

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1352

2001 HOUSE POLITICAL SUBDIVISIONS

HB 1352

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1352

House Political Subdivisions Committee

☐ Conference Committee

Hearing Date 2-1-01

Tape Number	Side A	Side B	Meter #
1		xx	1640--end
2	xx		1--236
2	xx		5509--end
2		xx	1--900
Committee Clerk Signature <i>Ram Deven</i>			

Minutes: Chair Froseth opened the hearing on HB1352 relating to recall petitions and referendum petitions and recall petitions of political subdivision officials. Chair handed the gavel to Vice-Chair Severson.

Rep. N. Johnson, Dist. 37, Dickinson : I bring this bill before you on behalf of the Sec. of State and am in support of HB1352. This bill is intended to take some of the emotion out of the recall process. I was recalled once, unsuccessfully, so I know a bit about this. This bill doesn't change the number of signatures required nor does it make it more difficult to recall. This bill will give a format for the petition and lets the Sec. State's Office approve the petition for validity.

Rep. Grosz : Is there only one person who can take the petition around, looking at the bill?

Rep. Johnson : You can have many people carrying around a petition. What it means is you can't just lay it on a table and not be there. You need to carry it around if you are the carrier.

Cory Fong, Sec. State's Office : (1990) This bill is intended to clarify and strengthen the procedures for recall elected official at the local level. Also, intended to take out some of the emotion. (SEE ATTACHED TESTIMONY)

Vice-Chair Severson : It says that a recall petition may be circulated for one year from the date approved. It doesn't say it has to be turned in. Is that what you mean?

Cory : That's right. Turned in. I also have an amendment with me that changes the wording about concerning address process. We want to clarify all areas like rural routes, general delivery, etc. That will make it clear what needs to be put on petitions.

Rep. Delmore : (3105) I want to go back to the beginning language; *in the presence of that person*. Will that fix the problem of petitions laying around by having this statute?

Cory : Currently, the statute that governs recall already provides that language. In section 2 of the bill, it is already found in line, 8, 9, and 10 on page 5. What this requires is that every single petition be circulated by the individual who is circulated and not just laying it on the counter. That is prohibited. We still may have the problem, but this gives us ammunition to follow-up on complaints. When we survey signers of petitions, we ask them, "Did you sign in front of the person circulating the petition?" Some say, No. Some say, Yes.

Rep. N. Johnson : I think it is good for the Sec. State to take over approving. They are a neutral party. In previous law, was there date set before for circulating petitions? What if the 9th Tues. is a holiday? What do we do?

Cory : Part of the problem is there was no beginning date. This will require one. There will now be a window. The other question is good. We are trying to take out any kind of latitude that the business manager might have, which would cause him to be criticized. The problem with

setting the day, is it could fall on a Saturday or Sunday or holiday. Let me work something up to address this.

Rep. Kretschmar : Is the recall part in section 1 to be for state recall.

Cory : It's for all areas, state and local. The last section deals with local recalls.

Rep. Kretschmar : On page 1, lines 9 and 10, maybe we should have a qualifier on the jurisdiction.

Cory : I will try to amend that to address your concern.

Vice-Chair Severson : In the stated reason for the recall, will that be stated on the petition as well and can it be multiple?

Cory : Yes. Those signing can see the reasons. I can change it to *reason or reasons*.

Al Jaeger, Sec. of State : I urge your favorable consideration on this bill. We filter lots of questions on recalls. We have a pamphlet on how to recall. It will not give our office any more work to approve first. We will have two distinct sections dealing with two completely different things. That will help a great deal. We will work with the holiday question.

Rep. Niemeier : (4520) There isn't a list of allowable reasons for recall?

Al Jaeger : I don't know what they could be. The ones that were in law were so bad.

Rep. Niemeier : (4775) Will this be in the judgment of your office?

Al Jaeger : We won't edit the reason. What they put down is what we will put down. We are worried about format only.

Barbara Norby, ND School Board Assoc. : (5000) We support this bill. We think it is good for the Sec. State's Office to review this before rather than after the fact. We think the reason listed is a good thing and made public. This is only fair.

