

# ELECTIONS

## CHAPTER 171

### SENATE BILL NO. 2307

(Senators Meyer, K. Roers)  
(Representatives Beadle, Grueneich, C. Johnson, Sanford)

AN ACT to create and enact a new section to chapter 16.1-02 of the North Dakota Century Code, relating to use of voter lists; and to amend and reenact sections 16.1-01-03, 16.1-02-12, and 16.1-16-01 of the North Dakota Century Code, relating to hours of polling places, information in the central voter file, and election recounts.

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

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

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

The polls at all primary, general, and special elections must be opened at nine a.m. or at such earlier hour, but not earlier than seven a.m., ~~that may be~~ designated for any precinct by resolution of the governing body of the city or county in which such the precinct is located ~~except that in precincts in which seventy-five or fewer votes were cast in the last general election, the governing body may direct that the polls be opened at twelve noon. They~~The polls must remain open continuously until seven p.m. or such later hour, not later than nine p.m., as may be designated for a precinct by resolution of the governing body of the city or county in which the precinct is located. All electors standing in line to vote at the time the polls are set to close must be allowed to vote, but electors arriving after closing time may not be allowed to vote. The election officers present are responsible for determining who arrived in time to vote, and ~~they~~the election officers shall establish appropriate procedures for making that determination. All determinations required to be made pursuant to this section relating to polling hours must be made, and the county auditor notified of them, no later than thirty days prior to an election.

**SECTION 2. AMENDMENT.** Section 16.1-02-12 of the North Dakota Century Code is amended and reenacted as follows:

##### **16.1-02-12. Information contained and maintained in the central voter file.**

The central voter file must contain the following information for each individual included in the file:

1. The complete legal name of the individual.
2. The complete residential address of the individual.

3. The complete mailing address of the individual, if different from the individual's residential address.
4. The unique identifier generated and assigned to the individual.
5. A status designation showing whether of the individual's ability/eligibility to vote in a precinct has been inactivated as a result of death or because the individual is no longer a resident of the precinct according to section 16.1-01-04.
6. The county, legislative district, city or township, school district, county commissioner district, if applicable, precinct name, and precinct number in which the individual resides.
7. Beginning in 2008, four years of an individual's voting history, if applicable.
8. Date of birth.
9. The individual's driver's license or nondriver identification card number issued by the department of transportation, or the unique identifier from an official form of identification issued by a tribal government to a tribal member residing in this state.
10. Any other information requested of and obtained from the individual deemed necessary by the secretary of state for the proper administration of the central voter file.

**SECTION 3.** A new section to chapter 16.1-02 of the North Dakota Century Code is created and enacted as follows:

**Voter lists and reports - Availability for voter list maintenance.**

The secretary of state may generate a voter list or a report generated from the central voter file to be transmitted to other states, or a consortium of states, for maintaining the integrity of elections.

**SECTION 4. 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, county, or city office, or for the approval or disapproval of any measure, question, or bond issue submitted to the qualified electors of this state or one of its political subdivisions must be conducted according to guidelines established by the secretary of state and as follows:

1. A recount must be conducted when:
  - a. Any individual failed to be nominated by the individual's party or to a no-party office in a primary election by one percent or less of the highest vote cast for a candidate seeking nomination from the political party for the office sought or for a candidate for the no-party office sought.

