

# ELECTIONS

## CHAPTER 187

### SENATE BILL NO. 2094

(Judiciary Committee)

(At the request of the Secretary of State)

## BALLOT MEASURE ANALYSES PUBLICATION AND PRINTING

AN ACT to amend and reenact sections 16.1-01-07 and 16.1-06-09 of the North Dakota Century Code, relating to publication of ballot measure analyses and printing and depositing of measure ballots.

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

**SECTION 1. AMENDMENT.** Section 16.1-01-07 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**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 fifty-five 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 must be advertised in the same manner.

The secretary of state shall, at the same time the secretary of state 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 must conform to the provisions of section 16.1-06-09 and must 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 must 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 may 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 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; ~~in addition to the sample ballot listing ballot titles.~~

**SECTION 2. AMENDMENT.** Section 16.1-06-09 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**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, ~~must be printed on a separate ballot and must be deposited in a box separate from that provided to receive the ballots for public officers. A constitutional amendment, initiated or referred measure, or other question must,~~ unless otherwise determined by the secretary of state, be stated in full in a legible manner on the paper ballot or the ballot card when using an electronic voting system purchased after June 30, 1985, and the ballot label when using an electronic voting system purchased before July 1, 1985. If the secretary of state concludes the amendment or measure is too long to make it practical to print in full, the secretary of state in consultation with the attorney general shall cause to be printed a short, concise summary, which must fairly represent the substance of the constitutional amendment, initiated, or referred measure. After 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, initiated, or referred measure. This explanatory statement must be drafted by the secretary of state in consultation with the attorney general. The words "Yes" and "No" must 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 the voter desires to vote on the question. Where two or more amendments or questions are to be voted on, they must be printed on the same ballot.

The measures to be submitted to the electors must be grouped and classified as constitutional measures, initiated statutes, or referred statutes and must be placed 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 must 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. After all the measures have been placed within the appropriate group or classification, all measures must be numbered consecutively, without regard to the various groups or classifications.

Approved March 25, 1997  
Filed March 25, 1997

## CHAPTER 188

### SENATE BILL NO. 2044

(Legislative Council)

(Judiciary Committee)

(Senators Traynor, W. Stenehjem, LaFountain)

(Representatives Nottestad, Brown, Delmore)

### INITIATIVE AND REFERENDUM SUBMISSION DEADLINE

AN ACT to amend and reenact subsection 7 of section 16.1-01-09 of the North Dakota Century Code, relating to the submission deadline for initiative and referendum petitions.

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

<sup>1</sup> **SECTION 1. AMENDMENT.** Subsection 7 of section 16.1-01-09 of the North Dakota Century Code is amended and reenacted as follows:

7. ~~A~~ An initiative or referendum petition ~~must~~ may be submitted to the secretary of state ~~by five p.m. on~~ until midnight of the day designated as the deadline for submitting the petition.

Approved March 5, 1997

Filed March 6, 1997

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<sup>1</sup> Section 16.1-01-09 was also amended by section 2 of House Bill No. 1065, chapter 52.

## CHAPTER 189

### SENATE BILL NO. 2368 (Senators G. Nelson, Mathern) (Representatives Dorso, Boucher)

## POLITICAL PARTY ORGANIZATION

AN ACT to create and enact a new section to chapter 16.1-03 of the North Dakota Century Code, relating to political party organization; to amend and reenact sections 16.1-03-01, 16.1-03-02, 16.1-03-03, 16.1-03-07, 16.1-03-08, 16.1-03-11, 16.1-03-12, 16.1-03-14, 16.1-11-03, and 16.1-11-30 of the North Dakota Century Code, relating to political party organization; and to repeal sections 16.1-03-04, 16.1-03-06, 16.1-03-09, 16.1-03-10, 16.1-03-13, 16.1-03-16, and 16.1-03-18, relating to political party organization.

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

**SECTION 1. AMENDMENT.** Section 16.1-03-01 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-03-01. Precinct caucus to elect precinct committeemen - Time and manner of holding - Caucus call - Notice.**

1. On or before May fifteenth following the last preceding general election, a party caucus must be held by every election precinct at a site within or reasonably close to the precinct in the manner provided in sections 16.1-03-01 through ~~16.1-03-04~~ 16.1-03-03.
2. The legislative district chairman of each party shall issue the call for the precinct caucus at least twenty days before the time set for holding the caucus and the call must contain the following:
  - a. Name of party.
  - b. Precinct number or name.
  - c. Date of caucus.
  - d. Place of caucus.
  - e. Hours of caucus.
  - f. A statement of the business to be conducted, including the election of precinct committeemen and such other persons as may be provided by state law and party rules.
  - g. The name of the district chairman issuing the call.
3. The district chairman shall provide ten days published notice in the official newspaper in circulation within each precinct in the district. The notices must contain that information set forth in subsection 2. The district chairman may include the information required by this section for all precincts in the district in one notice for publishing purposes.

**SECTION 2. AMENDMENT.** Section 16.1-03-02 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-03-02. Who may participate in and vote at caucus.**

1. Only those persons who are qualified electors pursuant to section 16.1-01-04 may vote or be elected as committeemen or officers at the precinct caucus.
2. Only those persons who either voted or affiliated with the party at the last general election or intend to vote or affiliate with the party at the next general election may vote at the precinct caucus.
3. In case the right of a person to participate at the caucus is challenged, the question of ~~his~~ the person's right to participate must be decided by a vote of the whole caucus. A person so challenged may not vote on the question of ~~his~~ the person's right to participate in the caucus, and a two-thirds vote of the whole caucus is required to exclude a person from participation.
4. No person may vote or participate at more than one precinct caucus in any one year.

**SECTION 3. AMENDMENT.** Section 16.1-03-03 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-03-03. Caucus business and elections - Political parties entitled to elect committeemen.**

1. Each precinct caucus shall elect a chairman, committeemen as provided in subsection 3, and other officers as may be provided by party rules. The caucus may also discuss party policies, candidates, and any other business as prescribed by party rules.
2. No political organization; ~~political or otherwise~~, is entitled to elect a precinct committeeman at its precinct caucus unless:
  - a. The organization nominated and had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor; and
  - b. The candidates provided for in subdivision a received at least five percent of the total vote cast for presidential electors or governor within this state at that election.
3. Each political party in each voting precinct of this state, otherwise qualifying under subsection 2, is entitled to elect one precinct committeeman for each two hundred fifty votes, or major fraction thereof, cast for the party's presidential electors in the precinct in the last presidential election. Each precinct is entitled to at least one precinct committeeman for each party which qualifies under subsection 2. Each precinct committeeman must be an elector of ~~his~~ the precinct in which the committeeman resides and must be elected for a two-year term.

4. All questions concerning the manner in which a caucus is conducted or called that are not covered by state law must be governed by Robert's Rules of Order (revised) unless otherwise governed by party rules. The caucus chairman shall notify the county auditor of those precinct committeemen elected.

**SECTION 4. AMENDMENT.** Section 16.1-03-07 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-03-07. Meeting of district committee - Organization.** In every odd-numbered year, the district committee of each party shall meet within fifteen days after the precinct caucus provided for in section 16.1-03-01. The day, hour, and site must be set by the existing district committee chairman. The precinct committeemen of a party, selected as provided by this chapter, with any other persons provided for by the district committee's bylaws and as the district committee designates, constitute the district committee of the party. The district committee of a party must be organized to coincide with the geographical boundary lines of state legislative districts. Each member of any committee provided for in this chapter must be a qualified elector and must retain the office the member was elected to until a successor is chosen. The district committee shall organize by:

1. Selecting a chairman, vice chairman, ~~vice chairwoman~~, secretary, and treasurer chosen by the district committee. The officers selected need not be precinct committeemen; however, all the officers must be voting members of the district committee.
2. Adopting rules and modes of procedure not in conflict with law.
3. Filling any vacancies in the office of precinct committeeman pursuant to section 16.1-03-05.
4. Selecting an executive committee consisting of from five to eighteen persons chosen from the district committee. The chairman, vice chairman, ~~vice chairwoman~~, treasurer, and secretary of the district committee must be members and the officers of the executive committee. That party's nominees for and members of the legislative assembly ~~must~~ may also be members of the executive committee. The five to eighteen person membership limitation includes the officers of the executive committee and that party's nominees for and members of the legislative assembly.

The newly elected chairman shall notify the ~~county auditor~~ secretary of state of the names of the party officers selected. The secretary of state shall certify the names of the party officers to the county auditors. If the office of chairman becomes vacant, the vice chairman shall hold the office until the next regular election for the office or until a new chairman is selected by the district committee for the balance of the term, whichever ~~first~~ occurs first. The secretary of state must be notified of any changes in membership of the district's committee officers by the district committee and must notify the county auditors of any changes.

