL ELECTION BY STATE CANVASSING BOARD - SECRETARY OF STATE TO RECEIVE.) The statements provided for in section 16.1-15-40 shall be certified by the members of the state canvassing board, who shall subscribe their names to the statements. The board then shall determine what persons have been duly elected to the offices and shall prepare and subscribe on each statement a certificate of that determination and shall deliver the same to the secretary of state. The candidate or candidates to be elected for each office receiving the highest number of votes shall be duly elected to the office. No person who was entitled to have his name appear on the primary election ballot, but whose name was not placed on the primary election ballot,

shall be elected to a no-party office as a write-in candidate unless that person receives a number of votes equal to or more than the number of signatures which would have been required to have his name placed on the primary election ballot.

16.1-15-42. WHEN SPECIAL ELECTION ORDERED.) If there is no choice for a district office, other than member of the legislative assembly, or a state office because any two or more persons have equal and the highest number of votes, the governor, by proclamation, shall order a new election.

16.1-15-43. SECRETARY OF STATE TO RECORD STATEMENT OF GENERAL OR SPECIAL ELECTION, PREPARE CERTIFICATES OF ELECTION, PUBLISH STATEMENT.) After receiving each certified statement and determination made by the state canvassing board, the secretary of state shall record the same in his office and shall prepare and transmit to each of the persons declared to be elected, a certificate of election as provided in this chapter. If the election results indicate that any candidate is entitled to demand a recount pursuant to subsection 1 of section 16.1-16-01, the secretary of state shall not prepare or deliver the certificate of election until the time to demand a recount has expired, or the recount results have been determined and the winner declared, whichever is later. The secretary of state shall cause a copy of the certified statement and determination to be published in the official newspaper of Burleigh County.

16.1-15-44. FORM OF CERTIFICATE OF ELECTION FOR STATE OFFICERS - SIGNATURES.) A certificate of election shall be prepared by the secretary of state for each person elected to a state or a district office. The certificate, in substance, shall be in the following form:

At an election held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, \_\_\_\_\_ was elected to the office of \_\_\_\_\_ of this state for the term of \_\_\_\_\_ years from the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ (or, if to fill a vacancy, for the residue of the term ending on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_).  
Given at Bismarck this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

The certificate shall be signed by the governor and the secretary of state, and shall have the great seal of the state affixed thereto, and shall be attested by at least one of the other members of the state canvassing board.

16.1-15-45. MEMBERS OF LEGISLATIVE ASSEMBLY TO RECEIVE CERTIFICATES OF ELECTION.) At the time election certificates are issued to state and district officers, the secretary of state shall issue certificates of election to all members of the legislative assembly.

16.1-15-46. CERTIFICATE OF ELECTION TO MEMBER OF CONGRESS - SIGNING - DELIVERING.) The certificate of election to a member of Congress shall be signed by the governor with the great seal affixed and shall be countersigned by the secretary of state. The governor shall cause the certificate to be delivered to the person elected.

16.1-15-47. CANVASSING RETURNS OF CONSTITUTIONAL AMENDMENT OR OTHER PROPOSITION - CERTIFIED STATEMENT OF RESULT - CONTENTS.) For the purpose of canvassing and ascertaining the result of the votes cast at any election upon any proposed amendment to the Constitution, or any other proposition submitted to a vote of the people, the state canvassing board shall proceed to examine the statements received by the secretary of state from the county auditors to ascertain and determine the result. The board shall certify a statement of the whole number of votes cast for and the whole number of votes cast against an amendment or proposition, and it shall determine whether the amendment or proposition has been approved and ratified by a majority of the electors voting thereon, and a certificate of that determination shall be prepared and subscribed on the statement.

16.1-15-48. CERTIFIED STATEMENT AND DETERMINATION OF RESULTS OF CONSTITUTIONAL AMENDMENTS AND PROPOSITIONS RECORDED BY SECRETARY OF STATE - PUBLISHING.) The certified statement and determination provided for in section 16.1-15-47 shall be recorded by the secretary of state. If it appears that a constitutional amendment or other proposition has been approved, ratified, or adopted, the secretary of state shall make a record thereof and shall cause that record to be bound in the volume containing the original enrolled laws passed at the next succeeding session of the legislative assembly, and shall cause the record to be published with those laws.

SECTION 14.) Chapter 16.1-16 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-16-01. ELECTION RECOUNTS.) A recount of any primary, special, or general election for nomination or election to a congressional, state, district, legislative, or county office, or for the approval or disapproval of any measure or question submitted to the electors of this state or one of its counties shall be conducted as follows:

1. The demand for a recount may be made by any of the following:
  - a. Any person who failed to be nominated in a primary election by less than two percent of the highest vote cast for a candidate of his party for the office sought.
  - b. Any person who failed to be elected in a general or special election by less than one-half of one percent of the highest vote cast for a candidate for that office.
  - c. Any person who files a petition signed by at least five electors, when a question or measure submitted to the electors has been decided by a margin not exceeding one-fourth of one percent of the total vote cast for and against the question at any election.