Jerry Hjelmsted, ND League of Cities : We would like a few things changed on the bill. We think the recall petition should be submitted by a certain time, also. Can 1 year be shortened? On page 9, the 9th Tuesday, could that be more flexible?

Rep. N. Johnson : What is your time frame?

Jerry : 90 days. I could submit an amendment that relates to subdivisions and not state officials.

Vice-Chair Froseth : If we put in "submitted" after one year from date, would that work for?

Jerry : Yes.

Nancy Sand, ND Education Assoc. : We support this bill.

Rep. Herbel : This is for Al Jaeger to answer, maybe. What is the average time it takes to start a recall until it is done?

Al Jaeger : Don't really have an average. It varies. Some people have a petition and never do anything with it. (end Tape 1, side B, begin Tape 2, side A) If you decide to change to a shorter time than one year, I'm afraid that may be too short of time for a state recall. A year may be inappropriate for a local recall. We will come back with amendments after talking to all the parties involved today.

Rep. Grosz : (100) Nancy, I'm having some problems with the stating of reasons. One person may feel one way and another person may feel totally different. Do you feel there will be confusion if reasons are stated?

Nancy : I would hope that the stated reasons would take care of that problem. It should and that is the intent. That will make the person circulating the petition more accountable. If there is no reason at all, the person subject to recall has nothing to go on to defend her/himself. The circulator should have the courage to put down the reasons.

Vice-Chair Severson : Any more testimony? Hearing none, hearing is closed. We will reconvene at 2:30 this afternoon.

Tape 2, Side A (5509-end) Chair Froseth : Let's look at HB1352. Here are the amendments.

Rep. Delmore : These are pretty much what we wanted Cory to change.

Vice-Chair Severson : Maybe we should call Cory down and have him explain. There are two sets of amendments.

Tape 2, Side B begin Cory : Section 1 of the bill 16.1-01-09 governs recall petitions at the state, legislative, and political subdivision level. The other provisions govern local recalls. The constitution sets up recall provisions for state, county, and legislative recall levels. The constitution does not provide for specifics for the recall of local officials. That's why 44-08-21 exists. You need to go back to 16.1-01-09 to get the process. We feel the recall process needs to have it's own section. On the amendments, page 1, line 10, we specify qualified to that subdivision. I also changed the address section. I changed *reason* to include *reasons*. (**SEE SECOND SET OF AMENDMENTS ATTACHED**)

Rep. N. Johnson : (496)I think you need to change it to say, *approved by the secretary of state for circulation*. The secretary of state is not going to circulate it.

Rep. Delmore : (539)Are we talking about state wide recall? I'm not sure when we are talking about which.

Cory : This particular change would impact state recalls as well.

Rep. Delmore : I don't think having 6 months for state recalls is enough time.

Cory : That is my concern as well. You will have to get 50,000 plus signatures for a state wide recall petition and that takes a lot of time. Maybe we need to qualify state and local recalls.

Page 6
House Political Subdivisions Committee
Bill/Resolution Number HB1352
Hearing Date 2-1-01

Vice-Chair Severson : Can we leave the language in at 16.01-01-09 and put the 6 months in 44-08-21?

Cory : That may be a good solution to the problem. We then may be able to shorten the time for local recalls, and that is what they would like anyway.

Chair Froseth : We will hold this until next week to give you time to make the changes.

Closed.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1352 b

House Political Subdivisions Committee

☐ Conference Committee

Hearing Date 2-2-01

Tape Number	Side A	Side B	Meter #
2	xx		4399-4737
Committee Clerk Signature <i>Pam Dene</i>			

Minutes: Chair Froseth : Let's take a look at HB1352. We did not act on that yesterday.

We have to wait for amendments. We'll hold this.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1352 c

House Political Subdivisions Committee

☐ Conference Committee

Hearing Date 2-08-01

Tape Number	Side A	Side B	Meter #
I		xx	1330-1836
Committee Clerk Signature <i>Pam Deane</i>			

Minutes: Chair Froseth : Let's look at HB1352 and the amendments brought by Rep. Johnson.