- b. Any individual 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, 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 individual who failed to be nominated by the individual's party or to a no-party office in a primary election by more than one percent and less than two percent of the highest vote cast for a candidate seeking nomination from the political party for the office sought or for a candidate for the no-party office sought.
  - b. Any individual 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 presidential, congressional, state, judicial district, multicounty 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 presidential, congressional, state, judicial district, multicounty 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 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 or other political subdivision canvassing board, the county auditor or other political subdivision election official shall fix the date for recounts limited to the county, those cities within the county which combined the election with 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. For recounts conducted by counties of federal, state, district, and county offices, measures, and questions, the county auditor must conduct the recount and may employ up to ~~fourteen~~ qualified electors of the county to assist in the recount. The county auditor shall review all ~~paper and electronic voting system~~ properly cast ballots and associated records, ~~whether the ballots were counted at the precinct or the county canvass, and all absentee ballots cast pursuant to section 16.1-07-09 to determine which ballots were cast and counted according to the law, including that the ballots were properly initialed and that the initials found on the ballots are verified as those of the precinct election board members.~~ 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 is disqualified from acting thereon, and the county recorder shall perform the duties required of the county auditor by this section. For recounts conducted by political subdivisions other than counties of local offices, measures, and questions, the election officer in a political subdivision shall administer a recount in the same manner as is required under this subsection for counties with respect to political subdivision offices, ballot measures, questions, or bond issues.
6. a. The individuals entitled to participate at the recount are:
  - (1) Each candidate involved in the recount, either personally or by a representative.
  - (2) A qualified elector favoring each side of a question if the recount involves a question or proposition submitted to a vote of the electorate.
- b. The individuals allowed to participate may challenge the acceptance or exclusion of any ballot. The individual 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 the auditor or election official determines proper and then shall set the ballot aside with a notation that it was challenged and how it was counted.
7. At the conclusion of the recount, the county auditor or other election official shall submit all challenged ballots to the recount board for decision. 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 county recorder. 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. An individual may not serve on the recount board if the individual has anything of value bet or wagered on the result of the election, is a candidate for the office being recounted, or is the husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage, of the whole or the half-blood, of any candidate involved in the recount. 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 those ballots are counted. ~~The recount board is authorized to initial all absentee ballots cast under section 16.1-07-09 that were not considered or counted at the various precincts in the county for the reasons provided in~~

~~sections 16.1-07-11 and 16.1-07-12 or by the county canvassing boards as provided in section 16.1-15-19.~~ 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.

8. The county auditor or other election official shall certify the results of the recount ~~no later than three days~~immediately after the recount. The recount result 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, city, or other political subdivision, if the corrected abstract shows no change in the outcome of the election, no further action 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. 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.
9. In presidential, congressional, statewide, judicial district, multicounty district, or legislative recounts, the county auditor, ~~no later than three days~~immediately after the recount, shall ~~send by certified mail a certified copy of~~submit electronically the corrected abstract to the secretary of state according to the instructions provided by the secretary of state. The secretary of state immediately shall 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.
10. 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 city election must be paid by the city on a warrant by the city auditor. The expenses incurred in a recount of a presidential, congressional, state, judicial district, multicounty district, 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 individual requesting the recount.
11. 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.

Approved March 28, 2019

Filed March 29, 2019

## CHAPTER 172

### HOUSE BILL NO. 1201

(Representative Klemin)  
(Senator J. Roers)

AN ACT to amend and reenact subsection 11 of section 16.1-01-09.1 and subsection 4 of section 44-08-21 of the North Dakota Century Code, relating to recalling elected officials.

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

**SECTION 1. AMENDMENT.** Subsection 11 of section 16.1-01-09.1 of the North Dakota Century Code is amended and reenacted as follows:

11. An official may not be recalled if the recall special election would ~~be held during the same occur within one year in which of the official's office would be included on next regularly scheduled election in which the ballot official could be reelected.~~

**SECTION 2. AMENDMENT.** Subsection 4 of section 44-08-21 of the North Dakota Century Code is amended and reenacted as follows:

4. The name of the official to be recalled must be placed on the ballot unless the official resigns within ten days after the filing officer certifies the petition is valid and sufficient. Other candidates for the office may be nominated in a manner provided by law and shall file nominating papers with the appropriate filing officer by the sixty-fourth day before the scheduled recall election. If the official resigns, the appropriate political subdivision governing body may call a special election or appoint an individual 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. An official whose office is on the ballot at a regularly scheduled election occurring within one year is not subject to recall if the recall special election would occur within one year of the next regularly scheduled election in which the official could be reelected.