2. The recount demand must be made within ten days after the canvass of the votes by the county canvassing board in the case of county elections, and by the state canvassing board in the case of congressional, state, district, or legislative elections. The demand shall be in writing, shall recite one of the conditions in subsection 1 as a basis for the recount, and shall be filed with:
  - a. The secretary of state when the recount is for a congressional, state, district, or legislative office or a question submitted to the electors of the entire state.
  - b. The county auditor when the recount is for a county office or a question submitted to the electors of a county.
3. When the secretary of state receives a timely recount demand and finds it to be in the proper form, he shall immediately notify all the county auditors to conduct a recount as provided in this section. The secretary of state shall fix the date of statewide recounts. The date shall be within ten days after receipt of the recount demand. The county auditor shall determine the validity of recount demands filed with him and shall fix the date for recounts limited to his county. The date shall be within ten days after receipt of the recount demand. In all recount proceedings, the county auditor shall send notice of the date, place, and time of the recount to all candidates and petitioners involved by certified mail.
4. Recounts shall be conducted by the county auditor who may employ up to four county electors to assist in the recount. The county auditor shall review all paper, machine, and absentee ballots, whether or not the ballots were counted at the precinct or the county canvass, to determine which ballots were cast and counted according to the law. The county auditor shall check the precinct count and the count of the county canvassing board. If the county auditor files a recount demand, he shall be disqualified from acting thereon, and the clerk of the district court of the county shall perform the duties required of the county auditor by this section.
5. The persons entitled to participate at the recount are:
  - a. Each candidate involved in the recount, either personally or by a representative.
  - b. An elector favoring each side of a question if the recount involves a question or proposition submitted to a vote of the electorate.

The persons allowed to participate may challenge the acceptance or exclusion of any ballot. The person challenging a ballot must state the reason for the challenge based upon the law, and the county auditor shall count the challenged ballot as he deems proper and shall then set the ballot aside with a notation that it was challenged and how it was counted. At the conclusion of the recount, the county auditor shall submit all challenged ballots to the recount board for decision. The recount board shall be composed of the state's attorney of the county, the chairman of the board of county commissioners, and the clerk of the district court of the county. No person shall serve on the recount board if he was a candidate for office in the election concerning which the recount is being requested. If the chairman of the board of county commissioners is disqualified from serving, he shall appoint as an alternate another county commissioner of the county who is not a candidate at the election; if all the county commissioners are disqualified, he shall appoint as an alternate a disinterested elector of the county. If the state's attorney is disqualified from serving, he shall appoint as an alternate a disinterested elector of the county. If the clerk of the district court is performing the duties of the county auditor or is disqualified from serving on the board, the clerk shall appoint as an alternate a disinterested elector of the county. The recount board shall review all challenged ballots, and on majority vote shall decide how they shall be counted. The decision of the recount board is final, subject to the right to contest the election as provided in this chapter.

6. The county auditor shall certify the results of the recount no later than fifteen days after the filing of the recount demand. The recount result shall become the official result of the election in the county. The county auditor shall prepare a corrected abstract of the votes. In a recount limited to the county, if the corrected abstract shows no change in the outcome of the election, no further action shall be taken. If the corrected abstract changes the outcome of the election, the county auditor shall issue certificates of nomination or election accordingly, and shall certify the new result of a question submitted to the electorate.
7. In congressional, statewide, district, or legislative recounts, the county auditor shall, no later than fifteen days after the filing of the recount demand, send by certified mail a certified copy of the corrected abstract to the secretary of state. The secretary of state shall immediately assemble the state canvassing board, who shall canvass the corrected abstracts and certify the election results. The secretary of state shall issue certificates

of election or nomination or record the approval or disapproval of a question submitted to the electorate accordingly.

8. The expenses incurred in a recount of a county election shall be paid by the county on a warrant by the county auditor. The expenses incurred in a recount of a congressional, state, or legislative election shall be paid by the state from the general fund, upon approval by the secretary of state of a statement of expenses received from the county auditors.
9. The results of any recount of votes cast in an election of a member of the legislative assembly shall be admissible in either house of the legislative assembly, or before a committee of either house, as evidence to aid in the determination of an election contest pending in that house.

16.1-16-02. WHO MAY CONTEST ELECTION.) A defeated candidate or ten qualified electors may contest the nomination or election of any person or the approval or rejection of any question or proposition submitted to a vote of the electorate, pursuant to sections 2 through 9 of this Act. In a county election to change the county seat or to change the boundaries of the county, the complaint shall be filed against the board of county commissioners, who shall appear and defend the contest action.

16.1-16-03. COMMENCEMENT OF ACTION - PARTIES - STATUS OF CONTESTEE.) An action to contest an election shall be commenced by service of a summons and verified complaint. The party instituting the action shall be known as the contestant, and the party against whom the action is instituted shall be known as the contestee. In a contest of an election, the person holding the certificate of election shall take possession and discharge the duties of the office until the contest action is finally decided.

16.1-16-04. TIME FOR COMMENCEMENT OF ACTION.) Any action to contest an election shall be commenced and the complaint shall be filed in the district court of the contestee's county of residence within five days after a recount is completed, and within fourteen days after the original canvass is completed if no recount is demanded, unless otherwise specifically provided. However, if the ground for the action is the illegal payment of money or other valuable thing subsequent to the filing of any statement of expenses required by this title, the action shall be commenced within fourteen days after the discovery by the contestant of the illegal payment. The contestee shall serve and file his answer within fourteen days after service of the contest summons and complaint.

