

**TITLE 16.1
ELECTIONS**

**CHAPTER 16.1-01
GENERAL PROVISIONS**

16.1-01-00.1. Definitions.

For purposes of this title, unless the context otherwise requires, "candidate" means:

1. An individual holding public office;
2. An individual who publicly has declared that individual's candidacy for nomination for election or election to public office or has filed or accepted a nomination for public office;
3. An individual who has formed a campaign or other committee for that individual's candidacy for public office;
4. An individual who has circulated a nominating petition to have that individual's name placed on the ballot; and
5. An individual who, in any manner, has solicited or received a contribution for that individual's candidacy for public office, whether before or after the election for that office.

16.1-01-01. Secretary of state to supervise election procedures - County administrator of elections.

1. The secretary of state is, ex officio, supervisor of elections and may employ additional personnel to administer this title. The secretary of state shall supervise the conduct of elections and in that supervisory capacity has, in addition to other powers conferred by law, the power to examine upon the secretary of state's request or the request of any election official, any election ballot or other material, voting system authorized by chapter 16.1-06, or device used in connection with any election, for the purpose of determining sufficient compliance with the law and established criteria and standards adopted by the secretary of state according to section 16.1-06-26. The secretary of state, upon determining any ballot or other material, voting system, or device is not in sufficient compliance with the law or established criteria and standards, shall direct the proper changes to be made, and in the case of voting systems, may decertify the voting systems according to the rules adopted under section 16.1-06-26.
2. In addition to other duties provided elsewhere by law, the secretary of state shall:
 - a. Develop and implement uniform training programs for all election officials in the state.
 - b. Prepare information for voters on voting procedures.
 - c. Publish and distribute an election calendar, a manual on election procedures, and a map of all legislative districts.
 - d. Convene a state election conference of county auditors at the beginning of each election year and whenever deemed necessary by the secretary of state 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 or cause to be investigated the nonperformance of duties or violations of election laws by election officers.
 - g. Require such reports from county auditors on election matters as deemed necessary.
 - h. Certify results of statewide elections.
 - i. Prepare and publish reports whenever deemed necessary on the conduct and costs of voting in the state, including a tabulation of election returns and such other information and statistics as deemed appropriate.

- j. Establish standards for voting precincts and polling places, numbering precincts, precinct maps, maintaining and updating pollbooks, and forms and supplies, including but not limited to, ballots, pollbooks, and reports.
 - k. Prescribe the order in which each political subdivision will appear on an election ballot.
 - l. Develop and conduct a test election for the state's voting system prior to each statewide election utilizing the votes cast within each county according to the logic and accuracy testing required in section 16.1-06-15.
3. In carrying out the secretary of state's duties and to assure uniform voting opportunities throughout the state, and for the purpose of implementing the provisions of this title and any other requirement imposed upon the state by the Help America Vote Act of 2002 [Pub. L. 107-252; 116 Stat. 1666; 42 U.S.C. 15301 et seq.] not otherwise addressed in this Act, the secretary of state may from time to time issue rules the secretary of state deems necessary, which must be consistent with the provisions of this title or the Help America Vote Act of 2002 and be adopted and published in accordance with chapter 28-32, but which need not comply with section 28-32-07.
 4. In each county there must be a county administrator of elections who must be the county auditor. The county auditor is responsible to the secretary of state for the proper administration within the auditor's county of state laws, rules, and regulations concerning election procedures.
 5. 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. Fully comply with the test election required of this section.
 - d. Carry out uniform training programs for all county and precinct election officials as prescribed by the secretary of state.
 - e. Provide completed reports on election matters as required by the secretary of state.
 - f. Attend, or send a designee to attend, state election conferences convened by the secretary of state.
 - g. Comply with the form of the ballot as prescribed by state law and the secretary of state.
 - h. Comply with the standards for voting precincts and polling locations, numbering precincts, precinct maps, maintaining and updating pollbooks, and forms and supplies, including ballots, pollbooks, and reports as established by the secretary of state.
 - i. Assist with investigations initiated by the secretary of state under this section.
 - j. Receive and handle complaints referred to the county auditor by any voter or precinct official involving circulation of petitions, challenges to voters, actions of election officials, or irregularities of any kind in voting. The county auditor shall refer complaints to the secretary of state or the proper prosecuting authority, as the county auditor deems appropriate.

Upon completion of the duties required by this subsection, the county auditor shall certify to the secretary of state, in the manner prescribed by the secretary of state, that the duties have been completed. A knowing violation of this subsection is an offense under section 12.1-11-06.