**SECTION 5. AMENDMENT.** Section 16.1-03-08 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**16.1-03-08. State committee - Membership.** The state committee of each party consists of the chairman of each of the district committees of the party, ~~the~~

~~national committeeman and national committeewoman of the party, and any person provided for in the bylaws of the state committee.~~

**SECTION 6. AMENDMENT.** Section 16.1-03-11 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-03-11. State committee - Meetings - Organization - Vacancies.** The state committee shall meet on or before July first of each odd-numbered year. The committee shall organize by selecting a chairman, vice chairman, ~~vice chairwoman,~~ if provided for in the rules of the party, secretary, and treasurer and by adopting rules and modes of procedure. The party's bylaws must be filed with the secretary of state. The officers elected need not be members of the committee, but they shall become voting members of the committee after their election. The newly elected chairman shall notify the secretary of state of the names of the party officers selected. ~~These officers, together with the national committeeman, national committeewoman, a representative of state elected officials who are members of that party, the party's majority or minority leaders in the house of representatives and senate and four district chairmen to be selected by the state committee any other persons provided for by the party's bylaws and as the state committee designates, constitute the executive committee of the state committee. If a vacancy occurs in the office of committee treasurer, the committee chairman may appoint a person to serve as acting treasurer. The vacancy must be permanently filled for the balance of the term by a majority vote of the state committee at the first committee meeting following the occurrence of the vacancy. If the office of chairman becomes vacant, the vice chairman holds the office until the next regular election for the office or until a new chairman is selected by the state committee for the balance of the term, whichever occurs first.~~ A vacancy in an office of the state committee, other than chairman and a party district chairman, must be filled upon a majority vote of the state committee. The chairman of the state committee may temporarily fill any vacancy existing on the state committee until the state committee convenes to fill the vacancy. The secretary of state must be notified of any changes in membership of the state's committee officers.

**SECTION 7. AMENDMENT.** Section 16.1-03-12 of the North Dakota Century Code is amended and reenacted 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 sixtieth day before the primary election in each presidential election year and upon the call of the chairman, the district committee of each state senatorial legislative 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 legislative district so provide, precinct committeemen may call a precinct caucus prior to the district meeting to elect additional delegates to attend the district meeting. Unless the rules of the state party provide otherwise, one delegate to the state convention 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 is entitled to at least one delegate. Delegates to the state convention must be elected as provided by the state party's bylaws. Delegates to the state convention must be electors of their district. If any delegate is unable to attend the convention, 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 that delegate.~~

**SECTION 8. AMENDMENT.** Section 16.1-03-14 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-03-14. Duties When state party convention held and duties of state party convention.** The state party conventions must be held in each presidential election year at a place and time designated by the party state committee. The state party convention provided for in this chapter shall:

1. Nominate the legal number of candidates for its party for the offices of presidential electors.
2. ~~Elect a national committeeman and a national committeewoman.~~
3. ~~Elect the required number of delegates and alternates to the national party convention and a like number of alternates as provided by the party's bylaws or national party rules.~~
4. 3. Conduct other business as shall come before the convention.

The candidate or candidates for ~~nominations~~ endorsement or election must be declared ~~nominated~~ endorsed or elected pursuant to the rules of the party involved, and the chairman and secretary of the convention shall issue certificates of ~~nominations or election~~ endorsement as provided in section 16.1-11-06 or certificates of election. ~~If any delegate to the national convention is unable to attend that convention, he shall designate, in writing, one of the alternates to attend and represent and act for him.~~ The names of the candidates nominated for presidential electors with the surname of the presidential candidate the party wishes to place on the general election ballot must be certified by the chairman and secretary of the convention to the secretary of state by four p.m. on the sixtieth day before the general election to be placed upon the general election ballot as provided ~~by law~~ in section 16.1-06-07.1.

**SECTION 9.** A new section to chapter 16.1-03 of the North Dakota Century Code is created and enacted as follows:

**Organizations allowed to nominate statewide and legislative candidates.** A political organization may not endorse candidates or have candidates petition for president, vice president, congress, statewide office, or legislative office as set forth in chapter 16.1-11, unless the organization, political or otherwise:

1. Had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidate for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election;
2. Organized according to all requirements of this chapter; or
3. Filed a petition with the secretary of state as set forth in section 16.1-11-30.

**SECTION 10. AMENDMENT.** Section 16.1-11-03 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-03. Political parties authorized to conduct presidential preference contest.** Every political party entitled to a separate column under section 16.1-11-30 is entitled to conduct a presidential preference contest. A political party subject to ~~subsection 4 of~~ section 16.1-11-30 shall meet the requirements of ~~subsection 4 of~~

section 16.1-11-30 by filing the petition with the secretary of state before four p.m. of the sixtieth day before the presidential preference contest.

<sup>2</sup> **SECTION 11. AMENDMENT.** Section 16.1-11-30 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-30. Separate column on primary election ballot required for each political party.** ~~The following political parties must be provided with separate columns on primary election ballots:~~

- ~~1. The republican party.~~
- ~~2. The democrat party.~~
- ~~3. Any party which cast five percent of the total votes cast for governor at the last general election that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election or has organized according to all the requirements of chapter 16.1-03 must be provided with a separate column on primary election ballots.~~
4. Any other party political organization is entitled to endorse candidates or have candidates petition to be included on the primary ballot in a consolidated column, if a petition signed by at least seven thousand qualified electors of this state is filed with the secretary of state before four p.m. of the sixtieth day prior to a primary election, asking that a column be provided for such party, naming it the political organization, and stating the platform principles thereof, and requesting the names of its candidates to be included on the state's primary ballot in a consolidated column. If such petition is mailed it must be in the possession of the secretary of state before four p.m. on the sixtieth day prior to a primary election. Candidates of such party are entitled to the same rights and privileges as those of other parties.

A political organization that had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president or a candidate for governor and those candidates for presidential electors or governor received at least five percent of the total vote cast for presidential electors or the office of governor within this state at that election are entitled to organize according to the requirements of chapter 16.1-03.

Columns must be arranged so that any column is in an inverted position when the adjacent column or columns are in an upright position. Within the consolidated column, the group of candidates for each organization must be inverted from the next group appearing in that column.

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<sup>2</sup> Section 16.1-11-30 was also amended by section 3 of Senate Bill No. 2290, chapter 198.

**SECTION 12. REPEAL.** Sections 16.1-03-04, 16.1-03-06, 16.1-03-09, 16.1-03-10, 16.1-03-13, 16.1-03-16, and 16.1-03-18 of the North Dakota Century Code are repealed.

Approved April 2, 1997  
Filed April 3, 1997

## CHAPTER 190

### SENATE BILL NO. 2190

(Senators St. Aubyn, Robinson, B. Stenehjem)  
(Representatives Fairfield, R. Kelsch, Nottestad)

### ELECTION OFFICIAL APPOINTMENT

AN ACT to amend and reenact subsection 2 of section 16.1-05-01 and subsection 1 of section 16.1-05-02 of the North Dakota Century Code, relating to the appointment of election judges and clerks.

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

**SECTION 1. AMENDMENT.** Subsection 2 of section 16.1-05-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. The election judges and poll clerks for each precinct must be appointed by the district ~~chairmen~~ chairs representing the two parties that cast the largest number of votes in the state at the last general election. Each election judge and poll clerk must be given a certificate of appointment signed by the ~~chairman~~ chair of the district committee of the judge's party. In voting precincts or districts in which over one thousand votes are cast in any election, the county auditor may request each district party ~~chairman~~ chair to appoint an additional election judge. In voting precincts or districts in which over three hundred votes are cast in any election the district party ~~chairmen~~ chair may each appoint additional poll clerks as determined by the county auditor. The district party ~~chairman~~ chair shall notify the county auditor of the counties in which the precincts are located of the appointment of the election judges and poll clerks at least twenty-one days before the primary, general, or special election. If this notice is not received within the time specified in this section, the county auditor shall appoint the judges and poll clerks. If the county auditor has exhausted all practicable means to select judges and clerks from within the voting precinct and vacancies still remain, the county auditor may select election judges and clerks who reside outside of the voting precinct but who reside within the precinct's legislative district. If vacancies still remain, the county auditor may select election judges and clerks who reside outside of the legislative district but who reside within the county. 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 any election judge or poll clerk is disqualified under this chapter, the inspector shall remove that 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 the oath or affidavit before the state's attorney of the county.

**SECTION 2. AMENDMENT.** Subsection 1 of section 16.1-05-02 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Every member of the election board and each poll clerk must be a qualified elector of the precinct in which the person is assigned to work and must be eligible to vote at the polling place to which the person is assigned unless the county auditor has exhausted all means to appoint election judges and clerks from within the voting precinct under subsection 2 of section 16.1-05-01.