16.1-16-05. GROUNDS FOR ELECTION CONTEST.) An election contest may be commenced for any of the following causes:

1. Any deliberate and material violation of this title, or of any other law relating to the election process.

2. If the contestee, at the time of the election in question, was not eligible to hold the office.
3. Because of illegal votes or erroneous or fraudulent count, canvass, or recount of votes.

16.1-16-06. ELECTION CONTEST TO BE TRIED AS CIVIL ACTION - PRECEDENCE ON COURT CALENDAR.) Unless otherwise specifically provided in this chapter, election contest actions shall be tried as civil actions are tried in this state. The district court shall set the hearing on the contest action not more than ten days after the filing of the contest answer. Election contests shall take precedence over regular court business so elections are determined as soon as practicable. The district court judge shall order a special term of the court if no term is in progress when the election contest complaint is filed.

16.1-16-07. CONTEST INVOLVING IRREGULARITY OF BALLOTS - PRESERVATION OF BALLOTS.) Either the contestant or the contestee, within the time provided by this title for the preservation of ballots, may give notice by certified mail to the county judge of any county where he desires the ballots preserved, that an election contest is pending in a designated court. Thereupon, it is the duty of the county judge to preserve all the paper ballots and voting machine records until the contest has been finally determined.

16.1-16-08. JUDGMENT IN ELECTION CONTEST ACTION.)

1. The judge in an election contest action shall pronounce judgment on which candidate was elected or nominated and whether any question or proposition was approved or rejected.
2. The appropriate officer shall issue a certificate to the person declared elected or nominated in accordance with the judgment. Any certificate of nomination or election previously issued that is in conflict with the judgment shall be annulled by the court's judgment.
3. If the court declares that the election resulted in a tie, the election shall be determined by law.
4. If the court declares that no one was elected or nominated and sets aside the election, the office shall be deemed vacant and any certificate of election or nomination previously issued shall be annulled. The vacancy shall be filled according to law.
5. In the discretion of the court, court costs may be awarded on the following bases:
  - a. If the contest action is dismissed for insufficient evidence or want of prosecution, or if the court confirms the election results, judgment for costs shall be for the contestee and against the contestant.

- b. If an election is annulled for errors or malfeasance of any election official during any part of the election procedure, the costs shall be a charge against the state or political subdivision in which the election was held.
  - c. When an election is annulled on any other ground or when the contestant is declared elected, judgment for costs shall be for the contestant and against the contestee.
6. Nothing in this chapter shall be construed to authorize a nomination or election to be set aside because of illegal votes unless either of the following is shown, that:
- a. The contestee had knowledge of or connived in the illegal votes.
  - b. If the number of illegal votes is taken from the contestee, it would reduce the number of his legal votes below the number of votes cast for some other person for the same nomination or election, after deducting any illegal votes from the other person.

16.1-16-09. APPEAL OF ELECTION CONTEST JUDGMENT.) An appeal of the judgment in an election contest action may be had by filing a notice of appeal with the clerk of the trial court within ten days of the date of the service of notice of entry of the judgment. Unless otherwise specifically provided by this chapter, appeals of election contest actions shall be conducted in the manner provided by law or rule for civil appeals from the district court. Election contest appeals shall take precedence over regular court business so election results can be determined as soon as practicable. An appeal may be brought on for hearing before the supreme court at any time upon ten days' notice by either party and shall be determined in a summary manner.

16.1-16-10. LEGISLATIVE CONTEST OF ELECTION.) Legislative election contests shall be determined pursuant to sections 10 through 17 of this Act. Any person intending to contest, before either house of the legislative assembly, the election of a member of the legislative assembly shall serve on that member a statement of contest, which shall specify the grounds for the contest. The statement shall be served on the member and a copy filed with the secretary of state within five days after a recount is completed, and within ten days after the canvass is completed if no recount is demanded.

16.1-16-11. ANSWER TO LEGISLATIVE STATEMENT OF CONTEST.) The member whose election to the legislative assembly is contested shall serve his answer on the party contesting and file a copy of the answer with the secretary of state within ten days after the service of the statement of contest. Any allegations in the state-

ment of contest that are not denied in the answer shall be deemed admitted.

16.1-16-12. DEPOSITIONS - SUBPOENAS - TIME LIMITS.) Depositions taken to preserve testimony and gather evidence in legislative election contests shall be taken as provided by law or rule for taking depositions in civil actions in this state. Subpoenas may be issued to compel attendance and the production of books, papers, or records as provided by law or rule for the issuance of subpoenas in civil actions in this state. Any person refusing or neglecting to attend and testify or produce books, papers, or records in obedience to a subpoena, without good cause shown, shall be guilty of a class A misdemeanor. No depositions shall be taken by either party until the answer is served on the party contesting.

16.1-16-13. PRESERVATION OF BALLOTS.) Either party to a legislative election contest may secure the preservation of ballots and records as provided in section 16.1-16-07.

16.1-16-14. TESTIMONY AND RECORDS FILED WITH SECRETARY OF STATE - SECRETARY OF STATE TO DELIVER TO PRESIDING OFFICER.) The officer before whom any deposition is taken in a legislative election contest shall transmit the records of the testimony of witnesses, all books, papers, and records produced, a copy of the notice to take the deposition and proof of service thereof, and a copy of the subpoena, if one was issued, to the secretary of state. Those records shall be certified by the officer before whom the deposition was taken. The secretary of state shall deliver the statement of contest, the answer, and all records received by him pursuant to this section to the presiding officer of the house of the legislature in which the election contest is pending, on or before the second day of the organizational session of the legislature.

