

ELECTIONS

CHAPTER 250

HOUSE BILL NO. 1276
(Haugen, Graba, Schmidt)

POLITICAL SUBDIVISION OFFICIALS RECALL

AN ACT to create and enact a new section to chapter 44-08 of the North Dakota Century Code, relating to recall of elected officials of political subdivisions; and to amend and reenact subsection 4 of section 16.1-01-09 and section 44-10-01 of the North Dakota Century Code, relating to recall petitions and removal from office.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 16.1-01-09 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 2. A new section to chapter 44-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

Recall of elected officials of political subdivisions. An elected official of a political subdivision, except an official subject to recall pursuant to section 10 of article III of the Constitution of North Dakota, is subject to recall for misconduct, malfeasance, crime in office, neglect of duty in office, habitual drunkenness, or gross incompetency by petition of electors equal in number to twenty-five percent of voters voting in the political subdivision at the last election that the office of the official sought to be recalled was on the ballot, except in any political subdivision with a population of not more than one hundred, the petition must be signed by at least six electors. The provisions of section 16.1-01-09, as they relate to signing and circulating recall petitions, apply to petitions under this section.

The petition must be filed with the official with whom a petition for nomination to the office in question is filed unless that official is the person subject to recall, in which case the petition must be filed with the secretary of state. The official with whom the petition is filed shall pass on the sufficiency of a petition under this section in the manner required of the secretary of state under section 16.1-01-10. Except as otherwise provided in this section, the official shall call a special election to be held within thirty days if the official finds the petition valid and

sufficient. No special election may be called if the date would be within ninety days of the next scheduled election. An elector's name may not be removed from a recall petition.

The name of the official to be recalled must be placed on the ballot unless the official resigns within ten days after the filing of the petition. Other candidates for the office may be nominated in a manner provided by law. If the official resigns, the appropriate political subdivision governing body may call a special election or appoint a person to complete the unexpired term of the office. When the election results have been officially declared, the candidate receiving the highest number of votes is elected for the remainder of the term. No official is subject to recall twice during the term for which the official was elected.

SECTION 3. AMENDMENT. Section 44-10-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-10-01. Additional proceedings - Removal from office. In addition to the proceedings mentioned in chapter 32-13 and chapters 44-02, 44-08, and 44-11, and apart and distinct from any other criminal action or proceedings, the provisions of this chapter are adopted to obtain a judgment of removal from office.

Approved April 7, 1989
Filed April 7, 1989

CHAPTER 251

SENATE BILL NO. 2267
(Senators Stenehjem, Freborg, Mushik)
(Representative Kretschmar)

PARTY CONVENTION DELEGATE ELECTION

AN ACT to amend and reenact section 16.1-03-12 of the North Dakota Century Code, relating to election of delegates to state party conventions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-03-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-03-12. Meeting of district committee to elect delegates to state party convention - Optional precinct caucus - Proxies. Prior to the second Monday in June in each presidential election year and upon the call of the chairman, the district committee of each state senatorial district shall meet at a place designated by the chairman to elect delegates to a state party convention to be held as provided in this chapter. If the bylaws of the state senatorial district so provide, precinct committeemen may call a precinct caucus prior to the district meeting to elect additional delegates to attend the district meeting. ~~One~~ Unless the rules of the state party provide otherwise, one delegate to the state convention ~~shall~~ must be elected for each three hundred votes, or major fraction thereof, cast in the district at the last preceding presidential election for the candidates for presidential electors of the party, but every district ~~shall be~~ is entitled to at least one delegate. Delegates ~~shall~~ must be electors of their district. If any delegate ~~shall be~~ is unable to attend the convention, ~~he~~ that delegate shall designate in writing an alternate from the list of alternates selected at the district convention to attend and represent and act for ~~him~~ that delegate.

Approved March 28, 1989
Filed March 28, 1989

CHAPTER 252

SENATE BILL NO. 2064
(Legislative Council)
(Interim Legislative Procedure and Arrangements Committee)

CONSTITUTIONAL AMENDMENT INTENT STATEMENTS

AN ACT to amend and reenact section 16.1-06-09.1 of the North Dakota Century Code, relating to statements of intent in resolutions proposing constitutional amendments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-06-09.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-06-09.1. Constitutional amendments - Statement of intent. ~~Every~~ A statement setting forth the intent of the change proposed by a resolution proposing a change in the Constitution of North Dakota ~~shall contain a statement setting forth in clear and precise language the legislative purpose and intent of the proposed change; the statement shall fairly represent the substance and effect of the proposed change. The statement shall must~~ immediately precede the ballot title of the proposed constitutional amendment on the printed ballot, voting machines, or electronic voting systems.