Approved March 6, 1997

Filed March 6, 1997

## CHAPTER 191

### SENATE BILL NO. 2175

(Senators Grindberg, Robinson)  
(Representatives Carlson, Fairfield, Grande)

## ELECTION BALLOTS, CANVASSING, NOMINATIONS, AND FILING

AN ACT to amend and reenact sections 16.1-06-06, 16.1-07-09, 16.1-09-02, 16.1-11-13, 16.1-11-19, 16.1-15-17, 16.1-15-22, and 44-08-21 of the North Dakota Century Code, relating to general election ballots for persons authorized to vote for presidential electors only, canvassing late absentee ballots, presidential candidates personal disclosure statements, filing of certificates with the secretary of state showing the names and addresses of persons nominated in the county by county auditors, filling vacancies existing on the no-party ballot, time when county canvassing boards are required to meet, recall elections, and deadlines for candidates to file in recall elections.

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

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

**16.1-06-06. General election ballots for persons authorized to vote for ~~federal offices~~ presidential electors only - Prepared separately - General law governs.** In addition to the ballots prepared pursuant to section 16.1-06-05, ballots must 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 must govern in regard to the general election ballot prepared pursuant to this section. The ballots prepared pursuant to this section must be delivered to electors who qualify only to vote for presidential electors pursuant to sections ~~16.1-01-04~~, 16.1-14-18, and 16.1-14-19.

**SECTION 2. AMENDMENT.** Section 16.1-07-09 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-09. Canvassing of mailed absent voters' ballots received late.** In the case of congressional, state, county, city, or school district elections, if an envelope postmarked by the United States postal service or other mail delivery system before 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 ballot must be tallied by the canvassing board of the county, the governing body of the city, or the school board of the school district, as the case may be, at the time the returns are canvassed. Any envelope without a postmark by the United States postal service or other mail delivery system or with an illegible postmark and containing an absentee voter's ballot must be received by mail by the proper officer within ~~forty-eight hours after the closing of the polls on election day~~ two days after the election to be canvassed and counted. An absent voter may personally deliver the absent voter's ballot to the appropriate officer's office at any time before five p.m. on the day before the election. Before forwarding any ballot to a canvassing board pursuant to this section, the officer forwarding the 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 the ballot to be tallied.

**SECTION 3. AMENDMENT.** Section 16.1-09-02 of the North Dakota Century Code is amended and reenacted as follows:

**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. In a year when a president and vice president of the United States are to be chosen, presidential and vice presidential candidates shall file with the secretary of state either a statement of interests as required by this chapter or a copy of the personal disclosure statement that is required by the federal election commission. A candidate for elective office shall file the statement of interests with the officer with whom the candidate filed the candidate's certificate of nomination, certificate of endorsement, or petition of nomination. 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 chapter 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 or professional licensing board shall file a statement of interests as required by this chapter with the secretary of state simultaneously with announcement of the appointment.

**SECTION 4. AMENDMENT.** Section 16.1-11-13 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-13. Filing petition or certificate of endorsement when legislative district composed of more than one county - Certificate of county auditor.** When a legislative district is composed of more than one county, the certificate of endorsement or the petition provided for in section 16.1-11-11 must 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 and addresses of the candidates filing the petitions or certificates. At the same time, the county auditor shall certify to the secretary of state the names and addresses of all legislative candidates nominated in the county under this chapter.

**SECTION 5. AMENDMENT.** Section 16.1-11-19 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-19. 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 fifty-sixth day prior to the primary election, a written petition as provided in section 16.1-11-06, 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 must be in the possession of the secretary of state before four p.m. on the fifty-sixth day prior to the primary election. The petition for the nomination of any person to fill the vacancy must 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 may 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 fifty-sixth day prior to the primary election, a written petition as provided in section 16.1-11-11, 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 must be in the possession of the county auditor before four p.m. on the fifty-sixth day prior to the primary election. The petition for the nomination of any person to fill the vacancy must 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 may more than three hundred signatures be required as provided in subdivision c of subsection 2 of section 16.1-11-11.~~ A vacancy in the no-party ballot must be deemed to exist when a candidate who was qualified by filing a petition pursuant to section 16.1-11-06 or 16.1-11-11 dies, resigns, or otherwise becomes disqualified to have his name printed on the ballot.

**SECTION 6. AMENDMENT.** Section 16.1-15-17 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-17. Time of county canvassing board meeting - Oath required - Reconsideration of canvass.** ~~As soon as the returns are received by the county auditor~~ Not earlier than the third day following each election, but not later than six 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 must be immediately dispatched to the secretary of state who shall call a meeting of the state canvassing board as provided in section 16.1-15-35 for the purpose of recanvassing and, if necessary, correcting any previous certification of the election results.

**SECTION 7. AMENDMENT.** Section 16.1-15-22 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-15-22. County auditor to transmit abstract of votes to secretary of state after primary election.** The county auditor of each county, under ~~his~~ the auditor's official seal, shall return to the secretary of state by registered or certified mail within ten 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~~ the auditor's 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 must be in the possession of the secretary of state before four p.m. on the tenth day after the primary election.

**SECTION 8. AMENDMENT.** Section 44-08-21 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**44-08-21. 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 by petition of electors equal in number to twenty-five percent of the voters who voted in the most recent election that the office of the official sought to be recalled was on the ballot, not including other recall elections, 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 may include the stated reason for the recall and 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 ~~forty~~ sixty 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 and shall file nominating papers with the appropriate official by the thirty-third day before the scheduled recall election. 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.

Approved April 2, 1997  
Filed April 3, 1997

## CHAPTER 192

### SENATE BILL NO. 2151

(Senators W. Stenehjem, Andrist, Klein)  
(Representatives DeKrey, Delmore, Kretschmar)

## ABSENTEE VOTING AND BALLOTS

AN ACT to amend and reenact sections 16.1-07-01, 16.1-07-05, 16.1-07-06, and 16.1-07-08 of the North Dakota Century Code, relating to an elector's eligibility to vote by absentee ballot; and to repeal section 16.1-07-02 of the North Dakota Century Code, relating to voting by absentee ballot.

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

**SECTION 1. AMENDMENT.** Section 16.1-07-01 of the North Dakota Century Code is amended and reenacted as follows:

#### 16.1-07-01. Absent voter - Who may vote.

1. Any qualified elector of this state, including an individual 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~~ the individual's departure from the United States, may vote an absent voter's ballot at ~~that~~ any general, special, or primary state election, any county election, or any city or school district election.
2. 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~~ the individual:
  - a. Does not maintain a domicile;
  - b. Is not registered to vote;
  - c. Is not voting in any other state, territory, or possession of the United States; and
  - d. 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.

3. An elector who votes by absentee ballot may not vote in person at the same election.

<sup>3</sup> **SECTION 2. AMENDMENT.** Section 16.1-07-05 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-05. Time for applying for ballot.** At any time in an election year, any qualified elector ~~expecting to be absent on election day as provided in section 16.1-07-04~~ may apply to the county auditor, the auditor or clerk of the city, or the business manager of the school district, as the case may be, by facsimile or otherwise, for an official ballot to be voted at that election. A voter may obtain an application form for an absent voter's ballot for a general, special, primary, or county election from either the county auditor or a city auditor. The application form, for a member of the United States armed forces or the United States merchant marine or for a qualified elector living outside the United States, must include a space for the applicant to indicate whether the application is for all statewide elections in the calendar year or only for the election that is immediately after the date of the application. An applicant who is a member of the United States armed forces or the United States merchant marine or is a qualified elector living outside the United States, may apply for and vote by facsimile if otherwise qualified to apply for and vote by absentee ballot. An auditor, clerk, or business manager may send and receive facsimile absentee ballot applications and facsimile absentee ballots to ~~those electors~~ any individual eligible to apply for and vote by facsimile under this section. No auditor or clerk may issue ballots for absentee voters on the day of the election.

**SECTION 3. AMENDMENT.** Section 16.1-07-06 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-06. Application form.**

1. Application for an absent voter's ballot must be made on a blank furnished by the proper officer of the county, city, or school district in which the applicant is an elector, or on any blank containing the following information:
  - a. The applicant's name.
  - b. The applicant's voting address.
  - c. The applicant's mailing address.
  - d. The applicant's current home telephone number.
  - e. The election for which the ballot is being requested.
  - f. ~~The applicant's reason for voting absentee as specified in section 16.1-07-04.~~
  - ~~g.~~ The date of the request.
  - ~~h.~~ g. An affirmation that the applicant has resided in the precinct for at least thirty days.

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<sup>3</sup> Section 16.1-07-05 was also amended by section 1 of Senate Bill No. 2302, chapter 193.