16.1-16-15. DETERMINATION OF CONTEST - CERTIFICATE OF ELECTION.) The legislative election contest shall be heard and decided as provided by the legislative assembly. The secretary of state shall issue a certificate of election to the person declared elected, and any certificate of election previously issued in conflict with the decision in the contest shall be annulled.

16.1-16-16. FEES OF OFFICERS AND WITNESSES.) All fees of officers and witnesses in a legislative election contest heard by a house of the legislature shall be paid by the party at whose instance the service or attendance was performed. The fees charged and paid shall be in the same amount as the fees for similar services in civil actions in courts of record in this state.

16.1-16-17. PAYMENT FOR PROSECUTING OR DEFENDING LEGISLATIVE ELECTION CONTEST PROHIBITED.) No payment shall be made by the legislative assembly to either party to a legislative election contest heard by a house of the legislature for expenses incurred in prosecuting or defending the contest.

SECTION 15. REPEAL.) Chapters 16-01, 16-03, 16-05, 16-06, 16-07, 16-08, 16-09, 16-10, 16-11, 16-12, 16-13, 16-14, 16-15, 16-18, 16-21, and 16-22 and sections 16-04-02.1, 16-04-03, 16-04-05, 16-04-06, 16-04-07, 16-04-08, 16-04-09, 16-04-10, 16-04-12, subsections 2, 3, and 4 of section 16-04-13, sections 16-04-15.2, 16-04-18, 16-04-19, 16-04-20, 16-04-25, 16-04-26, 16-04-27, 16-04-28, 16-04-29, 16-04-30, 16-04-31, 16-04-32, 16-04-33, 16-04-34, 16-04-35, 16-04-36, 16-16-01, 16-16-02, 16-16-03, 16-16-04, 16-16-05, 16-16-06, 16-16-07, 16-16-08, 16-16-09, 16-16-10, 16-16-11, 16-16-12, 16-16-13, 16-16-14, 16-16-15, 16-16-16, 16-20-04, 16-20-05, 16-20-07, 16-20-08, 16-20-09, 16-20-10, 16-20-12, 16-20-15, 16-20-16, 16-20-17, 16-20-18, 16-20-22, and 16-20-23 of the North Dakota Century Code, and sections 16-04-02, 16-04-04, subsection 1 of section 16-04-13, sections 16-04-16, 16-04-17, 16-04-21, 16-16-03.1, 16-20-01, 16-20-01.1, 16-20-06, 16-20-17.1, 16-20-17.2, 16-20-17.3, 16-20-19, and 16-20-24 of the 1975 Supplement to the North Dakota Century Code are hereby repealed.

Disapproved April 22, 1977

Filed April 22, 1977

## CHAPTER 585

HOUSE BILL NO. 1231  
(Committee on Finance and Taxation)  
(At the request of the Tax Department and Attorney General)

## PENALTY FOR FAILING TO FILE TAX RETURN

AN ACT to amend and reenact subsection 3 of section 57-38-45 of the North Dakota Century Code, relating to a penalty for failing to file or fraudulently filing a North Dakota income tax return.

VETO

April 1, 1977

The Honorable Oscar Solberg  
Speaker of the House  
House Chambers  
Bismarck, North Dakota 58505

Dear Mr. Speaker:

House Bill 1231 was introduced by the Committee on Finance and Taxation at the request of the Tax Department and the Attorney General's Office and was designed to strengthen the tax collection process as provided in subsection 3 of section 57-38-45 of the North Dakota Century Code.

The first amendment removes the penalty for failure "to pay any tax" as presently in the law and continues the penalty only on failure to properly file and report tax liability.

The second amendment reduces the original amendment to this section of the bill from a class C felony to a class A misdemeanor.

The proper collection of income taxes is very important to the fiscal stability of state government. Passage of this bill is an open invitation for tax evasion and is an insult to the vast majority of honest, conscientious, law abiding citizens.

These amendments weaken, rather than strengthen, enforcement of this section and completely reverse the original intent of the bill.

Therefore, I veto House Bill 1231.

Sincerely yours,

ARTHUR A. LINK  
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 3 of section 57-38-45 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Any person or any officer or employee of any partnership who, with intent to evade any requirement of this chapter, shall fail to make, sign, or verify any return, or to supply any information required by law, or under the provisions of this chapter, or who with like intent shall make, render, sign, or verify any false or fraudulent information, shall be liable to a penalty of not more than one thousand dollars to be recovered by the attorney general, in the name of the state, by action in any court of competent jurisdiction. He also shall be guilty of a class A misdemeanor;

Disapproved March 31, 1977

Filed April 5, 1977

## CHAPTER 586

HOUSE BILL NO. 1419  
(Strinden)

## METHANOL RESEARCH PROGRAM REVIEW

AN ACT to authorize the legislative council, through any of its programs, projects, or committees, to oversee and monitor methanol research; and providing an appropriation.

VETO

April 21, 1977

The Honorable Ben Meier  
Secretary of State  
Capitol - First Floor  
Bismarck, ND 58505

Dear Mr. Meier:

House Bill 1419 appropriates \$25,000 to authorize the Legislative Council to use any of its programs, projects, committees, or staff to monitor, review, and provide legislative oversight of research on the synthetic production of methanol using lignite, including the economic feasibility of such production.