16.1-01-02. Applicability of provisions of title.

The provisions of this title govern all primary, general, and special statewide and legislative elections, and all other elections, unless otherwise provided by law.

16.1-01-02.1. State policy encouraging employers to establish policy granting employees time to vote.

It is the policy of this state to encourage voting by all eligible voters at all statewide special, primary, or general elections. To this end, employers are encouraged to establish a program to grant an employee who is a qualified voter to be absent from the employee's employment for the purpose of voting when an employee's regular work schedule conflicts with voting during time when polls are open.

16.1-01-02.2. Special election - Special procedures.

Notwithstanding any other provision of law, the governor may call a special election to be held in ninety days after the call if a special session of the legislative assembly has been held, any of the ninety-day period for the submission of a referendum petition to the secretary of state with respect to any measure enacted during the special session occurs during a regular legislative session, and a referendum petition has been submitted to refer a measure or part of a measure enacted during the special session. Notwithstanding any other provision of law, the governor may call a special election to be held in ninety days after the call if a referendum petition has been submitted to refer a measure or part of a measure that establishes a legislative redistricting plan.

16.1-01-02.3. Special election costs - Reimbursement.

The state shall reimburse each county for the costs incurred by the county for conducting a statewide special election that is not held on the date of a statewide primary or general election. Each county shall submit a detailed statement to the office of the budget which lists all expenses incurred by the county in conducting the special election within forty-five days after the special election. The office of the budget shall submit a request for an appropriation to reimburse the counties to the next regular or special session of the legislative assembly. The legislative assembly shall appropriate the funds necessary for the payment of the special election costs.

16.1-01-03. Opening and closing of the polls.

The polls at all primary, general, and special elections must be opened at nine a.m. or earlier, but not earlier than seven a.m., as designated for any precinct by resolution of the governing body of the city or county in which the precinct is located. The polls must remain open continuously until seven p.m. or a 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 county in which the precinct is located. All electors standing in line to vote at the time the polls are set to close must be allowed to vote, but electors arriving after closing time may not be allowed to vote. A voter may take up to thirty minutes to mark and cast the ballot after receiving the ballot from the election judge. After the polls close, the election board shall generate the report of the vote totals not later than thirty minutes after the last elector in line at the closing time received a ballot. An elector remaining in the polling place after the thirty minutes have expired who has not completed marking the ballot must be offered the choice of casting the ballot as marked or continuing to mark the ballot. If the elector chooses to continue marking the ballot, the ballot selections must be excluded from the report of the vote totals generated by the election board but must be forwarded by the election board to the canvassing board and added to the final tally. The secretary of state shall develop uniform, mandatory procedures for election boards to ensure the secrecy of each elector's ballot. The election officers present are responsible for determining who arrived in time to vote, and the election officers shall establish appropriate procedures for making that determination. All determinations required to be made pursuant to this section relating to polling hours must be made, and the county auditor notified of the determinations, no later than thirty days before an election.

16.1-01-04. Qualifications of electors - Voting requirements.

1. To qualify as an elector of this state, an individual must be:
 - a. A citizen of the United States;

- b. Eighteen years or older; and
 - c. A resident of this state who has resided in the precinct at least thirty days immediately preceding any election.
2. Pursuant to section 2 of article II of the Constitution of North Dakota, voting by individuals convicted and sentenced for a felony must be limited according to chapter 12.1-33.
3. A qualified elector may not authorize an attorney in fact, guardian, or other individual to apply for any ballot or to vote in any election on behalf of or in the place of the qualified elector.
4. An elector seeking to vote in an election must meet the identification requirements specified in section 16.1-01-04.1.

16.1-01-04.1. Identification verifying eligibility as an elector.