Rep. N. Johnson : Cory and I talked last week. In section 1, we wanted to include that a person needed to be a duly qualified electorate in that district. He asked us to be more specific in the mailing addresses Reason or reasons was added. Page 9, we put a time frame to deal with the holiday problem. Page 9, line 1, we changed the time to six months.

Rep. Delmore : Just for clarification. This just covers political subdivisions?

Rep. N. Johnson: Yes.

Rep. Delmore : I move a DO PASS ON AMENDMENTS. Rep. Severson : I second.

VOICE VOTE: ALL YES.

Rep. Delmore : I move a DO PASS AS AMENDED. Rep. Gunter : I second.

Rep. Eckre : Because of what is going on in my district, I need to vote no.

VOTE: 12 YES and 1 NO with 2 absent. PASSED. Rep. N. Johnson will carry.

February 8, 2001

VR
2/8/01

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1352

HOUSE AMENDMENTS to HB1352 HOUSE POL. SUBS 2-9-01
Page 1, line 10, after "Dakota" insert "or section 44-08-21" and after "elector" insert "of the political subdivision in which the official is being recalled"

Page 1, line 12, replace "mailing" with "residential, rural route, or general delivery"

Page 1, line 16, after "electors" insert "of the political subdivision in which the official is being recalled"

Page 1, line 19, after "reason" insert "or reasons"

HOUSE AMENDMENTS to HB1352 HOUSE POL. SUBS 2-9-01

Page 2, line 3, replace "Address" with "Complete Residential, Rural Route, or General Delivery Address"

Page 2, line 10, after "elector" insert "of the political subdivision in which the official is being recalled"

Page 2, line 11, after "Dakota" insert "and the political subdivision"

Page 2, line 13, replace "mailing" with "residential, rural route, or general delivery"

Page 2, line 17, replace "Mailing" with "Residential, Rural Route, or General Delivery"

HOUSE AMENDMENTS to HB1352 HOUSE POL. SUBS. 2-9-01

Page 3, line 29, after "Dakota" insert "or section 44-08-21"

HOUSE AMENDMENTS to HB1352 HOUSE POL. SUBS. 2-9-01
Page 9, line 1, replace "A recall petition may be circulated for one year from the date it is approved for" with "To be effective, a recall petition must be submitted to the appropriate filing officer within six months after the date the recall petition is approved for"

Page 9, line 10, replace "on the ninth Tuesday" with "not sooner than fifty days nor later than sixty days"

Renumber accordingly

hearing - 2-1-01
Date: 2-8-01 vote.
Roll Call Vote #:

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. AB 1352

House POLITICAL SUBDIVISIONS Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number 18304.0101 10200

Action Taken Do Pass As Amended

Motion Made By Rep. Delmore Seconded By Rep. Hunter

Representatives	Yes	No	Representatives	Yes	No
Chairman Glen Froseth	<input checked="" type="checkbox"/>		Rep. Wayne W. Tieman	<input checked="" type="checkbox"/>	
Vice-Chair Dale C. Severson	<input checked="" type="checkbox"/>				
Rep. Lois Delmore	<input checked="" type="checkbox"/>				
Rep. Rachael Disrud	<input checked="" type="checkbox"/>				
Rep. Bruce Eckre		<input checked="" type="checkbox"/>			
Rep. Mary Ekstrom	<input checked="" type="checkbox"/>				
Rep. April Fairfield	<input checked="" type="checkbox"/>				
Rep. Michael Grosz	<input checked="" type="checkbox"/>				
Rep. Jane Gunter	<input checked="" type="checkbox"/>				
Rep. Gil Herbel	<input checked="" type="checkbox"/>				
Rep. Nancy Johnson	<input checked="" type="checkbox"/>				
Rep. William E. Kretschmar	<input checked="" type="checkbox"/>				
Rep. Carol A. Niemeier	<input checked="" type="checkbox"/>				
Rep. Andrew G. Maragos	<input checked="" type="checkbox"/>				

Total (Yes) 12 No 1

Absent 2 ab

Floor Assignment Rep. N. Johnson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1352: Political Subdivisions Committee (Rep. Froseth, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING). HB 1352 was placed on the Sixth order on the calendar.