It appears that the technology already exists to produce such synthetic methanol. The problem that remains is to make such production economically feasible and the question arises as to how \$25,000 worth of Legislative Council oversight would provide much in the way of improving the situation.

Furthermore, the Legislative Council is provided with funding for studies within its general appropriation. To allow this bill to meet approval would be to set precedent for individual funding of Legislative Council studies. The logical end to such a process is legislative complication and governmental expansion.

This bill provides for an unusual procedure for that which has regular channels and which can be done without such mechanism or funding. I have been provided with no justification for such an approach.

Therefore, I veto House Bill 1419.

Sincerely yours,

ARTHUR A. LINK  
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AUTHORIZATION.) The legislative council is hereby authorized to use any of its programs, projects, committees, or staff to monitor, review, and provide legislative oversight of research on the synthetic production of methanol using lignite, including the economic feasibility of such production.

SECTION 2. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$25,000.00, or so much thereof as may be necessary, to the legislative council for use in carrying out the study required by this Act during the biennium beginning July 1, 1977, and ending June 30, 1979. Such moneys may be used by the council to match other public or private funds which may be available to the council for such study.

Disapproved April 22, 1977

Filed April 22, 1977

## CHAPTER 587

HOUSE BILL NO. 1468  
(Kloubec)

## SUNDAY CONVENTION LIQUOR PERMIT

AN ACT to create and enact section 5-02-05.1 of the North Dakota Century Code, providing for a special Sunday convention alcoholic beverage permit which may be issued by the governing body of a city to a private club, lodge, motel, or hotel serving as a state convention headquarters; and to amend and reenact section 5-02-05, subsection 11 of section 12.1-30-02, and subsection 29 of section 12.1-30-03 of the North Dakota Century Code, relating to prohibited liquor disposal on certain days, to personal property sales allowable on Sunday, and to businesses allowed to operate on Sunday.

VETO

April 7, 1977

The Honorable Oscar Solberg  
Speaker of the House  
House Chambers  
Bismarck, North Dakota 58505

Dear Mr. Speaker:

House Bill 1468 authorizes the issuance of special Sunday convention alcoholic beverage permits to licensed premises which serve as headquarters for a state convention of a bona fide organization.

As I expressed my concern in an earlier veto message this session on a similar bill, this bill provides for the expanded use of alcoholic beverages in North Dakota. This can only mean expanded problems and greater social and economic costs to society that we already experience.

Furthermore, Sunday is a day which is set aside to worship and to contemplate the joys of our creation. It would seem that this could be another step towards losing respect for those principles.

As is consistent with my past record and my personal philosophy concerning limited use of alcoholic beverages in our society, I again am compelled to disagree with the passage of such a bill into law.

Therefore, I veto House Bill 1468.

Sincerely yours,

ARTHUR A. LINK  
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 5-02-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-02-05. DISPOSAL PROHIBITED ON CERTAIN DAYS - PENALTY.) Except as permitted by section 5-02-05.1, any person who dispenses or permits the consumption of alcoholic beverages on licensed premises after one a.m. on Sundays, before eight a.m. on Mondays, or between the hours of one a.m. and eight a.m. on all other days of the week, or who so dispenses or permits such consumption on Memorial Day, Good Friday, Thanksgiving Day, Christmas Day, or after six p.m. on Christmas Eve, or between the hours of one a.m. and eight p.m. on the day of any statewide special, primary, or general election is guilty of a class A misdemeanor.

SECTION 2.) Section 5-02-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

5-02-05.1 SPECIAL SUNDAY CONVENTION ALCOHOLIC BEVERAGE PERMIT.)

1. Any city which has a population of two thousand or more may issue a special Sunday convention alcoholic beverage permit to a private club, lodge, motel, or hotel, as defined under municipal ordinances and licensed as a retail alcoholic beverage establishment pursuant to chapter 5-02, which serves as the head-

quarters for the state convention of a bona fide organization recognized by the governing body of the city in which the convention is held.

2. The authority for issuing such special permit shall rest solely with the governing body of the city. A special permit shall be granted only upon proper application to and approval by the governing body, and shall include payment of a fee determined by such governing body. A special permit granted by the city shall be effective for one Sunday only.
3. Under the special permit, alcoholic beverages may be distributed and consumption permitted in those rooms of the private club, lodge, motel, or hotel which have been specifically reserved for convention activities, but shall not be permitted in bar and lounge areas containing the permanent bar fixtures and normally open to the public. A city may permit the distribution and consumption of alcoholic beverages between the hours of twelve noon on the specified Sunday and one a.m. on Monday. Under no circumstances shall the general public be permitted to participate in the consumption of alcoholic beverages distributed under the authority and conditions of the special permit. It shall be the duty of the private club, lodge, motel, or hotel granted the special permit to enforce the requirements of this section and the conditions established by the city under the permit.
4. The special Sunday convention alcoholic beverage permit shall not be granted to allow the distribution or consumption of alcoholic beverages at gatherings or meetings which, in the opinion of the governing body of the city, are primarily local in nature.
5. Any person who dispenses, sells, or permits the consumption of alcoholic beverages in violation of this section or the conditions of a special permit, or who furnishes information required by this section which is false or misleading, shall be guilty of a class A misdemeanor.