Approved March 8, 2019

Filed March 8, 2019

## CHAPTER 173

### HOUSE BILL NO. 1036

(Legislative Management)  
(Initiated and Referred Measures Study Commission)

AN ACT to amend and reenact section 16.1-01-17 of the North Dakota Century Code, relating to fiscal impacts of referred measures.

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

**SECTION 1. AMENDMENT.** Section 16.1-01-17 of the North Dakota Century Code is amended and reenacted as follows:

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

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

Approved March 19, 2019

Filed March 20, 2019

## CHAPTER 174

### HOUSE BILL NO. 1059

(Representatives Roers Jones, Pyle, Schreiber-Beck)  
(Senators Meyer, K. Roers)

AN ACT to amend and reenact section 16.1-05-01 and subsection 4 of section 16.1-05-04 of the North Dakota Century Code, relating to part-time appointment of election workers and required presence at polling places.

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

**SECTION 1. AMENDMENT.** Section 16.1-05-01 of the North Dakota Century Code is amended and reenacted as follows:

##### **16.1-05-01. Election officers.**

At each primary, general, and special statewide or legislative district election, and at county elections, each polling place must have an election board in attendance. The election board must consist of an election inspector and at least two election judges. Counties utilizing polling places containing more than one precinct may choose to use one election board to supervise all precincts even if the precincts are within different legislative districts so long as each district chairman of each qualified political party is given the opportunity to have representation on the election board if desired. Appointing part-time election inspectors, judges, and poll clerks is permitted if there is sufficient coverage at each polling place to satisfy the requirements of subsection 4 of section 16.1-15-04.

1. The election inspector must be selected in the following manner:
  - a. Except as provided in subdivision b, in all precincts established by the governing body of an incorporated city pursuant to chapter 16.1-04, the governing body shall appoint the election inspectors for those precincts and fill all vacancies occurring in those offices.
  - b. In all multiprecinct polling places containing both rural and city precincts, the county auditor, with the approval of the majority of the board of county commissioners, shall appoint the election inspectors and fill all vacancies occurring in those offices. The selection must be made on the basis of the inspector's knowledge of the election procedure.
  - c. The election inspector shall serve until a successor is named. If an inspector fails to appear for any training session without excuse, the office is deemed vacant and the auditor shall appoint an individual to fill the vacancy.
  - d. All appointments required to be made under this section must be made at least forty days preceding an election.
2. The election judges must be appointed in the following manner:
  - a. Except as provided in subdivision b:

- (1) The election judges for each polling place must be appointed in writing by the district chairs representing the two parties that cast the largest number of votes in the state at the last general election. In polling places in which over one thousand votes are cast in any election, the county auditor may request each district party chair to appoint an additional election judge.
  - (2) The district party chair shall notify the county auditor of the counties in which the precincts are located of the appointment of the election judges at least forty 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. If the county auditor has exhausted all practicable means to select judges from within the boundaries of the precincts within the polling place and vacancies still remain, the county auditor may select election judges who reside outside of the voting precinct but who reside within the polling place's legislative districts. If vacancies still remain, the county auditor may select election judges who reside outside of the legislative districts but who reside within the county.
- b. For special elections involving only no-party offices, the election official responsible for the administration of the election, with the approval of the majority of the members of the applicable governing body, shall appoint the election judges for each polling place.
  3. If at any time before or during an election, it appears to an election inspector, by the affidavit of two or more qualified electors of the precinct, or precincts for a multiprecinct polling place, that any election judge is disqualified under this chapter, the inspector shall remove that judge at once and shall fill the vacancy by appointing a qualified individual of the same political party as that of the judge removed. If the disqualified judge 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.
  4. The election official responsible for the administration of the election, with the approval of the majority of the members of the applicable governing body, shall appoint the poll clerks for each polling place. ~~However, no fewer than~~ At least two poll clerks must be appointed for each polling place. Poll clerks must be appointed based on their knowledge of election matters, attention to detail, and ~~on~~ any necessary technical knowledge.