Page 1, line 10, after "Dakota" insert "or section 44-08-21" and after "elector" insert "of the political subdivision in which the official is being recalled"

Page 1, line 12, replace "mailing" with "residential, rural route, or general delivery"

Page 1, line 16, after "electors" insert "of the political subdivision in which the official is being recalled"

Page 1, line 19, after "reason" insert "or reasons"

Page 2, line 3, replace "Address" with "Complete Residential, Rural Route, or General Delivery Address"

Page 2, line 10, after "elector" insert "of the political subdivision in which the official is being recalled"

Page 2, line 11, after "Dakota" insert "and the political subdivision"

Page 2, line 13, replace "mailing" with "residential, rural route, or general delivery"

Page 2, line 17, replace "Mailing" with "Residential, Rural Route, or General Delivery"

Page 3, line 29, after "Dakota" insert "or section 44-08-21"

Page 9, line 1, replace "A recall petition may be circulated for one year from the date it is approved for" with "To be effective, a recall petition must be submitted to the appropriate filing officer within six months after the date the recall petition is approved for"

Page 9, line 10, replace "on the ninth Tuesday" with "not sooner than fifty days nor later than sixty days"

Renumber accordingly

2001 SENATE POLITICAL SUBDIVISIONS

HB 1352

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1352

Senate Political Subdivisions Committee

☐ Conference Committee

Hearing Date March 8, 2001

Tape Number	Side A	Side B	Meter #
1		X	33.1-52.5
March 8, 2001 3	X		22.5-25.3
Committee Clerk Signature <i>Mary Jo Wocken</i>			

Minutes:

The hearing was opened on HB1352, which relates to initiative and referendum petitions and recall petitions of political subdivision officials.

NANCY JOHNSON; District 37, Dickinson. This bill, HB1352 pertains to recall of elected officials. I am submitting this bill at the request of the Secretary of States office. This bill attempts to clarify and take some of the emotion out of the recall process. In this bill it separates the recall process from the initiative and referendum petitions portion of the law. Having all of those processes in the same section of law is confusing for both the people starting a recall and for the governing entity that has to accept and verify signatures. Be assured that this bill does not make it any more difficult to do a recall, and it does not change the numbers of signatures needed for recall petitions. The bill also gives a format for petitions and has the Secretary of States' office approve the petition before it is circulated. This will prevent a group from starting a petition, gathering signatures, and then finding out that some part of the petition is invalid after

All their work. When a petition gets rejected on a technicality like that the carrier sometimes become angrier and feel the entity is trying to thwart the process. CORY FONG: Secretary of States' office. See written attached testimony. Cory explained the amendments to the committee. This is really to take some of the emotion out of the recall process. SENATOR COOK: Cory, if this is passed, will go into effect August 1? CORY FONG: Yes. There is no emergency clause because the impact of this bill wouldn't affect the Richland County situation anyway, because that process is governed by the Constitution. This is a process to govern the recall of folks at the local level, school board and city, and county officials are governed by the Constitution of North Dakota. SENATOR COOK: So this doesn't affect county officials? CORY FONG: It does not in that particular sense. The process that we are setting up with a separate section would apply to all recalls. But these content conscient changes in section three are only governing local elections. SENATOR POLOVITZ: Did I hear you right when you said this does not really have any impact on making it more difficult for recall? CORY FONG: That is correct. The intent is not to make recall more difficult. It is intended to again, take some of the emotion out, and to provide us with third part assistance when people want to develop recall. They are calling our office anyway in asking for assistance and we feel this would give us the opportunity to stir them in the right direction from the beginning. Instead of them pulling together a petition and going in and find out they put it together all wrong and having to force that election official to then invalidate it which already sets up a conflictual situation. SENATOR POLOVITZ: The reason I asked that question is that, we had a situation in Ward 2 of which I live in, in which we recall the city council person, which my signed the petition and I didn't. But they had to go through a second process in order to make the recall because of some little, small problem that was brought up in the petitions themselves which didn't make any sense to me. If this clarifies it, then I would all in