SECTION 3. AMENDMENT.) Subsection 11 of section 12.1-30-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11. Alcoholic beverages until one a.m., except as provided by section 5-02-05.1.

SECTION 4. AMENDMENT.) Subsection 29 of section 12.1-30-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29. Premises licensed to dispense alcoholic beverages within the limits prescribed in sections 5-02-05 and 5-02-05.1.

Disapproved April 7, 1977

Filed April 19, 1977

## CHAPTER 588

HOUSE BILL NO. 1537  
(McGauvran)

**SCHOOL BOARD NEGOTIATING TEAM CLOSED  
SESSIONS**

AN ACT to provide a new subsection to section 15-38.1-14 of the North Dakota Century Code, pertaining to executive sessions under the Teachers' Representation and Negotiation Act; and to provide an expiration date.

VETO

March 24, 1977

The Honorable Oscar Solberg  
Speaker of the House  
House Chambers  
Bismarck, North Dakota 58505

Dear Mr. Speaker:

House Bill 1537 provides that school boards may have private sessions with the members of their negotiations team to discuss negotiation strategy or limits of authority to be granted to the negotiation team.

The philosophy of open meetings is one of which citizens of North Dakota are very aware, and it is a philosophy I have long supported. In 1973, the members of the Forty-Third Legislature approved Senate Concurrent Resolution 4010 by very large majorities of both houses which allowed the following proposed sections to be put to a vote of the people in order that they might be included in the Constitution of North Dakota:

Unless otherwise provided by law, all meetings of public or governmental bodies, boards, bureaus, commissions, or agencies of the state or any political subdivision of the state, or organizations or agencies supported in whole or in part by public funds, or expending public funds, shall be open to the public.

Section 50. All sessions of the legislative assembly, including the committee of the whole and meetings of legislative committees, shall be open to the public.

This measure containing these two sections was approved by an overwhelming margin of 82,799 to 22,894 on September 3, 1974.

Although House Bill 1537 comes within the exception clause of the constitutional provision, the people of the State of North Dakota have time after time expressed their unequivocal support for open meetings. It would seem that the said exception was to be reserved for very special cases dealing with personal matters with which public officials may at times have to deal.

The principle is well established that when the expenditure of public funds is being considered, the public has the right to know. I recognize the sincere efforts of the sponsor of this bill to improve the negotiations process. However, I must affirm the principle of open meetings, and I believe this measure would erode that principle.

Therefore, I veto House Bill 1537.

Sincerely yours,

ARTHUR A. LINK  
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) A new subsection to section 15-38.1-14 of the North Dakota Century Code is hereby created and enacted to read as follows:

School boards may meet in private session with the members of their negotiations team, provided that the matters under discussion must pertain solely to negotiations strategy, or to establishing the limit of authority granted to such negotiations team within which an agreement may be negotiated. Any other matters must be discussed, if at all, at an open, public meeting, unless otherwise provided by law.

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SECTION 2. EXPIRATION DATE.) The provisions of this Act shall remain in effect through June 30, 1979, and shall thereafter be of no force and effect.

Disapproved March 24, 1977

Filed April 5, 1977

## CHAPTER 589

SENATE BILL NO. 2239  
(Committee on Transportation)  
(At the request of the Highway Patrol)

## SPEED LIMIT VIOLATION PENALTY REDUCTION

AN ACT to amend and reenact sections 39-06.1-06 and 39-06.1-09 of the North Dakota Century Code, relating to amount of statutory fees and the definition of a moving violation.

VETO

April 21, 1977

The Honorable Ben Meier  
Secretary of State  
Capitol - First Floor  
Bismarck, ND 58505

Dear Mr. Meier:

Senate Bill 2239 provides for a new fine system and system for assessment of points on a person's driving record for speeding violations above 55 miles per hour. The new system provides for more lenient fine and assessments than under the present law for the lesser violations and more severe fines and assessments than under the present law for the greater violations.

The most notable feature about the new fine and assessment system is that for a speeding violation from 56 to 65 miles per hour, there is a fine of five dollars and no points assessed on a person's driving record. This is an open invitation to the motorist who has the price of a five dollar fine to travel at 65 miles per hour. The fact that no points are assessed for this ten mile per hour speed violation tells the motorist that it is not a violation but rather a privilege that can be purchased with a five dollar bill.

This concept ignores the national 55 mile per hour legal highway speed limit imposed to conserve energy. A major added benefit of the 55 mile per hour speed limit has conclusively shown a reduction of traffic accidents, injuries, and deaths on the highways of North Dakota. The certain increase in the speed limit which will follow if this bill becomes law will increase each of those undesirable events.

Furthermore, I have already received a communique from United States Secretary of Transportation, Brock Adams, in which he explains that the passage of this bill into law will raise a substantial question as to whether North Dakota is in compliance with the federal statute requiring a 55 mile per hour speed limit in order to be eligible for federal highway funding.

It appears that the State of North Dakota has a good chance of losing a great deal in the way of human and economic resources.

Therefore, I veto Senate Bill 2239.