1. A qualified elector shall provide a valid form of identification to the proper election official before receiving a ballot for voting.
2. The identification must provide the following information regarding the elector:
 - a. Legal name;
 - b. Current residential street address in North Dakota; and
 - c. Date of birth.
3.
 - a. A valid form of identification is:
 - (1) A driver's license or nondriver's identification card issued by the North Dakota department of transportation; or
 - (2) An official form of identification issued by a tribal government to a tribal member residing in this state.
 - b. If an individual's valid form of identification does not include all the information required under subsection 2 or the information on the identification is not current, the identification must be supplemented by presenting any of the following issued to the individual which provides the missing or outdated information:
 - (1) A current utility bill;
 - (2) A current bank statement;
 - (3) A check issued by a federal, state, or local government;
 - (4) A paycheck;
 - (5) A document issued by a federal, state, or local government; or
 - (6) A printed document containing all of the information required by subsection 2 issued by an institution of higher education for an enrolled student residing in the state and containing the institution's letterhead or seal, along with a student photo identification card issued by the institution and containing the student's photograph and legal name.
4. The following forms of identification are valid for the specified individuals living under special circumstances who do not possess a valid form of identification under subsection 3.
 - a. For an individual living in a long-term care facility, a long-term care certificate prescribed by the secretary of state and issued by a long-term care facility in this state;
 - b. For a uniformed service member or immediate family member temporarily stationed away from the individual's residence in this state, or a resident of the state temporarily living outside the country, a current military identification card or passport; and
 - c. For an individual living with a disability that prevents the individual from traveling away from the individual's home, the signature on an absentee or mail ballot application from another qualified elector who, by signing, certifies the applicant is a qualified elector.
5. If an individual is not able to show a valid form of identification but asserts qualifications as an elector in the precinct in which the individual desires to vote, the individual may mark a ballot that must be set aside securely in a sealed envelope designed by the secretary of state. After the ballot is set aside, the individual may

show a valid form of identification to the election official responsible for the administration of the election via print or electronic means before the meeting of the canvassing board occurring on the thirteenth day after the election. Each ballot set aside under this subsection must be presented to the members of the canvassing board for proper inclusion or exclusion from the tally.

6. If an individual presents a nondriver identification card issued under subsection 2 of section 39-06-03.1 or an operator's license issued under section 39-06-14, and the card or license indicates the individual is a noncitizen, but the individual asserts valid citizenship, the individual may mark a ballot that must be set aside securely in a sealed envelope designed by the secretary of state. After the ballot is set aside, the individual may present a nondriver identification card issued under subsection 2 of section 39-06-03.1 or an operator's license issued under section 39-06-14 that no longer reflects that the individual is a noncitizen, to the election official responsible for the administration of the election via print or electronic means before the meeting of the canvassing board occurring on the thirteenth day after the election. Each ballot set aside under this subsection must be presented to the members of the canvassing board for proper inclusion in or exclusion from the tally. This section does not affect any associated consent decree or administrative rules adopted related to a consent decree consented to or enacted before August 1, 2023.
7. The secretary of state shall develop uniform procedures for the requirements of subsections 5 and 6 which must be followed by the election official responsible for the administration of the election.

16.1-01-04.2. Residence for voting - Rules for determining.

For purposes of voting:

1. Every qualified elector may have only one residence, shown by an actual fixed permanent dwelling, establishment, or any other abode to which the individual returns when not called elsewhere for labor or other special or temporary purposes.
2. The street address verified by the individual as provided in section 16.1-01-04.1 when requesting a ballot to vote must be the address of residence for the individual.
3. An individual retains a residence in this state until another has been gained.
4. The acts of residing at a new address for thirty days and verifying that address as provided under section 16.1-01-04.1 constitute a change in the individual's voting residence.

16.1-01-05. Voting by qualified elector moving from one precinct to another.

If a qualified elector moves from one precinct to another precinct within this state, the elector is entitled to vote in the precinct from which the elector moved until the elector has established a new residence pursuant to section 16.1-01-04.

16.1-01-05.1. Voter lists - Addition or transfer of names.

Through the use of the central voter file provided for in chapter 16.1-02, the secretary of state shall establish a procedure by which a county auditor may transfer an individual's name from the voter list of one precinct to the voter list of another precinct in the state if the individual establishes a new residence, and by which an individual who establishes residence in the state may have the individual's name placed on the voter list in the appropriate precinct. The procedure provided for in this section may not be used to require the registration of electors.

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 individual receiving the highest number of votes for any office is deemed elected to that office.

16.1-01-07. Constitutional amendments and other questions to be advertised - Notification by secretary of state - Manner of publishing.

If 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 certify the amendment or other question to each county auditor not less than fifty-five days before the election, and each auditor shall cause notice of the question to be included in the notice required by section 16.1-13-05. Questions to be submitted to the people of a particular county must be advertised in the same manner.