Approved February 9, 1989
Filed February 9, 1989

CHAPTER 253

HOUSE BILL NO. 1493
(A. Olson, Timm)

ABSENT VOTER'S BALLOT APPLICATIONS

AN ACT to amend and reenact section 16.1-07-07 of the North Dakota Century Code, relating to applications for absentee ballots.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-07-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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. The officers may also make available or distribute the applications to the public without any specific request being made for the applications.

Approved March 29, 1989
Filed March 30, 1989

CHAPTER 254

HOUSE BILL NO. 1543
(Representatives Martin, Timm, Urlacher)
(Senators O'Connell, Krauter)

ABSENTEE BALLOT COUNTING

AN ACT to create and enact a new section to chapter 16.1-07 of the North Dakota Century Code, relating to the counting of absentee ballots.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 16.1-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

Absentee ballot precinct - Election board appointment - Ballot counting.

1. For any primary, general, or special statewide or legislative district election, the board of county commissioners may create a special precinct, known as an absentee ballot precinct, for each legislative district in the county for the purpose of counting all absentee ballots cast in an election in that district. Each absentee ballot precinct is a separate precinct for the purpose of ballot arrangement rotation. The election board of the absentee ballot precinct must be known as the absentee ballot counting board. The county auditor shall supply the board with all necessary election supplies as provided in chapter 16.1-06.
2. The governing body of the city shall appoint the election inspector in a district contained entirely within an incorporated city. The county auditor, with the approval of the board of county commissioners, shall appoint all other inspectors. Each district party chairman of the two parties which cast the largest and the next largest number of votes at the last general election shall appoint one election judge for each district. Each official of the board shall take the oath required by section 16.1-05-02 and must be compensated as provided in section 16.1-05-05.
3. The county auditor shall have the absentee ballots delivered to the inspector of the absentee ballot counting board with the election supplies, or if received later, then prior to the closing of the polls.
4. The absentee ballot counting board shall occupy a room designated by the county auditor which must be open to any person for the purpose of observing the counting process.
5. The absentee ballots must be opened and handled as required in section 16.1-07-12. The absentee ballot counting board may commence counting the absentee ballots at the same time as any

precinct within the county, city, or legislative district opens its polls. As soon as all the polls in the county, city, or legislative district close and the count is completed, the inspector shall announce publicly the results. The board shall comply with the requirements of sections 16.1-15-04 through 16.1-15-12, as applicable.

Approved April 10, 1989
Filed April 11, 1989

CHAPTER 255

SENATE BILL NO. 2510
(Senators Stromme, Dotzenrod)
(Representative Kaldor)

POLITICAL ADVERTISING FALSEHOODS

AN ACT to amend and reenact section 16.1-10-04 of the North Dakota Century Code, relating to false publication in political advertising.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 16.1-10-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-10-04. Publication of false information in political advertisements - Penalty. No person ~~shall~~ may knowingly sponsor any political advertisement or news release containing deliberately calculated falsehoods, whether on behalf of or in opposition to any candidate for public office, initiated measure, referred measure, or constitutional amendment, or any other issue, question, or proposal on an election ballot, and whether such publication ~~shall be~~ is by radio, television, newspaper, pamphlet, folder, display cards, signs, posters or billboard advertisements, or by any other public means. Any person who ~~shall violate~~ violates the provisions of this section ~~shall be~~ is guilty of a class A misdemeanor.

Approved April 13, 1989
Filed April 13, 1989

* NOTE: Section 16.1-10-04 was also amended by section 1 of Senate Bill No. 2497, chapter 256.

CHAPTER 256

SENATE BILL NO. 2497
(Senator Holmberg)
(Representative Shaft)

POLITICAL ADVERTISING FALSEHOODS

AN ACT to amend and reenact section 16.1-10-04 of the North Dakota Century Code, relating to false or misleading information in political advertisements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 16.1-10-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-10-04. Publication of false information in political advertisements - Penalty. No person ~~shall~~ may knowingly sponsor any political advertisement or news release ~~containing deliberately calculated falsehoods~~ that contains any assertion, representation, or statement of fact, including information concerning a candidate's prior public record, which the sponsor knows to be untrue, deceptive, or misleading, 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~~ is by radio, television, newspaper, pamphlet, folder, display cards, signs, posters or billboard advertisements, or by any other public means. Any person who ~~shall violate~~ violates the provisions of this section ~~shall be~~ is guilty of a class A misdemeanor.

