

Introduced by

Senator Magrum

1 A BILL for an Act to create and enact a new section to chapter 16.1-16 of the North Dakota
2 Century Code, relating to special audits of election results; and to amend and reenact sections
3 16.1-02-13 and 16.1-02-15, subsection 3 of section 16.1-05-04, subsection 2 of section
4 16.1-05-07, section 16.1-06-21, subsection 2 of section 16.1-07-15, ~~and~~ sections 16.1-11-33
5 and 16.1-15-04, subsection 5 of section 16.1-15-09, and section 16.1-15-13 of the North Dakota
6 Century Code, relating to pollbooks, defective ballots, ballot retention, voter lists, reports
7 generated from the central voter file, and reports submitted to the county auditor.

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

9 **SECTION 1. AMENDMENT.** Section 16.1-02-13 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **16.1-02-13. Information contained in pollbooks generated from the central voter file -**
12 **Electronic pollbooks prohibited.**

13 The county auditor shall generate a pollbook for each precinct in the county from the central
14 voter file by the day before an election. With the exception of a record designated "secured
15 active" and the voter's birth date and driver's license or nondriver identification card number
16 issued by the department of transportation, which are exempt records, the precinct pollbooks
17 are open records under section 44-04-18. When providing access to or a copy of a pollbook, the
18 election official administering the election shall redact from the pollbook any voter records
19 designated as secured active along with the voter's date of birth and identification numbers
20 listed on the paper pollbook used in an election. ~~If an~~An electronic pollbook ~~is~~may not be used,
21 ~~the election official, upon request for a copy of the pollbook, shall generate a list including the~~
22 ~~allowable information detailed in this section for the individuals who voted in the election. The~~
23 ~~list provided from an electronic pollbook may be requested by precinct or county. The secretary~~
24 of state shall prescribe procedures for generating pollbooks and for transporting the pollbooks

1 to the poll clerks for use on election day. ~~Electronic pollbooks may have a secure connection~~
2 ~~from the polling place to the data maintained in the central voter file to ensure the integrity of the~~
3 ~~election.~~ Each pollbook generated from the central voter file must contain the following
4 information for each individual contained in the pollbook:

- 5 1. The complete legal name of the individual.
- 6 2. The complete residential address of the individual.
- 7 3. The complete mailing address of the individual, if different from the individual's
8 residential address.
- 9 4. The unique identifier generated and assigned to the individual.
- 10 5. The county, legislative district, city or township, school district, county commissioner
11 district, if applicable, precinct name, and precinct number in which the individual
12 resides. A ballot-style code identifying this information may be used in place of the
13 information required by this subsection.
- 14 6. Any other information requested of and obtained from the individual deemed
15 necessary by the secretary of state ~~for the proper administration of the pollbook.~~

16 **SECTION 2. AMENDMENT.** Section 16.1-02-15 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **16.1-02-15. Voter lists and reports ~~may be made available for election-related~~**
19 **~~purposes - Available upon request - Funds received.~~**

- 20 1. ~~Except as otherwise provided by law for the information identified in subsection 2, a~~
21 ~~voter list or a report generated from the central voter file may~~must ~~be made available,~~
22 ~~upon request, to a candidate, political party, or a political committee for~~
23 ~~election-related purposes. Any information obtained by a candidate, political party, or~~
24 ~~political committee for election-related purposes from a list or report generated from~~
25 ~~the central voter file may not be sold or distributed for a purpose that is not~~
26 ~~election-related. Except for, or qualified elector.~~
- 27 2. The information identified in the central voter file under subsections 1, 2, 3, 4, 5, 6, 7,
28 and 108 and 9 of section 16.1-02-12, which is an exempt record and may not be made
29 available to a candidate, political party, or political committee ~~for election-related~~
30 ~~purposes, information in the central voter file is an exempt record, or qualified elector.~~
31 An individual's record that is designated as "secured active" is an exempt record and

1 is not available to any candidate, political party, or political committee, or qualified
2 elector for any purpose.

3 3. The secretary of state shall furnish a voter list or report within seven days of receiving
4 a written request and upon payment of a fifty dollar processing fee. The secretary of
5 state shall waive the processing fee upon proof of indigence. Any funds received by
6 the secretary of state to pay the cost of producing a report or list of voters contained in
7 the central voter file must be deposited in the secretary of state's general services
8 operating fund.

9 **SECTION 3. AMENDMENT.** Subsection 3 of section 16.1-05-04 of the North Dakota
10 Century Code is amended and reenacted as follows:

11 3. The election inspector shall provide a paper copy of the pollbook generated from the
12 central voter file and assign the poll clerks to perform the function of maintaining the
13 pollbook. The designated poll clerks shall maintain the pollbook. The pollbook must
14 contain the name and address of each individual voting at the precinct and must be
15 arranged in the form and manner prescribed by the secretary of state.