Sincerely yours,

ARTHUR A. LINK  
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 39-06.1-06 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06.1-06. AMOUNT OF STATUTORY FEES.) The fees required for a noncriminal disposition pursuant to either section 39-06.1-02 or section 39-06.1-03 shall be as follows:

1. For a nonmoving violation as defined in section 39-06.1-08, a fee in the amount of ten dollars.
2. For a moving violation as defined in section 39-06.1-09, other than a violation of section 39-09-02 or an equivalent ordinance, a fee in the amount of twenty dollars.
3. For a violation of section 39-09-02, or an equivalent ordinance, the penalty shall be a fee and a point assessment against the driver's license as follows:

Speed (mph)	Fee (\$)	Points
56 - 65	\$ 5	0
66 - 70	\$ 5 plus \$1/each mph over 65 mph	1
71 - 80	\$15 plus \$2/each mph over 70 mph	2
81 - 90	\$35 plus \$3/each mph over 80 mph	3
91 - 95	\$35 plus \$3/each mph over 80 mph	6
96 - 100	\$35 plus \$4/each mph over 80 mph	12
101 - 105	\$35 plus \$4/each mph over 80 mph	14
106 - 110	\$35 plus \$4/each mph over 80 mph	16
111 +	\$35 plus \$4/each mph over 80 mph	18

4. For a violation of section 39-09-01, or an ordinance defining careless driving, a fee in the amount of thirty dollars.

SECTION 2. AMENDMENT.) Section 39-06.1-09 of the 1975

Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06.1-09. "MOVING VIOLATION" DEFINED.) For the purposes of section 39-06.1-06 and section 39-06.1-13, a "moving violation" shall mean a violation of section 39-09-02, or an equivalent ordinance; or a violation of section 39-04-22; subsection 1 of section 39-04-37; sections 39-05-12; 39-06-01; 39-06-14; 39-06-16; 39-08-09; 39-08-18; 39-09-05; 39-09-09; 39-12-04; 39-12-05; 39-12-06; 39-12-09; 39-24-02; or 39-24-09, except subdivisions b and c of subsection 5, or equivalent ordinances; or a violation of the provisions of chapters 39-10 ("general rules of the road") or 39-21 ("equipment of vehicles"), or equivalent ordinances, except those sections within those chapters which are specifically listed in subsection 1 of section 39-06.1-08.

Disapproved April 21, 1977

Filed April 22, 1977

## CHAPTER 590

SENATE BILL NO. 2325  
(Lips)UNEMPLOYMENT COMPENSATION BENEFIT  
DISQUALIFICATION

AN ACT to amend and reenact subsection 1 of section 52-06-02 of the North Dakota Century Code, relating to disqualification for unemployment benefits.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

VETO

April 21, 1977

The Honorable Ben Meier  
Secretary of State  
Capitol - First Floor  
Bismarck, ND 58505

Dear Mr. Meier:

Senate Bill 2325 would require that everyone who has voluntarily left his employment would be disqualified from receiving unemployment benefits unless the reason for leaving was attributable to the employer. The bill is an amendment of an existing provision in the unemployment compensation law which imposes a disqualification when a person voluntarily leaves his employment without good cause.

Since the inception of the North Dakota Unemployment Compensation Law in 1937 there has been a disqualification provision for individuals who leave their employment voluntarily without good cause. It is apparent that a disqualification for voluntarily leaving one's employment is not restricted to the mere fact of leaving since it is qualified by the proviso that it must also be without good cause. As the law now exists it follows the true concept and philosophy of the unemployment compensation program that there should be compensation for those who become unemployed through no fault of their own. Such a declaration of public policy is clearly set forth in the North Dakota Unemployment Compensation Law. Fault is not just the fact of leaving employment unless there has been no good cause for leaving.

Fault is defined as culpability or blame and the courts throughout the nation have long recognized that not every instance of voluntarily leaving employment was because of culpability or blame on the part of he who leaves his employment. Both the courts and the administrators look closely to see whether such leaving was or was not with good cause. The rule of law which is widely accepted and which is followed in the administration of the North Dakota unemployment compensation program is that if the facts disclose a real, substantial and compelling reason for leaving employment and if those facts are of such a nature as would cause a reasonable person who genuinely wants to remain in the labor market to leave his employment, then there is good cause for leaving.

Senate Bill 2325 would virtually wipe out these real, substantial and compelling reasons that have been recognized as justification for voluntarily leaving one's employment because everyone who has voluntarily left his employment would be disqualified unless the reason for leaving was attributable to the employer. To restrict cause for leaving to only those cases which are attributable to the employer eliminates consideration of many valid personal and economic reasons which prompt the ordinary reasonable worker to change his job or to leave his job temporarily such as illness of the claimant or illness in the claimant's family.

In the administration of the program under the existing provision in the North Dakota Unemployment Compensation Law, a determination is made as to whether or not good cause exists for voluntarily leaving employment based upon an examination of the facts and circumstances of each case. Clearly, there has been no abuse of its discretion in this area in the past administration of the North Dakota program.

Such a change in the present law as Senate Bill 2325 proposes would be unduly harsh, restrictive, and without justification.

Therefore, I veto Senate Bill 2325.

Sincerely yours,

ARTHUR A. LINK  
Governor

SECTION 1. AMENDMENT.) Subsection 1 of section 52-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. For the week in which he has filed an otherwise valid claim for benefits after he has left his last employment voluntarily without cause attributable to the employer, and thereafter until such time as he:
  - (a) Can demonstrate that he has earned remuneration for personal services in employment equivalent to at least ten times his weekly benefit amount as determined under section 52-06-04; and
  - (b) Has not left his last work under disqualifying circumstances.