- h. h. The applicant's signature.
2. A qualified elector absent from the state is not required to file an application for an absent voter's ballot for any statewide election if either of the following apply:
- The elector is a member, or spouse or dependent of a member, of the United States armed forces or merchant marine.
  - The elector is a United States citizen living outside the United States.

If the qualified elector furnishes the county auditor with a current mailing address and the elector's local residence or precinct, the county auditor shall mail to the qualified elector a ballot with a return envelope and instructions for voting for any statewide election in that calendar year.

**SECTION 4. AMENDMENT.** Section 16.1-07-08 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**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 duly signed, or as soon thereafter as the official ballot for the precinct in which the applicant resides has been prepared, the county auditor, city auditor, or business manager of the school district, as the case may be, shall send to the absent voter by mail, at the expense of the political subdivision conducting the election, one official ballot, or personally deliver the ballot to the applicant or the applicant's agent, which agent may not, at that time, be a candidate for any office to be voted upon by the absent voter. The agent shall sign the agent's name before receiving the ballot and deposit with the auditor or business manager of the school district, as the case may be, authorization in writing from the applicant to receive the ballot or according to requirements set forth for signature by mark. No person may receive compensation, including money, goods, or services, for acting as an agent for an elector, nor may a person act as an agent for more than four electors in any one election. A voter voting by absentee ballot may not require the political subdivision providing the ballot to bear the expense of the return postage for an absentee ballot.
- If there is more than one ballot to be voted by an elector of the precinct, one of each kind must be included and an envelope must be enclosed with the ballot or ballots. The front of the envelope must bear the 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 \_\_\_\_\_

} ss.

County of \_\_\_\_\_

†, \_\_\_\_\_, under penalty of possible criminal prosecution for making a false statement, do solemnly swear that I am a resident 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 precinct of my residence on the day of the election or that by reason of physical disability I am unable to attend at the polling place for the election, and that I will have no opportunity to vote in person on that day.

\_\_\_\_\_

Precinct \_\_\_\_\_

Name \_\_\_\_\_

Residential Address \_\_\_\_\_

City \_\_\_\_\_ ND Zip Code \_\_\_\_\_

Under penalty of possible criminal prosecution for making a false statement, I swear that the above residential address is my address for voting purposes, that I have resided in my precinct for at least thirty days, and this is the only ballot I will cast in this election.

Applicant's Signature \_\_\_\_\_

Date \_\_\_\_\_

If the absent voter is unable to sign the voter's name, the voter shall mark (X) that statement in the presence of a disinterested person. The disinterested person shall print the name of the person marking the X below the X, and shall sign that person's own name following the printed name with the notation "witness to the mark".

**SECTION 5. REPEAL.** Section 16.1-07-02 of the North Dakota Century Code is repealed.

Approved March 21, 1997  
Filed March 21, 1997

## CHAPTER 193

### SENATE BILL NO. 2302

(Senators Tallackson, Krauter)  
(Representative Huether)

### ABSENTEE BALLOT APPLICATIONS

AN ACT to amend and reenact section 16.1-07-05 of the North Dakota Century Code, relating to applying for an absentee ballot.

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

<sup>4</sup> **SECTION 1. AMENDMENT.** Section 16.1-07-05 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**16.1-07-05. Time for applying for ballot.** At any time in an election year, any qualified elector ~~expecting to be absent on election day as provided in section 16.1-07-04~~ may apply to the county auditor, the auditor or clerk of the city, or the business manager of the school district, as the case may be, by facsimile or otherwise, for an official ballot to be voted at that election. A voter may obtain an application form for an absent voter's ballot for a general, special, primary, or county election from either the county auditor or a city auditor. The application form, for a member of the United States armed forces or the United States merchant marine or for a qualified elector living outside the United States, must include a space for the applicant to indicate whether the application is for all statewide elections in the calendar year or only for the election that is immediately after the date of the application. An applicant who is a member of the United States armed forces or the United States merchant marine or is a qualified elector living outside the United States, may apply for and vote by facsimile if otherwise qualified to apply for and vote by absentee ballot. An auditor, clerk, or business manager may send and receive facsimile absentee ballot applications and facsimile absentee ballots to ~~those electors~~ any individual eligible to apply for and vote by facsimile under this section. No auditor or clerk may issue ballots for absentee voters on the day of the election except to persons prevented from voting in person on the day of the election due to an emergency. A person requesting an absentee ballot on the day of the election due to an emergency must do so through an agent as set forth in this chapter. An agent may represent only one person. The absentee ballot must be returned to the county auditor's office by four p.m. on the day of the election.

Approved March 25, 1997  
Filed March 26, 1997

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<sup>4</sup> Section 16.1-07-05 was also amended by section 2 of Senate Bill No. 2151, chapter 192.

## CHAPTER 194

### HOUSE BILL NO. 1403

(Representatives R. Kelsch, Wardner)  
(Senators St. Aubyn, W. Stenehjem)

## CAMPAIGN CONTRIBUTIONS AND COMMITTEE REGISTRATION

AN ACT to amend and reenact subsection 10 of section 16.1-08.1-01, sections 16.1-08.1-02, 16.1-08.1-03, 16.1-08.1-03.1, 16.1-08.1-03.2, subsection 3 of section 16.1-08.1-03.3, sections 16.1-08.1-03.5, 16.1-08.1-06, and subdivision a of subsection 2 of section 16.1-10-02 of the North Dakota Century Code, relating to campaign contribution statements, political committee registration, and the definition of political purpose.

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

**SECTION 1. AMENDMENT.** Subsection 10 of section 16.1-08.1-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

10. "Political purpose" means any activity undertaken in support of or in opposition to the election or nomination of a candidate to public office whether the activity is undertaken by a candidate, a political committee, a political party, or any person. The term does not include activities undertaken in the performance of a duty of a state office.

<sup>5</sup> **SECTION 2. AMENDMENT.** Section 16.1-08.1-02 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**16.1-08.1-02. Contributions statement required of candidates.** Any candidate who is soliciting or accepting contributions for any political purpose, shall make and file a statement in accordance with this section.

The candidate shall include in the statement the name and mailing address of all contributors who contributed in excess of one hundred dollars in the aggregate during the reporting period to the candidate, the amount of each reportable contribution, and the date each reportable contribution was received.

The candidate shall file the statement no later than the twelfth day before the date of the election in which the candidate's name appears on the ballot or in which the candidate seeks election through write-in votes complete from the beginning of that calendar year ~~or, if applicable, from the cutoff date for the previous statement,~~ through the twentieth day before the date of the election. The candidate shall file a complete statement for the entire calendar year no later than the thirty-first day of January of the following year, regardless of whether the candidate's name appeared

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<sup>5</sup> Section 16.1-08.1-03.1 was also amended by section 1 of Senate Bill No. 2184, chapter 195.

on the ballot for any office during that calendar year or whether the candidate did not seek election at any election through write-in votes.

Statements of a legislative candidate must be filed in the office of the county auditor of the candidate's county of residence. Statements of state office candidates must be filed in the office of the secretary of state.

~~No candidate may be required to file any statement required by this chapter~~  
Even if the candidate has not received any contributions in excess of one hundred dollars during the calendar year, the candidate shall file a statement as required by this chapter.

**SECTION 3. AMENDMENT.** Section 16.1-08.1-03 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**16.1-08.1-03. Contributions statement required of political parties.** Any political party that receives contributions in excess of one hundred dollars ~~and contributes money to a candidate in excess of one hundred dollars in the aggregate during the reporting period~~ shall file a statement containing a detailed list of all contributions received from ~~an individual~~ a person or political committee which exceed one hundred dollars in amount. The statement must include the name and mailing address of all contributors listed, the amount of each reportable contribution, and the date each reportable contribution was received.

A yearend statement covering the entire calendar year must be filed with the secretary of state no later than the thirty-first day of January of the following year. A preelection statement must be filed no later than the twelfth day before any election at which the party has endorsed or will nominate a candidate and must be complete from the beginning of that calendar year ~~or, if applicable, from the cutoff date for the previous statement,~~ through the twentieth day before the election.