At the same time the secretary of state certifies notice to the county auditors of the submission of a constitutional amendment or other question, the secretary of state shall certify the ballot form for the questions. The ballot form must conform to the provisions of section 16.1-06-09 and must be used by all county auditors to prepare ballots for submission to the electorate of each county and to prepare sample ballots. The publication of either the paper ballot or the ballot as it will appear to individuals using a voting system device, whichever corresponds to the method of voting used in the area involved, will satisfy any requirement in this title for a sample ballot to be published. For two consecutive weeks before the sample ballot is published, an analysis of any constitutional amendment, initiated measure, or referred measure, written by the secretary of state after consultation with the attorney general, must be published in columns to enable the electors to become familiar with the effect of the proposed constitutional amendment or initiated or referred measure.

16.1-01-08. Correcting errors on ballots - Requiring performance of duty - Correcting or prosecuting wrongful performance.

1. The secretary of state shall investigate thoroughly, when the matter comes to the secretary of state's attention, any of the following:
 - a. Any error or omission that has occurred or is about to occur in placing any name on an official election ballot; however, a factual dispute regarding a candidate's residency may be resolved only by a court order.
 - b. Any error that has been or is about to be committed in printing the ballot.
 - c. Any wrongful act that 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 individual charged with any duty concerning the election.
 - d. Any neglect of duty which has occurred or is about to occur.
2. If required, the secretary of state shall order the officer or individual charged with the 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 investigating and correcting the problem. The secretary of state shall cause any individual who violates the secretary of state's order to be prosecuted if the violation constitutes an offense pursuant to this chapter. If the administrative remedies fail to correct the problem, or if the secretary of state refuses to act, any individual may petition the supreme court, or the district court of the relevant county if 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. Initiative or referendum petitions - Signature - Form - Circulation.

1. a. A request of the secretary of state for approval of a petition to initiate or refer a measure may be presented over the signatures of the sponsoring committee on individual signature forms that have been notarized. The secretary of state shall prepare a signature form that includes provisions for identification of the measure; the printed name, signature, and address of the committee member; and notarization of the signature. The filed signature forms must be originals.
- b. Upon receipt of a petition to initiate or refer a measure, the secretary of state shall draft a short and concise statement that fairly represents the measure. The statement must be submitted to the attorney general for approval or disapproval. An approved statement must be affixed to the petition before it is circulated for

signatures, must be called the "petition title", and must be placed immediately before the full text of the measure.

- c. The secretary of state and the attorney general shall complete their review of a petition in not less than five, nor more than seven, business days, excluding Saturdays.
2. An individual may not sign any initiative or referendum petition circulated pursuant to article III of the Constitution of North Dakota unless the individual is a qualified elector. An individual may not sign any petition more than once, and each signer shall also legibly print the signer's name, complete residential address or rural route or general delivery address, and the date of signing on the petition. Every qualified elector signing a petition shall do so in the presence of the individual circulating the petition. A referendum or initiative petition must be on a form prescribed by the secretary of state containing the following information:

REFERENDUM [INITIATIVE] PETITION
TO THE SECRETARY OF STATE,
STATE OF NORTH DAKOTA

We, the undersigned, being qualified electors request [House (Senate) Bill _____ passed by the _____ Legislative Assembly] [the following initiated law] be placed on the ballot as provided by law.

SPONSORING COMMITTEE

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

| Name | Address |
|---------------------|---------|
| _____ (Chairperson) | _____ |
| _____ | _____ |

PETITION TITLE

(To be drafted by the secretary of state, approved by the attorney general, and attached to the petition before circulation.)

FULL TEXT OF THE MEASURE

IF MATERIAL IS UNDERSCORED, IT IS NEW MATERIAL WHICH IS BEING ADDED. IF MATERIAL IS OVERSTRUCK BY DASHES, THE MATERIAL IS BEING DELETED. IF MATERIAL IS NOT UNDERSCORED OR OVERSTRUCK, THE MATERIAL IS EXISTING LAW THAT IS NOT BEING CHANGED.

[The full text of the measure must be inserted here.]