Disapproved April 21, 1977

Filed April 22, 1977

## CHAPTER 591

SENATE BILL NO. 2446  
(Thane)SCHOOL OF SCIENCE SWIMMING POOL  
REVENUE BONDS

AN ACT to authorize the state board of higher education to issue revenue bonds for the construction of a swimming pool to complete the physical education/activities building at the state school of science at Wahpeton, to provide for a student facility fee, and to provide an appropriation.

VETO

April 22, 1977

The Honorable Ben Meier  
Secretary of State  
Capitol - First Floor  
Bismarck, ND 58505

Dear Mr. Meier:

Senate Bill 2446 authorizes the State Board of Higher Education to issue revenue bonds for the purposes of constructing a swimming pool and completing the physical education activities building at the State School of Science at Wahpeton.

There is no longer a need for such legislation as the outright appropriation for the entire facility has been granted in House Bill 1280 which I have signed as of today and which will become law.

Therefore, I veto Senate Bill 2446.

Sincerely yours,

ARTHUR A. LINK  
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) In accordance with chapter 15-55, the state board of higher education is hereby authorized and empowered to issue and sell bonds for the purpose of constructing a swimming pool to complete the physical education/activities building at the state school of science at Wahpeton, North Dakota, in an amount not to exceed three hundred fifty thousand dollars. The bonds authorized by this section shall be retired solely from revenues from student facility fees as provided by section 2, and shall not be a general obligation of the state of North Dakota.

SECTION 2.) At the time of issuance of bonds under this Act, the board of higher education shall set a student facility fee to be charged to each student enrolled at the state school of science at Wahpeton, North Dakota, at the time of the student's payment of quarter fees. The amount of the fee shall be determined by the board at a level sufficient to pay the interest and principal of bonds issued under section 1 within twenty years after their issuance, as such bonds become due.

SECTION 3. APPROPRIATION.) The proceeds resulting from the sale of bonds authorized under section 1, or so much thereof as may be necessary, are hereby appropriated for the construction of a swimming pool authorized in section 1. Any unexpended balances from the sale of bonds shall be placed in sinking funds for the retirement of the bonds authorized in section 1.

Disapproved April 22, 1977

Filed April 22, 1977

## CHAPTER 592

SENATE BILL NO. 2475  
(Melland)

LEGISLATIVE REVIEW OF ADMINISTRATIVE  
RULES

AN ACT to provide for legislative review of administrative rules and regulations when assigned by the legislative council chairman to interim committees, and providing for recommendations by the committees.

VETO

April 21, 1977

The Honorable Ben Meier  
Secretary of State  
Capitol - First Floor  
Bismarck, ND 58505

Dear Mr. Meier:

Senate Bill 2475 provides that the chairman of the Legislative Council may assign proposed and existing administrative rules and regulations to an interim committee in order that the committee might, among other things, determine whether agencies are properly implementing legislative purpose and intent. This bill is very similar to Senate Bill 2175 of the Forty-fourth Legislative Assembly which I vetoed two years ago.

Nothing has changed in the two years since I vetoed that bill, and as such, I will reiterate what I said then. This legislation is contrary to the intent of the separation of powers doctrine inherent in the Constitution of the State of North Dakota. Furthermore, legislative intent should be readily discernable from the legislation at the time of its passage and should not be interpreted by a small group of legislators at a later date. Finally, the bill contains no justification for the need of this type of government expansion.

The Legislature has given me no new reason to reverse my previous position, and accordingly, I must stand by that decision.

Therefore, I veto Senate Bill 2475.

Sincerely yours,

ARTHUR A. LINK  
Governor

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. PROPOSED RULES SUBMITTED TO LEGISLATIVE COUNCIL - FILING OF PREVIOUSLY ADOPTED RULES.) Effective July 1, 1977, every administrative agency shall submit its proposed rules and regulations, along with a copy of the attorney general's approving opinion thereon, to the office of the legislative council prior to publication in the North Dakota administrative code or code supplement.

Rules and regulations approved by the attorney general prior to July 1, 1977, shall be filed by each agency with the office of the legislative council within sixty days after the effective date of this Act, along with a copy of the attorney general's approving opinion thereon.

SECTION 2. PROPOSED RULES REFERRED TO INTERIM COMMITTEE - COMMITTEE RESPONSIBILITY.) The chairman of the legislative council may assign proposed and existing rules and regulations and written complaints received concerning such rules and regulations to an appropriate interim subject matter committee. Such committee shall study and review assigned rules and regulations and written complaints to determine whether or not:

1. Administrative agencies are properly implementing legislative purpose and intent;
2. There are court or agency expressions of dissatisfaction with state statutes or with rules and regulations of administrative agencies promulgated pursuant thereto; or
3. The court opinions or rules and regulations indicate unclear or ambiguous statutes.

Such committee may make rule change recommendations to the adopting agency and may make recommendations to the legislative council for the amendment or repeal of enabling legislation serving as authority for rules and regulations.

An interim committee's failure to review proposed rules and regulations prior to publication shall not prevent rules and regulations from taking effect, nor shall the recommendations or opinions of an interim committee in any way affect the legality of any rule, regulation, or statute as determined by the attorney general.

Disapproved April 22, 1977

Filed April 22, 1977