**SECTION 2. AMENDMENT.** Subsection 4 of section 16.1-05-04 of the North Dakota Century Code is amended and reenacted as follows:

4. ~~Each member of the~~ At least one election inspector and two election judges from the election board shall remain must be present on the premises of the polling place during the time the polls are open to prevent the occurrence of fraud, deceit, or other irregularity in the conduct of the election.

Approved March 8, 2019

Filed March 8, 2019

## CHAPTER 175

### HOUSE BILL NO. 1035

(Legislative Management)  
(Initiated and Referred Measures Study Commission)

AN ACT to amend and reenact section 16.1-06-09 of the North Dakota Century Code, relating to initiated measures and election ballots.

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

**SECTION 1. AMENDMENT.** Section 16.1-06-09 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-06-09. Constitutional amendments and initiated and referred measures - Manner of stating question - Fiscal impact statement - 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, unless otherwise determined by the secretary of state, be stated in full in a legible manner on the ballot. If the secretary of state concludes the amendment or measure is too long to make it practicable to print in full, the secretary of state in consultation with the attorney general shall cause to be printed a ~~short, concise summary, which~~ that must fairly represent the substance of the constitutional amendment or initiated or referred measure. After the foregoing statement, the secretary of state shall cause to be printed ~~another short, a statement of the estimated fiscal impact of the~~ constitutional amendment or initiated or referred measure and a concise statement of the effect of an affirmative or negative vote on the constitutional amendment or 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 an oval before each statement in which the voter is to indicate how the voter desires to vote on the question by darkening the oval. If 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 28, 2019

Filed March 29, 2019

## CHAPTER 176

### HOUSE BILL NO. 1037

(Legislative Management)  
(Initiated and Referred Measures Study Commission)

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 finance disclosure statements for measure committees.

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

**SECTION 1. AMENDMENT.** Subsection 2 of section 16.1-08.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

2. For contributions received from ~~an out-of-state~~ any contributor, a person engaged in activities described in subdivision e of subsection 13 of section 16.1-08.1-01 shall include the following information regarding each subcontributor that has stated a contribution is for the express purpose of furthering the passage or defeat of a ballot measure in the statements required under section 16.1-08.1-02.4:
  - a. A designation as to whether any person contributed in excess of one hundred dollars of the total contribution;
  - b. The name and mailing address of each subcontributor that contributed in excess of one hundred dollars of the total contribution;
  - c. The contribution amounts of each disclosed subcontributor; and
  - d. The occupation, employer, and address for the employer's principal place of business of each disclosed subcontributor.

Approved March 19, 2019

Filed March 20, 2019

## CHAPTER 177

### SENATE BILL NO. 2308

(Senators Meyer, Kannianen, K. Roers)  
(Representatives Beadle, Grueneich, Vetter)

AN ACT to create and enact a new section to chapter 16.1-15 of the North Dakota Century Code, relating to counting write-in votes; and to amend and reenact sections 16.1-11-12 and 16.1-12-02.2, subsection 1 of section 16.1-12-04, section 16.1-12-07, and subsection 1 of section 16.1-15-08 of the North Dakota Century Code, relating to ballot formats, write-in votes, and certificates of nomination.

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

**SECTION 1. AMENDMENT.** Section 16.1-11-12 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-11-12. ~~County auditor to place applicant's~~ Applicant's name placed on ballot.**

1. Upon receipt of the petition or certificate of endorsement provided for in section 16.1-11-06 by the secretary of state and when accompanied by an affidavit as provided in section 16.1-11-10, the secretary of state shall place the name of the applicant on the primary election ballot in the party or appropriate section.
2. Upon receipt of the petition or certificate of endorsement provided for in section 16.1-11-11 by the county auditor and when accompanied by an affidavit as provided in section 16.1-11-10, the county auditor shall place the name of the applicant ~~upon~~ on the appropriate section of the no-party primary election ballot in the party or appropriate column, as the case may be.
3. A candidate whose name was placed on the ballot under this section may have the candidate's name removed from the ballot by submitting a written request to the appropriate filing officer within forty-eight hours after the filing deadline under section 16.1-11-06.