Approved April 6, 1989
Filed April 7, 1989

* NOTE: Section 16.1-10-04 was also amended by section 1 of Senate Bill No. 2510, chapter 255.

CHAPTER 257

SENATE BILL NO. 2348
(Heinrich)

POLITICAL ADVERTISEMENT NAME DISCLOSURE

AN ACT to amend and reenact section 16.1-10-04.1 of the North Dakota Century Code, relating to the disclosure of names on political advertisements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-10-04.1 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16.1-10-04.1. Certain political advertisements to disclose name of sponsor - Name disclosure requirements. Every political advertisement by newspaper, pamphlet or folder, display card, sign, poster, or billboard, or by any other public means, on behalf of or in opposition to any candidate for public office, designed to assist, injure, or defeat the candidate by reflecting upon the candidate's personal character or political action, must disclose at the bottom of the advertisement the name or names of the sponsor or sponsors of the advertisement, and the name or names of the person, persons, associations, or partnerships paying for the advertisement. If the name of an association or partnership is used, the disclaimer shall also include the name of the chairman or other responsible person from the association or partnership. The name or names of the person, persons, associations, or partnerships paying for any radio or television broadcast containing any advertising announcement for or against any candidate for public office must be announced at the close of the broadcast. If the name of an association or partnership is used, the disclaimer shall also include the name of the chairman or other responsible person from the association or partnership. In every political advertisement in which the name of the sponsor or person, association, or partnership paying for the advertisement is disclosed, the first and last name of any named person must be disclosed. This section does not apply to campaign buttons.

Approved March 28, 1989
Filed March 28, 1989

CHAPTER 258

SENATE BILL NO. 2166
(Committee on Judiciary)
(At the request of the Secretary of State)

SAMPLE BALLOT PUBLICATION

AN ACT to amend and reenact subsection 1 of section 16.1-11-21 and section 16.1-13-05 of the North Dakota Century Code, relating to publishing the sample primary and general election ballot.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 16.1-11-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 for the sample primary ballot by the ~~legal publications handbook published pursuant to subsection 5 of section 46-01-02~~ secretary of state. The county auditor shall publish the sample ballot in all forms appropriate for the method or methods of voting in ~~his~~ the 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. 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.

SECTION 2. AMENDMENT. Section 16.1-13-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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,~~ secretary of state for the sample general election ballot. The county auditor shall publish the sample ballot in all forms appropriate for the method or methods of voting in ~~his~~ the county. 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.

Approved March 28, 1989
 Filed March 28, 1989

CHAPTER 259

HOUSE BILL NO. 1323
(D. Larson, Aas)

INDEPENDENT NOMINEE PETITION STATEMENTS

AN ACT to amend and reenact section 16.1-12-02 of the North Dakota Century Code, relating to petition requirements of independent candidates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 16.1-12-02 of the 1987 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 as independent nominations. 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; but the statement shall not indicate an affiliation with or the support of any political party organized in accordance with this title.~~
5. Signatures of qualified electors 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. Except as provided in subdivision c, if the nomination is for an office to be filled by the qualified electors of the entire state, there shall be no fewer than one thousand signatures.
 - b. If the nomination is for an office to be filled by the qualified 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.

- c. If the nomination is for the office of president, there shall be no fewer than four thousand signatures.
- ~~6-~~ 5. 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.

Approved April 10, 1989
Filed April 11, 1989

CHAPTER 260

SENATE BILL NO. 2224
(Committee on Judiciary)
(At the request of the Secretary of State)

GENERAL ELECTION BALLOT PETITION CANDIDATE'S AFFIDAVIT

AN ACT to create and enact a new section to chapter 16.1-12 of the North Dakota Century Code, relating to the affidavit of candidate to accompany the nomination by petition before the general election.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 16.1-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

Applicant's name placed upon ballot - Affidavit to accompany petition. Upon receipt by the secretary of state of the certificate of nomination provided for in section 16.1-12-02 accompanied by the following affidavit, the secretary of state shall place the applicant's name upon the general election ballot. The affidavit shall be substantially as follows:

State of North Dakota)
) ss.
County of -----)

I, -----, being duly sworn, depose and say that I reside at -----, in the city of -----, state of North Dakota; that I am a candidate for nomination to the office of ----- to be chosen at the general election to be held on the -----, 19---, and I do hereby request that my name be printed upon the general election ballot as provided by law.

Date -----
Candidate's signature
Subscribed and sworn to before me this ----- day of -----, 19---.
Notary Public North Dakota
My Commission Expires -----

NOTARY SEAL

Approved March 28, 1989
Filed March 28, 1989