**SECTION 4. AMENDMENT.** Section 16.1-08.1-03.1 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**16.1-08.1-03.1. Contributions statement required of persons promoting passage or defeat of initiated or referred measure.**

1. Any person who is soliciting or accepting a contribution for the purpose of aiding or opposing the circulation or passage of a statewide initiative or referendum petition or measure at any election shall file a statement in accordance with this section if the person has received any contributions from a person in excess of one hundred dollars. The statement must include the name and mailing address of all contributors who contributed in excess of one hundred dollars to the person, the amount of each reportable contribution, and the date each reportable contribution was received.
2. A person soliciting or accepting a contribution for the purpose of aiding the circulation of a statewide initiative or referendum petition or of promoting passage or defeat of any statewide initiated or referred measure may not accept a contribution of more than one hundred dollars from ~~an individual~~ a person who does not reside in this state or from an out-of-state political committee unless the contribution is accompanied by a certified statement from the contributor listing the name, address, and amount contributed by each person who contributed

more than one hundred dollars of the contribution. The statement must indicate if no individual person contributed in excess of one hundred dollars of the out-of-state person's or political committee's overall contribution. The certified statement must also list the occupation, employer, and principal place of business for each person who contributed more than two hundred dollars of the contribution. The person soliciting or accepting a contribution for the purpose of aiding the circulation of a statewide initiative or referendum petition or of promoting passage or defeat of a statewide initiated or referred measure must include this statement with the contribution statement required to be filed under subsection 1.

3. The statement required of a person under subsection 1 must be filed with the secretary of state no later than the twelfth day prior to the date of the election in which the measure appears or would have appeared on the ballot complete from the beginning of that calendar year through the twentieth day prior to the date of the election. A complete statement for the entire calendar year must be filed no later than the thirty-first day of January of the following year.

**SECTION 5. AMENDMENT.** Section 16.1-08.1-03.2 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**16.1-08.1-03.2. Political committee registration.** A political committee, other than a political party and a committee organized in support of a legislative candidate, and a person aiding or opposing a measure to be voted upon by the voters of the state shall register its name, address, and its agent's name and address with the secretary of state each calendar year in which it receives any contribution. The registration must be completed within five days of the receipt of any contribution and must be submitted with a registration fee of five dollars.

**SECTION 6. AMENDMENT.** Subsection 3 of section 16.1-08.1-03.3 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. All political committees formed for the purpose of administering the segregated fund provided for in this section shall file a statement showing the name and mailing address of each contributor of an amount in excess of two hundred dollars in the aggregate for the reporting period and a listing of all expenditures of an amount in excess of one hundred dollars in the aggregate made for political purposes with the secretary of state. The statement must include the amount of each reportable contribution and the date it was received and the amount of each reportable expenditure and the date it was made. A yearend statement covering the entire calendar year must be filed no later than the thirty-first day of the following year. A preelection statement must be filed no later than the twelfth day before any primary, special, or general election and must be complete from the beginning of the calendar year ~~or, if applicable, from the cutoff date for the previous statement~~ through the twentieth day before the election.

**SECTION 7. AMENDMENT.** Section 16.1-08.1-03.5 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**16.1-08.1-03.5. Expenditures for other purposes - Report required.** ~~Nothing in this~~ This chapter ~~may be construed to~~ does not prohibit the exercise by corporations, cooperative corporations, limited liability companies, and associations of the right to make expenditures and contributions for the purpose of promoting passage or defeat of initiated or referred measures, or for promoting any general political philosophy or belief deemed in the best interest of the employees, stockholders, patrons, or members of the corporation, cooperative corporation, limited liability company, or association other than a "political purpose" as defined by this chapter. Any corporation, cooperative corporation, limited liability company, or association that receives contributions pursuant to section 16.1-08.1-03.1 or spends money for the purpose of promoting passage or defeat of initiated or referred measures, other than a contribution to another person promoting passage or defeat of an initiated or referred measure, shall file a statement pursuant to section 16.1-08.1-03.1 along with a statement listing the total amount of money spent for that purpose. ~~The statement~~ statements must be filed with the secretary of state no later than the twelfth day ~~prior to~~ before the date of the election in which the measure appears or would have appeared on the ballot complete from the beginning of that calendar year through the twentieth day ~~prior to~~ before the date of the election.

**SECTION 8. AMENDMENT.** Section 16.1-08.1-06 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**16.1-08.1-06. Contributions statement requirements.** A statement required by this chapter to be filed with the secretary of state or county auditor must be:

- ~~1. Verified by the oath or affirmation of the person filing the statement, taken before any officer authorized to administer oaths.~~
- ~~2.~~ 2. Deemed properly filed when deposited in an established post office within the prescribed time, postage affixed, and directed to the secretary of state or county auditor, but ~~in the event~~ if it is not received, a duplicate of the statement must be promptly filed upon notice by the secretary of state or county auditor of its nonreceipt.
- ~~3.~~ 2. Preserved by the secretary of state or county auditor for a period of four years from the date of filing. The statement is to be considered a part of the public records of the secretary of state's or county auditor's office and must be open to public inspection.

If the filing date falls on a Saturday or Sunday or a holiday on which the office of the secretary of state or county auditor is closed, the statement must be filed on the next available day on which the office of the secretary of state or county auditor is open. In determining the amount of individual contributions from any contributor, all amounts received from the same contributor during the reporting period must be aggregated for the purposes of the statements required by this chapter.

**SECTION 9. AMENDMENT.** Subdivision a of subsection 2 of section 16.1-10-02 of the North Dakota Century Code is amended and reenacted as follows:

- a. "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~~ in support of or in opposition to the election or nomination of a candidate to public office whether the activity is undertaken by a candidate, political committee, political party, or any other person, but does not include activities undertaken in the performance of a duty of state office.

Approved April 3, 1997  
Filed April 3, 1997

## CHAPTER 195

### SENATE BILL NO. 2184

(Senators W. Stenehjem, Holmberg)  
(Representatives Kretschmar, Stenehjem)

### INITIATED AND REFERRED MEASURE CONTRIBUTION STATEMENTS

AN ACT to amend and reenact subsection 2 of section 16.1-08.1-03.1 of the North Dakota Century Code, relating to campaign contribution statements required of persons promoting passage or defeat of initiated or referred measures.

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

<sup>6</sup> **SECTION 1. AMENDMENT.** Subsection 2 of section 16.1-08.1-03.1 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. A person soliciting or accepting a contribution for the purpose of aiding the circulation of a statewide initiative or referendum petition or of promoting passage or defeat of any statewide initiated or referred measure may not accept a contribution of more than one hundred dollars from ~~an individual~~ a person who does not reside in this state or from an out-of-state political committee unless the contribution is accompanied by a certified statement from the contributor listing the name, address, and amount contributed by each person who contributed more than one hundred dollars of the contribution. If no person contributed in excess of one hundred dollars from the out-of-state person's or political committee's overall contribution, the statement must indicate that fact. The certified statement must also list the occupation, employer, and principal place of business for each person who contributed more than ~~two~~ one hundred dollars of the contribution. The person soliciting or accepting a contribution for the purpose of aiding the circulation of a statewide initiative or referendum petition or of promoting passage or defeat of a statewide initiated or referred measure must include this statement with the contribution statement required to be filed under subsection 1.

Approved March 21, 1997  
Filed March 21, 1997

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<sup>6</sup> Section 16.1-08.1-03.1 was also amended by section 2 of House Bill No. 1403, chapter 194.

## CHAPTER 196

### SENATE BILL NO. 2225

(Senators Holmberg, W. Stenehjem, Traynor)

### CAMPAIGN CONTRIBUTIONS

AN ACT to create and enact a new section to chapter 16.1-08.1 of the North Dakota Century Code, relating to the acceptance of campaign contributions by a candidate from federal campaign committee accounts or from contributions made to other candidates or former candidates.

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

**SECTION 1.** A new section to chapter 16.1-08.1 of the North Dakota Century Code is created and enacted as follows:

**Contributions from federal campaign committee accounts or from contributions made to other candidates or former candidates limited.** A candidate may not accept a contribution in an amount exceeding two hundred dollars from another candidate's campaign contributions, from contributions made to a person who was a candidate within the previous six years, or from a federal campaign committee account unless:

1. The person who makes a contribution from such funds includes with the contribution a statement that the original contributors gave permission to contribute money to another candidate; and
2. The receiving candidate files a disclosure statement with the same office as required under section 16.1-08.1-02 for campaign contribution statements within forty-eight hours after receiving the contribution. The statement must include a copy of the permission statement required of the donating person under subsection 1.

Approved March 25, 1997

Filed March 26, 1997

## CHAPTER 197

### SENATE BILL NO. 2158

(Senators Watne, Schobinger)

### ELECTION CANDIDATE VACANCY FILLING

AN ACT to amend and reenact sections 16.1-11-18 and 16.1-12-08 of the North Dakota Century Code, relating to filling election candidate vacancies.

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

**SECTION 1. AMENDMENT.** Section 16.1-11-18 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-18. 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 16.1-11-06 and 16.1-11-11.
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 16.1-11-06 and 16.1-11-11.
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 may not be filled except by petition.
4. If a vacancy occurs in a slate of statewide 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 a~~ 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 shall~~ certify the new nomination to the various auditors, shall insert and the name of the person who has been nominated to fill the vacancy in place of the original nominee to the various auditors. If the secretary of state already has forwarded ~~his~~ the certificate, ~~he~~ the secretary of state forthwith shall certify to the ~~auditor of the proper county or counties~~ auditors the name and ~~post-office~~ new nominee, the office ~~he~~ the new nominee is nominated for, the party or political principle ~~he~~ the new nominee represents, and the

name of the person for whom the new nominee is substituted substituting. Failure to publish the name of a person substituted new nominee does not invalidate the election.