**SECTION 2. AMENDMENT.** Section 16.1-12-02.2 of 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 may not count or be required to officially report any write-in vote for any:~~
  - a. ~~Individual 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 or individual clearly not eligible to qualify for the office for which the vote was cast.~~

- c. Statement concerning the candidates.
- d. ~~Name written or printed by the voter for an office that did not also include the darkening of the oval next to the write-in line, except that a write-in candidate for a nonfederal office may make a timely written demand to a county canvassing board to identify and preserve any write-in vote cast for the office sought by the write-in candidate for canvass by the board. The candidate shall deliver the demand to the county auditor and a copy to the county recorder no later than thirty-six hours before the time the county canvassing board is scheduled to meet. A demand only may be made if the unofficial election results maintained by the county auditor demonstrate that the write-in candidate's known vote total is within the pertinent percentage limits provided in subsection 1 or 2 of section 16.1-16-01 and a statement to that effect is included in the demand. After delivery of the ballots as provided by section 16.1-15-08, the canvassing board shall review the ballots to identify any ballot that contains a write-in vote. The county canvassing board shall tally and canvass any write-in vote in the same manner as lawful or qualifying write-in votes if the canvassing board is able to clearly ascertain the intent of the voter from examining the ballot because the write-in candidate's name has been written on the ballot opposite the office to be voted for or because of any other cogent evidence of intent.~~
- e. ~~Write-in votes which constitute five percent or less of the votes cast by the voters for the candidate receiving the most votes for that office, except in the case of a primary election in which enough votes were cast as write-in votes to qualify a name for the general election ballot. This percentage is to be calculated based on the total number of write-in votes tabulated by the voting equipment in the precincts of the county in which that office was on the ballot.~~
- f. ~~Candidate receiving fewer than three write-in votes unless the number of votes received qualifies the candidate to be nominated or elected.~~
- 2. ~~Write-in votes that do not need to be individually canvassed based on the requirements of subsection 1 must be listed on the official canvass report as "scattered write-ins".~~
- 3. An individual who intends to be a write-in candidate for president of the United States 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 election. The certificate must contain the name and address of the candidate and be signed by the candidate. Before the thirteenth day before the election, the secretary of state shall certify the names of the candidates to each county auditor as write-in candidates.
- 4-2. An individual 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.

- 5-3. An individual who intends to be a write-in candidate for any legislative district office shall file a certificate of write-in candidacy with the secretary of state. 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.
- 6-4. 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.
- 7-5. An individual 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 3. AMENDMENT.** Subsection 1 of section 16.1-12-04 of the North Dakota Century Code is amended and reenacted as follows:

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 electronically transmit a certified list to each county auditor the names and addresses of the persons ~~individuals~~ nominated for statewide office according to this chapter as shown on the certificates of nomination filed in the secretary of state's office.

**SECTION 4. AMENDMENT.** Section 16.1-12-07 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-12-07. If nominee declines - Certificate void.**

Any person intending to decline a nomination shall do so by filing written notice of that intention with the officer with whom the certificate nominating the person is filed. If the written notice is filed with the appropriate officer ~~before~~ within forty-eight hours after four p.m. on the sixty-fourth day before the election, the nomination is void. If written notice is mailed, it must be in the physical possession of the appropriate officer ~~before~~ within forty-eight hours after four p.m. on the sixty-fourth day before the election.