favor, but I don't. That recall went so smoothly in a sense that I don't want to see the recall effort being made difficult, if you know I am talking about. Even though they went through it twice, they didn't have any problems getting signatures. CORY FOG: By no means is this intended to make it more difficult. It really is to provide greater clarity in process and to take some of that emotion out of, especially some of these small political subdivisions. School districts where the persons who are trying to file the recall petition don't feel they have the ability to go to the business manager because she/he is tied so closely to those being recalled. SENATOR COOK: Right now its six months that petition carriers have to get signatures on their petition? CORY FOG: Actually there is no deadline at all, currently under statute. The House Committee made it six months and when were developing the amendments for them to consider, they directed us to kind of get together with the association and find a reasonable time frame that would meet everyone's needs. And unfortunately they passed the bill out with six months and the associations would prefer ninety days. GREG SUND: City Administrator for Dickinson. Having lived through a recall, four out of five elected officials in the town, anything that can be done to clarify this process and make it better, Dickinson would support wholeheartedly. We encourage you to approve this with a Do Pass. JERRY HJELMSTED: N. D. League of Cities and testify in support of this bill. We think it does provide some clarification where there were questions before. We would support the amendments to provide for a 90 days for the circulation of that recall petition. The 90 day period would not start until that petition has been approved by the Secretary of States' office, begin the 90 day period. Generally, in a recall situation, there has already been a month or two of decision of the hot issue that is out there relating to the recall before that time so we feel that not having that recall petition hanging out there for an extended period of time would be an improvement of the bill. NANCY SAND: North Dakota Education

Page 4

Senate Political Subdivisions Committee

Bill/Resolution Number HB1352

Hearing Date March 8, 2001

Association. Our interest in the bill is particularly surrounding the school board elections and recall petitions that sometimes get circulated. It is a very emotional thing and our members will call generally because they've heard rumors that somebody is probably interested in circulating a petition and they want to know what the process is. So we appreciate the fact that this bill outlines a specific process and we recognize that the amendments on this bill would help to put it within a more reasonable time frame to try to deal with the emotional impact of a recall petition. That was our interest in testifying on the bill in the House and in shortening that time line. We also are very much like the fact that the reasons must be stated and we also like the fact that of course the carrier of the petition must be present when the people sign it.

Hearing Closed HB1352.

March 8, 2001 Tape 3, Side A, (Meter # 22.5-25.3)

Senator Cook asked the committee for discussion on HB1352.

Senator Lyson moved to Do Pass the Jaeger Amendments

Senator Watne- 2nd

Roll call vote: 7 Yeas, 0 No, 1 Absent

Senator Watne moved a Do Pass as Amended

Senator Christenson- 2nd

Roll call vote: 7 Yeas, 0 No, 1 Absent

Carrier: Senator Watne

Date: *Mar. 8, 2001*
Roll Call Vote #: *1*

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *S.B. 1352*

Senate	Political Subdivisions	Committee
--------	------------------------	-----------

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number

Action Taken move the Jaeger amendments

Motion Made By Sen. Ligon Seconded By Sen. Watne

[illegible]

Total (Yes) 7 No 0

Absent 1

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

Date: 3/8/01
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. H. B. 1352

Senate Political Subdivisions Committee

☐ Subcommittee on _____
or
☐ Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Sen. Watne Seconded By Sen. Christenson

Senators	Yes	No	Senators	Yes	No
Senator Cook	✓		Senator Christenson	✓	
Senator Lyson	✓		Senator Mathen	✓	
Senator Flakoll	✓		Senator Polovitz	✓	
Senator Lee					
Senator Watne	✓				

Total (Yes) 7 No 0

Absent 1

Floor Assignment Sen. Watne

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1352, as engrossed: Political Subdivisions Committee (Sen. Cook, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (7 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1352
was placed on the Sixth order on the calendar.