5. If a vacancy occurs in a slate of legislative candidates after the candidates have been nominated at the primary election, the proper district executive committee may fill the vacancy by filing a certificate of nomination with the county auditor of the new nominee's county of residence. The chairman and secretary of the committee shall make and file with the county auditor of the new nominee's county of residence a 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 the certificate is filed, the county auditor of the new nominee's county of residence shall certify the new nomination to the various auditors affected by the change and to the secretary of state by forwarding to them the name of the person who has been nominated to fill the vacancy in place of the original nominee. The certification must include the name and address of the new nominee, the office the new nominee is nominated for, the party or political principle the new nominee represents, and the name of the person for whom the new nominee is substituting. Failure to publish the name of a new nominee does 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 ~~fifty-six~~ sixty days prior to the election; ~~and vacancies to be filled according to the provisions of subsection 4 may be filled not later than fifty-five days prior to the election.~~

**SECTION 2. AMENDMENT.** Section 16.1-12-08 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-12-08. Vacancy occurring on ballot before election day but after ballots are printed - Stickers used.** If a vacancy occurs before four p.m. on the eighteenth day before the election day and after the printing of the ballots sixtieth day before the election, and any person is nominated before four p.m. on the eighteenth day before the election according to the provisions of this title subsections 4 and 5 of section 16.1-11-18 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 must be printed on the same color 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.

A vacancy under this section must be deemed to exist when a candidate nominated at the primary election dies or otherwise becomes disqualified to have the candidate's name printed on the ballot at the general election.

Approved March 21, 1997  
Filed March 21, 1997

## CHAPTER 198

### SENATE BILL NO. 2290

(Senators Andrist, Lee, O'Connell)  
(Representatives Boehm, S. Kelsh)

## PRIMARY ELECTION BALLOTS

AN ACT to amend and reenact sections 16.1-11-21, 16.1-11-22, and 16.1-11-30 of the North Dakota Century Code, relating to the form of the primary election ballot; and to provide a statement of legislative intent.

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

<sup>7</sup> **SECTION 1. AMENDMENT.** Section 16.1-11-21 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-21. 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 must conform in all respects to the form prescribed for the sample primary ballot by the secretary of state. The county auditor shall publish the sample ballot in all forms appropriate for the method or methods of voting in 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 is displayed once in each issue in an upright position.~~ Absent voters' ballots may not be considered in determining which form of voting is used. Candidates from each legislative district ~~which~~ that falls within the boundaries of the county must 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 must be published in the official county newspaper once each week for two consecutive weeks ~~prior to~~ before the primary election.

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<sup>7</sup> Section 16.1-11-21 was also amended by section 1 of Senate Bill No. 2093, chapter 199.

**SECTION 2. AMENDMENT.** Section 16.1-11-22 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-22. Primary election ballot - Form - Voters to vote for candidates of only one party.** At the primary election there may be only one ballot for all parties or principles. The ballot must be in the following form:

1. The ballot must be entitled the "consolidated primary election ballot"; ~~and the title must be printed at both ends of the ballot so there is an upright title no matter which way the ballot is held.~~
2. Each party or principle having candidates at the primary election must have a separate column on the ballot; the columns must be separated by a solid six-point rule.
3. At the head of each column must be printed the name of the political party or principle which it represents.
4. In each column below the party or principle title must be printed: "You may vote for the candidates of only one party at the primary election. If you cast votes in more than one party column and vote for candidates of more than one party, your ballot will be rejected."
5. Immediately below the warning against voting for candidates of more than one party must be printed: "Put a crossmark (X) opposite the name of the candidate for whom you wish to vote. To vote for a person whose name is not printed on the ballot write or paste that person's name in the blank space provided for that purpose."
6. The offices specified in section 16.1-11-26 must be arranged in each column with the name of each office in the center of each party column at the head of the names of the aspirants for the office.
7. Immediately under the name of each office must be printed: "Vote for no more than \_\_\_\_\_ name (or names)."
8. At the side of the name of each aspirant and in a column must be printed a square or other figure for making a crossmark or other mark. No squares or other figures may be printed at the head of the ballot.
9. The political party or principle which cast the largest vote for governor at the most recent primary election at which the office of governor was voted upon must have the left-hand column, and the party or principle casting the next largest vote must have the next column, and so on.

The judges and the inspector of elections shall inform each elector at the primary, before voting, that if the voter votes for candidates of more than one party the voter's ballot will be rejected.

<sup>8</sup> **SECTION 3. AMENDMENT.** Section 16.1-11-30 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-30. Separate column on primary election ballot required for each political party.** The following political parties must be provided with separate columns on primary election ballots:

1. The republican party.
2. The democrat party.
3. Any party ~~which~~ that cast five percent of the total votes cast for governor at the last general election.
4. Any other party, if a petition signed by at least seven thousand qualified electors of this state is filed with the secretary of state before four p.m. of the sixtieth day ~~prior to~~ before a primary election, asking that a column be provided for ~~such~~ that party, naming it, and stating the platform principles ~~thereof~~ of the party. If ~~such~~ the petition is mailed it must be in the possession of the secretary of state before four p.m. on the sixtieth day. Candidates of ~~such~~ that party are entitled to the same rights and privileges as those of other parties.

~~Columns must be arranged so that any column is in an inverted position when the adjacent column or columns are in an upright position.~~

**SECTION 4. LEGISLATIVE INTENT.** It is the intent of the fifty-fifth legislative assembly that the secretary of state determine, by county, the number and percentage of party ballots that were void because a voter had voted in more than one party column at the 1998 primary election.

Approved April 3, 1997  
Filed March 3, 1997

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<sup>8</sup> Section 16.1-11-30 was also amended by section 11 of Senate Bill No. 2368, chapter 189.

## CHAPTER 199

### SENATE BILL NO. 2093

(Judiciary Committee)

(At the request of the Secretary of State)

## SAMPLE BALLOT PUBLICATION AND ARRANGEMENT

AN ACT to amend and reenact section 16.1-11-21, subsection 1 of section 16.1-11-27, and section 16.1-13-05 of the North Dakota Century Code, relating to the publication of sample ballots and the names of candidates on sample ballots being arranged alphabetically.

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

<sup>9</sup> **SECTION 1. AMENDMENT.** Section 16.1-11-21 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-21. 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 must conform in all respects to the form prescribed for the sample primary ballot by the secretary of state. The county auditor shall publish the sample ballot in all forms appropriate for the method or methods of voting in 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 is displayed once in each issue in an upright position.~~ Absent voters' ballots may not be considered in determining which form of voting is used. Candidates from each legislative district which falls within the boundaries of the county must be listed in a separate box or category within the sample ballot by legislative district number to enable the voters in each legislative district to ascertain the legislative candidates in their specific district. Sample ballots used for publication purposes must be arranged using the rotation of the ballot in the precinct in the county which cast the highest total vote for governor at the last general election at which the office of governor was filled.
2. The date of the primary election.
3. The hours during which the polls will be open.

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<sup>9</sup> Section 16.1-11-21 was also amended by section 1 of Senate Bill No. 2290, chapter 198.

4. The statement that the primary election balloting will be held in the regular polling place in each precinct.

The notice must be published in the official county newspaper once each week for two consecutive weeks prior to the primary election and include a statement in substantially the following format:

The arrangement of candidate names appearing on ballots in your precinct may vary from the published sample ballots, depending upon the precinct and legislative district in which you reside.

**SECTION 2. AMENDMENT.** Subsection 1 of section 16.1-11-27 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~On sample ballots, the names of candidates for each office must be arranged alphabetically according to surnames~~ Sample ballots used for publication purposes must be arranged using the rotation of the ballot in the precinct in the county which cast the highest total vote for governor at the last general election at which the office of governor was filled.

**SECTION 3. AMENDMENT.** Section 16.1-13-05 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-13-05. Notice of election - Contents - Publication with sample ballot.**

Notice of all general elections must 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~~ the election. The notice must 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 must 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 must conform in all respects to the form prescribed by the 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 the county. Absentee voter ballots may not be considered in determining which form of voting is used. Candidates from each legislative district which falls within the boundaries of the county must be listed in a separate box or category within the sample ballot by legislative district number to enable the voters in each legislative district to ascertain the legislative candidates in their specific district. Sample ballots used for publication purposes must be arranged using the rotation of the ballot in the precinct in the county which cast the highest

total vote for governor at the last general election at which the office of governor was filled. The notice must include a statement in substantially the following format:

The arrangement of candidate names appearing on ballots in your precinct may vary from the published sample ballots, depending upon the precinct and legislative district in which you reside.