**SECTION 5.** A new section to chapter 16.1-15 of the North Dakota Century Code is created and enacted as follows:

**Counting write-in votes.**

1. An election board or canvassing board may not count or be required to report officially:

- a. The number of write-in votes for an individual required to file a certificate of write-in candidacy under section 16.1-12-02.2 but who has not filed a certificate of candidacy and been certified as a write-in candidate;
  - b. The number of write-in votes for a fictitious person or individual clearly not eligible to qualify for the office for which the vote was cast;
  - c. A statement concerning a candidate under this subsection;
  - d. The number of write-in votes for a candidate for office if the number constitutes ten percent or less of the votes cast by the voters for the candidate receiving the most votes for the office or political party's nomination of a candidate for the office, except in the case of a primary election in which enough votes were cast as write-in votes to qualify a name for the general election ballot; and
  - e. The number of write-in votes for a candidate receiving fewer than three write-in votes unless the number of votes received qualifies the candidate to be nominated or elected.
2. A write-in vote for a candidate whose name is printed on the ballot will be tallied as a vote for the candidate if the voter has not voted for more candidates than allowed for the contest or voted for the same candidate more than once in that contest.
  3. A write-in vote that does not need to be canvassed individually based on the requirements of subsection 1 must be listed on the official canvass report as "scattered write-ins".

**SECTION 6. AMENDMENT.** Subsection 1 of section 16.1-15-08 of the North Dakota Century Code is amended and reenacted as follows:

1. After generating the reports and poll lists provided for in section 16.1-15-06 for delivery to the county auditor, the election board shall cause the ballots containing lawful write-in votes cast at the election to be placed in a suitable wrapper to form a complete wrapper for the ballots. All ballots without write-in votes shall be wrapped in a similar manner. The ballots and wrappers must then be tightly secured at the outer end to completely envelop and hold the ballots together. Ballots that are void must be secured in a separate wrapper and must be marked "void". Ballots that are spoiled must be separately secured and marked "spoiled". In sealing ballots, the various classes of ballots must be kept separate. Each wrapper must be endorsed with the names or numbers of the precincts and the date on which the election was held. The wrappers must be sealed securely in a manner prescribed by the county auditor so the wrappers cannot be opened without an obvious and permanent breaking of the seal. The ballots, together with those found void or spoiled, and the opened envelopes from voted absentee ballots and the unopened envelopes of absentee ballots rejected as defective, must be returned in person to the county recorder. At the meeting of the county canvassing board, the county recorder shall deliver the ballots containing lawful write-in votes from all the precincts within the county if these votes were not canvassed by the polling place election board on election night according to section 16.1-12-02.2. ~~At the meeting of the county canvassing board, the county recorder shall deliver each ballot that may contain a write-in vote referenced in a demand made under subsection 1 of section 16.1-12-02.2.~~ Ballots used with

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any electronic voting system or counted by an electronic counting machine must be sealed and returned as provided in this section.

Approved March 28, 2019

Filed March 29, 2019

## CHAPTER 178

### SENATE BILL NO. 2067

(Government and Veterans Affairs Committee)  
(At the request of the Supreme Court)

AN ACT to amend and reenact section 16.1-16-09 of the North Dakota Century Code, relating to appeals of election contest judgments.

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

**SECTION 1. AMENDMENT.** Section 16.1-16-09 of the North Dakota Century Code is amended and reenacted as follows:

**16.1-16-09. Appeal of election contest judgment.**

An appeal to the supreme court of the judgment in an election contest action may be had by filing a notice of appeal with the clerk of the ~~trial~~supreme court within ten days of the date of the service of notice of entry of the judgment. Appeals of election contest actions must be conducted in the manner provided by the North Dakota Rules of Appellate Procedure. Election contest appeals must take precedence over regular court business so election results can be determined as soon as practicable. An appeal may be brought on for hearing before the supreme court at any time upon ten days' notice by either party and must be determined in a summary manner.

Approved March 20, 2019

Filed March 21, 2019