Page 1, line 11, remove "of the political subdivision in which the official is being recalled"

Page 1, line 18, remove "of the political subdivision in"

Page 1, line 19, remove "which the official is being recalled"

Page 2, line 15, remove "of the"

Page 2, line 16, remove "political subdivision in which the official is being recalled"

Page 2, line 17, remove "and the political"

Page 2, line 18, remove "subdivision"

Page 9, line 7, replace "six months" with "ninety days"

Renumber accordingly

2001 TESTIMONY

HB 1352



SECRETARY OF STATE

STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0600

February 1, 2001

TO: Representative Glen Froseth & Members of the House Political Subs Committee
FR: Al Jaeger, Secretary of State (presented on his behalf by Cory Fong)
RE: HB 1352 - Recall

House Bill 1352 is intended to clarify and strengthen the procedures for recalling elected officials at the local level.

Sections 1 & 2

Currently, the recall process is included in the same section of law governing initiative and referendum petitions, section 16.1-01-09. This regularly causes confusion and leads to questions of interpretation. Section 1 establishes a new subsection of law in Chapter 16.1-01, separate from the section of law governing initiative and referendum petitions, which specifically outlines the requirements, components, and circulating procedures for recall petitions.

Section 1 also specifies that officials responsible for reviewing recall petitions have 30 days to complete their review of the petition.

Section 2 removes all provisions pertaining to recall from the initiative and referendum section of law, 16.1-01-09.

Section 3

Section 3 clarifies that when recalling an elected official, the number of signatures required is based upon the number of voters who voted in the last election when the official sought to be recalled was on the ballot. When recalling an official who is appointed, the number of signatures required is based upon the number of voters who voted in the last election that the office of the official to be recalled was on the ballot.

Section 3 requires recall petitions to include a stated reason for the recall.

Section 3 requires recall petitions to be approved as to form prior to circulation by the Secretary of State. The Secretary of State will review recall petitions for form in not less than 5 nor more than 7 business days. Many times, a recall petition is invalidated for minor errors in the format of the petition. This unfortunately gives the misperception that the filing officer is being overly critical or is manipulating the review process in favor of the current office holder. This proposed change is intended to provide third-party assistance to those persons interested in recalling an elected official in developing a recall petition for circulation while at the same time reducing perceptions of foul play and manipulation on the part of a filing officer when the time comes to review the petition.

Section 3 specifies that recall petitions may be circulated for 1 year from the date the petition is approved for circulation by the Secretary of State.

Section 3 provides a specific date for a filing officer to use when setting the date for a recall election. According to the proposed change, a filing officer will no longer have a window of time for calling a recall election. The recall election must fall on a specific date, the ninth Tuesday following the date of the filing officer certifies the petition as valid and sufficient. This proposed change is intended to eliminate any perceptions of foul play and manipulation on the part of a filing officer when setting a date for a recall election.

Section 3 also provides that no official is subject to recall whose term expires at a regularly scheduled election occurring within 190 days after the date of the petition being submitted to the Secretary of State for approval for circulation. This proposed change is intended to prevent situations where an elected official appears on the same ballot for recall and for reelection to a regular term at the same election.

For these reasons, the Secretary of State's office urges a *do* pass on HB 1352.

ALVIN A. JAEGER
SECRETARY OF STATE

HOME PAGE <http://www.state.nd.us/600>



PHONE (701) 328-2900

FAX (701) 328-2992

E-MAIL 600@state.nd.us

SECRETARY OF STATE

STATE OF NORTH DAKOTA
800 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

February 1, 2001

TO: Representative Glen Froseth & Members of the House Political Subs Committee
FR: Al Jaeger, Secretary of State (presented on his behalf by Cory Fong)
RE: **HB 1352 - Recall - Proposed Amendments**

Proposed Amendments to House Bill No. 1352

Page 1, line 12, replace "mailing address" with "residential address, rural route, or general delivery"

Page 2, line 3, replace "address" with "complete residential address, rural route, or general delivery"

Page 2, line 13, replace "mailing address" with "residential address, rural route, or general delivery"

Page 2, line 17, replace "Mailing" with "residential address, rural route, or general delivery"

Page 2, line 18, remove "Address"