INSTRUCTIONS TO PETITION SIGNERS

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

QUALIFIED ELECTORS

| | Signed | Printed | Residential Address or | City |
|------------------------|----------------------|----------------------|--------------------------------|----------|
| | Name of | Name of | Complete Rural Route | State, |
| Month, Day, Year | Qualified Elector | Qualified Elector | or General Delivery Address | Zip Code |
| 1. | _____ | _____ | _____ | _____ |
| 2. | _____ | _____ | _____ | _____ |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ |
| 7. | _____ | _____ | _____ | _____ |
| 8. | _____ | _____ | _____ | _____ |

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

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

RECALL PETITION

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

RECALL SPONSORING COMMITTEE

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

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

INSTRUCTIONS TO PETITION SIGNERS

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

QUALIFIED ELECTORS

| | Signed Month, Day, Year | Name of Qualified Elector | Printed Name of Qualified Elector | Complete Residential, Rural Route, or General Delivery Address | City State, Zip Code |
|----|----------------------------------|---------------------------------|--|---|----------------------------|
| 1. | _____ | _____ | _____ | _____ | _____ |
| 2. | _____ | _____ | _____ | _____ | _____ |
| 3. | _____ | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ | _____ |
| 6. | _____ | _____ | _____ | _____ | _____ |
| 7. | _____ | _____ | _____ | _____ | _____ |
| 8. | _____ | _____ | _____ | _____ | _____ |

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

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

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

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

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

(signature of circulator)

Subscribed and sworn to before me on _____, _____, at
_____, North Dakota.

(city)
(Notary Seal) _____
(signature of notary)
Notary Public
My commission expires _____

4. A petition for recall must include, before the signature lines for the qualified electors as provided in subsection 2, the name of the individual being recalled, the office from which that individual is being recalled, and a list of the names and addresses of not less than five qualified electors of the state, political subdivision, or district in which the official is to be recalled who are sponsoring the recall.
5. For the recall of an elected official under article III of the Constitution of North Dakota, circulators have one year to gather the required number of signatures of qualified electors on the recall petition from the date the secretary of state approves the recall petition for circulation. For the recall of an elected official under section 44-08-21, circulators have ninety days from the date the secretary of state approves the recall petition for circulation to submit the recall petition to the appropriate filing officer.
6. A petition may not be circulated under the authority of article III of the Constitution of North Dakota or section 44-08-21 by an individual who is less than eighteen years of age, nor may the affidavit called for by subsection 3 be executed by an individual who is less than eighteen years of age at the time of signing. All petitions circulated under the authority of the constitution and of this section must be circulated in their entirety.
7. When recall petitions are delivered to the secretary of state or other filing officer with whom a petition for nomination to the office in question is filed, the chairman of the sponsoring committee shall submit to the secretary of state or other filing officer an affidavit stating that to the best of that individual's knowledge, the petitions contain at least the required number of signatures. The chairperson also shall submit a complete list of petition circulators which must include each circulator's full name and residential address. The residential address must be in this state and identify the circulator's street address, city, and zip code. Upon submission of the petitions to the appropriate filing officer, the petitions are considered filed and may not be returned to the chairman of the sponsoring committee for the purpose of continuing the circulation process or resubmitting the petitions at a later time. An elector's name may not be removed by the elector from a recall petition that has been submitted to and received by the appropriate filing officer.
8. The filing officer has a reasonable period, not to exceed thirty days, in which to pass upon the sufficiency of a recall petition. The filing officer may conduct a representative random sampling of the signatures contained in the petitions by the use of

questionnaires, postcards, telephone calls, personal interviews, or other accepted information-gathering techniques, or any combinations thereof, to determine the validity of the signatures. Signatures determined by the filing officer to be invalid may not be counted and all violations of law discovered by the filing officer must be reported to the state's attorney for possible prosecution.

9. The filing officer shall call a special recall election to be held no sooner than ninety-five days nor later than one hundred five days following the date the filing officer certifies the petition valid and sufficient. No special recall election may be called if that date would be within ninety-five days of the next scheduled election.
10. A notice of the recall election must be posted in the official newspaper thirty days before the candidate filing deadline, which is by four p.m. on the sixty-fourth day before the election. The official notice must include the necessary information for a candidate to file and have the candidate's name included on the ballot.
11. An official may not be recalled if the recall special election would occur within one year of the next regularly scheduled election in which the official could be re-elected.

16.1-01-10. Secretary of state to pass upon sufficiency of petitions - Method - Time limit.

1. 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 secretary of state shall conduct a representative random sampling of the signatures contained in the petitions by the use of questionnaires, postcards, telephone calls, personal interviews, or other accepted information-gathering techniques, or any combinations thereof, from which the secretary of state may exercise the secretary's judgment as to the validity of the individual signatures or groupings of signatures and other irregularities in the petition, thereby determining whether those signatures are to be counted as part of the necessary signature amount. Signatures determined by the secretary of state to be invalid may not be counted and if the number of valid signatures received is less than the required number of signatures to place the measure on the ballot, the secretary of state may not allow the measure to be placed on the ballot. When the secretary of state does not approve the measure to be placed on the ballot due to an insufficient petition, the action is presumed to be lawful, unless the presumption is rebutted by clear and convincing evidence that the action of the secretary of state was unlawful. All violations of law discovered by the secretary of state must be reported to the attorney general for prosecution.
2. For purposes of this section "clear and convincing evidence" means that degree of proof which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition on which the challenging party has the burden of proof is true.