16 **SECTION 4. AMENDMENT.** Subsection 2 of section 16.1-05-07 of the North Dakota
17 Century Code is amended and reenacted as follows:

- 18 2. a. When verifying an individual's eligibility or when ~~entering~~comparing the name of
19 an individual ~~into~~with the pollbook, poll clerks shall request, correct, and update
20 any incorrect or incomplete information, on a paper form created by the secretary
21 of state, about an individual required to be included in the pollbook generated
22 from the central voter file.
- 23 b. If the individual's name is contained in the pollbook generated from the central
24 voter file, the poll clerks shall verify the individual's residential address and
25 mailing address.
- 26 c. If the individual's name is not contained in the pollbook generated from the
27 central voter file but the individual is determined eligible to vote, the poll clerks
28 shall record the individual's name in the pollbook. The poll clerks shall request
29 and obtain any additional information for the individual required to be included in
30 the pollbook and the central voter file.

1 **SECTION 5. AMENDMENT.** Section 16.1-06-21 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **16.1-06-21. Pollbooks delivered by county auditor - Contents - Inspector of elections**
4 **to deliver.**

- 5 1. The county auditor shall ~~see that one~~ensure two paper ~~or electronic pollbook~~
6 ~~is~~pollbooks are delivered to the election inspector in each election precinct or polling
7 place in the county.
- 8 2. The election inspector shall deliver the ~~pollbook~~pollbooks, or cause the
9 ~~pollbook~~pollbooks to be delivered, to the clerks of election in the inspector's polling
10 place on election day before the opening of the polls. All pollbooks must be locked and
11 kept secure until the polling location is open to voters on election day.

12 **SECTION 6. AMENDMENT.** Subsection 2 of section 16.1-07-15 of the North Dakota
13 Century Code is amended and reenacted as follows:

- 14 2. If the board of county commissioners establishes an early voting precinct according to
15 this section, ~~the following provisions apply:~~
- 16 a. Early voting must be authorized during the fifteen days immediately before the
17 day of the election. The county auditor shall designate the business days and
18 times during which the early voting election precinct will be open and publish
19 notice of the early voting center locations, dates, and times in the official county
20 newspaper once each week for three consecutive weeks immediately before the
21 day of the election.
- 22 b. The county auditor shall appoint the early voting precinct election board for each
23 early voting polling place that consists of one independent representative to act
24 as the inspector and an equal number of representatives from each political party
25 represented on an election board in the county, as set out in section 16.1-05-01,
26 to act as judges. Each official of the board shall take the oath required by section
27 16.1-05-02 and must be compensated as provided in section 16.1-05-05.
- 28 c. The county auditor, with the consent of the board of county commissioners, shall
29 designate each early voting polling place in a public facility, accessible to the
30 elderly and the physically disabled as provided in section 16.1-04-02. With
31 respect to polling places at early voting precincts, "election day" as used in

- 1 sections 16.1-10-03 and 16.1-10-06.2 includes any time an early voting precinct
2 polling place is open.
- 3 d. At the close of each day of early voting, the inspector, along with a judge from
4 each political party represented on the board, shall secure all election-related
5 materials, including:
- 6 (1) The pollbooks ~~and access to any electronically maintained pollbooks.~~
7 (2) The ballot boxes containing voted ballots.
8 (3) Any void, spoiled, and unvoted ballots.
- 9 e. Ballot boxes containing ballots cast at an early voting polling place may not be
10 opened until the day of the election except as may be necessary to clear a ballot
11 jam or to move voted ballots to a separate locked ballot box in order to make
12 room for additional ballots.
- 13 f. Each early voting polling place may be closed, as provided in chapter 16.1-15, at
14 the end of the last day designated for early voting in the county. Results from the
15 early voting precinct may be counted, canvassed, or released under chapter
16 16.1-15 as soon as any precinct within the county, city, or legislative district
17 closes its polls on the day of the election. The county auditor shall designate a
18 location for the closing, counting, and canvassing process under chapter 16.1-15,
19 which location must be open to any person for the purpose of observing.
- 20 g. The early voting precinct election board shall comply with the requirements of
21 chapters 16.1-05, 16.1-06, 16.1-11, 16.1-11.1, 16.1-13, and 16.1-15, as
22 applicable.

23 **SECTION 7. AMENDMENT.** Section 16.1-11-33 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **16.1-11-33. Judges of election to run report of primary election - Contents.**

26 The judges of a primary election in each polling place shall run a separate report for each
27 political party or principle requesting the report, containing the names of all individuals voted for
28 at the primary election, the number of votes cast for each candidate, and for what office. The
29 report must be approved and signed by the election inspector and election judges and must be
30 filed with the returns in the office of the county auditor. TheA report listing the name and
31 residential address of each individual who voted must be made available, at no cost to any

1 qualified elector, upon request, ~~to any qualified elector, at no cost~~ within twenty-four hours of
2 generation of the report.