Approved April 8, 1997

Filed April 8, 1997

## CHAPTER 200

### HOUSE BILL NO. 1159

(Judiciary Committee)

(At the request of the Secretary of State)

## INDEPENDENT CANDIDATE NOMINATIONS AND PETITIONS

AN ACT to create and enact a new section to chapter 16.1-12 of the North Dakota Century Code, relating to the time allowed for independent candidates to circulate nominating petitions; to amend and reenact sections 16.1-12-02.2 and 16.1-12-04 of the North Dakota Century Code, relating to election boards counting write-in votes, certificates of write-in candidacy, write-in candidates seeking more than one office, and the secretary of state and county auditors certifying independent nominations to one another; and to repeal section 16.1-12-05 of the North Dakota Century Code, relating to the secretary of state certifying independent nominations to the county auditor.

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

**SECTION 1. AMENDMENT.** Section 16.1-12-02.2 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

#### **16.1-12-02.2. Counting of write-in votes - Certificate of candidacy by write-in candidates.**

1. An election board or canvassing board is ~~not required to~~ may not count any write-in vote for any:
  - a. Person who is required to file a certificate of write-in candidacy under this section but who has not filed a certificate of candidacy and been certified as a write-in candidate.
  - b. Fictitious person, nonperson, or person clearly not eligible to qualify for the office for which the vote was cast.
  - c. Statement concerning the candidates.
2. A person who intends to be a write-in candidate for president of the United States at the presidential preference contest or for statewide or judicial district office at any election shall file a certificate of write-in candidacy with the secretary of state by four p.m. on the twenty-first day before the contest or election. The certificate must contain the name and address of the candidate and be signed by the candidate. Before the thirteenth day before the contest or election, the secretary of state shall certify the names of the candidates to each county auditor as write-in candidates.
3. A person who intends to be a write-in candidate at the general election for president of the United States shall file a certificate of write-in candidacy with the secretary of state by four p.m. on the twenty-first day before the general election. The certificate must contain the names and

addresses of the candidates for presidential electors for that presidential candidate and a certification of acceptance signed by each candidate for elector. The candidate shall sign the certificate. The certificate may also include the name and address of a candidate for vice president of the United States and a certification of acceptance signed by that candidate. The secretary of state shall prescribe the form of the certificate of write-in candidacy and the certification of acceptance. Before the thirteenth day before the election, the secretary of state shall certify the names of the presidential candidates and the presidential electors to each county auditor as write-in candidates.

4. A person who intends to be a write-in candidate for any ~~other~~ legislative district office shall file a certificate of write-in candidacy with the election officer with whom the candidate would otherwise file to have the candidate's name placed on the ballot. The certificate must contain the name, address, and signature of the candidate. Certificates must be filed by four p.m. on the fourth day before the election. ~~A certificate under this subsection is not required when no names will appear on the ballot for that office.~~
5. A certificate under this section is not required when:
  - a. No names will appear on the ballot for an office;
  - b. The number of candidates appearing on the ballot for an office is less than the number to be elected; or
  - c. The number of candidates appearing on the ballot for a party office is less than the number of nominations a party is entitled to make. When certificates of write-in candidacy are not required under this chapter, all write-in votes must be counted.

A person required to file a certificate of write-in candidacy may not seek more than one office appearing on the primary and general election ballots.

**SECTION 2.** A new section to chapter 16.1-12 of the North Dakota Century Code is created and enacted as follows:

**Nominating petition for an independent candidate not to be circulated more than ninety days prior to filing time.** A petition provided for in this chapter may not be circulated or signed more than ninety days before the date when any petition must be filed under the provisions of this chapter. Any signatures to a petition obtained more than ninety days before that date may not be counted.

**SECTION 3. AMENDMENT.** Section 16.1-12-04 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**16.1-12-04. Certificates of nomination - Time and place of filing.**

1. Certificates of nomination for nominees for offices to be filled by the qualified electors of the entire state must be filed with the secretary of state. Not less than fifty-five days before any general or special election to fill any statewide office, the secretary of state shall certify to each county auditor the names and addresses of the persons nominated for statewide office according to this chapter as shown on the certificates of nomination filed in the secretary of state's office.

2. Certificates of nomination for nominees for county offices and legislative offices must be filed with the county auditor of the county in which the candidate resides. The county auditor shall certify the names and addresses of legislative candidates filing certificates of nomination according to this chapter to the secretary of state. When a legislative district is composed of more than one county, the county auditor shall certify to the county auditors of the other counties comprising the legislative district the names and addresses of the candidates filing ~~the~~ certificates of nomination.
3. Certificates of nomination must, without regard to the means of delivery, be filed and in the actual possession of the appropriate officer not later than four p.m. on the sixtieth day prior to the day of election.
4. The secretary of state and the county auditors shall keep on file for six months all certificates of nomination filed with them under this chapter and all certificates of nomination must be open to public inspection during regular business hours.

**SECTION 4. REPEAL.** Section 16.1-12-05 of the North Dakota Century Code is repealed.

Approved April 2, 1997  
Filed April 3, 1997

## CHAPTER 201

### HOUSE BILL NO. 1234 (Representative Kretschmar)

#### CITY ELECTION RECOUNTS

AN ACT to amend and reenact sections 15-47-06, 16.1-16-01, 40-21-13, and 40-21-17 of the North Dakota Century Code, relating to school district, city, and statewide election recounts.

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

**SECTION 1. AMENDMENT.** Section 15-47-06 of the North Dakota Century Code is amended and reenacted as follows:

**15-47-06. Election procedure in all school districts - Canvass of boards - Tie vote - Absent voters - Recounts.** An election in a public school district, except as otherwise provided in this title, must be conducted and the votes must be canvassed in the manner provided by the laws of this state for the election of county officers. Immediately after the polls are closed, the judges shall count and canvass the votes for each office and within forty-eight hours after the polls are closed, the returns must be signed by the judges and clerks of the election and filed with the business manager of the school district. If the election results in a tie, the business manager of the district immediately, and in writing, shall notify the candidates between whom the tie exists, and within three days after the election, and at a time agreed upon by the candidates, the election must be decided in the presence of the judges and clerks of election in a manner agreed upon by the candidates. A record of the proceedings must be made in the records of the business manager of the district. The school board shall canvass all election returns and shall declare the result of any election within three days of the election, and in the case of a tie, within three days of the breaking of the tie pursuant to this section. The result of the election must be entered upon the records of the board. The person receiving the highest number of votes for each office in the district must be declared elected. Absent voters' ballots must be available in any school district election in accordance with chapter 16.1-07. Section 16.1-16-01 applies to public school district elections, except the members of the school board not subject to a recount and not disqualified under subdivision c of subsection 2 of section 16.1-05-02 shall perform the duties of the recount board, the school district business manager shall perform the duties of the county auditor when the election is not combined with the county, the school board takes the place of the county canvassing board, and all expenses of the recount must be paid as provided in section 15-28-10.

<sup>10</sup> **SECTION 2. AMENDMENT.** Section 16.1-16-01 of the North Dakota Century Code is amended and reenacted 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

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<sup>10</sup> Section 16.1-16-01 was also amended by section 1 of Senate Bill No. 2250, chapter 202.

county, or city office, or for the approval or disapproval of any measure or question submitted to the qualified electors of this state or one of its counties or cities must be conducted as follows:

1. A recount must be conducted when:
  - a. Any person failed to be nominated in a primary election by one percent or less of the highest vote cast for a candidate for the office sought.
  - b. Any person failed to be elected in a general or special election by one-half of one percent or less of the highest vote cast for a candidate for that office.
  - c. A question or measure submitted to the qualified 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. A 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 more than one percent and less than two percent of the highest vote cast for a candidate for the office sought.
  - b. Any person who failed to be elected in a general or special election by more than one-half of one percent and less than two percent of the highest vote cast for a candidate for that office.
3. A demand for a recount must be made within three days after the canvass of the votes by the county canvassing board in the case of county elections and city elections that are combined with the county, and by the state canvassing board in the case of congressional, state, district, or legislative elections. The demand must be in writing, must recite one of the conditions in subsection 2 as a basis for the recount, must contain a bond in an amount previously established by the auditor or auditors doing the recount sufficient to pay the cost of the recount, and must be filed with:
  - a. The secretary of state when the recount is for a congressional, state, district, or legislative office.
  - b. The county auditor when the recount is for a county office or city office when a city election is combined with the county.
4. Within four days after the canvass of the votes by the state canvassing board in the case of congressional, state, district, or legislative elections, the secretary of state shall notify all the county auditors to conduct recounts as required by subsection 1 and, when a timely recount demand is received and it is in proper form, as required by subsection 2. The secretary of state shall fix the date or dates of the recounts of legislative contests to be held within seven days after giving notice ~~that the auditor must conduct the recount~~ to the affected auditors that recounts must be conducted. The secretary of state shall fix the date or dates of the recounts of statewide races to be held within fourteen days after giving notice to the auditors that recounts must be conducted. Within four days after the canvass of votes by the county canvassing board, the

county auditor shall fix the date for recounts limited to his the county or those cities within the county which combined the election with the county. The date must be within eight days after the canvass. 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.