16.1-01-11. Certain questions not to be voted upon for three months.

1. 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 may not again be submitted to a vote until a period of at least three months has expired.
2.
 - a. More than two elections on the same general matter may not be held within twelve consecutive calendar months.
 - b. If the matter to be placed before the electors for a third or subsequent time involves authorization for a school construction bond issuance in accordance with chapter 21-03, the board of the school district shall resubmit its school construction proposal to the superintendent of public instruction for the purpose of obtaining the superintendent's approval, in the same manner as required for an initial approval in accordance with section 15.1-36-01.

16.1-01-12. Election offenses - Penalty.

1. It is unlawful for an individual, measure committee as described in section 16.1-08.1-01, or other organization to:
 - a. Fraudulently alter another individual's ballot, substitute one ballot for another, or otherwise defraud a voter of that voter's vote.
 - b. Cause a disturbance, breach the peace, or obstruct a qualified elector or a member of the election board on the way to or at a polling place.
 - c. Vote more than once in any election.
 - d. Knowingly vote in the wrong election precinct or district.
 - e. Disobey the lawful command of an election officer as defined in chapter 16.1-05.
 - f. Knowingly exclude a qualified elector from voting or knowingly allow an unqualified individual to vote.
 - g. Knowingly vote when not qualified to do so.
 - h. Sign an initiative, referendum, recall, or any other election petition when not qualified to do so.
 - i. Circulate an initiative, referendum, recall, or any other election petition not in its entirety or when unqualified to do so.
 - j. Pay or offer to pay any individual, measure committee, or other organization, or receive payment or agree to receive payment, on a basis related to the number of signatures obtained for circulating an initiative, referendum, or recall petition. This subsection does not prohibit the payment of salary and expenses for circulation of the petition on a basis not related to the number of signatures obtained, as long as the circulators file the intent to remunerate before submitting the petitions and, in the case of initiative and referendum petitions, fully disclose all contributions received pursuant to chapter 16.1-08.1 to the secretary of state upon submission of the petitions. The disclosure of contributions received under this section does not affect the requirement to file a pre-election report by individuals or organizations soliciting or accepting contributions for the purpose of aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure placed upon a statewide ballot by action of the legislative assembly under chapter 16.1-08.1. Any signature obtained in violation of this subdivision is void and may not be counted.
 - k. 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.
 - l. Willfully violate any rule adopted by the secretary of state pursuant to this title.
 - m. Willfully make any false canvass of votes, or make, sign, publish, or deliver any false return of an election, knowing the canvass or return to be false; or willfully deface, destroy, or conceal any statement or certificate entrusted to the individual's or organization's care.
 - n. Destroy ballots, ballot boxes, election lists, or other election supplies except as provided by law, or negatively impact the confidentiality, integrity, or availability of any system used for voting.
 - o. Sign a name other than that individual's own name to an initiative, referendum, recall, or any other election petition.
 - p. Willfully submit an initiative or referendum petition that contains one or more fraudulent signatures.
2.
 - a. A violation of subdivisions b, e, f, or h through l of subsection 1 is a class A misdemeanor.
 - b. A violation of subdivisions a, c, d, g, or m of subsection 1 is a class C felony.
 - c. A violation of subdivision n of subsection 1 is a class C felony.
 - d. A violation of subdivision o of subsection 1 is a class A misdemeanor if an individual signs one or two names other than the individual's own name to a petition and is a class C felony if an individual signs more than two names other than the individual's own name to a petition.