3 **SECTION 8. AMENDMENT.** Section 16.1-15-04 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **16.1-15-04. Canvass report prepared by election board for county auditor.**

6 1. The election board shall generate at least one canvass report from the electronic
7 voting system. The ballots may not be sealed, nor may the canvass report be signed,
8 by the election board or poll clerk until the counts in the poll clerks' books and in the
9 canvass report shows the same totals for ballots cast.

10 2. In the case of the absentee ballot precinct as authorized in section 16.1-07-12.1, early
11 voting precincts as authorized in section 16.1-07-15, and mail ballot precinct as
12 authorized in section 16.1-11.1-06, if the work of the election board is completed ~~prior-~~
13 ~~to~~before close of the polls on election day, the election board shall create and sign a
14 statement consisting of a reconciliation of the number of voters recorded in the
15 pollbook and the number of ballots processed through the tabulators. The voting
16 system must be secured in a manner prescribed by the county auditor that will protect
17 the system and ballots from tampering. ~~Prior to~~Before generating the canvass report
18 from one of these three types of precincts, an election judge representing each
19 political party, or two election judges in the case of an election that does not include a
20 political party contest, shall verify that the system and ballots remain secure and the
21 statement created by the election board is still accurate.

22 3. A report listing the name and the residential address of each individual who voted
23 must be made available at no cost to any qualified elector, upon request, ~~to any~~
24 ~~qualified elector, at no cost~~ within twenty-four hours of generation of the report.

25 **SECTION 9. AMENDMENT.** Subsection 5 of section 16.1-15-09 of the North Dakota
26 Century Code is amended and reenacted as follows:

27 5. If any ballot is damaged or defective so the ballot cannot be counted properly by the
28 voting system, ~~a true duplicate copy must be made by~~ election officials of opposed
29 interests ~~and substituted for the damaged or~~ shall hand count the defective ballot. All
30 ~~duplicate~~ hand-counted defective ballots must be labeled ~~duplicate~~ hand-counted
31 defective clearly, must bear a serial number that must be recorded on the damaged or

1 defective ballot, and must be wrapped and delivered with other ballots to the county
2 recorder.

3 **SECTION 10. AMENDMENT.** Section 16.1-15-13 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **16.1-15-13. County recorder to keep ballots - Exception - Use of ballots as evidence.**

6 Immediately upon receiving the ballots as provided in section 16.1-15-08, the county
7 recorder shall give a receipt to the election judges and shall place the ballots in boxes that are
8 securely locked. The boxes must be placed in a fireproof vault and must be kept securely for
9 ~~forty-five~~one hundred twenty days if the ballots do not contain federal offices and twenty-two
10 months if the ballots contain federal offices. The ballots may not be opened nor inspected,
11 except upon court order in a contested election, when it is necessary to produce them at a trial
12 for any offense committed at an election, or to permit election officials to complete their duties.
13 Either forty-five days or twenty-two months after the election dependent upon the retention
14 schedule outlined in this section, upon determination by the county recorder that no contest is
15 pending, the ballots must be destroyed. If any contest of the election of any officer voted for at
16 the election or a prosecution under the provisions of this title is pending at the expiration of the
17 time, the ballots may not be destroyed until the contest or prosecution is finally determined. The
18 ballots returned to the county recorder as provided in this section must be received in evidence
19 without introducing further foundation.

20 **SECTION 11.** A new section to chapter 16.1-16 of the North Dakota Century Code is
21 created and enacted as follows:

22 **Special audit - Petition.**

23 1. Notwithstanding any other provision of law, a special audit must be conducted within
24 one hundred twenty days of the certification of the corresponding election results if a
25 petition requesting a special audit is submitted by twenty-five percent of qualified
26 electors residing in:

27 a. A city regarding a city election;

28 b. A county regarding a county election;

29 c. A legislative district regarding a legislative election; or

30 d. The state regarding a statewide election.

- 1 2. The special audit must take place on a weekend, or multiple weekends, within thirty
- 2 days of the submission of the petition. All ballots subject to the special audit must be
- 3 counted by hand by an equal number of representatives from the two political parties
- 4 that cast the highest vote for governor at the last general election at which a governor
- 5 was elected. The county auditor shall oversee special audits for city, legislative, or
- 6 county elections. The state auditor shall oversee special audits for statewide races.
- 7 The representatives counting ballots must be chosen by a publicly held lottery in which
- 8 the paper applications are put into a container and randomly selected by the:
- 9 a. State chairman of each political party in each statewide race;
- 10 b. District chairman of each political party if a legislative race;
- 11 c. County auditor for each countywide race; or
- 12 d. Mayor of a city for each citywide race.
- 13 3. All costs and expenses of the special audit must be paid in full by the entity conducting
- 14 the special audit.
- 15 4. The results of the special audit must be made available to the public, in paper or
- 16 electronic format, within seven days from the completion date of the special audit.