Renumber accordingly

February 1, 2001

TO: Representative Glen Froseth & Members of the House Political Subs Committee
FR: Cory Fong, Secretary of State's Office
RE: HB 1352 - Recall - Proposed Amendments

Proposed Amendments to House Bill No. 1352

Page 1, line 10, after "North Dakota" insert "or section 44-08-21"

Page 1, line 10, after "qualified elector" insert "of the political subdivision in which the official is being recalled"

Page 1, line 12, replace "mailing address" with "residential address, rural route, or general delivery"

Page 1, line 16, after "qualified electors" insert "of the political subdivision in which the official is being recalled"

Page 1, line 19, after "reason" insert "or reasons"

Page 2, line 3, replace "Address" with "Complete Residential Address, Rural Route, or General Delivery"

Page 2, line 10, after "qualified elector" insert "of the political subdivision in which the official is being recalled"

Page 2, line 11, after "North Dakota" insert "and the political subdivision"

Page 2, line 13, replace "mailing address" with "residential address, rural route, or general delivery"

Page 2, line 17, replace "Mailing" with "Residential Address, Rural Route, or General Delivery"

Page 2, line 18, remove "Address"

Page 3, line 29, after "North Dakota" insert "or section 44-08-21"

Page 8, line 28, after "reason" insert "or reasons"

HB 1352 - Recall - Proposed Amendment from Secretary of State
February 1, 2001
Page two

Page 9, line 1, replace "A recall petition may be circulated for one year from the date it is approved for" with "To be effective, a recall petition must be submitted to the appropriate filing officer within six months after the date the recall petition is approved for"

Page 9, line 11, replace "on the ninth Tuesday" with "not sooner than fifty days nor later than sixty days"

Renumber accordingly



SECRETARY OF STATE

STATE OF NORTH DAKOTA
600 LAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

February 1, 2001

TO: Representative Glen Froseth & Members of the House Political Subs Committee
FR: Cory Fong, Secretary of State's Office
RE: HB 1352 - Recall - Proposed Amendments

Proposed Amendments to House Bill No. 1352

Page 1, line 10, after "North Dakota" insert "or section 44-08-21"

Page 1, line 10, after "qualified elector" insert "of the political subdivision in which the official is being recalled"

Page 1, line 12, replace "mailing address" with "residential address, rural route, or general delivery"

Page 1, line 16, after "qualified electors" insert "of the political subdivision in which the official is being recalled"

Page 1, line 19, after "reason" insert "or reasons"

Page 2, line 3, replace "Address" with "Complete Residential Address, Rural Route, or General Delivery"

Page 2, line 10, after "qualified elector" insert "of the political subdivision in which the official is being recalled"

Page 2, line 11, after "North Dakota" insert "and the political subdivision"

Page 2, line 13, replace "mailing address" with "residential address, rural route, or general delivery"

Page 2, line 17, replace "Mailing" with "Residential Address, Rural Route, or General Delivery"

Page 2, line 18, remove "Address"

Page 3, line 29, after "North Dakota" insert "or section 44-08-21"

Page 4, line 15, after "prosecution" insert "7. To be effective, a recall petition must be submitted to the appropriate filing officer within six months after the date the recall petition is approved for circulation by the secretary of state."

Page 8, line 28, after "reason" insert "or reasons"

Page 9, line 1, replace "A recall petition may be circulated for one year from the date it is approved for" with "To be effective, a recall petition must be submitted to the appropriate filing officer within six months after the date the recall petition is approved for"

Page 9, line 11, replace "on the ninth Tuesday" with "not sooner than fifty days nor later than sixty days"

Renumber accordingly

ALVIN A. JAEGER
SECRETARY OF STATE

HOME PAGE <http://www.state.nd.us/soc>



PHONE (701) 328-2900

FAX (701) 328-2992

E MAIL sosec@state.nd.us

SECRETARY OF STATE

STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

March 8, 2001

TO: Senator Dwight Cook & Members of the Senate Political Subdivisions Committee
FR: Cory Fong, Secretary of State's Office
RE: HB 1352 - Recall

House Bill 1352 is intended to clarify and strengthen the procedures for recalling elected officials at the local level.