- e. An organization, as defined in section 12.1-03-04, that violates this section is subject to the organizational fines in section 12.1-32-01.1. The court in which the conviction is entered shall notify the secretary of state of the conviction and shall order the secretary of state to revoke the certificate of authority of any convicted organization or limited liability company. The organization may not reapply to the secretary of state for authorization to do business under any name for one year upon conviction of a class A misdemeanor and for five years upon conviction of a class C felony under this section, except an organization operating a signature gathering business, or similar enterprise, that violates subdivision p of subsection 1, and is convicted of fraud, is subject to a class A misdemeanor and may not reapply to the secretary of state for authorization to do business under any name for five years following the entry of judgment.
 - f. A violation of subdivision p of subsection 1 by any member of a measure committee, including an initiative or referendum sponsoring committee or an agent acting on behalf of, or in conjunction with, a measure committee for the purpose of collecting signatures for a petition under this chapter is subject to a civil penalty of not more than three thousand dollars. The civil penalty may be recovered in an action brought in the district court of Burleigh County by the attorney general.
 - g. An individual who is a member of an organization may be convicted of a violation as an accomplice under section 12.1-03-01.
3. Every act this chapter makes 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 qualified electors to be decided by votes cast at an election.

16.1-01-13. Term limits for United States senators and representatives in Congress.

A person is permanently ineligible to have that person's name placed on the ballot at any election for the office of United States senator or representative in Congress if, by the start of the term for which the election is being held, that person will have served as a United States senator or a representative in Congress, or in any combination of those offices, for at least twelve years.

16.1-01-13.1. Term limits for United States senators and representatives in Congress. (Contingent effective date - [See note](#))

A person is ineligible to have that person's name placed on the ballot at any election for the office of United States senator or representative in Congress if, by the start of the term for which the election is being held, that person will have served as a United States senator or a representative in Congress, or in any combination of those offices, for at least twelve years. However, if that person is still otherwise eligible to hold the office, the disqualification imposed by this section ceases after two years have elapsed since the disqualification last affected that person's eligibility for placement on the ballot.

16.1-01-14. Statement of intent.

In enacting this measure, the people of North Dakota:

1. Recognize that, along with the rest of the people of the United States, we have bestowed certain powers on the state and federal governments, and the governmental power flows ultimately from the people, not to them.
2. Do so in the partial exercise of our duty to elect representatives in Congress, under article I, section 2 of the Constitution of the United States, and our duty to elect United States senators, under the seventeenth amendment to the Constitution of the United States.
3. Recognize that the United States Supreme Court has never held that the people of a state do not have the constitutional power to establish term limits for federal legislators from their state.

4. Recognize that certain restrictions are placed on our ability to choose federal legislators, such that we could not, for example, elect a person twenty-eight years old to the senate or require a religious test for a federal legislator.
5. Assert that, aside from the requirements explicitly imposed by the Constitution of the United States, our power with respect to election of federal legislators is plenary.
6. Note that, under the Constitution of the United States, we have certain rights to control suffrage in elections, regulating such matters as residency, ballot access, and voting methods. As the possessors of the power to regulate suffrage, we also have the power to regulate certain qualifications of the agents we appoint by exercising our suffrage.
7. Exercise the legislative power we reserved to ourselves in section 1 of article III of the Constitution of North Dakota.
8. Recognize that, just as the federal Hatch Act [5 U.S.C. 7324 et seq.] restricts the candidacies of otherwise eligible persons from holding elected office, we have the same salutary purpose as does the Hatch Act, namely preventing an incumbent party from using government power to entrench itself permanently into government office.
9. Are mindful of the United States Supreme Court's statement, in *Garcia v. San Antonio Metro Transit Authority*, 469 U.S. 528, 551 (1985), that state control of the election process is supposed to be a protection of the state peoples from the national government.
10. Recognize that increased concentration of power in the hands of incumbents has made this state's electoral system less free, less competitive, and most importantly, less representative.
11. Recognize that our interests are best served by having our United States senators and representatives in Congress be mindful of their origins and return to our ranks whence they came.
12. Make the following declarations and historical findings:
 - a. James Madison, in No. 57 of *The Federalist Papers*, predicted that the house of representatives would always be responsive to the will of the people because that house would be bound by the same laws they impose on the people. President Madison's prediction was wrong and Congress has arrogated to itself powers not granted to the people, a recent notorious example being the bank of the house of representatives in which members were allowed to kite checks. President Madison's prediction was wrong in that Congress has oppressed the people with laws from which it exempts itself, recent examples including minimum wage, discrimination, occupational safety, and other laws.
 - b. The appearance of corruption and the lack of competitiveness for entrenched incumbency seats has lessened voter participation and that is counterproductive to the purposes of a representative republic.
 - c. Our vital interests in maintaining the integrity of the political process have been harmed by these and other factors. Therefore, term limitation is the best method by which we can ensure that our vital interests are guarded.
13. Believe this measure is constitutional and intend it to be so. Therefore, even if a court holds any portion of this measure unconstitutional, thereby substituting its own judgment for that we have expressed in enacting this measure, the legislative council shall require the publisher of the North Dakota Century Code to include the text of this measure, in the manner as if not so held but with appropriate annotation, to stand as a testament to our expressed will, and as a memorial to the defiance of that will by whatever court holds this measure unconstitutional. Furthermore, if any part of this measure is held unconstitutional, we intend that the rest of it be deemed effective, to the maximum extent permitted under section 1-02-20.