5. Recounts must be conducted by the county auditor who may employ up to four qualified electors of the county to assist in the recount. The county auditor shall review all paper, machine, and electronic voting system ballots, whether or not the ballots were counted at the precinct or the county canvass, and all properly postmarked absentee ballots cast pursuant to section 16.1-07-09, 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 is a candidate involved in the recount, the county auditor 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.
6. The persons entitled to participate at the recount are:
  - a. Each candidate involved in the recount, either personally or by a representative.
  - b. A qualified 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 must 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 may serve on the recount board if he would not be qualified to serve on the election board pursuant to subsection 2 of section 16.1-05-02. If any of the members of the recount board are disqualified or cannot serve for any other reason, the members of the board of county commissioners who would be qualified to serve on the board shall appoint disinterested qualified electors of the county to serve as alternates. 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. If during the recount a recess is called, the county auditor shall take appropriate steps to safeguard the ballots.

7. The county auditor shall certify the results of the recount no later than three days after the recount. 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 or

city, 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 qualified electors. In the case of a city election that is combined with a county election, the county auditor shall certify the new results of the election to the city auditor who is responsible for issuing new certificates of election if applicable.

8. In congressional, statewide, district, or legislative recounts, the county auditor shall, no later than three days after the recount, 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 qualified electors accordingly.
9. The expenses incurred in a recount of a county election must be paid by the county on a warrant by the county auditor. The expenses incurred in a recount of a city election must be paid by the city on a warrant by the city auditor. The expenses incurred in a recount of a congressional, state, or legislative election must 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. The expenses incurred in a recount demanded under subsection 2 of section 16.1-16-01 must be paid by the secretary of state or county auditor from the bond submitted by the person requesting the recount.
10. This section also applies to city elections that are not combined with the county, except, the city auditor, to the extent applicable, shall perform the duties of the county auditor.

**SECTION 3. AMENDMENT.** Section 40-21-13 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**40-21-13. Municipal elections to be governed by rules applicable to county elections - Absent voting.** The manner of conducting, voting at, keeping poll lists, and canvassing votes at municipal elections, recounts, and contests of the results of the elections is governed, as nearly as possible and except as otherwise provided in this chapter, by the laws of this state applicable to elections and contests in the case of county officers. Absent voters' ballots must be available in municipal elections in accordance with chapter 16.1-07.

**SECTION 4. AMENDMENT.** Section 40-21-17 of the North Dakota Century Code is amended and reenacted as follows:

**40-21-17. Highest number of votes elects in municipal election - Procedure on tie vote.** The person having the highest number of votes for any municipal office shall be declared elected to such office. In case of a tie vote in the election of any municipal officer, ~~the choice shall be determined by a coin flip in the presence of the governing body of the municipality and in such manner as it shall direct~~ a recount must be conducted pursuant to section 16.1-16-01. If a recount results in a tie vote, the choice must be determined by a coin flip in the presence of the governing body of the municipality and in a manner it directs.

Approved March 25, 1997  
Filed March 26, 1997

## CHAPTER 202

### SENATE BILL NO. 2250 (Senators W. Stenehjem, B. Stenehjem) (Representative Stenehjem)

## POLITICAL SUBDIVISION ELECTION RECOUNTS

AN ACT to amend and reenact section 16.1-16-01 of the North Dakota Century Code, relating to election recounts for political subdivision elections.

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

<sup>11</sup> **SECTION 1. AMENDMENT.** Section 16.1-16-01 of the North Dakota Century Code is amended and reenacted 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, or bond issue submitted to the qualified electors of this state or one of its ~~counties~~ political subdivisions must be conducted as follows:

1. A recount must be conducted when:
  - a. Any person failed to be nominated in a primary election by one percent or less of the highest vote cast for a candidate for the office sought.
  - b. Any person failed to be elected in a general or special election by one-half of one percent or less of the highest vote cast for a candidate for that office.
  - c. A question ~~or~~, measure, or bond issue submitted to the qualified 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. A 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 more than one percent and less than two percent of the highest vote cast for a candidate for the office sought.
  - b. Any person who failed to be elected in a general or special election by more than one-half of one percent and less than two percent of the highest vote cast for a candidate for that office.

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<sup>11</sup> Section 16.1-16-01 was also amended by section 2 of House Bill No. 1234, chapter 201.

3. A demand for a recount must be made within three 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 must be in writing, must recite one of the conditions in subsection 2 as a basis for the recount, must contain a bond in an amount previously established by the auditor or auditors doing the recount sufficient to pay the cost of the recount, and must be filed with:
  - a. The secretary of state when the recount is for a congressional, state, district, or legislative office.
  - b. The county auditor when the recount is for a county office.
4. Within four days after the canvass of the votes by the state canvassing board in the case of congressional, state, district, or legislative elections, the secretary of state shall notify all the county auditors to conduct recounts as required by subsection 1 and, when a timely recount demand is received and it is in proper form, as required by subsection 2. The secretary of state shall fix the date of the recounts within seven days after giving notice that the auditor must conduct the recount. Within four days after the canvass of votes by the county canvassing board or other political subdivision canvassing board, the county auditor or other political subdivision election official shall fix the date for recounts limited to ~~his~~ the county or other political subdivision. The date must be within eight days after the canvass. In all recount proceedings, the county auditor or other election official, as appropriate, shall send notice of the date, place, and time of the recount to all candidates and petitioners involved by certified mail.
5. ~~Recounts~~ Except for recounts conducted by political subdivisions other than counties, recounts must be conducted by the county auditor who may employ up to four qualified electors of the county to assist in the recount. The county auditor shall review all paper, machine, electronic voting system, 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 is a candidate involved in the recount, the county auditor ~~shall be~~ is 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. The election officer in a political subdivision other than a county which is conducting a recount shall administer a recount in the same manner as is required under this subsection for counties with respect to political subdivision ballot measures, questions, or bond issues.
6. The persons entitled to participate at the recount are:
  - a. Each candidate involved in the recount, either personally or by a representative.
  - b. A qualified 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 or other political subdivision election official shall count the challenged ballot as ~~he~~ the auditor or election official 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 or other election official shall submit all challenged ballots to the recount board for decision. ~~The~~ Except for political subdivision recounts other than counties, the recount board must 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. Unless otherwise specified by law, for a political subdivision other than a county, the governing body of the political subdivision shall appoint the recount board. No person may serve on the recount board if ~~he~~ the person would not be qualified to serve on the election board pursuant to subsection 2 of section 16.1-05-02. If any of the members of the recount board are disqualified or cannot serve for any other reason, the members of the board of county commissioners or other political subdivision governing body who would be qualified to serve on the board shall appoint disinterested qualified electors of the county or other political subdivision to serve as alternates. The recount board shall review all challenged ballots, and on majority vote shall decide how ~~they shall be~~ those ballots are counted. The decision of the recount board is final, subject to the right to contest the election as provided in this chapter. If during the recount a recess is called, the county auditor or other political subdivision election official shall take appropriate steps to safeguard the ballots.

7. The county auditor or other election official shall certify the results of the recount no later than three days after the recount. The recount result ~~shall become~~ is the official result of the election in the county or other political subdivision. The county auditor or other election official shall prepare a corrected abstract of the votes. In a recount limited to the county or other political subdivision, if the corrected abstract shows no change in the outcome of the election, no further action ~~shall~~ may be taken. If the corrected abstract changes the outcome of the election, the county auditor or other election official shall issue certificates of nomination or election accordingly, and shall certify the new result of a question submitted to the qualified electors.
8. In congressional, statewide, district, or legislative recounts, the county auditor shall, no later than three days after the recount, 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 qualified electors accordingly.

9. The expenses incurred in a recount of a county election must be paid by the county on a warrant by the county auditor. The expenses incurred in a recount of a political subdivision other than a county election must be paid by that political subdivision. The expenses incurred in a recount of a congressional, state, or legislative election must 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. The expenses incurred in a recount demanded under subsection 2 of section 16.1-16-01 must be paid by the secretary of state or county auditor from the bond submitted by the person requesting the recount.

Approved March 25, 1997

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