After the House approved HB 1352, our legal council made me aware of some problems with the amendments made to the bill by the House Political Subdivisions Committee. Essentially, all of the amendments made to the bill in Section 1 that expand the term "qualified elector" to "qualified elector of the political subdivision in which the official is being recalled" need to be reversed.

The reason is because the expansion of the term conflicts with the Section 10 of Article III of the Constitution of North Dakota that provides for recall of state, legislative, and county officers. The state and legislative districts are not considered political subdivisions and therefore sets up the conflict. In order for Section 1, and the new recall section it creates in Chapter 16.1-01, to agree with the constitution, our office recommends the amendments made by the House need to be reversed.

Also, the various political subdivisions (e.g. the ND League of Cities, the ND School Boards Assn, the ND Education Assn) have suggested that the timeframe for circulating a recall petition at the local levels, found in Section 3 of the bill, should be reduced from 6 months to 90 days. Their reasoning is that ninety days is a more reasonable timeframe for circulating a recall petition at the local levels. The Secretary of State's office does not object to the shorter timeframe and recommends the amendment be made to section 3 of the bill.

Sections 1 & 2

Currently, the recall process is included in the same section of law governing initiative and referendum petitions, section 16.1-01-09. This regularly causes confusion and leads to questions of interpretation. Section 1 establishes a new subsection of law in Chapter 16.1-01, separate from the section of law governing initiative and referendum petitions, which specifically outlines the requirements, components, and circulating procedures for recall petitions.

Section 1 also specifies that officials responsible for reviewing recall petitions have 30 days to complete their review of the petition.

Section 2 removes all provisions pertaining to recall from the initiative and referendum section of law, 16.1-01-09.

Section 3

Section 3 clarifies that when recalling an elected official, the number of signatures required is based upon the number of voters who voted in the last election when the official sought to be recalled was on the ballot. When recalling an official who is appointed, the number of signatures required is based upon the number of voters who voted in the last election that the office of the official to be recalled was on the ballot.

Section 3 requires recall petitions to include a stated reason for the recall.

Section 3 requires recall petitions to be approved as to form prior to circulation by the Secretary of State. The Secretary of State will review recall petitions for form in not less than 5 nor more than 7 business days. Many times, a recall petition is invalidated for minor errors in the format of the petition. This unfortunately gives the misperception that the filing officer is being overly critical or is manipulating the review process in favor of the current office holder. This proposed change is intended to provide third-party assistance to those persons interested in recalling an elected official in developing a recall petition for circulation while at the same time reducing perceptions of foul play and manipulation on the part of a filing officer when the time comes to review the petition.

If the proposed amendments are adopted, Section 3 specifies that recall petitions at the local levels may be circulated for 90 days from the date the petition is approved for circulation by the Secretary of State.

Section 3 provides a more abbreviated window of time for a filing officer to use when setting the date for a recall election. According to the proposed change, a filing officer will have a 10-day window of time for setting the date of a recall election instead of a 60-day window of time for calling a recall election. This proposed change is intended to eliminate any perceptions of foul play and manipulation on the part of a filing officer when setting a date for a recall election.

Section 3 also provides that no official is subject to recall whose term expires at a regularly scheduled election occurring within 190 days after the date of the petition being submitted to the Secretary of State for approval for circulation. This proposed change is intended to prevent situations where an elected official is subject to recall and is up for reelection to a regular term at the same election appearing on the same ballot.

For these reasons, the Secretary of State's office urges a do pass on HB 1352.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1352

Page 1, line 11, after "elector" remove "of the political subdivision in which the official is being recalled"

Page 1, line 18, after "electors" remove "of the political subdivision in"

Page 1, line 19, remove "which the official is being recalled"

Page 2, line 15, after "elector" remove "of the"

Page 2, line 16, remove "political subdivision in which the official is being recalled"

Page 2, line 17, after "North Dakota" remove "and the political"

Page 2, line 18, remove "subdivision"

Page 9, line 7, replace "six months" with "ninety days"

Renumber accordingly