16.1-01-15. Secretary of state to establish and maintain an election fund.

The secretary of state shall establish and maintain a fund, known as the election fund, in the state treasury for the purpose of depositing payments and grants made to the state under the provisions of sections 101, 101(c), and 906, and title III of the Help America Vote Act of 2002 [Pub. L. 107-252; 116 Stat. 1666; 42 U.S.C. 15301, 42 U.S.C. 15545, 42 U.S.C. 15481-15502]

and funds appropriated by the state. The moneys in the election fund and any interest earnings on the election fund must be used for the exclusive purpose of carrying out activities of the Help America Vote Act of 2002 and are subject to chapter 54-16.

16.1-01-15.1. Use of nonpublic funds prohibited - Penalty.

1. The state and political subdivisions may not solicit, accept, or use any grants or donations from private persons for elections operations or administration except:
 - a. The use of privately owned facilities for polling places;
 - b. Food for poll workers; and
 - c. Other nonmonetary donations that are not used to prepare, process, mark, collect, or tabulate ballots or votes.
2. An individual who knowingly violates subsection 1 is guilty of a class A misdemeanor.

16.1-01-16. Secretary of state to establish a uniform state-based administrative complaint procedure.

The secretary of state shall establish a uniform state-based administrative complaint procedure to remedy grievances according to section 402 of the Help America Vote Act of 2002 [Pub. L. 107-252; 116 Stat. 1666; 42 U.S.C. 15512]. The complaint procedure must be uniform and nondiscriminatory and address complaints of violations of any provision of title III of the Help America Vote Act of 2002, including a violation that has occurred, is occurring, or is about to occur. A complaint filed under the complaint procedure must be in writing and notarized, and be signed and sworn by the individual filing the complaint. The secretary of state may consolidate complaints. At the request of a complainant, the secretary of state shall establish a procedure for providing a review on the record. If the secretary of state determines there is a violation of a provision of title III of the Help America Vote Act of 2002 [Pub. L. 107-252; 116 Stat. 1666; 42 U.S.C. 15481-15502], the secretary of state shall determine and provide an appropriate remedy. If the secretary of state determines a violation of title III of the Help America Vote Act of 2002 has not occurred, the secretary of state shall dismiss the complaint and publish the results of the review. The secretary of state shall make a final determination with respect to a complaint within ninety days of the date the complaint is filed with the secretary of state, unless the complainant consents to a longer period of time for the secretary of state to make a determination. If the secretary of state fails to meet the ninety-day deadline for determining a complaint, the complaint must be resolved within sixty days under an alternative dispute resolution procedure.

16.1-01-17. Estimated fiscal impact of an initiated or referred measure.

As soon as practicable after the secretary of state approves an initiated or referred measure for the ballot, the legislative council shall coordinate the determination of the estimated fiscal impact of the initiated or referred measure. Upon notification from the secretary of state that signed petitions have been submitted for placement of an initiated or referred measure on the ballot, the legislative management shall hold hearings, receive public testimony, and gather information on the estimated fiscal impact of the measure. Each agency, institution, or department shall provide information requested in the format and time frame prescribed by the legislative council for identifying the estimated fiscal impact of the measure. At least thirty days before the public vote on the measure, the legislative council shall submit a statement of the estimated fiscal impact of the measure to the secretary of state. Upon receipt, the secretary of state shall include a notice within the analysis required by section 16.1-01-07 specifying where copies of the statement of the estimated fiscal impact can be obtained. Within thirty days of the close of the first complete fiscal year after the effective date of an initiated or referred measure approved by the voters, the agencies, institutions, or departments that provided the estimates of the fiscal impact of the measure to the legislative council under this section shall submit a report to the legislative council on the actual fiscal impact for the first complete fiscal year resulting from provisions of the initiated or referred measure and a comparison to the estimates provided to the legislative council under this section, and the legislative council shall issue a report of the actual fiscal impact of the initiated or referred measure.